PUBLIC ACTS

[No. 1]

(SB 472)

AN ACT to amend 1982 PA 249, entitled "An act to establish the state children's trust fund in the department of treasury; and to provide certain powers and duties of the department of treasury with respect to the trust fund," by amending section 1 (MCL 21.171), as amended by 2000 PA 72.

The People of the State of Michigan enact:

21.171 Children's trust fund; creation as charitable and educational endowment fund; expenditure; credits; investment; availability for disbursement; accounting of revenues and expenditures; "trust fund" defined.

Sec. 1. (1) The children's trust fund is created as a charitable and educational endowment fund in the department of treasury. The fund shall be expended only as provided in this section.

(2) The state treasurer shall credit to the trust fund all amounts appropriated for this purpose under section 475 of the income tax act of 1967, 1967 PA 281, MCL 206.475, any amounts received under section 811j of the Michigan vehicle code, 1949 PA 300, MCL 257.811j, and section 8 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.608, and any amounts received from civil fines imposed under the playground equipment safety act, 1997 PA 16, MCL 408.681 to 408.687.

(3) The state treasurer shall direct the investment of the trust fund. The state treasurer shall have the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140l.

(4) Until the total amount of assets in the trust fund exceeds $20,000,000.00, not more than 1/2 of the money contributed to the trust fund each year, plus the interest and earnings credited to the trust fund during the previous fiscal year, shall be available for disbursement upon the authorization of the state board as provided in section 9 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.609. If the state treasurer certifies that the assets in the trust fund exceed $20,000,000.00, only the interest and earnings credited to the trust fund shall be available for disbursement upon the authorization of the state board as provided in section 9 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.609.

(5) Money granted or received as gifts or donations to the trust fund shall be available for disbursement upon appropriation under section 8 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.608, and funds authorized for expenditure shall not be considered assets of the trust fund for the purposes of subsection (4).

(6) The state treasurer shall annually prepare an accounting of revenues and expenditures from the trust fund. This accounting shall specifically identify the interest and earnings of the trust fund, shall describe how the amount of interest and earnings has been affected by the expanded investment options provided for in subsection (3), and shall identify how the increased interest and earnings, if any, have been expended. This accounting shall be provided to the senate and house of representatives appropriations committees.

(7) As used in this section, "trust fund" means the children's trust fund created in subsection (1).

This act is ordered to take immediate effect.
Approved January 21, 2002.
Filed with Secretary of State January 23, 2002.

[No. 2]

(HB 5027)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.1100) by adding section 72.

The People of the State of Michigan enact:

250.1072 "Oscar G. Johnson Memorial Highway."

Sec. 72. The portion of highway M-69 beginning at the intersection of highway M-69 and US-2 in Delta county and continuing northwest through Menominee county to the intersection of M-69 and M-95 in Dickinson county shall be known as the "Oscar G. Johnson Memorial Highway".

This act is ordered to take immediate effect.
Approved January 21, 2002.
Filed with Secretary of State January 23, 2002.

[No. 3]

(SB 430)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by repealing section 75106 (MCL 324.75106).

The People of the State of Michigan enact:

Repeal of § 324.75106.

Enacting section 1. Section 75106 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.75106, is repealed.

Approved February 6, 2002.
Filed with Secretary of State February 7, 2002.

[No. 4]

(SB 471)

AN ACT to amend 1987 PA 173, entitled "An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties," by amending section 2 (MCL 445.1652), as amended by 1996 PA 210.

The People of the State of Michigan enact:

445.1652 License or registration required; exemption; residential mortgage originator; compensation; words contained in name or assumed name.

Sec. 2. (1) A person shall not act as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license or registering under this act, unless 1 or more of the following apply:

(a) The person is solely performing services as an employee of only 1 mortgage broker, mortgage lender, or mortgage servicer.

(b) The person is exempted from the act under section 25.

(c) The person is licensed as a class I licensee under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.

(2) A person that is licensed to make regulatory loans under the regulatory loan act of 1963, 1939 PA 21, MCL 493.1 to 493.25, or is licensed to make secondary mortgage loans under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and is registered with the commissioner shall file with the commissioner an application for a license under section 3(1) or shall discontinue all activities that are subject to this act.

(3) Unless a residential mortgage originator is otherwise licensed or registered under this act, a residential mortgage originator shall not receive directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits from a mortgage broker, mortgage lender, or mortgage servicer other than the employer of the residential mortgage originator.

(4) Unless a residential mortgage originator is otherwise licensed or registered under this act, a mortgage broker, mortgage lender, or mortgage servicer shall not pay directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits to a residential mortgage originator other than an employee of the mortgage broker, mortgage lender, or mortgage servicer. As used in this subsection and subsection (3),

"residential mortgage originator" means a person who assists another person in obtaining a mortgage loan.

(5) A mortgage broker, mortgage lender, or mortgage servicer that was exempt from regulation under this act and is a subsidiary or affiliate of a depository financial institution or a depository financial institution holding company that does not maintain a main office or branch office in this state, shall register under section 6 or shall discontinue all activities subject to this act.

(6) Except for a state or nationally chartered bank, savings bank, or an affiliate of a bank or savings bank, the person subject to this act shall not include in its name or assumed name, the words "bank", "banker", "banking", "banc", "bankcorp", "bancorp", or any other words or phrases that would imply that the person is a bank, is engaged in the business of banking, or is affiliated with a bank or savings bank. It is not a violation of this subsection for a licensee or registrant to use the term "mortgage banker" or "mortgage banking" in its name or assumed name. A person subject to this act whose name or assumed name on January 1, 1995 contained a word prohibited by this section may continue to use the name or assumed name.

This act is ordered to take immediate effect.
Approved February 6, 2002.
Filed with Secretary of State February 7, 2002.

[No. 5]

(SB 615)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.1100) by adding section 68.

The People of the State of Michigan enact:

250.1068 "Gary Priess Memorial Highway."

Sec. 68. That portion of highway US-127 beginning at the border between Ingham county and Clinton county and extending north to the Price road exit in Clinton county shall be named the "Gary Priess Memorial Highway".

This act is ordered to take immediate effect.
Approved February 6, 2002.
Filed with Secretary of State February 7, 2002.

[No. 6]

(HB 5436)

AN ACT to authorize the state administrative board to convey certain parcels of state owned property in Tuscola county and Wayne county; to prescribe conditions for conveyance;

to provide for certain powers and duties of the department of management and budget; and to provide for the disposition of revenue derived from the conveyances.

The People of the State of Michigan enact:

Conveyance of property located in township of Indianfields, Tuscola county, to Tuscola area airport authority; consideration; jurisdiction; description.

Sec. 1. The state administrative board, on behalf of the state, may convey to the recipient determined under sections 2 to 4, for consideration as determined pursuant to sections 2 to 4, all or portions of property now under the jurisdiction of the department of community health and located in the township of Indianfields, Tuscola county, Michigan, and further described as follows:

The Southeast 40 acres, being approximately 1320 feet by 1320 feet, of the remainder of the South Half of Section 18, Town 12 North, Range 9 East, after excepting out the Southeast 1/4 of Section 18 Town 12 North, Range 9 East, which was conveyed to the City of Caro in that Quitclaim Deed dated May 16th, 1961.

Purchase price.

Sec. 2. The Tuscola area airport authority has the exclusive right, for a period of 12 months after the effective date of this act, to purchase the property described in section 1. The purchase price shall be 1 of the following:

(a) Less than fair market value, if the Tuscola area airport authority agrees to use the property for public purposes.

(b) Fair market value, if the Tuscola airport authority does not agree to use the property for public purposes.

Reversionary rights.

Sec. 3. If, at any time after purchasing the property under sections 1 and 2, the Tuscola area airport authority determines it will no longer operate as a local unit of government, or determines that the property shall no longer continue to be used for public purposes, then the Tuscola area airport authority shall notify the state in writing 180 days before any such change in organization or use. The Tuscola area airport authority shall then have the right, for 180 days, to purchase the reversionary rights. The purchase price will be the fair market value of the property exclusive of any improvements on the date of the notice to the state.

Conveyance for less than fair market value.

Sec. 4. Any conveyance of the property described in section 1 that is conveyed for public purpose for less than fair market value shall provide for all of the following:

(a) That the property shall be used exclusively for public purposes and if any fee, term, or condition is imposed on members of the public for recreational use of the conveyed property, all resident and nonresident members of the public shall be subject to the same fees, terms, and conditions, except that the grantee may waive daily fees or waive fees for the use of specific areas or facilities; and that upon termination of that use or use for any other purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(b) That the Tuscola area airport authority may create and record restrictions on the use of the property required for the safe operation of an airport. Those recorded restrictions

shall run with the land as long as the airport is in use and shall not be extinguished solely by reversion of the property to the state.

(c) That if the grantee disputes the state's exercise of its rights of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

Appraisal.

Sec. 5. The fair market value of the property described in section 1 shall be determined by an appraisal as prepared by the state tax commission or an independent fee appraiser.

Conveyance of property located in township of Indianfields, Tuscola county, to township of Indianfields; consideration; jurisdiction; description.

Sec. 6. The state administrative board, on behalf of the state, may convey to the recipient determined under sections 7 and 8, for consideration as determined pursuant to sections 7 and 8, all or portions of property now under the jurisdiction of the department of community health and located in the township of Indianfields, Tuscola county, Michigan, and further described as follows:

That part of the South 1/2 of Section 17, Town 12 North, Range 9 East, which lies North of the Cass River, South of M-81, and 250 feet East of the Caro Center, Buildings number 7 and 9 as numbered and depicted in the States Facility Inventory dated June 1980. The parcel contains approximately 30 acres.

Purchase; rights.

Sec. 7. The township of Indianfields has the exclusive right, for a period of 12 months after the effective date of this act, to purchase the property described in section 6, for less than fair market value, if the township of Indianfields agrees to use the property for public purposes.

Conveyance for less than fair market value; provisions.

Sec. 8. Any conveyance of the property described in section 6 for less than fair market value shall provide for both of the following:

(a) That the property shall be used exclusively for public purposes and if any fee, term, or condition is imposed on members of the public for recreational use of the conveyed property, all resident and nonresident members of the public shall be subject to the same fees, terms, and conditions, except that the grantee may waive daily fees or waive fees for the use of specific areas or facilities; and that upon termination of that use or use of any other purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(b) That if the grantee disputes the state's exercise of its rights of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

Quitclaim deed; reservation of mineral rights; revenue.

Sec. 8a. The conveyances authorized by sections 1 and 6 shall be by quitclaim deed approved by the attorney general. The conveyances shall not reserve the mineral rights to the state; however, the conveyances shall provide that if the grantee derives any revenue from the development of any minerals found on, within, or under the conveyed property, the grantee shall pay 1/2 of that revenue to the state, for deposit in the Michigan natural resources trust fund.

Conveyance of property located in Wayne county; consideration; jurisdiction; description; sale; notice.

Sec. 9. (1) The state administrative board, on behalf of the state, may convey for consideration of not less than fair market value as determined pursuant to section 11, certain state owned property now under the jurisdiction of the department of community health and located in Wayne county, and further described as follows:

A parcel of land in the N 1/2 of sections 11 & 12, T1S, R8E, Northville Township, Wayne County, Michigan and more particularly described as commencing at the E 1/4 corner of said section 12; thence S86°48' 28"W 1384.05 feet, on the E-W 1/4 line of said section 12 to the point of beginning of this description; thence S86°48'28"W 1300.57 feet, on said E-W 1/4 line to the center of said section 12; thence S86°53'56"W 2726.05 feet, on said E-W 1/4 line to the W 1/4 corner of said section 12; thence N84°54'43"W 2725.96 feet, on the E-W 1/4 line of said section 11 to the center of said section 11; thence N85°00'14"W 200.15 feet, on the E-W 1/4 line of said section 11; thence N01°28'26"E 1.14 feet; thence N00°00'34"W 72.00 feet; thence N49°05'26"E 131.49 feet; thence N23°49'26"E 94.98 feet; thence N07°25'34"W 69.92 feet; thence N32°28'34"W 81.37 feet; thence N15°56'34"W 309.92 feet; thence N64°56'07"W 282.85 feet; thence 2284.99 feet, on the arc of a curve to the left with a central angle of 122°12'37", a radius of 1071.28 feet, and a long chord bearing and distance of S53°56'34"W 1875.81 feet; thence S82°56'46"W 4.24 feet, to the east right of way line of the CSX railroad; thence N12°56'16"W 479.57 feet, on said railroad right of way to the E-W 1/4 line of said section 11; thence N12°56'16"W 1042.64 feet, on said railroad right of way; thence N38°54'25"E 299.77 feet; thence N83°24'25"E 145.50 feet; thence N69°54'25"E 198.00 feet; thence N39°24'25"E 99.30 feet; thence N62°24'25"E 108.87 feet; thence S62°50'35"E 103.70 feet; thence S41°34'35"E 205.39 feet; thence N63°04'10"E 169.60 feet; thence N89°07'10"E 74.80 feet; thence S36°20'50"E 344.00 feet; thence S36°20'50"E 106.31 feet; thence S68°13'14"E 188.90 feet; thence S82°35'18"E 67.44 feet; thence S88°15'37"E 1017.15 feet; thence N01°56'53"E 684.47 feet; thence S89°26'24"E 699.89 feet; thence S01°57'25"W 707.88 feet; thence S89°26'24"E 490.88 feet; thence N01°57'25"E 100.07 feet; thence N14°37'29"E 219.23 feet; thence S89°26'24"E 68.17 feet; thence N07°37'01"W 1045.59 feet, to the south right of way line of Seven Mile Road; thence S89°26'24"E 1202.88 feet, on said right of way to the east line of said section 11; thence N89°45'40"E 2643.20 feet, on said right of way to the N-S 1/4 line of said section 12; thence N84°12'47"E 1734.38 feet, on said right of way; thence N85°33'26"E 266.11 feet, on said right of way; thence S88°29'21"E 148.63 feet, on said right of way; thence N87°57'11"E 197.69 feet, on said right of way; thence S85°42'03"E 197.80 feet, on said right of way; thence S88°37'57"E 148.01 feet, on said right of way to the west right of way line of Haggerty Road; thence S00°00'12"W 350.00 feet, on said right of way; thence S89°59'48"W 10.00 feet, on said right of way; thence S00°00'12"W 806.77 feet, on said right of way; thence N89°59'48"W 651.16 feet; thence S54°17'10"W 793.19 feet; thence S01°37'45"W 942.94 feet, to the point of beginning, containing 422.62 acres. This description is subject to survey, easements and deeds of record, and the Department of Natural Resources' Oil and Gas Leases No. N-24954 and No. N-24957, as may be amended.

(2) The sale of the property described in this section shall be conducted in a manner to realize the highest price for the sale and the highest return to the state. The sale of this property shall be done in an open manner that uses one or more of the following:

(a) A competitive sealed bid.

(b) Oral bid.

(c) Public auction.

(d) Use of broker services.

Broker services for the sale of this property shall only be used if there are three or more bidders for this property. The minimum selling price for the property shall be the higher value of either its fair market value or the result of a professional concept plan value as determined by a real estate professional qualified to make such valuations. This real estate professional shall be selected through a request for proposal and competitive bid process.

(3) A notice of a sealed or oral bid, public auction sale, or use of broker negotiation services, regarding the property described in this section shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 days before the sale. The newspaper shall be one that is published in the county where the property is located. If a newspaper is not published in the county where the property is located, the notice shall be published in a newspaper in a county nearest to the county in which the property is located. A notice shall describe the general location of the property and the date, time, and place of the sale.

Report.

Sec. 9a. Not later than May 1, 2002, the department of management and budget shall provide a written report to the chairpersons of the house of representatives and senate appropriations committees on the progress of the sale of the property in section 9. This report shall describe the sale process or processes under section 9, subsection (2), which will be used, the name of the broker or brokers used in the sale, and other information to apprise lawmakers of the status of this sale. This report is in addition to other reporting requirements of this act or other state laws.

Quitclaim deed; approval by attorney general.

Sec. 10. The conveyance authorized under section 9 shall be by quitclaim deed approved by the attorney general and shall provide for all of the following:

(a) The northwesterly boundary of the Hawthorn center in the southeastern corner of the property shall be determined in conjunction with the director of community health to provide a parcel of land adequate to support the Hawthorn center's program and operations.

(b) The conveyance is subject to lease No. N-24954 and No. N-24957, as may be amended, and shall reserve oil, gas, and mineral rights to the state.

(c) In order to allow the department of community health sufficient time to make alternative plans for the patients at the Northville psychiatric hospital, the department will retain the use of necessary buildings and facilities for patient care and related activities for a minimum of 3 years based on need. Payment for deferred use of property for the use of these structures will be paid to the developer based on a specified amount agreed to by the department of community health and the developer.

Conveyance; conditions.

Sec. 10a. The conveyance under section 9 is subject to all of the following:

(a) The department of community health shall not implement the closure or consolidation of the Northville psychiatric hospital until the community mental health service providers have programs and services in place for persons residing in the Northville psychiatric hospital.

(b) The closure or consolidation of the Northville psychiatric hospital is contingent upon adequate department-approved community mental health service provider program plans that include a discharge and aftercare plan for each person in the facility. A discharge and aftercare plan shall address the person's housing needs. A homeless shelter

or similar temporary shelter arrangement is inadequate to meet the person's housing needs.

(c) By April 15, 2003, the department of community health shall submit to the house of representatives and senate appropriations committees a status report detailing, by the admitting community mental health service provider, the number of patients remaining in Northville psychiatric hospital.

(d) Four months after the certification of closure required in section 19(6) of the state employees' retirement act, 1943 PA 240, MCL 38.19, the department shall provide a closure plan to the house of representatives and senate appropriations committees.

Appraisal.

Sec. 11. The fair market value of the property described in section 9 shall be determined by an appraisal as prepared by the state tax commission and an independent fee appraiser.

Descriptions as approximate; adjustments.

Sec. 12. The descriptions of the parcels in sections 1, 6, and 9 are approximate and for purposes of the conveyance are subject to adjustments as the state administrative board or the attorney general considers necessary by survey or other legal description.

Disposition of net revenue; definition.

Sec. 13. (1) The net revenue received under this act shall be deposited in the state treasury and credited to the general fund. However, 5% of the net revenue from the sale authorized in section 9 shall be placed in a reserve fund to cover transitional costs. The department of community health shall provide the house of representatives and the senate appropriations subcommittees on community health with its transition plan for approval 9 months before the final closure of the facility.

(2) For the purposes of this act, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the state associated with the sale of the property.

This act is ordered to take immediate effect.
Approved February 14, 2002.
Filed with Secretary of State February 14, 2002.

[No. 7]

(SB 682)

AN ACT to amend 1846 RS 84, entitled "Of divorce," by amending section 17a (MCL 552.17a), as amended by 1990 PA 243.

The People of the State of Michigan enact:

552.17a Jurisdiction of court; application for modification of judgment or order; waiver of contempt.

Sec. 17a. (1) The court has jurisdiction to make an order or judgment relative to the minor children of the parties as authorized in this chapter to award custody of each child to 1 of the parties or a third person until each child has attained the age of 18 years and may require either parent to pay for the support of each child until each child attains that

age. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support as authorized in this chapter for a child of the parties to provide support for the child after the child reaches 18 years of age.

(2) Upon an application for modification of a judgment or order when applicant is in contempt, for cause shown, the court may waive the contempt and proceed to a hearing without prejudice to applicant's rights and render a determination on the merits.

This act is ordered to take immediate effect.
Approved February 14, 2002.
Filed with Secretary of State February 14, 2002.

[No. 8]

(SB 683)

AN ACT to amend 1966 PA 138, entitled "An act to confer jurisdiction upon the circuit courts to order and enforce the payment of money for the support, in certain cases, of parents having physical custody of minor children or children who have reached the age of majority and of minor children or children who have reached the age of majority by noncustodial parents; to provide for the termination of the effectiveness of the orders; and to provide for the payment of fees and assessment of costs in those cases," by amending sections 1, 1a, and 5 (MCL 552.451, 552.451a, and 552.455), sections 1 and 1a as amended by 1990 PA 237 and section 5 as amended by 1996 PA 5.

The People of the State of Michigan enact:

552.451 Proceedings for support of custodial parent and children; complaint; service; prohibition.

Sec. 1. A married parent who has a minor child or children living with him or her and who is living separate and away from his or her spouse who is the noncustodial parent of the child or children, and who is refused financial assistance by the noncustodial parent to provide necessary shelter, food, care, and clothing for the child or children, if the spouse is of sufficient financial ability to provide that assistance, may complain to the circuit court for the county where either parent resides for an order for support for himself or herself and the minor child or children. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the parent may also complain to the circuit court for support for a child or children after they reach 18 years of age. The proceedings shall be commenced by the filing of a complaint verified by the petitioner and by issuance of a summons that shall be personally served upon the noncustodial parent of the children and spouse of the petitioner. A complaint shall not be filed nor shall any summons issue if divorce or separate maintenance proceedings are then pending between the petitioner and his or her spouse.

552.451a Proceedings for support of children; support order; burden of proof; applicability of section.

Sec. 1a. A custodial parent or guardian of a minor child or children or a child or children who have reached 18 years of age may proceed in the same manner, and under the same circumstances as provided in section 1, against the noncustodial parent for the support of the child or children. The order of support shall provide only for the support of

the child or children, and the burden of proof shall be the same as provided in section 2. This section applies only to legitimate, legitimated, and lawfully adopted minor children and, subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, children after they reach 18 years of age.

552.455 Modification of order; application and notice; order void upon entry of judgment of divorce or separate maintenance.

Sec. 5. An order entered under section 2 may be modified by the court upon proper application to the court and due notice to the opposite party. If a judgment of divorce or of separate maintenance is entered by a court having personal jurisdiction over the parties, an order entered under this act is null and void upon the effective date of the judgment.

This act is ordered to take immediate effect.
Approved February 14, 2002.
Filed with Secretary of State February 14, 2002.

[No. 9]

(SB 684)

AN ACT to amend 1970 PA 91, entitled "An act to declare the inherent rights of minor children; to establish rights and duties to their custody, support, and parenting time in disputed actions; to establish rights and duties to provide support for a child after the child reaches the age of majority under certain circumstances; to provide for certain procedure and appeals; and to repeal certain acts and parts of acts," by amending section 2 (MCL 722.22), as amended by 1999 PA 156.

The People of the State of Michigan enact:

722.22 Definitions.

Sec. 2. As used in this act:

(a) "Agency" means a legally authorized public or private organization, or governmental unit or official, whether of this state or of another state or country, concerned in the welfare of minor children, including a licensed child placement agency.

(b) "Attorney" means, if appointed to represent a child under this act, an attorney serving as the child's legal advocate in a traditional attorney-client relationship with the child, as governed by the Michigan rules of professional conduct. An attorney defined under this subdivision owes the same duties of undivided loyalty, confidentiality, and zealous representation of the child's expressed wishes as the attorney would to an adult client.

(c) "Child" means minor child and children. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, for purposes of providing support, child includes a child and children who have reached 18 years of age.

(d) "Guardian ad litem" means an individual whom the court appoints to assist the court in determining the child's best interests. A guardian ad litem does not need to be an attorney.

(e) "Lawyer-guardian ad litem" means an attorney appointed under section 4. A lawyer-guardian ad litem represents the child, and has the powers and duties, as set forth in section 4.

(f) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(g) "Third person" means an individual other than a parent.

This act is ordered to take immediate effect.
Approved February 14, 2002.
Filed with Secretary of State February 14, 2002.

[No. 10]

(SB 434)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 3 (MCL 722.623), as amended by 1994 PA 177.

The People of the State of Michigan enact:

722.623 Persons required to report child abuse or neglect; written report; transmitting report and results of investigation to prosecuting attorney or county family independence agency; pregnancy of or venereal disease in child less than 12 years of age.

Sec. 3. (1) An individual is required to report under this act as follows:

(a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, certified social worker, social worker, social work technician, school administrator, school counselor or teacher, law enforcement officer, or regulated child care provider who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or neglect to the department. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school shall be considered

adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

(b) A department employee who is 1 of the following and has reasonable cause to suspect child abuse or neglect shall make a report of suspected child abuse or neglect to the department:

(*i*) Eligibility specialist.

(*ii*) Family independence manager.

(*iii*) Family independence specialist.

(*iv*) Social services specialist.

(*v*) Social work specialist.

(*vi*) Social work specialist manager.

(*vii*) Welfare services specialist.

(2) The written report shall contain the name of the child and a description of the abuse or neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the abuse or neglect, and the manner in which the abuse or neglect occurred.

(3) The department shall inform the reporting person of the required contents of the written report at the time the oral report is made by the reporting person.

(4) The written report required in this section shall be mailed or otherwise transmitted to the county family independence agency of the county in which the child suspected of being abused or neglected is found.

(5) Upon receipt of a written report of suspected child abuse or neglect, the department may provide copies to the prosecuting attorney and the probate court of the counties in which the child suspected of being abused or neglected resides and is found.

(6) If the report or subsequent investigation indicates a violation of sections 136b and 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and 750.520b to 750.520g, or if the report or subsequent investigation indicates that the suspected abuse was not committed by a person responsible for the child's health or welfare, and the department believes that the report has basis in fact, the department shall transmit a copy of the written report and the results of any investigation to the prosecuting attorney of the counties in which the child resides and is found.

(7) If a local law enforcement agency receives a written report of suspected child abuse or neglect, whether from the reporting person or the department, the report or subsequent investigation indicates that the abuse or neglect was committed by a person responsible for the child's health or welfare, and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall provide a copy of the written report and the results of any investigation to the county family independence agency of the county in which the abused or neglected child is found. Nothing in this subsection or subsection (6) shall be construed to relieve the department of its responsibility to investigate reports of suspected child abuse or neglect under this act.

(8) For purposes of this act, the pregnancy of a child less than 12 years of age or the presence of a venereal disease in a child who is over 1 month of age but less than 12 years of age shall be reasonable cause to suspect child abuse and neglect have occurred.

This act act is ordered to take immediate effect.

Approved February 14, 2002.

Filed with Secretary of State February 14, 2002.

[No. 11]

(HB 4195)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 21723.

The People of the State of Michigan enact:

333.21723 Individual responsible for receiving complaints and conducting investigations; posting information in nursing home; communication procedure; information posted on internet website; nursing home receiving medicaid reimbursement.

Sec. 21723. (1) A nursing home shall post in an area accessible to residents, employees, and visitors the name, title, location, and telephone number of the individual in the nursing home who is responsible for receiving complaints and conducting complaint investigations and a procedure for communicating with that individual.

(2) An individual responsible for receiving complaints and conducting complaint investigations in a nursing home shall be on duty and on site not less than 24 hours per day, 7 days a week.

(3) The individual described in subsection (2) who receives a complaint, inquiry, or request from a nursing home resident or the resident's surrogate decision maker shall respond using the nursing home's established procedures pursuant to R 325.20113 of the Michigan administrative code.

(4) To assist the individual described in subsection (2) in performing his or her duties, the department of consumer and industry services shall post on its internet website all of the following information:

(a) Links to federal and state regulations and rules governing the nursing home industry.

(b) The scheduling of any training or joint training sessions concerning nursing home or elderly care issues being put on by the department of consumer and industry services.

(c) A list of long-term care contact phone numbers including, but not limited to, the consumer and industry services complaint hotline, the consumer and industry services

nursing home licensing division, any commonly known nursing home provider groups, the state long-term care ombudsman, and any commonly known nursing home patient care advocacy groups.

(d) When it becomes available, information on the availability of electronic mail access to file a complaint concerning nursing home violations directly with the department of consumer and industry services.

(e) Any other information that the department of consumer and industry services believes is helpful in responding to complaints, requests, and inquiries of a nursing home resident or his or her surrogate decision maker.

(5) A nursing home receiving reimbursement pursuant to the medicaid program shall designate 1 or more current employees to fulfill the duties and responsibilities outlined in this section. This section does not constitute a basis for increasing nursing home staffing levels. As used in this subsection, "medicaid" means the program for medical assistance created under title XIX of the social security act, chapter 53, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6, and 1396r-8 to 1396v.

This act is ordered to take immediate effect.
Approved February 18, 2002.
Filed with Secretary of State February 19, 2002.

[No. 12]

(HB 4980)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.1100) by adding section 65.

The People of the State of Michigan enact:

250.1065 "Purple Heart Highway."

Sec. 65. That portion of highway I-69 beginning at the intersection of I-69 east and U.S. 27 north in Clinton county and extending east to exit 105 in Shiawassee county shall be named the "Purple Heart Highway".

This act is ordered to take immediate effect.
Approved February 18, 2002.
Filed with Secretary of State February 19, 2002.

[No. 13]

(HB 5005)

AN ACT to amend 1984 PA 44, entitled "An act to provide purity and quality standards for motor fuels; to regulate the transfer, sale, dispensing, or offering motor fuels for sale; to provide for an inspection and testing program; to provide for the powers

and duties of certain state agencies; to provide for the licensing of certain persons engaged in the transfer, sale, dispensing, or offering of motor fuels for sale; to regulate stage I and stage II vapor-recovery systems at certain facilities; to provide for fees; and to provide remedies and prescribe penalties," by amending sections 3, 4a, 5, 6, 9i, 10a, and 10b (MCL 290.643, 290.644a, 290.645, 290.646, 290.649i, 290.650a, and 290.650b), section 3 as amended by 2000 PA 206, section 4a as added by 1986 PA 127, and sections 5 and 6 as amended and sections 9i, 10a, and 10b as added by 1993 PA 236.

The People of the State of Michigan enact:

290.643 Establishment of standards by rules.

Sec. 3. (1) The director shall establish standards pursuant to this act to ensure the purity and quality of gasoline sold or offered for sale in this state.

(2) The director shall establish standards for the amount and type of additives allowed to be included in gasoline.

(3) The director shall establish standards for the grading of gasoline, including, but not limited to, subregular with a minimum 85 AKI, regular with a minimum 87 AKI and a minimum 82 MON, midgrade 88 with a minimum 88 AKI and a minimum 82 MON, midgrade 89 with a minimum 89 AKI and a minimum 83 MON, premium with a minimum 90 AKI, premium 91 with a minimum 91 AKI, premium 92 with a minimum 92 AKI, premium 93 with a minimum 93 AKI, and premium 94 with a minimum 94 AKI.

(4) The director shall establish standards for Reid vapor pressure as specified by the American society for testing and materials, except as otherwise required to conform to federal or state law. The director shall establish the Reid vapor pressure as 9.0 pounds per square inch (psi) for retail outlets during the period beginning June 1 through September 15 of each year, except for dispensing facilities where the director shall establish the Reid vapor pressure as 7.8 psi in the year 1996 and thereafter. As used in this subsection and section 10d, "Reid vapor pressure" means the vapor pressure of gasoline or gasoline oxygenate blend as determined by ASTM test method D323, standard test method for vapor pressure of petroleum products (Reid method) or test method D4953, standard test method for vapor pressure of gasoline and gasoline oxygenate blends (dry method).

(5) In establishing additive and grading standards the director shall adopt the latest standards for gasoline established by the American society for testing and materials and shall adopt the latest standards for gasoline established by federal law or regulation. The standards established by the director shall not prohibit a gasoline blend that is permitted by a valid waiver granted by the United States environmental protection agency pursuant to the fuel or fuel additive waiver in section 211(f)(4) of part A of title II of the clean air act, chapter 360, 81 Stat. 502, 42 U.S.C. 7545, and the ethanol waiver of 1.0 psi in section 211(h)(4) of part A of title II of the clean air act, chapter 360, 81 Stat. 502, 42 U.S.C. 7545, if the gasoline blend meets all of the conditions set forth in the waiver. Beginning June 1, 2003, the director shall not permit the use of the additive methyl tertiary butyl ether (MTBE) in this state. The director, in consultation with the department of environmental quality, shall determine if the additive is likely to cause harmful effects on the environment or public health within the state. By June 1, 2002, the director, in consultation with the director of the department of environmental quality, shall review the status of the use of MTBE in this state. The review shall include the following:

(a) The amount of the additive methyl tertiary butyl ether (MTBE) currently in use in gasoline in this state.

(b) An estimate of the amount of MTBE that is imported in gasoline transported into this state from other states or countries.

(c) Recommendations as to whether the June 1, 2003 prohibition can be achieved and, if not, determine a more feasible date.

(d) Any other information considered appropriate.

(6) Standards established pursuant to this section shall be by rules promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

290.644a Testing storage tank at retail outlet to determine water or water-alcohol level; prohibited sales; testing supplies; rules.

Sec. 4a. A storage tank at a retail outlet shall be periodically tested by the retail dealer to insure that the tank does not have water or water-alcohol at the bottom of that tank in an amount greater than 2 inches. If there is more than 2 inches of water or water-alcohol at the bottom of the storage tank, gasoline shall not be sold to a consumer from that tank until the water or water-alcohol level is reduced to a level of less than 2 inches. Adequate testing supplies, as determined by the department, shall be maintained at the retail outlet and shall also be made available to the department to determine the water or water-alcohol level in the storage tank. The department may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this section.

290.645 Prohibitions; contents of bill, invoice, or other instrument evidencing delivery of gasoline; violation; liability; disposition of civil fine.

Sec. 5. (1) Except as provided by federal law or regulation, in the manufacture of gasoline at any refinery in this state, a refiner shall not manufacture gasoline at a refinery in this state unless the gasoline meets the requirements in section 3. Except as provided by federal law or regulation, a blender shall not blend gasoline unless the finished blend meets the requirements in section 3.

(2) Except as provided by federal law or regulation, a distributor shall not sell or transfer to any distributor, retail dealer, or bulk purchaser-end user any gasoline unless that gasoline meets the requirements in section 3.

(3) A carrier or an employee or agent of a carrier, whether operating under contract or tariff, shall not cause gasoline tendered to the carrier for shipment or transfer to another carrier, distributor, or retail dealer to fail to comply, at the time of delivery, with the requirements in section 3.

(4) A person shall not knowingly sell, dispense, or offer for sale gasoline unless that gasoline meets the requirements in section 3.

(5) A refiner or distributor shall not transfer, sell, dispense, or offer gasoline for sale in this state to a distributor unless the refiner or distributor indicates on each bill, invoice, or other instrument evidencing a delivery of gasoline, the name of the wholesale distributor who received delivery of the gasoline.

(6) A distributor or refiner shall not transfer, sell, dispense, or offer gasoline for sale in this state to a retail dealer unless the distributor indicates on each bill, invoice, or other instrument evidencing a delivery of gasoline, the name and license number issued pursuant to this act, of the retail dealer who received delivery of the gasoline.

(7) A bill, invoice, or other instrument evidencing a delivery of gasoline issued by a refiner or distributor for deliveries of gasoline to purchasers who are not required to hold a license issued pursuant to the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, or this act shall clearly indicate the name and address and other information necessary to identify the purchaser of the gasoline.

(8) A bill, invoice, or other instrument evidencing a delivery of gasoline required by subsection (5), (6), or (7) shall include a guarantee that the gasoline delivered meets the requirements in section 3 and shall indicate the concentration range of alcohol in the gasoline, except for alcohols or ethers that have a molecular weight greater than ethanol and are not mixed with methanol or ethanol, or both, and shall indicate the possible presence, without regard to concentration range, of any alcohols or ethers that have a molecular weight greater than ethanol and are not mixed with methanol or ethanol, or both.

(9) A refiner, distributor, bulk purchaser-end user, or retail dealer shall not transfer, sell, dispense, or offer gasoline for sale unless that gasoline is visibly free of undissolved water, sediments, and other suspended matter and is clear and bright at an ambient temperature or 70 degrees Fahrenheit, whichever is greater.

(10) A person who violates this section or rules promulgated under this section is liable for a civil fine not to exceed $10,000.00 for each day of the continuance of the violation. A civil fine ordered pursuant to this section shall be submitted to the state treasurer for deposit in the gasoline inspection and testing fund created by section 8.

290.646 License required; coordination of licensing; expiration and renewal of license; license fee; disposition of fees; application for license; grounds for suspending, denying, or revoking license; applicability of section; conviction under weights and measures act; effect of suspension, revocation, or denial of license on other licenses; registering blended products.

Sec. 6. (1) Before a distributor or retail dealer engages in transferring, selling, dispensing, or the offering for sale gasoline in this state, the distributor or retail dealer shall obtain a license from the department for each retail outlet operated by that person. In administering the licensing under this section, the department may attempt to coordinate such licensing with the licensing applicable to gasoline administered by the department of treasury pursuant to the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, and the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

(2) A license expires annually on November 30 unless renewed before December 1 of each year or unless suspended, denied, or revoked by the department.

(3) The fee for a license is $15.00 for each year or portion of a year through July 31, 2002, $50.00 for each year or portion of a year through July 31, 2003, $75.00 for each year or portion of a year through July 31, 2004, and $100.00 beginning August 1, 2004 and each year or portion of a year thereafter. A license shall not be issued or renewed until the fee and any administrative fines issued under section 10a have been paid. A hearing is not required before the refusal to issue or renew a license under this subsection. Fees collected shall be deposited in the gasoline inspection and testing fund. The department shall conduct a review of the fee structure provided by this subsection and the status of the gasoline inspection and testing fund in the 2003 calendar year and report its recommendations for any change or adjustment in the fee schedule to the house and senate transportation committees not later than January 1, 2004.

(4) An application for a license shall be made to the department upon a form furnished by the department. The completed form shall contain the information requested by the department and shall be accompanied by the fee specified in subsection (3).

(5) The director may suspend, deny, or revoke a license issued pursuant to this act for failure to comply with the requirements provided for in section 3, for failure to provide notice as provided in section 4, for violating section 31 of the weights and measures act of 1964, 1964 PA 283, MCL 290.631, if that violation occurs at any of the licensee's retail

outlets and involves the transferring, selling, dispensing, or the offering for sale of gasoline in this state, or for otherwise failing to comply with this act or a rule promulgated under this act or an order issued under this act.

(6) This section does not apply until June 29, 1985.

(7) If a person licensed under this act is convicted of a willful violation under section 31 of the weights and measures act of 1964, 1964 PA 283, MCL 290.631, any license issued pursuant to this act shall be revoked for 2 years.

(8) A suspension, revocation, or denial of a license of a person who is an individual shall result in the suspension, revocation, or denial of any other license held or applied for by that individual under this act. The license of a corporation, partnership, or other association shall be suspended when a license or license application of a partner, trustee, director, or officer, member, or a person exercising control of the corporation, partnership, or other association is suspended, revoked, or denied. The suspension shall remain in force until the director determines that the disability created by the suspension, revocation, or denial has been removed.

(9) Before a blender engages in the transferring, selling, dispensing, or offering for sale blended gasoline in this state, the blender shall register the finished product with the department and provide to the department test results as the department considers necessary. If the product does not comply with the requirements of section 3, the blender shall provide the department with a written list of the business names and addresses to whom the blended product is sold.

290.649i Dispensing permit; requirements; fees.

Sec. 9i. (1) A dispensing facility constructed after November 15, 1990, shall obtain a dispensing permit. The fee for a dispensing permit is $25.00 for each year or portion of a year.

(2) Before a dispensing permit is issued, a dispensing facility shall install an approved stage I and, if required, stage II vapor-recovery system and, in addition to the fee for the dispensing permit, shall pay a registration fee for each dispensing unit located at the dispensing facility. A permit shall not be issued or renewed until all fees and administrative fines issued under section 10a are paid. A hearing shall not be required before the refusal to issue or renew a permit under this subsection.

(3) A dispensing permit expires annually on November 30 unless renewed before December 1 of each year or unless suspended, denied, or revoked by the department. Application for a dispensing permit shall be made on a form furnished by the department. The completed form shall contain the information requested by the department and shall be accompanied by the fees specified.

(4) The director may suspend, deny, or revoke a dispensing permit issued pursuant to this act for failure to pay the fee required by subsection (1) or (2), or for failure to comply with the requirements of sections 9a to 10c.

(5) A fee shall be charged to the operator of stage I and stage II vapor-recovery or gasoline-dispensing equipment for its inspection if any of the following occur:

(a) The inspection is a reinspection of equipment that has already been tested and found to contain a substantial defect as defined under section 9c.

(b) The inspection is performed at the request of the operator.

(6) The department shall establish the fees and expenses for special services, including the fee for an operator requested inspection or reinspection, for registrations, for training courses, and for accreditation of a trainer, to provide that each fee is sufficient to cover

the cost of an operator requested inspection, reinspection, registration, training, or trainer accreditation, respectively, and that the aggregate of all fees collected is sufficient to pay for all salaries and other expenses connected with the activity. The department shall review and adjust the fees at the end of each year and have all fees approved by the director before they are adopted. Fees collected under this section shall be deposited in the gasoline inspection and testing fund and reserved for conducting the vapor-recovery program.

290.650a Violation; administrative fine; hearing; judicial review; action brought by attorney general; payment and disposition of fine, costs, and economic benefit.

Sec. 10a. (1) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another violates this act or a rule promulgated under this act is subject to an administrative fine. Upon the request of a person to whom an administrative fine is issued, the director shall conduct a hearing conducted pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A fine authorized by this section shall be as follows:

(a) For a first violation, not less than $100.00 or more than $500.00, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(b) For a second violation within 5 years after the first violation, not less than $500.00 or more than $1,000.00, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(c) For a third violation within 5 years after the date of the first violation, not less than $1,000.00 or more than $2,000.00, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(2) A decision of the director under this section is subject to judicial review as provided by law.

(3) The director shall advise the attorney general of the failure of any person to pay an administrative fine imposed under this section. The attorney general shall bring an action in court of competent jurisdiction to recover the fine.

(4) Any administrative fine, costs, and the recovery of any economic benefit associated with a violation collected under this section shall be paid to the state treasury and deposited into the gasoline inspection and testing fund.

290.650b Conduct as misdemeanor or felony; assessment of costs.

Sec. 10b. (1) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than $1,000.00 or more than $2,000.00, or both:

(a) Renders less effective or inoperable any part of a stage I or stage II vapor-recovery system.

(b) Makes a false statement, representation, or certification on an application, report, plan, label, or other document that is required to be maintained under this act or rules promulgated under this act.

(c) Fails to disclose to the department any knowledge or information relating to or observation of any modification of a stage I or stage II vapor-recovery system which

makes the system less effective or inoperable, or falsification of records required to be maintained under this act or rules promulgated under this act.

(d) Removes a tag, seal, or mark placed on a dispensing device by the director.

(e) Violates this act or a rule promulgated under this act for which a specific penalty is not prescribed.

(2) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following acts is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than $2,000.00 or more than $10,000.00, or both:

(a) Violates a prohibited act listed in this section within 24 months after another violation of this section that results in a conviction.

(b) Impersonates in any way the director or any department inspector.

(3) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following acts is guilty of a felony punishable by imprisonment for not more than 2 years, or a fine of not less than $10,000.00 or more than $15,000.00, or both:

(a) Intentionally commits a prohibited act under this section.

(b) Violates a prohibited act listed in this section within 24 months after 2 previous violations of this section that result in convictions.

(4) If a violation of this section results in a conviction, the court shall assess against the defendant the costs of the department's investigation, and these costs shall be paid to the state treasury and deposited in the gasoline inspection and testing fund to be used for the enforcement of this act.

Effective date.

Enacting section 1. Except as otherwise provided in this amendatory act, this amendatory act takes effect January 1, 2002.

This act is ordered to take immediate effect.
Approved February 18, 2002.
Filed with Secretary of State February 19, 2002.

[No. 14]

(HB 5009)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for

the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 13 (MCL 722.633), as amended by 1996 PA 309.

The People of the State of Michigan enact:

722.633 Failure to report suspected child abuse or neglect; damages; violation as misdemeanor; unauthorized dissemination of information as misdemeanor; civil liability; maintaining report or record required to be expunged as misdemeanor; false report of child abuse or neglect.

Sec. 13. (1) A person who is required by this act to report an instance of suspected child abuse or neglect and who fails to do so is civilly liable for the damages proximately caused by the failure.

(2) A person who is required by this act to report an instance of suspected child abuse or neglect and who knowingly fails to do so is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(3) Except as provided in section 7, a person who disseminates, or who permits or encourages the dissemination of, information contained in the central registry and in reports and records made as provided in this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both, and is civilly liable for the damages proximately caused by the dissemination.

(4) A person who willfully maintains a report or record required to be expunged under section 7 is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(5) A person who intentionally makes a false report of child abuse or neglect under this act knowing that the report is false is guilty of a crime as follows:

(a) If the child abuse or neglect reported would not constitute a crime or would constitute a misdemeanor if the report were true, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(b) If the child abuse or neglect reported would constitute a felony if the report were true, the person is guilty of a felony punishable by the lesser of the following:

(*i*) The penalty for the child abuse or neglect falsely reported.

(*ii*) Imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

This act is ordered to take immediate effect.
Approved February 18, 2002.
Filed with Secretary of State February 19, 2002.

[No. 15]

(HB 4487)

AN ACT to amend 1962 PA 174, entitled "An act to enact the uniform commercial code, relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank

deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, leases, and secured transactions, including certain sales of accounts, chattel paper and contract rights; to provide for public notice to third parties in certain circumstances; to regulate procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; to make an appropriation; to provide penalties; and to repeal certain acts and parts of acts," by amending section 2201 (MCL 440.2201).

The People of the State of Michigan enact:

440.2201 Formal requirements; statute of frauds.

Sec. 2201. (1) Except as otherwise provided in this section, a contract for the sale of goods for the price of $1,000.00 or more is not enforceable by way of action or defense unless there is a writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by his or her authorized agent or broker. A writing is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this subsection beyond the quantity of goods shown in the writing.

(2) Between merchants, if within a reasonable time a writing in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) against the party unless written notice of objection to its contents is given within 10 days after it is received.

(3) A contract that does not satisfy the requirements of subsection (1) but is valid in other respects is enforceable in any of the following circumstances:

(a) If the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement.

(b) If the party against whom enforcement is sought admits in his or her pleading or testimony or otherwise in court that a contract for sale was made, but the contract is not enforceable under this section beyond the quantity of goods admitted.

(c) With respect to goods for which payment has been made and accepted or that have been received and accepted under section 2606.

This act is ordered to take immediate effect.
Approved February 21, 2002.
Filed with Secretary of State February 21, 2002.

[No. 16]

(HB 4009)

AN ACT to amend 1855 PA 105, entitled "An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by

certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies," by amending section 2a (MCL 21.142a), as amended by 1987 PA 27.

The People of the State of Michigan enact:

21.142a Investment of surplus funds; conditions and restrictions; valid public purpose; approval of documentation; agricultural loans; disposition of earnings; reducing general fund by amount of interest deficiency or loss of principal; duration of certain investments; compliance; separate reports; definitions; value of qualified agricultural loans; deduction of grant; use of existing deposits for loans to farmers; appropriation; reduction of maximum amount of investments; effect of money not invested for qualified agricultural loans; action to ensure successful operation of section; disposition of affidavit; use of federal grant.

Sec. 2a. (1) The state treasurer may invest surplus funds under the state treasurer's control in certificates of deposit or in a financial institution which qualifies with proof of financial viability acceptable to the state treasurer under this act to receive deposits or investments of surplus funds. In addition to terms that may be prescribed in the investment agreement by the state treasurer, an investment under this section shall be subject to all of the following conditions and restrictions:

(a) The interest accruing on the investment shall not be more than the interest earned by the financial institution on qualified agricultural loans made after the date of the investment.

(b) The financial institution shall provide good and ample security as the state treasurer requires and shall identify the qualified agricultural loans and the terms and conditions of those loans that are made after the date of the investment which are attributable to that investment together with other information required by this act.

(c) As established in the investment agreement by the state treasurer, a qualified agricultural loan shall be made at a rate or rates of interest, if any.

(d) To the extent the financial institution has not made qualified agricultural loans as defined by subsection (9)(a) in an amount at least equal to the amount of the investment within 90 days after the investment, the rate of interest payable on that portion of the outstanding investment shall be increased to a rate of interest provided in the investment agreement, with the increase in the rate of interest applied retroactively to the date on which the state treasurer invested the surplus funds.

(e) For a qualified agricultural loan as defined by subsection (9)(a), the investment agreement shall provide that the financial institution does not have to repay any principal within the first 24 months after which the investment is made unless the investment is no longer being used to make a qualified agricultural loan as defined by subsection (9)(a), or to the extent the qualified agricultural loan has been repaid.

(f) For a qualified agricultural loan as defined by subsection (9)(a), the investment agreement may include incentives for the early repayment of the investment and for the acceleration of payments in the event of a state cash shortfall as prescribed by the investment agreement.

(2) An investment made under this section is found and declared to be a valid public purpose.

(3) The attorney general shall approve documentation for an investment pursuant to this section as to legal form.

(4) The state treasurer shall deposit before May 1, 2002 up to $30,000,000.00 of surplus funds with the financial institutions participating in making qualified agricultural loans under this section for the purpose of making those qualified agricultural loans. Not more than $10,000,000.00 of this deposit shall be allocated to qualified agricultural loans made to businesses under subsection (9)(a)(*iii*).

(5) Earnings from an investment made pursuant to this section which are in excess of the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1 or 2, shall be credited to the general fund of the state. If interest from an investment made pursuant to this section is below the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1 or 2, the general fund shall be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment made pursuant to this section shall reduce the earnings of the general fund by the amount of that loss on an amortized basis over the remaining term of the investment.

(6) A new investment to which a qualified agricultural loan as defined by subsection (9)(a)(*ii*) is attributed shall not be made pursuant to this section after October 1, 2002, and shall not be made with a term which extends beyond October 1, 2007. An investment to which a qualified agricultural loan as defined by subsection (9)(a)(*iii*) is attributed shall not be made pursuant to this section after October 1, 2002, and shall not be made with a term extending beyond October 1, 2007. The terms of the qualified agricultural loan as defined by subsection (9)(a) shall provide that zero-interest loans under this section be for a term not more than 5 years and that the first payment made by the recipient occur not later than 24 months after the date of the loan. An investment to which a qualified agricultural loan as defined by subsection (9)(a)(*i*) is attributed shall not be made with a term extending beyond October 1, 2007.

(7) Annually, each financial institution in which the state treasurer has made an investment under this section shall file an affidavit, signed by a senior executive officer of the financial institution, stating that the financial institution is in compliance with the terms of the investment agreement and this act.

(8) Before October 1, 2003, the state treasurer shall prepare separate reports to the legislature and the house and senate agriculture appropriations subcommittees regarding the disposition of money invested for purposes of qualified agricultural loans as defined by subsection (9)(a)(*i*) and for qualified agricultural loans as defined by subsection (9)(a)(*ii*) and (*iii*). The reports for each type of loan shall include all of the following information:

(a) The total number of farmers and the total number of agricultural businesses who have received such a loan.

(b) By county, the total number and amounts of the loans.

(c) The name of each financial institution participating in the loan program and the amount invested in each financial institution for purposes of such loan program.

(d) Any action undertaken by the state treasurer under subsection (15).

(9) As used in this section:

(a) "Qualified agricultural loan" means 1 or more of the following types of loans, as applicable:

(*i*) Until October 1, 2002, a loan to a natural or corporate person who is engaged as an owner-operator of a farm in the production of agricultural goods as defined by section 35(1)(h) of the single business tax act, 1975 PA 228, MCL 208.35, who is experiencing

financial stress and difficulty in meeting existing or projected debt obligations owed to financial institutions due to an agricultural disaster as requested by the governor at rates commensurate with rates charged by financial institutions for loans of comparable type and terms at the time the loan is to be made, and who certifies to the financial institution that the owner-operator will not have more than $150,000.00 in outstanding loans otherwise considered qualified agricultural loans under this subparagraph, including the loan for which the owner-operator is applying. If crop insurance was available for a particular crop and the producer did not purchase the crop insurance for that crop, the amount of the loan shall be reduced by 30% or $50,000.00, whichever is less. A qualified agricultural loan under this subparagraph may be made for either or both of the following purposes:

(A) Operating capital including, but not limited to, capital necessary for the rental, lease, and repair of equipment or machinery, crop insurance premiums, and the purchase of seed, feed, livestock, breeding stock, fertilizer, fuel, and chemicals.

(B) Refinancing all or a portion of a loan entered into before October 1, 2002 for a purpose identified in sub-subparagraph (A).

(*ii*) A loan to an individual, sole proprietorship, partnership, corporation, or other legal entity that is engaged and intends to remain engaged as an owner-operator of a farm in the production of agricultural goods as defined by section 35(1)(h) of the single business tax act, 1975 PA 228, MCL 208.35, who has suffered a 25% or more loss in major enterprises or a 50% or more production loss in any 1 crop due to an agricultural disaster on a farm located in this state, as requested by the governor and as certified by the producer by means of an affidavit demonstrating an accurate and valid production loss.

(*iii*) A loan to an individual, sole proprietorship, partnership, corporation, or other legal entity that is engaged in an agricultural business of buying, exchanging, or selling farm produce, or is engaged in the business of making retail sales directly to farmers and has 75% or more of its gross retail sales volume exempted from sales tax under the Michigan agricultural sales tax exemption, as provided in section 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL 205.54a. Businesses engaged in the buying, exchanging, or selling of farm produce must have suffered a 50% or greater loss in volume of 1 commodity as compared with the average volume of that commodity which the business handled over the last 3 years to qualify for loans under this subparagraph. Businesses engaged in making retail sales directly to farmers must have suffered a 50% or greater reduction in gross retail sales volume subject to the Michigan agricultural sales tax exemption as compared with that business's average retail sales volume subject to that exemption over the last 3 years to qualify for loans under this subparagraph. All losses claimed by businesses attempting to qualify for loans under this subparagraph must be directly attributable to a natural disaster occurring after January 1, 2001, as requested by the governor and as certified by the agricultural business by means of an affidavit demonstrating an accurate and valid loss.

(b) "Surplus funds" means, at any given date, the excess of cash and other recognized assets that are expected to be resolved into cash or its equivalent in the natural course of events and with a reasonable certainty, over the liabilities and necessary reserves at the same date.

(c) "Financial institution" includes, but is not limited to, entities of the farm credit system or a state or federally chartered savings bank. For purposes of this section, entities of the farm credit system or a state or federally chartered savings bank may be qualified as a financial institution eligible to receive an investment under this section notwithstanding that its principal office is not located in this state if the proceeds of the investment will be committed to qualified agricultural loans in this state.

(d) "Corporate person" or "corporation" means, except in relation to a qualified agricultural loan under subdivision (a)(*iii*), a corporation in which a majority of the corporate stock is owned by persons operating the farm applying for a loan.

(e) "Facility" means a plant designed for receiving or storing farm produce or a retail sales establishment of a business engaged in making retail sales directly to farmers, which establishment has 75% or more of its gross retail sales volume exempted from sales tax under the Michigan agricultural sales tax exemption, as provided in section 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL 205.54a.

(10) A qualified agricultural loan as defined by subsection (9)(a)(*ii*) shall be equal to not more than the value of the crop loss as certified by the producer by means of an affidavit demonstrating an accurate and valid production loss. The qualified agricultural loan shall not exceed the lesser of $200,000.00 or the value of the crop loss minus the amount of any grant under federal disaster assistance or insurance proceeds received by the owner-operator as a result of the same crop loss. If crop insurance was available for a particular crop and the producer did not purchase the crop insurance for that crop, the amount of the loan shall be reduced by 30% or $50,000.00, whichever is less.

(11) A qualified agricultural loan as defined by subsection (9)(a)(*iii*) shall not exceed the lesser of the following:

(a) $300,000.00 per facility.

(b) An amount not to exceed the value of the direct loss of the individual, sole proprietorship, partnership, corporation, or other legal entity making application for the loan, as determined by the department of treasury under subsection (9)(a)(*iii*).

(c) $400,000.00 per individual, sole proprietorship, partnership, corporation, or other legal entity making application for the loan.

(12) The financial institutions participating in the loan program pursuant to subsection (9)(a) shall have the option of making state subsidized loans to farmers or to businesses described in subsection (9)(a)(*iii*) before October 1, 2002, with terms approved by the state treasurer by using their existing deposits for the loans and receiving from the state treasurer an interest rate subsidy equal to 120% of the state treasurer's common cash earnings rate. The state's reimbursement to financial institutions participating in the loan program pursuant to subsection (9)(a) shall not be made before October 1, 2002.

(13) There is hereby appropriated an amount sufficient to make the distributions required under subsections (4) and (12) in the 2001-02 fiscal year for not to exceed $210,000,000.00 in qualified agricultural loans. For each qualified agricultural loan for which a distribution is made pursuant to subsection (12), the maximum amount of investments authorized by subsection (4) shall be reduced by an amount equal to 100% or more of the qualified agricultural loan, as determined by the department of treasury, for which a distribution is made pursuant to subsection (12).

(14) Any money for purposes of qualified agricultural loans as defined by subsection (9)(a)(*ii*) that has not been invested by the state treasurer by October 1, 2002, shall increase the maximum amount available under this section for qualified agricultural loans as defined by subsection (9)(a)(*i*).

(15) The state treasurer may take any necessary action to ensure the successful operation of this section, including making investments with financial institutions to cover the administrative and risk-related costs associated with a qualified agricultural loan.

(16) Upon request by the department of treasury, a financial institution shall forward a copy of any affidavits executed and filed under this section to the department of treasury. The financial institution and the department of treasury shall destroy the affidavit or its copy after the qualified agricultural loan is paid off.

(17) If the recipient of a qualified agricultural loan as defined by subsection (9)(a) receives a federal grant after the receipt of a qualified agricultural loan under this section, then any federal grant money remaining after all federal obligations are met shall be allocated by the recipient to payment of the balance of any outstanding loan made under this section.

This act is ordered to take immediate effect.
Approved February 27, 2002.
Filed with Secretary of State February 28, 2002.

[No. 17]

(HB 4812)

AN ACT to amend 1981 PA 155, entitled "An act to provide for ownership rights in dies, molds, and forms for use in the fabrication of plastic parts under certain conditions and to establish a lien on certain dies, molds, and forms," by amending sections 1 and 8a (MCL 445.611 and 445.618a), section 8a as added by 1986 PA 103, and by adding sections 9, 10, 10a, 10b, and 10c.

The People of the State of Michigan enact:

445.611 Definitions.

Sec. 1. For purposes of this act:

(a) "Customer" means a person who causes a moldbuilder to fabricate, cast, or otherwise make a die, mold, or form for use in the manufacture, assembly, or fabrication of plastic parts, or a person who causes a molder to use a die, mold, or form to manufacture, assemble, or fabricate a plastic product.

(b) "Moldbuilder" means a person who fabricates, casts, or otherwise makes, repairs, or modifies a die, mold, or form for use in the manufacture, assembly, or fabrication of plastic parts.

(c) "Molder" means a person who uses a die, mold, or form to manufacture, assemble, or fabricate plastic parts.

(d) "Person" means an individual, firm, partnership, association, corporation, limited liability company, or other legal entity.

445.618a Enforcement of lien; notice.

Sec. 8a. Before enforcing a lien granted to a molder under section 8, notice in writing shall be given to the customer, whether delivered personally or sent by registered mail to the last known address of the customer. The notice shall state that a lien is claimed for the amount due for plastic fabrication work or for making or improving the die, mold, or form. The notice shall include a demand for payment.

445.619 Moldbuilder; lien; requirements.

Sec. 9. (1) A moldbuilder shall permanently record on every die, mold, or form that the moldbuilder fabricates, repairs, or modifies the moldbuilder's name, street address, city, and state.

(2) A moldbuilder shall file a financing statement in accordance with the requirements of section 9502 of the uniform commercial code, 1962 PA 174, MCL 440.9502.

(3) A moldbuilder has a lien on any die, mold, or form identified pursuant to subsection (1). The amount of the lien is the amount that a customer or molder owes the moldbuilder for the fabrication, repair, or modification of the die, mold, or form. The information that the moldbuilder is required to record on the die, mold, or form under subsection (1) and the financing statement required under subsection (2) shall constitute actual and constructive notice of the moldbuilder's lien on the die, mold, or form.

(4) The moldbuilder's lien attaches when actual or constructive notice is received. The moldbuilder retains the lien that attaches under this section even if the moldbuilder is not in physical possession of the die, mold, or form for which the lien is claimed.

(5) The lien remains valid until the first of the following events takes place:

(a) The moldbuilder is paid the amount owed by the customer or molder.

(b) The customer receives a verified statement from the molder that the molder has paid the amount for which the lien is claimed.

(c) The financing statement is terminated.

(6) The priority of a lien created under this act on the same die, mold, or form shall be determined by the time the lien attaches. The first lien to attach shall have priority over liens that attach subsequent to the first lien.

445.620 Moldbuilder; lien; enforcement; notice.

Sec. 10. To enforce a lien that attaches under section 9, the moldbuilder shall give notice in writing to the customer and the molder. The notice shall be given by hand delivery or certified mail, return receipt requested, to the last known address of the customer and to the last known address of the molder. The notice shall state that a lien is claimed, the amount that the moldbuilder claims it is owed for fabrication, repair, or modification of the die, mold, or form, and a demand for payment.

445.620a Moldbuilder; right to possession of die, mold, or form.

Sec. 10a. Subject to section 10b, if the moldbuilder has not been paid the amount claimed in the notice required under section 10 within 90 days after the notice required under section 10 has been received by the customer and the molder, the moldbuilder has a right to possession of the die, mold, or form and may enforce the right to possession of the die, mold, or form by judgment, foreclosure, or any available judicial procedure. The moldbuilder may do 1 or more of the following:

(a) Take possession of the mold, die, or form. The moldbuilder may take possession without judicial process if this can be done without breach of the peace.

(b) Sell the die, mold, or form in a public auction.

445.620b Sale of die, mold, or form; notice of intent.

Sec. 10b. (1) Before a moldbuilder may sell a die, mold, or form for which a lien is claimed and for which the required notice has been sent under section 10, the moldbuilder shall notify the customer, the molder, and all other persons that have a perfected security interest in the die, mold, or form under part 5 of article 9 of the uniform commercial code, 1962 PA 174, MCL 440.9501 to 440.9527, by certified mail, return receipt requested, of all of the following:

(a) The moldbuilder's intention to sell the die, mold, or form 60 days after the receipt of the notice.

(b) A description of the die, mold, or form to be sold.

(c) The last known location of the die, mold, or form.

(d) The time and place of the sale.

(e) An itemized statement of the amount due.

(f) A statement that the die, mold, or form was accepted and the acceptance was not subsequently rejected.

(2) If there is no return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the moldbuilder shall publish notice of the moldbuilder's intention to sell the die, mold, or form in a newspaper of general circulation in the place where the die, mold, or form is last known to be located, in the place of the customer's last known address, and in the place of the molder's last known address. The published notice shall include a description of the die, mold, or form and the name of the customer and the molder.

(3) If a customer or molder against whom the lien is asserted disagrees that the die, mold, or form was accepted or that the acceptance was not subsequently rejected, the customer or molder shall notify the moldbuilder in writing by certified mail, return receipt requested, that the die, mold, or form was not accepted or that the acceptance was subsequently rejected. A moldbuilder who receives this notice shall not sell the die, mold, or form until the dispute is resolved.

445.620c Sale; proceeds; prohibition.

Sec. 10c. (1) If the proceeds of the sale are greater than the amount of the lien, the proceeds shall first be paid to the moldbuilder in the amount necessary to satisfy the lien. All proceeds in excess of the lien shall be paid to the customer.

(2) A sale shall not be made or possession shall not be obtained under section 10a if it would be in violation of any right of a customer or molder under federal patent, bankruptcy, or copyright law.

This act is ordered to take immediate effect.
Approved February 28, 2002.
Filed with Secretary of State March 1, 2002.

[No. 18]

(HB 5382)

AN ACT to amend 1962 PA 174, entitled "An act to enact the uniform commercial code, relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, leases, and secured transactions, including certain sales of accounts, chattel paper and contract rights; to provide for public notice to third parties in certain circumstances; to regulate procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; to make an appropriation; to provide penalties; and to repeal certain acts and parts of acts," by amending section 9201 (MCL 440.9201), as amended by 2000 PA 348.

The People of the State of Michigan enact:

440.9201 General effectiveness of security agreement.

Sec. 9201. (1) Except as otherwise provided in this act, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) A transaction subject to this article is subject to any applicable rule of law that establishes a different rule for consumers and to each of the following, as applicable:

(a) The regulatory loan act of 1963, 1939 PA 21, MCL 493.1 to 493.26.

(b) 1939 PA 305, MCL 566.301 to 566.302.

(c) The motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141.

(d) The mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(e) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(f) 1978 PA 387, MCL 257.931 to 257.937.

(g) 1986 PA 87, MCL 257.1401 to 257.1410.

(h) The grain dealers act, 1939 PA 141, MCL 285.61 to 285.82a.

(i) The Michigan family farm development act, 1982 PA 220, MCL 285.251 to 285.279.

(j) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(k) 1982 PA 459, MCL 325.851 to 325.858.

(*l*) 1970 PA 90, MCL 442.311 to 442.315.

(m) 1971 PA 227, MCL 445.111 to 445.117.

(n) The retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873.

(o) The Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922.

(p) The home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.

(q) 1941 PA 238, MCL 566.1.

(r) The garage keeper's lien act, 1915 PA 312, MCL 570.301 to 570.309.

(s) 1939 PA 3, MCL 460.1 to 460.10cc.

(t) 1981 PA 155, MCL 445.611 to 445.620c.

(3) In case of conflict between this article and a rule of law, statute, or regulation described in subsection (2), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (2) has only the effect the statute or regulation specifies.

(4) This article does not validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (2), or extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4812 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved February 28, 2002.

Filed with Secretary of State March 1, 2002.

Compiler's note: House Bill No. 4812, referred to in enacting section 1, was filed with the Secretary of State March 1, 2002, and became P.A. 2002, No. 17, Imd. Eff. Mar. 1, 2002.

[No. 19]

(HB 5023)

AN ACT to amend 1937 PA 103, entitled "An act to prescribe certain conditions relative to the execution of instruments entitled to be recorded in the office of the register of deeds," by amending section 1 (MCL 565.201), as amended by 1996 PA 459.

The People of the State of Michigan enact:

565.201 Requirements for recording with register of deeds.

Sec. 1. (1) An instrument executed after October 29, 1937 by which the title to or any interest in real estate is conveyed, assigned, encumbered, or otherwise disposed of shall not be received for record by the register of deeds of any county of this state unless that instrument complies with each of the following requirements:

(a) The name of each person purporting to execute the instrument is legibly printed, typewritten, or stamped beneath the original signature or mark of the person.

(b) A discrepancy does not exist between the name of each person as printed, typewritten, or stamped beneath their signature and the name as recited in the acknowledgment or jurat on the instrument.

(c) The name of any notary public whose signature appears upon the instrument is legibly printed, typewritten, or stamped upon the instrument immediately beneath the signature of that notary public.

(d) The address of each of the grantees in each deed of conveyance or assignment of real estate, including the street number address if located within territory where street number addresses are in common use, or, if not, the post office address, is legibly printed, typewritten, or stamped on the instrument.

(e) If the instrument is executed before April 1, 1997, each sheet of the instrument is all of the following:

(*i*) Typewritten or printed in type not smaller than 8-point size.

(*ii*) Not more than 8-1/2 by 14 inches.

(*iii*) Legible.

(*iv*) On paper of not less than 13 (17x22—500) pound weight.

(f) If the instrument is executed after April 1, 1997, each sheet of the instrument complies with all of the following requirements:

(*i*) Has a margin of unprinted space that is at least 2-1/2 inches at the top of the first page and at least 1/2 inch on all remaining sides of each page.

(*ii*) Subject to subsection (3), displays on the first line of print on the first page of the instrument a single statement identifying the recordable event that the instrument evidences.

(*iii*) Is electronically, mechanically, or hand printed in 10-point type or the equivalent of 10-point type.

(*iv*) Is legibly printed in black ink on white paper that is not less than 20-pound weight.

(*v*) Is not less than 8-1/2 inches wide and 11 inches long or more than 8-1/2 inches wide and 14 inches long.

(*vi*) Contains no attachment that is less than 8-1/2 inches wide and 11 inches long or more than 8-1/2 inches wide and 14 inches long.

(2) Subsection (1)(e) and (f) do not apply to instruments executed outside this state or to the filing or recording of a plat or other instrument, the size of which is regulated by law.

(3) A register of deeds shall not record an instrument executed after April 1, 1997 if the instrument purports to evidence more than 1 recordable event.

(4) Any instrument received and recorded by a register of deeds shall be conclusively presumed to comply with this act. The requirements contained in this act are cumulative to the requirements imposed by any other act relating to the recording of instruments.

(5) An instrument that complies with the provisions of this act and any other act relating to the recording of instruments shall not be rejected for recording because of the content of the instrument.

This act is ordered to take immediate effect.
Approved March 4, 2002.
Filed with Secretary of State March 4, 2002.

[No. 20]

(HB 5024)

AN ACT to amend 1879 PA 237, entitled "An act to provide for the execution, acknowledgment, and recording of contracts for the sale of land," by amending section 1 (MCL 565.351), as amended by 1991 PA 140.

The People of the State of Michigan enact:

565.351 Land contract; acknowledgment; endorsement.

Sec. 1. A contract for the sale of land or any interest in that land shall be executed by the vendor named in the contract, and acknowledged before any judge or before any notary public within this state, and the officer taking the acknowledgment shall endorse a certificate of the acknowledgment and the date of making the acknowledgment under his or her hand.

This act is ordered to take immediate effect.
Approved March 4, 2002.
Filed with Secretary of State March 4, 2002.

[No. 21]

(HB 5025)

AN ACT to amend 1967 PA 288, entitled "An act to regulate the division of land; to promote the public health, safety, and general welfare; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements and that there be adequate drainage of the land; to provide for proper ingress and egress to lots and parcels; to promote proper surveying and monumenting of land subdivided and

conveyed by accurate legal descriptions; to provide for the approvals to be obtained prior to the recording and filing of plats and other land divisions; to provide for the establishment of special assessment districts and for the imposition of special assessments to defray the cost of the operation and maintenance of retention basins for land within a final plat; to establish the procedure for vacating, correcting, and revising plats; to control residential building development within floodplain areas; to provide for reserving easements for utilities in vacated streets and alleys; to provide for the filing of amended plats; to provide for the making of assessors plats; to provide penalties for the violation of the provisions of this act; to repeal certain parts of this act on specific dates; and to repeal acts and parts of acts," by amending section 144 (MCL 560.144).

The People of the State of Michigan enact:

560.144 Proprietor's certificate.

Sec. 144. (1) The proprietor's certificate on the plat shall include the following:

(a) The caption of the plat.

(b) A statement that the proprietor has caused the land described on the plat to be surveyed, divided, monumented, mapped, and dedicated as shown on the plat.

(c) A statement that the streets, alleys, parks, and other places shown on it that are usually public are dedicated to the use of the public.

(d) A statement that all public utility easements are private easements and that all other easements are reserved to the uses shown on the plat.

(e) The name of each street, park, or other place that is usually public and that is intended to be reserved to other than public use, and the character and purpose of that use.

(f) A statement that the plat includes all land to the water's edge.

(2) The proprietor's certificate shall be signed by the following, and each signature shall be acknowledged as deeds conveying lands are required to be acknowledged:

(a) All persons holding the title by deed of the lands.

(b) All persons holding any other title of record.

(c) All persons holding title as mortgagee or vendee under land contract or who are in possession but are not renters.

(d) The spouses of persons named in subdivisions (a), (b), and (c).

This act is ordered to take immediate effect.
Approved March 4, 2002.
Filed with Secretary of State March 4, 2002.

[No. 22]

(HB 5186)

AN ACT to amend 1953 PA 181, entitled "An act relative to investigations in certain instances of the causes of death within this state due to violence, negligence or other act or omission of a criminal nature or to protect public health; to provide for the taking of statements from injured persons under certain circumstances; to abolish the office of

coroner and to create the office of county medical examiner in certain counties; to prescribe the powers and duties of county medical examiners; to prescribe penalties for violations of the provisions of this act; and to prescribe a referendum thereon," by amending section 1 (MCL 52.201); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

52.201 Coroner; abolition of office; county medical examiner; appointment; terms; vacancies; civil service; qualifications; agreement among counties.

Sec. 1. (1) The board of commissioners of each county of this state shall by resolution abolish the office of coroner and appoint a county medical examiner to hold office for a period of 4 years. If the office of county medical examiner becomes vacant before the expiration of the term of office, the board of commissioners may appoint a successor to complete the term of office. In counties with a civil service system, the appointment and tenure of the medical examiner shall be made in accordance with the provisions of that civil service system.

(2) County medical examiners shall be physicians licensed to practice within this state.

(3) Two or more counties, by resolution of the respective boards of commissioners, may enter into an agreement to employ the same person to act as medical examiner for all of the counties.

Repeal of § 52.201b.

Enacting section 1. Section 1b of 1953 PA 181, MCL 52.201b, is repealed.

This act is ordered to take immediate effect.
Approved March 4, 2002.
Filed with Secretary of State March 4, 2002.

[No. 23]

(HB 5022)

AN ACT to amend 1846 RS 65, entitled "Of alienation by deed, and the proof and recording of conveyances, and the canceling of mortgages," by amending sections 8 and 47 (MCL 565.8 and 565.47), section 8 as amended by 1980 PA 488.

The People of the State of Michigan enact:

565.8 Deeds; execution; witnesses; acknowledgment; endorsement; validity and legality of certain acknowledgments and recordations of deeds; recorded deed lacking 1 or more witnesses.

Sec. 8. Deeds executed within this state of lands, or any interest in lands, shall be acknowledged before any judge, clerk of a court of record, or notary public within this state. The officer taking the acknowledgment shall endorse on the deed a certificate of the acknowledgment, and the true date of taking the acknowledgment, under his or her hand. Any deed that was acknowledged before any county clerk or clerk of any circuit court, before September 18, 1903, and the acknowledgment of the deed, and, if recorded, the

record of the deed, shall be as valid for all purposes so far as the acknowledgment and record are concerned, as if the deed had been acknowledged before any other officer named in this section, and the legality of the acknowledgment and record shall not be questioned in any court or place. If a deed has been recorded that lacks 1 or more witnesses and the deed has been of record for a period of 10 years or more, and is otherwise eligible to record, the record of the deed shall be effectual for all purposes of a legal record and the record of the deed or a transcript of the record may be given in evidence in all cases and the deed shall be as valid and effectual as if it had been duly executed in compliance with this section.

565.47 Recording by register of deeds; acknowledgment required.

Sec. 47. A deed, mortgage, or other instrument in writing that by law is required to be acknowledged affecting the title to lands, or any interest therein, shall not be recorded by the register of deeds of any county unless the deed, mortgage, or other instrument is acknowledged or proved as provided by this chapter.

This act is ordered to take immediate effect.
Approved March 4, 2002.
Filed with Secretary of State March 4, 2002.

[No. 24]

(SB 505)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 12 of chapter XVII (MCL 777.12), as amended by 2001 PA 160.

The People of the State of Michigan enact:

CHAPTER XVII

777.12 Chapters 200 to 299 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 12. This chapter applies to the following felonies enumerated in chapters 200 to 299 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
205.27(1)(a)	Pub trst	G	Failure to file or false tax return or payment	5
205.27(1)(b)	Pub trst	G	Aiding and abetting tax evasion or filing false returns	5
205.27(1)(c)	Pub trst	G	Making/permitting false tax returns or payments	5
205.27(3)	Pub trst	G	False tax returns/perjury	15
205.28(1)(e)	Pub trst	G	State employee compromising taxes	5
205.28(1)(f)	Pub trst	G	Unauthorized disclosure of tax information	5
205.428(2)	Pub trst	G	Tobacco products tax act violations	5
205.428(3)	Pub trst	G	Illegal sale of cigarettes or other tobacco products with wholesale price of $250.00 or more	5
205.428(6)	Pub trst	F	Illegal tobacco stamp or tobacco stamp device	10
205.428(7)	Pub trst	G	Illegal vending machine license, disk, or marker	5
207.118a	Pub ord	G	Gasoline tax — embezzlement over $100	10
207.119	Pub trst	G	Gasoline or motor fuel tax violation	4
207.127c	Pub ord	G	Diesel fuel tax — embezzlement over $100	10
207.754(3)	Pub trst	G	State treasurer — municipality tax — divulging confidential information	5
252.311	Property	H	Destroying a tree or shrub to make a sign more visible	2
257.233a(7)	Pub ord	G	Odometer tampering	5
257.254	Property	E	Possessing stolen vehicle title	10
257.257(1)	Property	G	Altering or forging vehicle documents — first offense	5
257.257(2)	Property	G	Altering or forging vehicle documents — second offense	7
257.257(3)	Property	E	Altering or forging vehicle documents — third or subsequent offense	15
257.309(6)	Pub ord	F	Corrupting an examining officer	5
257.309(7)	Pub ord	F	Deviating from road test criteria	5
257.309(8)	Pub ord	F	Forging, counterfeiting, or altering road test certification	5

257.312b(6)	Pub ord	F	Corrupting a person or agency conducting a motorcycle driving test	5
257.312b(7)	Pub ord	F	Deviating from motorcycle road test criteria	5
257.312b(8)	Pub ord	F	Forging, counterfeiting, or altering motorcycle road test certification	5
257.329(1)	Property	G	Possession/sale of stolen or counterfeit insurance certificates	5
257.329(2)	Property	E	Possession/sale of stolen or counterfeit insurance certificates — second offense	7
257.329(3)	Property	E	Possession/sale of stolen or counterfeit insurance certificates — third or subsequent offense	15
257.601b(3)	Person	C	Moving violation causing death to construction worker	15
257.601c(2)	Person	C	Moving violation causing death to operator of implement of husbandry	15
257.602a(2)	Pub saf	G	Fleeing and eluding — fourth degree	2
257.602a(3)	Pub saf	E	Fleeing and eluding — third degree	5
257.602a(4)	Person	D	Fleeing and eluding — second degree	10
257.602a(5)	Person	C	Fleeing and eluding — first degree	15
257.617(2)	Person	E	Failure to stop at scene of accident resulting in serious impairment or death	5
257.617(3)	Person	C	Failure to stop at scene of accident resulting in death when at fault	15
257.625(4)(a)	Person	C	Operating a vehicle under the influence or while impaired causing death	15
257.625(4)(b)	Person	B	Operating a vehicle under the influence or while impaired causing death to certain persons	20
257.625(5)	Person	E	Operating a vehicle under the influence or while impaired causing serious impairment	5
257.625(7)(a)(*ii*)	Person	E	Operating a vehicle under the influence or while impaired with a minor in the vehicle — subsequent offense	5
257.625(8)(c)	Pub saf	E	Operating a vehicle under the influence — third or subsequent offense	5
257.625(9)(b)	Person	E	Allowing a vehicle to be operated while under the influence or impaired causing death	5
257.625(9)(c)	Person	G	Allowing a vehicle to be operated while under the influence or impaired causing serious impairment	2
257.625(10)(c)	Pub saf	E	Impaired driving — third or subsequent offense	5

257.625k(7)	Pub saf	D	Knowingly providing false information concerning an ignition interlock device	10
257.625k(9)	Pub saf	D	Failure to report illegal ignition interlock device	10
257.625m(5)	Pub saf	E	Commercial drunk driving — third or subsequent offense	5
257.626c	Person	G	Felonious driving	2
257.653a(3)	Person	G	Failure to use due care and caution causing injury to emergency personnel	2
257.653a(4)	Person	C	Failure to use due care and caution causing death to emergency personnel	15
257.744a	Pub saf	D	False statement in citation — perjury	15
257.902	Pub saf	E	Motor vehicle code violations	5
257.903(1)	Property	E	Motor vehicle code — false certification — first offense	5
257.903(2)	Property	E	Motor vehicle code — false certification — second offense	7
257.903(3)	Property	D	Motor vehicle code — false certification — third or subsequent offense	15
257.904(4)	Person	C	Operating a vehicle without a license causing death	15
257.904(5)	Person	E	Operating a vehicle without a license causing serious impairment	5
257.904(7)	Person	G	Allowing a vehicle to be operated without a license causing serious impairment	2
	Person	E	Allowing a vehicle to be operated without a license causing death	5
257.1353(2)	Pub trst	H	Motor vehicle — fail to record material matter — subsequent offense	2
257.1354(2)	Pub trst	H	Motor vehicle — general violations — subsequent offense	2
257.1355	Pub trst	H	Motor vehicle — fail to record transaction/falsify records	2
259.80f(3)	Pub saf	D	Possessing weapon in sterile area of commercial airport	10
259.83(2)(b)	Pub saf	G	Aircraft — failure to comply with certification requirements — second violation	2
259.83(2)(c)	Pub saf	F	Aircraft — failure to comply with certification requirements — third or subsequent violation	4
259.83b(2)(a)	Pub saf	F	Conducting flight operations without certificate	4
259.83b(2)(b)	Pub saf	E	Conducting flight operations without certificate — second violation	5

259.83b(2)(c)	Pub saf	D	Conducting flight operations without certificate — third or subsequent violation	10
259.183	Property	E	Aircraft — unlawful taking or tampering	5
259.185(4)	Person	C	Operating or serving as crew of aircraft while under the influence causing death	15
259.185(5)	Person	E	Operating or serving as crew of aircraft while under the influence causing serious impairment	5
259.185(8)	Pub saf	E	Operating or serving as crew of aircraft while under the influence — third or subsequent offense	5
285.82	Pub trst	H	Grain dealers act violations	5
285.279(c)	Property	E	False pretenses under Michigan family farm development act involving $1,000 to $20,000 or with prior convictions	5
285.279(d)	Property	D	False pretenses under Michigan family farm development act involving $20,000 or more or with prior convictions	10
286.455(2)	Pub saf	G	Agriculture — hazardous substance	5
286.929(4)	Pub trst	G	Organic products act violations	4
287.323(1)	Person	C	Dangerous animal causing death	15
287.323(2)	Person	G	Dangerous animal causing serious injury	4
287.679	Pub ord	H	Dead animals — third or subsequent violation	1
287.744(1)	Pub ord	G	Animal industry act violations	5
287.855	Pub saf	G	Agriculture — contaminating livestock/falsestatement/violation of quarantine	5
287.967(5)	Pub ord	G	Cervidae producer violations	4
288.223	Pub saf	G	Sale or labeling of oleomargarine violations	3
288.257	Pub saf	G	Margarine violations	3
288.284	Pub trst	H	Selling falsely branded cheese	2
289.5107(2)	Pub saf	F	Adulterated, misbranded, or falsely identified food	4
290.629(1)	Person	G	Weights and measures — assaults enforcement officer	2
290.631(3)	Pub trst	G	Weights and measures	5
290.650	Person	G	Motor fuels — assaulting/obstructing director or authorized representative	2
290.650b(3)	Pub trst	H	Motor fuels violations	2

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 502.

(b) Senate Bill No. 541.

Effective date.

Enacting section 2. This amendatory act takes effect April 1, 2002.

Approved March 5, 2002.
Filed with Secretary of State March 6, 2002.

Compiler's note: Senate Bill No. 502, referred to in enacting section 1, was filed with the Secretary of State January 2, 2002, and became P.A. 2001, No. 225, Eff. Apr. 1, 2002.

Senate Bill No. 541, also referred to in enacting section 1, was filed with the Secretary of State March 7, 2002, and became P.A. 2002, No. 35, Eff. May 15, 2002.

[No. 25]

(SB 718)

AN ACT to amend 1969 PA 317, entitled "An act to revise and consolidate the laws relating to worker's disability compensation; to increase the administrative efficiency of the adjudicative processes of the worker's compensation system; to improve the qualifications of the persons having adjudicative functions within the worker's compensation system; to prescribe certain powers and duties; to create the board of worker's compensation magistrates and the worker's compensation appellate commission; to create certain other boards; to provide certain procedures for the resolution of claims, including mediation and arbitration; to prescribe certain benefits for persons suffering a personal injury under the act; to prescribe certain limitations on obtaining benefits under the act; to create, and provide for the transfer of, certain funds; to prescribe certain fees; to prescribe certain remedies and penalties; to repeal certain parts of this act on specific dates; and to repeal certain acts and parts of acts," by amending section 551 (MCL 418.551), as amended by 1992 PA 269.

The People of the State of Michigan enact:

418.551 Assessments; notice; payment; assessments as elements of loss in establishing rates; continuation of liability; certification of receipts; delinquencies; disposition of money; investments; disposition of earnings; reports and accounting.

Sec. 551. (1) As soon as practicable after January 1 of each year, the director shall assess pursuant to subsection (3) a sum that in total is equal to 175% of the total disbursements made from the second injury fund during the preceding calendar year, less the amount of net assets in excess of $200,000.00 in that fund as of December 31 of the preceding calendar year.

(2) As soon as practicable after January 1 of each year, the director shall assess pursuant to subsection (3) a sum that in total is equal to 175% of the total disbursements made from the silicosis, dust disease, and logging industry compensation fund during the

preceding calendar year, less the amount of net assets in excess of $200,000.00 in that fund as of December 31 of the preceding calendar year.

(3) The portion of the total assessment amounts under subsections (1) and (2) allocated to self-insurers shall be equal to a percentage determined as follows: The total paid losses of all self-insurers for the preceding calendar year divided by the total paid losses of all carriers during the preceding calendar year. The portion of the total assessment amounts under subsections (1) and (2) allocated to insurers shall be equal to a percentage determined as follows: The total paid losses of all insurers for the preceding calendar year divided by the total paid losses of all carriers during the preceding calendar year. The portion of the total assessments allocated to self-insurers that shall be collected from each self-insurer shall be equal to a percentage determined as follows: The total paid losses of each self-insurer divided by the total paid losses of all self-insurers during the preceding calendar year. The portion of the total assessment allocated to insurers that shall be collected from each insurer shall be equal to a percentage determined as follows: The amount of total direct premiums written as reported by each insurer divided by the amount of total direct premiums written as reported by all insurers during the preceding calendar year. As used in this subsection:

(a) "Direct premiums written" means standard written Michigan workers' compensation premium prior to the application of deductible credits, as reported to the designated advisory organization, through policy declarations and unit statistical reports compiled pursuant to the authority in section 2407 of the insurance code of 1956, 1956 PA 218, MCL 500.2407. For the purposes of determining assessments under this section, the reported data for the most recent full calendar year on file with the designated advisory organization shall be used.

(b) "Total paid losses" means total compensation benefits paid under this act, exclusive of payments made pursuant to sections 315, 319, and 345.

(4) The director, upon the advice of the trustee representing the self-insurers, may make additional assessments upon private self-insurers as the trustee considers necessary to keep the self-insurers' security fund solvent. The assessment shall not exceed 3% in any calendar year exclusive of payments made pursuant to sections 315, 319, and 345.

(5) Notice of the assessments shall be sent by the director by first class mail to each carrier. Payment of assessments shall be made so as to be received in the Lansing office of the bureau on or before a date specified uniformly in the notice, but not less than 90 days after the date of mailing.

(6) All assessments constitute elements of loss for the purpose of establishing rates for worker's compensation insurance.

(7) An employer who has stopped being a self-insurer shall continue to be liable for a second injury fund; silicosis, dust disease, and logging industry compensation fund; or self-insurers' security fund assessment on account of any compensation benefits, exclusive of payments made pursuant to sections 315, 319, and 345, paid by the employer during the previous calendar year.

(8) The director shall certify to the trustees the collection and receipt of all money from assessments, noting any delinquencies. The trustees shall immediately notify delinquent carriers, including private self-insurers, of their delinquency in writing by certified mail, return receipt requested. The trustees shall take action as in their judgment is proper to effect collection of any delinquent assessment. All money received from assessments under this section shall be turned over to the state treasurer who shall be the custodian of the self-insurers' security fund; the second injury fund; and the silicosis, dust disease, and logging industry compensation fund. The treasurer may make

those investments as in the treasurer's judgment are in the best interest of the funds. The earnings from the investment of the money from the funds shall be credited to the funds. The state treasurer, at the end of each fiscal year, shall determine what amount represents a pro rata earnings share due to each fund, shall credit the pro rata earning share to each fund, and shall notify the trustee of the amount credited and the balance of the respective fund as of September 30. The trustees shall make separate annual reports and accountings for each fund, which reports shall be included in the annual report of the bureau.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2002.

This act is ordered to take immediate effect.
Approved March 5, 2002.
Filed with Secretary of State March 6, 2002.

[No. 26]

(SB 496)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe

educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 456 (MCL 500.456), as amended by 1989 PA 214.

The People of the State of Michigan enact:

500.456 Legal process served on resident agent effective as personal service on company, association, or group; stipulation; filing copy of appointment; fee; duration of appointment.

Sec. 456. (1) Every insurance company, association, risk retention group, or purchasing group not organized under the statutes of this state shall file with the commissioner, as a condition precedent to doing business in this state, the name and address of a resident agent upon which any local process affecting the company, association, or group may be served. Service upon the resident agent designated under this section is service on the company, association, or group. This designation shall remain in force as long as any liability remains within this state.

(2) As a condition of doing business in this state, an unauthorized insurer who does not have a resident agent shall file with the commissioner an irrevocable written stipulation agreeing that any legal process affecting the company, association, or group that is served upon the commissioner or his or her designee has the same effect as if personally served upon the company, association, or group. A copy of the appointment shall be filed with the commissioner. Service upon the commissioner is service upon the company, association, or group and the fee for service is $10.00 payable at time of service. This appointment remains in force as long as any liability remains within this state.

This act is ordered to take immediate effect.
Approved March 5, 2002.
Filed with Secretary of State March 6, 2002.

[No. 27]

(HB 4028)

AN ACT to establish procedures for municipalities to designate individual lots or structures as blighting; to purchase or condemn blighting property; to transfer blighting property for development; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

125.2801 Scope of act.

Sec. 1. The powers granted in this act relating to the designation and transfer for development of blighting property constitute the performance by this state or a political subdivision of this state of essential public purposes and functions.

125.2802 Definitions.

Sec. 2. As used in this act:

(a) "Attractive nuisance" means a condition on property that children are reasonably likely to come in contact with or be exposed to and that involves an unreasonable risk of death or serious bodily harm to children.

(b) "Blighting property", subject to subdivision (c), means property that is likely to have a negative financial impact on the value of surrounding property or on the increase in value of surrounding property and that meets any of the following criteria:

(*i*) The property has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(*ii*) The property is an attractive nuisance because of physical condition, use, or occupancy. A structure or lot is not blighting property under this subparagraph because of an activity that is inherent to the functioning of a lawful business.

(*iii*) The property is a fire hazard or is otherwise dangerous to the safety of persons or property.

(*iv*) The property has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.

(*v*) A portion of a building or structure located on the property has been damaged by any event so that the structural strength or stability of the building or structure is appreciably less than it was before the event and does not meet the minimum requirements of the housing law of Michigan, 1917 PA 167, MCL 125.401 to 125.543, or a building code of the city, village, or township in which the building or structure is located for a new building or structure.

(*vi*) A building or structure or part of a building or structure located on the property is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.

(*vii*) A building or structure located on the property used or intended to be used as a dwelling, including the adjoining grounds, because of dilapidation, decay, damage, or faulty construction; accumulation of trash or debris; an infestation of rodents or other vermin; or any other reason, is unsanitary or unfit for human habitation, is in a condition that a local health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.

(c) "Blighting property" does not include any of the following:

(*i*) Structures or lots, whether improved or unimproved, that are inherent to the functioning of a farm or farm operation as those terms are defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(*ii*) Structures or lots, whether improved or unimproved, that are industrial properties in an area zoned industrial and that are current on tax obligations.

(*iii*) Track belonging to a railroad company, right-of-way belonging to a railroad company, rolling stock belonging to a railroad company, or any other property necessarily used in operating a railroad in this state belonging to a railroad company.

(*iv*) A single family dwelling for which the owner claims a homestead exemption under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc.

(d) "Dwelling" means any house, building, structure, tent, shelter, trailer, or vehicle, or portion thereof, which is occupied in whole or in part as the home, residence, or living

or sleeping place of 1 or more human beings, either permanently or transiently. Dwelling does not include railroad rolling stock on tracks or rights-of-way.

(e) "Fire hazard" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(f) "Municipality" means a city, village, or township in this state or a county described in section 3(1)(b).

(g) "Person" means an individual, partnership, association, trust, or corporation, or any other legal entity.

(h) "Public nuisance" means an unreasonable interference with a common right enjoyed by the general public involving conduct that significantly interferes, or that is known or should have been known to significantly interfere, with the public's health, safety, peace, comfort, or convenience, including conduct prescribed by law.

(i) "Taxing jurisdiction" means a jurisdiction, including, but not limited to, this state, an agency of this state, a state authority, an intergovernmental authority of this state, a school district, or a municipality, that levies taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

125.2803 Designation of property as blighting; powers and duties of municipality.

Sec. 3. (1) Except as provided in subsection (3), a city, village, or township may do 1 of the following:

(a) Designate a structure or lot within its jurisdiction as blighting property and acquire title to the blighting property by purchase, gift, exchange, or condemnation under the procedures set forth in sections 4 through 7, except that a township may take these actions within a village only upon adoption by a village of a resolution under subdivision (c).

(b) Upon entering into a written agreement with the county within which the city, village, or township is located, adopt a resolution transferring the authority provided in subdivision (a) to that county. The written agreement shall be entered into with the county executive of a county that elects a county executive or with the county board of commissioners of any other county.

(c) In the case of a village, adopt a resolution transferring the authority provided in subdivision (a) to the township within which the village is located.

(2) Except as provided in subsection (3), upon adoption by a city, village, or township of a resolution under subsection (1)(b), a county may designate a structure or lot as blighting property and acquire fee simple title in the blighting property by purchase, gift, exchange, or condemnation under the procedures set forth in sections 4 through 7.

(3) A municipality shall not designate a property as blighting property if the property has been forfeited to a county treasurer under section 78g of the general property tax act, 1893 PA 206, MCL 211.78g, and remains subject to foreclosure under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k.

(4) A municipality shall not designate a property as blighting property based solely on the presence of native grasses or plants indigenous to Michigan that are planted or maintained as part of a garden or designated wildlife area or for landscaping, erosion control, or weed control purposes.

125.2804 Designation of property as blighting; hearing; notice.

Sec. 4. (1) A municipality that proposes to designate a property as blighting property under section 3 shall hold a hearing on the designation. The hearing shall take place not

less than 42 days, and not more than 119 days, after the municipality provides written notice of the hearing and the proposed designation as required by this section. A municipality may hold the hearing more than 119 days after it provides written notice only if an extension is requested by a person with a legal interest in the property that is contesting the blighting designation.

(2) The written notice provided under this section shall explain, in plain English, that the property is subject to designation as blighting property, and shall include all of the following:

(a) The time, date, and location of the hearing.

(b) A description, including the street address, of the property subject to designation as blighting property.

(c) An explanation of the reasons the municipality considers the property to be blighting property.

(d) The name, address, and telephone number of the person to whom communications about the hearing may be addressed.

(e) Names, addresses, and telephone numbers of public and private agencies or other resources that may be available to assist an occupant of the property to avoid the designation of the property as blighting property or to obtain comparable safe, decent, and quality affordable housing.

(f) A description of the improvements that should be made to the property before the hearing to avoid designation of the property as blighting.

(3) The municipality shall perform a thorough title search to identify all persons with a legal interest in the property. The municipality shall take the following steps to provide notice to any person with a legal interest in the property:

(a) Determine the address reasonably calculated to apprise those persons with a legal interest in the property of the pendency of the hearing under this section and send notice of the hearing to each person with a legal interest in the property by certified mail, return receipt requested, not less than 42 days before the hearing.

(b) Send a representative to the property to ascertain personally whether or not the property is occupied. If the property appears to be occupied, the municipality shall do all of the following not less than 42 days before the hearing:

(*i*) Make reasonable efforts in good faith personally to serve upon a person occupying the property a copy of the written notice described in subsection (2).

(*ii*) If a person occupying the property is personally served, orally inform the occupant of both of the following:

(A) That the property may be designated as blighting property.

(B) Public and private agencies or other resources that may be available to assist the occupant to avoid the designation of the property as blighting property or to obtain comparable safe, decent, and quality affordable housing.

(*iii*) If the occupant indicates that he or she has a health problem that affects his or her ability to make improvements that will cause the property no longer to meet the definition of blighting property or if it should be apparent to the representative of the municipality that the occupant has such a health problem, place the occupant with an appropriate public or private agency to assist the occupant to avoid the designation of the property as blighting property.

(*iv*) If the occupant appears to lack the ability to understand the advice given or is unwilling to cooperate, provide the occupant with the names and telephone numbers of public and private agencies that may be able to assist the occupant.

(*v*) If an authorized representative of the municipality is not able personally to meet with the occupant, place the written notice at a conspicuous location on the property.

(c) Correct any deficiency that the municipality may know of in the provision of the notice required by this section as soon as practicable before designating the property as blighting property.

(d) If the municipality is unable to ascertain the address reasonably calculated to apprise all persons with a legal interest in the property of the pendency of the hearing, or is unable to deliver notice to any occupant of the property, service of the notice shall be made by publication. The notice shall be published for 3 successive weeks, once each week, in a newspaper published and circulated in the county in which the property is located, if there is one. If no paper is published in that county, publication shall be made in a newspaper published and circulated in an adjoining county.

(4) Any notice provided under this section shall include an explanation of any tax benefits or other incentives offered by the municipality that may encourage the transfer of the blighting property.

125.2805 Proof of notice; affidavit.

Sec. 5. (1) Upon the mailing of the notice under section 4, the representative of the municipality responsible for the mailing of the notice shall file proof of the notice provided with the register of deeds of the county within which the property subject to designation as blighting property is located. The proof of notice shall be in the form of an affidavit and shall include all of the following:

(a) A description of the content of the notice provided.

(b) The name or names of the person or persons to whom the notice was addressed.

(c) A statement that the property is subject to designation as blighting property and subsequent transfer or condemnation.

(2) An affidavit recorded under subsection (1) creates a rebuttable presumption in the courts of this state that any person obtaining a legal interest in property subject to designation as blighting property following the recording of the affidavit by the representative of the municipality was properly notified that the property was subject to designation as blighting property and of the consequences of that designation, including, but not limited to, the condemnation of the property or the transfer of the property to the municipality or another person.

(3) If a representative of a municipality records an affidavit under subsection (1) and the municipality subsequently does not designate the property as blighting property, the municipality shall record as soon as practicable notice properly certified by a representative of the municipality and in the form of an affidavit that the property was not designated as blighting property and that the municipality no longer seeks to designate the property as blighting property.

125.2806 Designation of property as blighting; contest; property improvements causing delay of designation; certificate; determination; suspension of proceedings; appeal; costs.

Sec. 6. (1) A person with a legal interest in the property may contest the proposed designation of any property as blighting property at the hearing held by the municipality under section 4 by doing 1 of the following:

(a) Appear at the hearing and show cause why the property should not be designated as blighting property.

(b) If incarcerated, impaired, or otherwise unable to attend a public hearing, submit a written presentation to show cause why the property should not be designated as blighting property.

(2) If a person with a legal interest in the property demonstrates at the hearing that improvements to the property have been made or are actively being made that will cause the property no longer to meet the definition of blighting property, the municipality shall delay the designation of the property as blighting for 91 days. If at the end of that 91 days the municipality finds that the property no longer meets the definition of blighting property, the municipality shall issue a certificate stating that the property is not blighting property.

(3) If after the notice and hearing required by this act the municipality determines that the property is blighting property, the municipality shall designate the property as blighting property and provide public notice of the designation.

(4) A municipality may at any time suspend proceedings leading to the designation of property as blighting property if a person with a legal interest in the property enters into an agreement with the municipality establishing an improvement plan for the property and a schedule for completion of the improvements.

(5) A person with a legal interest in property that a municipality has designated as blighting property may appeal that decision to the circuit court in the jurisdiction within which the property is located within 28 days of the designation. The circuit court shall review the municipal decision using the standard of review for administrative decisions that is set forth in section 28 of article VI of the state constitution of 1963.

(6) If a person with a legal interest in a property that a municipality designates as blighting appeals the municipal decision and the decision is reversed by a court of appropriate jurisdiction and the court determines that the municipality was acting arbitrarily or in bad faith, the court may award the successful appellant the costs, including, but not limited to, attorney fees, actually and reasonably incurred by the person in making the appeal.

125.2807 Acquisition of property by purchase or condemnation; transfer by municipality; classification of property as residential; order restoring person's legal interest in property.

Sec. 7. (1) A municipality may offer to purchase property designated as blighting property under this act at the fair market value or to acquire the property by donation or exchange. If the offer is rejected, the municipality may institute proceedings under the power of eminent domain under the laws of this state or provisions of any local charter relative to condemnation.

(2) Except as otherwise provided in subsection (3), within 119 days after a municipality acquires title to a blighting property or a condemnation award for the blighting property is ordered under the uniform condemnation procedures act, 1980 PA 87, MCL 213.5 to 213.75, whichever is later, the municipality shall either transfer the property for development or have adopted a written development plan for the property.

(3) A municipality that under subsection (2) transfers title to a blighting property that is classified as residential may transfer the property for affordable low income housing to a person that has experience with and is able to demonstrate financial capacity developing affordable low income housing. A municipality that does not transfer title to a blighting property that is classified as residential under subsection (2) shall develop the property in accordance with the written development plan adopted under subsection (2).

(4) If a municipality fails to comply with subsection (2) or (3), a person whose legal interest in the property was conveyed by sale, donation, exchange, or condemnation as provided for under subsection (1) may bring an action in the circuit court to compel the municipality to convey that legal interest back to that person. Upon a finding that the person bringing the action has a plan likely to result in the development of that property consistent with applicable law and that the municipality has not complied with subsection (2) or (3), the court shall enter an order restoring the person's legal interest in the property. An order entered under this subsection shall require all of the following:

(a) That all amounts paid in consideration for the property, including any taxes extinguished under section 8, be repaid and, if applicable, distributed to the appropriate taxing jurisdiction.

(b) That all costs incurred by the municipality for demolition, environmental response activities, title clearance, and site preparation be repaid.

(c) That the court retain jurisdiction to determine if the development plan presented by the petitioner is implemented.

125.2808 Acceptance of deed in lieu of foreclosure.

Sec. 8. (1) To encourage the donation or transfer of property designated as blighting property under this act, the municipality may accept from all persons with a legal interest in the blighting property a deed conveying those persons' interests in the blighting property in lieu of foreclosure of the blighting property for delinquent property taxes. A municipality shall not offer or accept a deed in lieu of foreclosure if either of the following applies:

(a) The blighting property has been forfeited to a county treasurer under section 78g of the general property tax act, 1893 PA 206, MCL 211.78g, and remains subject to foreclosure under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k.

(b) The blighting property has been foreclosed under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k, and has not been transferred by the foreclosing governmental unit under section 78m of the general property tax act, 1893 PA 206, MCL 211.78m.

(2) If, under subsection (1), the municipality accepts a deed in lieu of foreclosure, all of the following shall occur:

(a) Any unpaid taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, are extinguished.

(b) All liens against the property, except future installments of special assessments and liens recorded by this state pursuant to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished.

(c) All existing recorded and unrecorded interests in that property are extinguished, except a visible or recorded easement or right-of-way, private deed restriction, or restriction imposed under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(3) Not less than 28 days prior to acceptance of a deed in lieu of foreclosure under this section, a municipality shall inform each taxing jurisdiction that has levied taxes on the blighting property under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. Each taxing jurisdiction shall be afforded the opportunity to inform the municipality of the revenue impact of the issuance of a deed in lieu of foreclosure and to show cause why the municipality should not accept a deed in lieu of foreclosure.

(4) A municipality shall record any deed in lieu of foreclosure in the office of the register of deeds in the county within which the property is located and pay any applicable recording costs.

(5) A municipality shall forward a copy of a deed in lieu of foreclosure recorded under subsection (4) to the treasurer of the city, village, or township, and to the treasurer of the county, within which the property is located.

(6) To encourage the donation or transfer of blighting property, a municipality may forgive fines levied by the municipality against the property or fines relating to the property levied against a person with a legal interest in the property.

125.2809 Transfer of property designated as blighting.

Sec. 9. (1) For reasonable and valuable consideration, a municipality may transfer for development property designated as blighting property and acquired under this act. A municipality may transfer the blighting property after the transferee presents all of the following:

(a) A development plan for the property.

(b) Guarantees of the transferee's financial ability to implement the development plan for the blighting property.

(2) If property obtained by a municipality under this act is subsequently sold by the municipality for an amount in excess of any costs incurred by the municipality relating to demolition, renovation, improvements, or infrastructure development, the excess amount shall be returned on a pro rata basis to any taxing jurisdiction affected by the extinguishment of taxes under section 8 as a result of the designation of the property as blighting property to the extent necessary to offset the extinguishment of taxes under section 8. Upon the request of any taxing jurisdiction in which the blighting property is located, the municipality shall provide to the requesting taxing jurisdiction cost information regarding any subsequent sale or transfer by the municipality of the blighting property.

125.2810 Additional powers.

Sec. 10. The powers granted in this act are in addition to powers granted to municipalities under the statutes and local charters. Nothing contained in this act shall be construed to amend or repeal any of the provisions of 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c, or of 1945 PA 344, MCL 125.71 to 125.84.

Repeal of act.

Enacting section 1. This act is repealed 5 years after the effective date of this act.

This act is ordered to take immediate effect.
Approved March 5, 2002.
Filed with Secretary of State March 6, 2002.

[No. 28]

(HB 5389)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations;

to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 17 of chapter XVII (MCL 777.17), as amended by 2001 PA 136, and by adding sections 17b, 17c, 17d, 17f, and 17g to chapter XVII.

The People of the State of Michigan enact:

CHAPTER XVII

777.17 Applicability of chapter to certain felonies; chapters 751 to 830.

Sec. 17. This chapter applies to the following felonies enumerated in chapters 751 to 830 of the Michigan Compiled Laws as set forth in sections 17a to 17g of this chapter.

777.17b Applicability of chapter to certain felonies; §§ 752.272a(2)(c) to 752.543.

Sec. 17b. This chapter applies to the following felonies enumerated in chapter 752 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
752.272a(2)(c)	Pub saf	F	Sale or distribution of nitrous oxide device — 2 or more prior convictions	4
752.365(3)	Pub ord	G	Obscenity — subsequent offense	2
752.541	Pub saf	D	Riot	10
752.542	Pub saf	D	Incitement to riot	10
752.542a	Pub saf	D	Riot in state correctional facilities	10
752.543	Pub saf	G	Unlawful assembly	5

777.17c Applicability of chapter to certain felonies; §§ 752.797(1)(c) to 752.797(3)(f); determination.

Sec. 17c. (1) This chapter applies to the following felonies enumerated in chapter 752 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
752.797(1)(c)	Property	E	Computer fraud — 2 prior convictions or value of $1,000 to $20,000	5

752.797(1)(d)	Property	D	Computer fraud — 3 or more prior convictions or value of $20,000 or more	10
752.797(2)(a)	Property	E	Unlawfully accessing computer, computer system, or computer program	5
752.797(2)(b)	Property	D	Unlawfully accessing computer, computer system, or computer program, with prior conviction	10
752.797(3)(b)	Variable	G	Using computer to commit crime punishable by a maximum term of imprisonment of more than 1 year but less than 2 years	2
752.797(3)(c)	Variable	F	Using computer to commit crime punishable by a maximum term of imprisonment of at least 2 years but less than 4 years	4
752.797(3)(d)	Variable	D	Using computer to commit crime punishable by a maximum term of imprisonment of at least 4 years but less than 10 years	7
752.797(3)(e)	Variable	D	Using computer to commit crime punishable by a maximum term of imprisonment of at least 10 years but less than 20 years	10
752.797(3)(f)	Variable	B	Using computer to commit crime punishable by a maximum term of imprisonment of at least 20 years or for life	20

(2) For a violation of section 797(3) of 1979 PA 53, MCL 752.797, determine the offense category, offense variable level, and prior record variable level based on the underlying offense.

777.17d Applicability of chapter to certain felonies; §§ 752.802 to 752.1054(2).

Sec. 17d. This chapter applies to the following felonies enumerated in chapter 752 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
752.802	Property	H	Vending machines — manufacture/ sale of slugs	5
752.811	Property	H	Breaking and entering a coin operated device	3
752.861	Person	G	Careless discharge of firearm causing injury or death	2
752.881	Person	G	Reckless use of bow and arrow resulting in injury or death	2
752.1003	Property	F	Health care fraud — false claim/state, unnecessary, conceal information	4
752.1004	Property	F	Health care fraud — kickbacks/ referral fees	4
752.1005	Property	H	Health care fraud — conspiracy	10

752.1006	Property	D	Health care fraud — subsequent offense	20
752.1054(2)	Property	G	Copying audio/video recordings for gain	5

777.17f Applicability of chapter to certain felonies; §§ 764.1e to 767a.9.

Sec. 17f. This chapter applies to the following felonies enumerated in chapters 760 to 799 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
764.1e	Pub trst	C	Peace officer — false statement in a complaint	15
767.4a	Pub trst	F	Disclosing or possessing grand jury information	4
767a.9(1)(a)	Pub trst	C	Perjury committed in prosecutor's investigative hearing — noncapital crime	15
767a.9(1)(b)	Pub trst	B	Perjury committed in prosecutor's investigative hearing — capital crime	Life

777.17g Applicability of chapter to certain felonies; §§ 800.281(1) to 801.263(2).

Sec. 17g. This chapter applies to the following felonies enumerated in chapters 800 to 830 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
800.281(1)	Pub saf	H	Furnishing prisoner with contraband	5
800.281(2)	Pub saf	H	Furnishing prisoner with contraband outside	5
800.281(3)	Pub saf	H	Bringing contraband into prisons	5
800.281(4)	Pub saf	E	Prisoner possessing contraband	5
800.283(1)	Pub saf	E	Furnishing weapon to prisoner in prison	5
800.283(2)	Pub saf	E	Prisons — knowledge of a weapon in a correctional facility	5
800.283(3)	Pub saf	E	Bringing weapon into prison	5
800.283(4)	Pub saf	E	Prisoner possessing weapon	5
801.262(1)(a)	Pub saf	E	Bringing weapon into jail	5
801.262(1)(b)	Pub saf	E	Furnishing weapon to prisoner in jail	5
801.262(2)	Pub saf	E	Prisoner in jail possessing weapon	5
801.263(1)	Pub saf	H	Furnishing contraband to prisoner in jail	5
801.263(2)	Pub saf	H	Prisoner in jail possessing contraband	5

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2002.

This act is ordered to take immediate effect.
Approved March 7, 2002.
Filed with Secretary of State March 7, 2002.

[No. 29]

(HB 5390)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 14 of chapter XVII (MCL 777.14), as amended by 2000 PA 363, and by adding sections 14a, 14b, 14c, 14d, 14f, 14g, 14h, 14j, 14m, and 14p to chapter XVII.

The People of the State of Michigan enact:

CHAPTER XVII

777.14 Chapters 400 to 499 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 14. This chapter applies to felonies enumerated in chapters 400 to 499 of the Michigan Compiled Laws as set forth in sections 14a to 14p.

777.14a Applicability of chapter to certain felonies; §§ 400.60(2) to 400.722(4).

Sec. 14a. This chapter applies to the following felonies enumerated in chapters 400 to 407 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
400.60(2)	Property	H	Welfare — obtaining over $500 by failure to inform	4
400.603	Pub trst	G	Medicaid fraud — false statement in benefit/concealing information	4
400.604	Pub trst	G	Medicaid fraud — kickback/referral fees	4
400.605	Pub trst	G	Medicaid fraud — false statement regarding institutions	4

400.606	Property	E	Medicaid fraud — conspiracy	10
400.607	Pub trst	G	Medicaid fraud — false claim/ medically unnecessary	4
400.609	Property	D	Medicaid fraud — fourth or subsequent offense	10
400.713(13)	Pub saf	H	Adult foster care — unlicensed facility	2
	Pub saf	F	Adult foster care — unlicensed facility — subsequent violation	5
400.722(4)	Pub saf	F	Adult foster care — maintaining operation after refusal of licensure	5

777.14b Applicability of chapter to certain felonies; §§ 408.1035(5) to 409.122(3).

Sec. 14b. This chapter applies to the following felonies enumerated in chapters 408 to 420 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
408.1035(5)	Person	H	MIOSHA violation causing employee death	1
	Person	G	MIOSHA violation causing employee death — subsequent offense	3
408.1035a(5)	Person	H	MIOSHA violation causing employee death	1
	Person	G	MIOSHA violation causing employee death — subsequent offense	3
409.122(2)	Person	G	Employment of children during certain hours — second offense	2
	Person	E	Employment of children during certain hours — third or subsequent offense	10
409.122(3)	Person	D	Employment of children in child sexually abusive activity	20

777.14c Applicability of chapter to certain felonies; §§ 421.54 to 421.54c.

Sec. 14c. This chapter applies to the following felonies enumerated in chapter 421 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
421.54(a)(*ii*)(B)	Property	H	Unemployment comp fraud — failure to comply with act/rule $25,000-$100,000	2
421.54(a)(*ii*)(C)	Property	G	Unemployment comp fraud — failure to comply with act/rule over $100,000	5
421.54(a)(*iv*)(B)	Property	H	Unemployment comp fraud — willful violation of act/rule over $100,000	2
421.54(b)(*ii*)(B)	Property	H	Unemployment comp fraud — false statement or misrepresentation over $25,000	2

421.54(b)(*ii*)(C)	Property	H	Unemployment comp fraud — false statement or misrepresentation without actual loss	2
421.54(d)	Property	H	Unemployment comp fraud — disclose confidential information for financial gain	1
421.54a	Property	G	Unemployment comp fraud — false statement as condition of employment	10
421.54b(b)(*i*)	Property	H	Unemployment comp fraud — conspiracy with loss of $25,000 or less	2
421.54b(b)(*ii*)	Property	G	Unemployment comp fraud — conspiracy with loss over $25,000	5
421.54b(b)(*iii*)	Property	H	Unemployment comp fraud — conspiracy with no actual loss	2
421.54c(b)(*ii*)	Property	H	Unemployment comp fraud — embezzlement of $25,000 to under $100,000	2
421.54c(b)(*iii*)	Property	G	Unemployment comp fraud — embezzlement of $100,000 or more	5
421.54c(b)(*iv*)	Property	H	Unemployment comp fraud — embezzlement with no actual loss	2

777.14d Applicability of chapter to certain felonies; §§ 431.257 to 432.218.

Sec. 14d. This chapter applies to the following felonies enumerated in chapters 422 to 432 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
431.257	Pub trst	G	Racing, boxing and exhibition racing	2
431.307(8)	Pub trst	G	Horse racing — testifying falsely to commissioner while under oath	4
431.330(4)	Pub trst	G	Horse racing — administering a drug that could affect racing condition	5
431.332	Pub trst	G	Horse racing — influencing or attempting to influence result of race	5
432.30	Property	G	Lottery — forgery of tickets	5
432.218	Pub ord	D	Casino gaming offenses	10

777.14f Applicability of chapter to certain felonies; §§ 436.1701(2) to 436.1919.

Sec. 14f. This chapter applies to the following felonies enumerated in chapter 436 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
436.1701(2)	Person	D	Selling alcohol to a minor and causing death	10
436.1909(3)	Pub ord	H	Liquor violation	1
436.1919	Pub ord	H	Fraudulent documents, labels, or stamps	1

777.14g Applicability of chapter to certain felonies; §§ 438.41 to 444.107.

Sec. 14g. This chapter applies to the following felonies enumerated in chapters 437 to 444 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
438.41	Property	E	Criminal usury	5
440.9320(8)	Property	G	Farming — illegal sale of secured products	3
442.219	Pub trst	E	Sales — false statement	5
443.50	Pub trst	E	Issuing warehouse receipt for goods not received	5
443.52	Pub trst	E	Issuing duplicate warehouse receipt not so marked	5
444.13	Pub trst	H	Warehousemen and warehouse receipts	2
444.107	Pub trst	E	Warehouse certificates — willfully alter or destroy	5

777.14h Applicability of chapter to certain felonies; §§ 445.487(2) to 445.1679.

Sec. 14h. This chapter applies to the following felonies enumerated in chapter 445 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
445.487(2)	Pub ord	H	Precious metal and gem dealer failure to record material matter — subsequent offense	2
445.488(2)	Pub ord	H	Precious metal and gem dealer violations — subsequent offense	2
445.489	Pub ord	H	Precious metal and gem dealer violations	2
445.490	Pub ord	H	Precious metal and gem dealer failure to obtain a certificate of registration	2
445.779	Pub ord	H	Antitrust violation	2
445.1505	Pub trst	G	Franchise investment law — fraudulent filing/offers	7
445.1508	Pub trst	G	Franchise investment law — sale without proper disclosure	7
445.1513	Pub trst	G	Franchise investment law — illegal offers/sales	7
445.1520	Pub trst	G	Franchise investment law — keeping records	7
445.1521	Pub trst	G	Franchise investment law — false representation	7
445.1523	Pub trst	G	Franchise investment law — false statements of material fact	7
445.1525	Pub trst	G	Franchise investment law — false advertising	7
445.1528	Pub trst	D	Pyramid/chain promotions — offer or sell	7

445.1671	Pub trst	E	Mortgage brokers, lenders — knowingly giving a false statement	15
445.1679	Pub trst	H	Mortgage brokers act — general violations	3

777.14j Applicability of chapter to certain felonies; §§ 450.775 to 451.806.

Sec. 14j. This chapter applies to the following felonies enumerated in chapters 450 and 451 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
450.775	Pub ord	H	Corporations — minority and woman owned businesses	2
450.795	Pub ord	H	Corporations — handicapper business opportunity act	2
451.319	Pub trst	G	Securities, real estate, and debt management — violation	2
451.434	Pub trst	H	Debt management act — licensee violations	2
451.501	Pub trst	E	Blue sky laws — fraudulent schemes/statements	10
451.502	Pub trst	E	Blue sky laws — investment advisor/agent fraud	10
451.503	Pub trst	E	Blue sky laws — make/sell false bullion/certificates	10
451.601	Pub trst	E	Blue sky laws — unregistered broker/dealer/agent/advisor	10
451.603(h)	Pub trst	E	Blue sky laws — fail to notify administrator of sanctions	10
451.604(a)(1)(j) to (s) and (v) to (z)	Pub trst	E	Blue sky laws — various violations	10
451.701	Pub trst	E	Blue sky laws — offer/sell unregistered securities	10
451.802	Pub trst	E	Blue sky laws — unlawfully selling securities	10
451.804	Pub trst	E	Blue sky laws — willful false statements	10
451.805(b)	Pub trst	E	Blue sky laws — false representation of administrative approval	10
451.806(b)	Pub trst	E	Blue sky laws — improper disclosure by cor and sec bur employee	10

777.14m Applicability of chapter to certain felonies; §§ 462.257(1) to 472.36.

Sec. 14m. This chapter applies to the following felonies enumerated in chapters 460 to 473 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
462.257(1)	Person	A	Trains — endangering travel	Life
462.353(5)	Pub saf	E	Operating a locomotive under the influence — third or subsequent offense	4
472.36	Pub saf	A	Street railways — obstruction of track	Life

777.14p Applicability of chapter to certain felonies; §§ 482.44 to 493.77(2).

Sec. 14p. This chapter applies to the following felonies enumerated in chapters 482 to 499 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
482.44	Property	H	Bills of lading — issuance for goods not received	5
482.46	Property	H	Bills of lading — issuance of duplicate not so marked	5
482.48	Property	H	Bills of lading — negotiation when goods not in carriers' possession	5
482.49	Property	H	Bills of lading — inducing carrier to issue when goods have not been received	5
482.50	Property	H	Bills of lading — issuance of non-negotiable bill not so marked	5
483.226	Pub trst	E	Officer of a pipeline company — intent to defraud — stock	10
487.1505(6)	Pub trst	E	BIDCO act — knowingly receiving money or property at an interest rate exceeding 25%	5
492.137(a)	Pub trst	H	Installment sales of motor vehicles	3
493.56a(13)	Pub trst	C	False statement in reports — secondary mortgage	15
493.77(2)	Pub trst	H	Regulatory loans	3

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2002.

This act is ordered to take immediate effect.
Approved March 7, 2002.
Filed with Secretary of State March 7, 2002.

[No. 30]

(HB 5391)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe

its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 13 of chapter XVII (MCL 777.13), as amended by 2001 PA 156, and by adding sections 13b, 13c, 13d, 13e, 13f, 13g, 13j, 13k, 13m, 13n, and 13p.

The People of the State of Michigan enact:

CHAPTER XVII

777.13 Chapters 300 to 399 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 13. This chapter applies to felonies enumerated in chapters 300 to 399 of the Michigan Compiled Laws as set forth in sections 13a to 13p of this chapter.

777.13b Applicability of chapter to certain felonies; §§ 324.1608 to 324.2157(1)(d).

Sec. 13b. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.1608	Person	G	Resisting and obstructing conservation officer	2
324.2157(1)(c)	Property	E	Damage to state property involving $1,000 to $20,000 or with prior convictions	5
324.2157(1)(d)	Property	D	Damage to state property involving $20,000 or more or with prior convictions	10

777.13c Applicability of chapter to certain felonies; §§ 324.3115(2) to 324.21548(1).

Sec. 13c. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.3115(2)	Pub saf	H	Waste discharge violations	2
324.3115(4)	Pub saf	G	Waste discharge violations — substantial endangerment	5
324.5531(4)	Pub saf	H	Knowingly releasing pollutants	2
324.5531(5)	Pub saf	G	Knowingly releasing pollutants — causing death or serious bodily injury	6
324.5531(6)	Pub saf	C	Knowingly releasing pollutants — resulting in death or serious bodily injury	15

324.8905(2)	Pub saf	H	Infectious waste/pathological waste/sharps — littering violation	2
324.8905(3)	Pub saf	G	Infectious waste/pathological waste/sharps — littering violation — subsequent offense	5
324.11151(2)	Pub saf	H	Hazardous waste violations — subsequent offense	2
324.11151(3)	Pub saf	H	Hazardous waste violation — with disregard for human life	2
324.11151(3)	Pub saf	G	Hazardous waste violation — with extreme indifference for human life	5
324.12116(2)	Pub saf	H	Waste — false statement or entry in a license application	2
324.20139(3)	Pub saf	H	Hazardous waste — knowingly releases or causes the release	2
324.21324(1)	Pub saf	G	Underground storage tanks — false or misleading information	5
324.21548(1)	Pub trst	H	False statement, report, claim, bid, work invoice, or other request for payment	5

777.13d Applicability of chapter to certain felonies; §§ 324.30316(3) to 324.33939(1).

Sec. 13d. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.30316(3)	Pub saf	H	NREPA violation — subsequent offense	2
324.31525	Person	G	NREPA — imminent danger of death or serious injury — subsequent offense	2
324.33939(1)	Pub trst	H	NREPA violation for commercial purposes	2

777.13e Applicability of chapter to certain felonies; §§ 324.40118(11) to 324.52908(1)(d).

Sec. 13e. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.40118(11)	Pub ord	G	Wildlife conservation — buying/selling protected animals — subsequent offense	4
324.51120(2)	Property	H	Removing forest products over $2,500	3
324.51512	Pub saf	D	Willfully setting forest fires	10
324.52908(1)(c)	Property	E	Damage to plant involving $1,000 to $20,000 or with prior convictions	5
324.52908(1)(d)	Property	D	Damage to plant involving $20,000 or more or with prior convictions	10

777.13f Applicability of chapter to certain felonies; §§ 324.61511 to 324.61521(1).

Sec. 13f. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.61511	Pub trst	G	False affidavit under NREPA	5
324.61521(1)	Pub trst	G	Evading rule under NREPA	3

777.13g Applicability of chapter to certain felonies; §§ 324.76107(3) to 324.82160(3).

Sec. 13g. This chapter applies to the following felonies enumerated in chapter 324 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
324.76107(3)	Pub ord	D	Removing or mutilating human body from Great Lakes bottomland	10
324.76107(4)(c)	Property	E	Recovering abandoned property in Great Lakes having value of $1,000 to $20,000 or with prior convictions	5
324.76107(4)(d)	Property	D	Recovering abandoned property in Great Lakes having value of $20,000 or more or with prior convictions	10
324.80130d(1)	Pub ord	H	False representation to obtain personal information	4
324.80130d(2)	Pub ord	G	False representation to obtain personal information — second offense	7
324.80130d(3)	Pub ord	C	False representation to obtain personal information — third or subsequent offense	15
324.80172	Person	G	Negligent crippling or homicide by vessel	2
324.80173	Person	G	Felonious operation of a vessel	2
324.80176(4)	Person	C	Operating a vessel under the influence causing death	15
324.80176(5)	Person	E	Operating a vessel under the influence causing serious impairment	5
324.80177(1)(c)	Pub saf	E	Operating a vessel under the influence — third or subsequent offense	5
324.80319a(1)	Pub ord	H	False representation to obtain personal information	4
324.80319a(2)	Pub ord	G	False representation to obtain personal information — second offense	7
324.80319a(3)	Pub ord	C	False representation to obtain personal information — third or subsequent offense	15

324.81120(1)	Pub ord	H	False representation to obtain personal information	4
324.81120(2)	Pub ord	G	False representation to obtain personal information — second offense	7
324.81120(3)	Pub ord	C	False representation to obtain personal information — third or subsequent offense	15
324.81134(6)	Pub saf	E	Operating an ORV under the influence — third or subsequent offense	5
324.81134(7)	Person	C	Operating an ORV under the influence causing death	15
324.81134(8)	Person	E	Operating an ORV under the influence causing serious impairment	5
324.82126c(1)	Person	G	Operating a snowmobile carelessly or negligently causing death or serious impairment	2
324.82126c(2)	Person	G	Operating a snowmobile without regard to safety causing serious impairment	2
324.82127(4)	Person	C	Operating a snowmobile under the influence causing death	15
324.82127(5)	Person	E	Operating a snowmobile under the influence causing serious impairment	5
324.82128(1)(c)	Pub saf	E	Operating a snowmobile under the influence — third or subsequent offense	5
324.82160(1)	Pub ord	H	False representation to obtain personal information	4
324.82160(2)	Pub ord	G	False representation to obtain personal information — second offense	7
324.82160(3)	Pub ord	C	False representation to obtain personal information — third or subsequent offense	15

777.13j Applicability of chapter to certain felonies; § 328.232.

Sec. 13j. This chapter applies to the following felonies enumerated in chapters 325 to 332 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
328.232	Property	E	Conversion of funeral contracts	5

777.13k Applicability of chapter to certain felonies; §§ 333.2685 to 333.5661.

Sec. 13k. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.2685	Person	E	Use of a live human embryo, fetus for nontherapeutic research	5
333.2688	Person	E	Research on dead embryo or fetus without mother's consent	5
333.2689	Person	E	Abortion to obtain embryo	5
333.2690	Person	E	Sale or delivery of fetus or embryo	5
333.2813(3)	Pub trst	F	Unauthorized disclosure of social security number — subsequent offense	4
333.2835(9)	Pub trst	G	Disclosing confidential information — abortion	3
333.5210	Person	F	AIDS — sexual penetration with uninformed partner	4
333.5661	Person	F	Fraud resulting in patient death	4

777.13m Applicability of chapter to certain felonies; §§ 333.7341(8) to 333.7410a.

Sec. 13m. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.7341(8)	CS	G	Delivery or manufacture of imitation controlled substance	2
333.7401(2)(a)(*i*)	CS	A	Delivery or manufacture of 650 or more grams of certain schedule 1 or 2 controlled substances	Life
333.7401(2)(a)(*ii*)	CS	A	Delivery or manufacture of 225 or more but less than 650 grams of certain schedule 1 or 2 controlled substances	30
333.7401(2)(a)(*iii*)	CS	B	Delivery or manufacture of 50 or more but less than 225 grams of certain schedule 1 or 2 controlled substances	20
333.7401(2)(a)(*iv*)	CS	D	Delivery or manufacture of less than 50 grams of certain schedule 1 or 2 controlled substances	20
333.7401(2)(b)(*i*)	CS	B	Delivery or manufacture of methamphetamine	20
333.7401(2)(b)(*ii*)	CS	E	Delivery or manufacture of certain schedule 1, 2, or 3 controlled substances	7
333.7401(2)(c)	CS	F	Delivery or manufacture of schedule 4 controlled substance	4
333.7401(2)(d)(*i*)	CS	C	Delivery or manufacture of 45 or more kilograms of marijuana	15
333.7401(2)(d)(*ii*)	CS	D	Delivery or manufacture of 5 or more but less than 45 kilograms of marijuana	7
333.7401(2)(d)(*iii*)	CS	F	Delivery or manufacture of less than 5 kilograms or 20 plants of marijuana	4

333.7401(2)(e)	CS	G	Delivery or manufacture of schedule 5 controlled substance	2
333.7401(2)(f)	CS	D	Delivery or manufacture of an official or counterfeit prescription form	20
333.7401(2)(g)	CS	D	Delivery or manufacture of prescription or counterfeit form (other than official)	7
333.7401a	Person	B	Delivering a controlled substance or GBL with intent to commit criminal sexual conduct	20
333.7401b(3)(a)	CS	E	Delivery or manufacture of GBL	7
333.7401b(3)(b)	CS	G	Possession of GBL	2
333.7401c(2)(a)	CS	D	Operating or maintaining controlled substance laboratory	10
333.7401c(2)(b)	CS	B	Operating or maintaining controlled substance laboratory in presence of minor	20
333.7401c(2)(c)	CS	B	Operating or maintaining controlled substance laboratory involving hazardous waste	20
333.7401c(2)(d)	CS	B	Operating or maintaining controlled substance laboratory near certain places	20
333.7401c(2)(e)	CS	A	Operating or maintaining controlled substance laboratory involving firearm or other harmful device	25
333.7402(2)(a)	CS	D	Delivery or manufacture of certain imitation controlled substances	10
333.7402(2)(b)	CS	E	Delivery or manufacture of schedule 1, 2, or 3 imitation controlled substance	5
333.7402(2)(c)	CS	F	Delivery or manufacture of imitation schedule 4 controlled substance	4
333.7402(2)(d)	CS	G	Delivery or manufacture of imitation schedule 5 controlled substance	2
333.7402(2)(e)	CS	C	Delivery or manufacture of controlled substance analogue	15
333.7403(2)(a)(*i*)	CS	A	Possession of 650 or more grams of certain schedule 1 or 2 controlled substances by juvenile	Life
333.7403(2)(a)(*ii*)	CS	A	Possession of 225 or more but less than 650 grams of certain schedule 1 or 2 controlled substances	30
333.7403(2)(a)(*iii*)	CS	B	Possession of 50 or more but less than 225 grams of certain schedule 1 or 2 controlled substances	20

333.7403(2)(a)(*iv*)	CS	G	Possession of 25 or more but less than 50 grams of certain schedule 1 or 2 controlled substances	4
333.7403(2)(a)(*v*)	CS	G	Possession of less than 25 grams of certain schedule 1 or 2 controlled substances	4
333.7403(2)(b)(*i*)	CS	D	Possession of methamphetamine	10
333.7403(2)(b)(*ii*)	CS	G	Possession of certain schedule 1, 2, 3, or 4 controlled substances or controlled substances analogue	2
333.7403(2)(e)	CS	H	Possession of official prescription form	1
333.7405(a)	CS	G	Controlled substance violations by licensee	2
333.7405(b)	CS	G	Manufacturing or distribution violations by licensee	2
333.7405(c)	CS	G	Refusing lawful inspection	2
333.7405(d)	CS	G	Maintaining drug house	2
333.7407(1)(a)	CS	G	Controlled substance violations by licensee	4
333.7407(1)(b)	CS	G	Use of fictitious, revoked, or suspended license number	4
333.7407(1)(c)	CS	G	Obtaining controlled substance by fraud	4
333.7407(1)(d)	CS	G	False reports under controlled substance article	4
333.7407(1)(e)	CS	G	Possession of counterfeiting implements	4
333.7407(1)(f)	CS	F	Disclosing or obtaining prescription information	4
333.7407(1)(g)	CS	F	Possession of counterfeit prescription form	4
333.7407(2)	CS	G	Refusing to furnish records under controlled substance article	4
333.7410a	CS	G	Controlled substance offense or offense involving GBL in or near a park	2

777.13n Applicability of chapter to certain felonies; §§ 333.10204(1) to 333.21792.

Sec. 13n. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.10204(1)	Pub ord	F	Transferring a human organ for valuable consideration	4
333.10204(4)	Pub saf	F	Removal of a human organ by an unauthorized individual	4
333.10205	Pub saf	F	Removal of a human organ in an unapproved facility	4
333.13738(2)	Pub saf	F	Waste disposal violations — second offense	5

333.13738(3)	Pub saf	F	Disposing of waste — indifference to human life	2
	Pub saf	B	Disposing of waste — extreme indifference to human life	20
333.16170(3)	Pub trst	F	False representation — health professional recovery program	4
333.16294	Pub saf	F	Health profession — unauthorized practice	4
333.17766a(2)	CS	F	Possession of steroids — subsequent offense	4
333.17766a(3)	CS	E	Delivery or manufacture of steroids	7
333.17766a(4)	CS	G	Delivery of imitation steroids	7
333.17766c(2)	CS	G	Possession of more than 10 grams ephedrine	2
333.20142(5)	Pub trst	F	False statement — application licensure health facility	4
333.21792	Pub trst	G	Nursing homes — referral fees/ bribing officials/accepting bribes	4

777.13p Applicability of chapter to certain felonies; §§ 338.1053 to 388.962.

Sec. 13p. This chapter applies to the following felonies enumerated in chapters 338 to 399 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
338.1053	Pub trst	F	Private security business and security alarm act violation	4
338.3434a(2)	Pub trst	F	Unauthorized disclosure of a social security number — subsequent offense	4
388.936	Pub trst	F	Knowingly making false statement — school district loans	4
388.962	Pub trst	F	Knowingly making false statement — school district loans	4

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2002.

This act is ordered to take immediate effect.
Approved March 7, 2002.
Filed with Secretary of State March 7, 2002.

[No. 31]

(HB 5392)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide

laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 31 of chapter IX and section 11 of chapter XVII (MCL 769.31 and 777.11), section 31 of chapter IX as amended by 1998 PA 317 and section 11 of chapter XVII as amended by 2001 PA 154, and by adding sections 11a, 11b, 11c, 11d, and 11e to chapter XVII; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER IX

769.31 Definitions.

Sec. 31. As used in this section and section 34 of this chapter:

(a) "Departure" means a sentence imposed that is not within the appropriate minimum sentence range established under the sentencing guidelines set forth in chapter XVII.

(b) "Intermediate sanction" means probation or any sanction, other than imprisonment in a state prison or state reformatory, that may lawfully be imposed. Intermediate sanction includes, but is not limited to, 1 or more of the following:

(*i*) Inpatient or outpatient drug treatment.

(*ii*) Probation with any probation conditions required or authorized by law.

(*iii*) Residential probation.

(*iv*) Probation with jail.

(*v*) Probation with special alternative incarceration.

(*vi*) Mental health treatment.

(*vii*) Mental health or substance abuse counseling.

(*viii*) Jail.

(*ix*) Jail with work or school release.

(*x*) Jail, with or without authorization for day parole under 1962 PA 60, MCL 801.251 to 801.258.

(*xi*) Participation in a community corrections program.

(*xii*) Community service.

(*xiii*) Payment of a fine.

(*xiv*) House arrest.

(*xv*) Electronic monitoring.

(c) "Offender characteristics" means only the prior criminal record of an offender.

(d) "Offense characteristics" means the elements of the crime and the aggravating and mitigating factors relating to the offense that the legislature determines are appropriate. For purposes of this subdivision, an offense described in section 33b of 1953 PA 232, MCL 791.233b, that resulted in a conviction and that arose out of the same transaction as the offense for which the sentencing guidelines are being scored shall be considered as an aggravating factor.

(e) "Prior criminal record" means all of the following:

(*i*) Misdemeanor and felony convictions.

(*ii*) Probation and parole violations involving criminal activity.

(*iii*) Dispositions entered under section 18 of chapter XIIA of 1939 PA 288, MCL 712A.18, for acts that would have been crimes if committed by an adult.

(*iv*) Assignment to youthful trainee status under sections 11 to 15 of chapter II.

(*v*) A conviction set aside under 1965 PA 213, MCL 780.621 to 780.624.

(*vi*) Dispositions described in subparagraph (*iii*) that have been set aside under section 18e of chapter XIIA of 1939 PA 288, MCL 712A.18e, or expunged.

CHAPTER XVII

777.11 Chapters 1 to 199 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11. This chapter applies to felonies enumerated in chapters 1 to 199 of the Michigan Compiled Laws as set forth in sections 11a to 11e of this chapter.

777.11a Chapters 1 to 27 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11a. This chapter applies to the following felonies enumerated in chapters 1 to 27 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
4.421(1)	Pub trst	G	Lobbyists — compensation contingent on outcome of action	3
4.421(2)	Pub trst	G	Lobbyists giving gifts	3
18.366(1)(c)	Property	E	False presentation to crime victim services commission to obtain $1,000 to $20,000 or with prior convictions	5
18.366(1)(d)	Property	D	False presentation to crime victim services commission to obtain $20,000 or more or with prior convictions	10
18.1268(9)	Pub trst	H	Purposefully submitting false business certification	Fine
21.154	Pub trst	E	Public officer — embezzlement	5

777.11b Chapter 28 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11b. This chapter applies to the following felonies enumerated in chapter 28 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
28.214	Pub trst	F	Unauthorized disclosure of information from LEIN — subsequent offense	4
28.293(1)	Pub ord	E	False information when applying for state ID	5
28.293(2)	Pub ord	D	False information when applying for state ID — second offense	7
28.293(3)	Pub ord	C	False information when applying for state ID — third or subsequent offense	15
28.295(1)(a)	Pub ord	H	Forging state ID card to commit felony	4
28.295(3)	Property	H	Using stolen state ID card to commit felony	Variable
28.295a(1)	Pub ord	H	False representation to obtain or misuse personal information	4
28.295a(2)	Pub ord	G	False representation to obtain or misuse personal information — second offense	7
28.295a(3)	Pub ord	C	False representation to obtain or misuse personal information — third or subsequent offense	15
28.422	Pub saf	F	Pistols — license application forgery	4
28.422a(4)	Pub saf	F	False statement on pistol sales record	4
28.425b(3)	Pub saf	F	False statement on concealed pistol permit application	4
28.425j(2)	Pub saf	F	Unlawful granting or presenting of pistol training certificate	4
28.425o(3)(c)	Pub saf	F	Carrying concealed pistol in prohibited place — third or subsequent offense	4
28.435	Pub saf	G	Firearm sale without trigger lock, gun case, or storage container — third or subsequent offense	2
28.729(1)(a)	Pub ord	F	Failure to register as a sex offender, first offense	4
28.729(1)(b)	Pub ord	D	Failure to register as a sex offender, second offense	7
28.729(1)(c)	Pub ord	D	Failure to register as a sex offender, third or subsequent offense	10

777.11c Chapters 29 to 167 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11c. This chapter applies to the following felonies enumerated in chapters 29 to 167 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
35.929	Pub trst	H	Willful falsification in application for veterans benefits	3
35.980	Pub trst	H	False statement in application for Korean veterans benefits	3
35.1029	Pub trst	H	False statement in application for Vietnam veterans benefits	3
38.412a(1)	Pub trst	H	County employee providing answers to county civil service exam	1
38.516	Pub trst	H	Fire and police civil service — appointment or employment contrary to act	2
45.82	Pub trst	E	County purchasing agent — violations in awarding bids or contracts	5
47.8	Pub trst	H	Payment of claim against county before audit	2
47.56	Pub trst	H	Wayne county treasurer paying claims without appropriate signature	2
51.364	Pub trst	H	Appointment or selection contrary to civil service commission rules	2
110.28	Pub trst	G	Fourth class cities — misappropriation of money or property	3
117.25(3)	Pub trst	E	Amendment to city electors — willfully affixing another's signature, false representation	15
125.1447(1)(c)	Property	E	False pretenses under state housing development act involving $1,000 to $20,000 or with prior convictions	5
125.1447(1)(d)	Property	D	False pretenses under state housing development authority act involving $20,000 or more or with prior convictions	10

777.11d Chapter 168 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11d. This chapter applies to the following felonies enumerated in chapter 168 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
168.731(4)	Pub trst	G	Election law — filing certain false statements	2
168.734	Pub trst	G	Election law — election board refusing to provide challenger conveniences	2

168.756	Pub trst	E	Elector's false statement concerning inability to mark ballot	5
168.757	Pub trst	E	Election inspector — unlawful conduct	5
168.759(8)	Pub trst	E	Forged signature on absentee ballot	5
168.759b	Pub trst	E	False statement in application for emergency absentee ballot	5
168.761(5)	Pub trst	E	Assisting an absentee voter in making a false statement	5
168.769(4)	Pub trst	E	Voting both in person and by absentee ballot	5
168.792a(11)	Pub trst	E	Disclosing how ballot voted or election results early before polls are closed	5
168.792a(16)	Pub trst	E	Disclosing election result or how ballot voted	5
168.808	Pub trst	E	Untrue statement by member of board of inspectors	4
168.873	Pub trst	E	Misconduct of election employee in recount — county and local	5
168.887	Pub trst	E	Misconduct of election employee in recount	5
168.932(a)	Pub trst	E	Bribing or intimidating voters	5
168.932(b)	Pub trst	E	Ballot tampering	5
168.932(c)	Pub trst	E	Destroying or falsifying election return or records	5
168.932(d)	Pub trst	E	Disclosing votes or obstructing voter	5
168.932(e)	Pub trst	E	Absentee ballot tampering	5
168.932(f)	Pub trst	E	Election law — possess absent voter ballot delivered to another person	5
168.932(g)	Pub trst	E	Suggesting how a disabled voter should vote	5
168.932(h)	Pub trst	E	Suggesting or influencing how an absentee voter should vote	5
168.932(i)	Pub trst	E	Organizing a meeting where absentee voter ballots are to be voted	5
168.932a	Pub trst	G	Election offenses	4
168.933	Pub trst	E	False swearing to register or vote	5
168.936	Pub trst	E	Election law — perjury	5
168.937	Pub trst	E	Election law — forgery	5

777.11e Chapters 169 to 199 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 11e. This chapter applies to the following felonies enumerated in chapters 169 to 199 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
169.254	Pub trst	H	Campaign finance — corporate contributions	3

169.255	Pub trst	H	Campaign finance — corporate solicitation for certain funds	3
169.266	Pub trst	H	Campaign finance — qualified campaign expenditures	3

Repeal of §§ 769.32 and 769.33.

Enacting section 1. Sections 32 and 33 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.32 and 769.33, are repealed.

Effective date.

Enacting section 2. This amendatory act takes effect April 1, 2002.

This act is ordered to take immediate effect.
Approved March 7, 2002.
Filed with Secretary of State March 7, 2002.

[No. 32]

(SB 493)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers

and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 1242 (MCL 500.1242).

The People of the State of Michigan enact:

500.1242 Refusal, suspension, or revocation of license; notice; hearings; summary suspension; subpoenas.

Sec. 1242. (1) The commissioner shall refuse to grant a license to act as a solicitor, an insurance counselor, or an adjuster to an applicant who fails to meet the requirements of this chapter. Notice of the refusal shall be in writing and shall set forth the basis for the refusal. If the applicant submits a written request within 30 days after mailing of the notice of refusal, the commissioner shall promptly conduct a hearing in which the applicant shall be given an opportunity to show compliance with the requirements of this chapter.

(2) The commissioner, after notice and opportunity for a hearing, may suspend or revoke the license of a solicitor, insurance counselor, or adjuster who fails to maintain the standards required for initial licensing or who violates any provision of this act.

(3) After notice and opportunity for a hearing, the commissioner may refuse to grant or renew a license to act as a solicitor, adjuster, or insurance counselor if he or she determines by a preponderance of the evidence, that it is probable that the business or primary occupation of the applicant will give rise to coercion, indirect rebating of commissions, or other practices in the sale of insurance that are prohibited by law.

(4) Without prior hearing, the commissioner may order summary suspension of a license if he or she finds that protection of the public requires emergency action and incorporates this finding in his or her order. The suspension shall be effective on the date specified in the order or upon service of a certified copy of the order on the licensee, whichever is later. If requested, the commissioner shall conduct a hearing on the suspension within a reasonable time but not later than 20 days after the effective date of the summary suspension unless the person whose license is suspended requests a later date. At the hearing, the commissioner shall determine if the suspension should be continued or if the suspension should be withdrawn, and, if proper notice is given, may determine if the license should be revoked. The commissioner shall announce his or her decision within 30 days after conclusion of the hearing. The suspension shall continue until the decision is announced.

(5) The commissioner, or his or her designated deputy, may issue subpoenas to require the attendance and testimony of witnesses and the production of documents necessary to the conduct of the hearing and may designate an office of financial and insurance services employee to make service. The subpoenas issued by the commissioner, or his or her designated deputy, may be enforced upon petition to the circuit court of Ingham county to show cause why a contempt order should not be issued, as provided by law.

This act is ordered to take immediate effect.
Approved March 7, 2002.
Filed with Secretary of State March 7, 2002.

[No. 33]

(HB 5483)

AN ACT to amend 1982 PA 162, entitled "An act to revise, consolidate, and classify the laws relating to the organization and regulation of certain nonprofit corporations; to

prescribe their duties, rights, powers, immunities, and liabilities; to provide for the authorization of foreign nonprofit corporations within this state; to impose certain duties on certain state departments; to prescribe fees; to prescribe penalties for violations of this act; and to repeal certain acts and parts of acts," by amending section 124 (MCL 450.2124).

The People of the State of Michigan enact:

450.2124 Requirements of other acts not modified; compliance; inconsistency between acts.

Sec. 124. (1) This act does not modify the requirements of the following:

(a) The supervision of trustees for charitable purposes act, 1961 PA 101, MCL 14.251 to 14.266.

(b) 1965 PA 169, MCL 450.251 to 450.253.

(c) The charitable organizations and solicitations act, 1975 PA 169, MCL 400.271 to 400.294.

(d) The uniform management of institutional funds act, 1976 PA 157, MCL 450.1201 to 450.1210.

(e) The career development and distance learning act.

(2) A corporation subject to any 1 or more of the acts listed in subsection (1) shall comply with those acts and shall comply with this act. If there is any inconsistency between those acts and this act, those acts shall control.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5482 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 7, 2002.
Filed with Secretary of State March 7, 2002.

Compiler's note: House Bill No. 5482, referred to in enacting section 1, was filed with the Secretary of State March 7, 2002, and became P.A. 2002, No. 36, Imd. Eff. Mar. 7, 2002.

[No. 34]

(HB 5393)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in

criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 1 and 12 of chapter XVII (MCL 777.1 and 777.12), section 1 as amended by 2000 PA 279 and section 12 as amended by 2001 PA 160, and by adding sections 12a, 12b, 12c, 12d, 12e, 12f, 12g, 12h, 12j, 12k, 12m, and 12n to chapter XVII.

The People of the State of Michigan enact:

CHAPTER XVII

777.1 Definitions.

Sec. 1. As used in this chapter:

(a) "Aircraft" means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(b) "Departure" means that term as defined in section 31 of chapter IX.

(c) "Homicide" means any crime in which the death of a human being is an element of that crime.

(d) "Intermediate sanction" means that term as defined in section 31 of chapter IX.

(e) "ORV" means that term as defined in section 81101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101.

(f) "Snowmobile" means that term as defined in section 82101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101.

(g) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

(h) "Vessel" means that term as defined in section 80104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80104.

777.12 Chapters 200 to 299 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 12. This chapter applies to felonies enumerated in chapters 200 to 299 of the Michigan Compiled Laws as set forth in sections 12a to 12n of this chapter.

777.12a Chapters 200 to 219; felonies.

Sec. 12a. This chapter applies to the following felonies enumerated in chapters 200 to 219 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
205.27(1)(a)	Pub trst	G	Failure to file or false tax return or payment	5
205.27(1)(b)	Pub trst	G	Aiding and abetting tax evasion or filing false returns	5
205.27(1)(c)	Pub trst	G	Making/permitting false tax returns or payments	5

205.27(3)	Pub trst	G	False tax returns/perjury	15
205.28(1)(e)	Pub trst	G	State employee compromising taxes	5
205.28(1)(f)	Pub trst	G	Unauthorized disclosure of tax information	5
205.428(2)	Pub trst	G	Tobacco products tax act violations	5
205.428(3)	Pub trst	G	Illegal sale of cigarettes or other tobacco products with wholesale price of $250.00 or more	5
205.428(6)	Pub trst	F	Illegal tobacco stamp or tobacco stamp device	10
205.428(7)	Pub trst	G	Illegal vending machine license, disk, or marker	5
207.118a	Pub ord	G	Gasoline tax — embezzlement over $100	10
207.119	Pub trst	G	Gasoline or motor fuel tax violation	4
207.127c	Pub ord	G	Diesel fuel tax — embezzlement over $100	10
207.754(3)	Pub trst	G	State treasurer — municipality tax — divulging confidential information	5

777.12b Chapters 220 to 256; felonies.

Sec. 12b. This chapter applies to the following felonies enumerated in chapters 220 to 256 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
252.311	Property	H	Destroying a tree or shrub to make a sign more visible	2

777.12c Chapter 257; felonies.

Sec. 12c. This chapter applies to the following felonies enumerated in chapters I and II of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.233a(7)	Pub ord	G	Odometer tampering	5
257.254	Property	E	Possessing stolen vehicle title	10
257.257(1)	Property	G	Altering or forging vehicle documents — first offense	5
257.257(2)	Property	G	Altering or forging vehicle documents — second offense	7
257.257(3)	Property	E	Altering or forging vehicle documents — third or subsequent offense	15

777.12d Chapter 257; felonies.

Sec. 12d. This chapter applies to the following felonies enumerated in chapters III, IV, and V of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.309(6)	Pub ord	F	Corrupting an examining officer	5
257.309(7)	Pub ord	F	Deviating from road test criteria	5

257.309(8)	Pub ord	F	Forging, counterfeiting, or altering road test certification	5
257.312b(6)	Pub ord	F	Corrupting a person or agency conducting a motorcycle driving test	5
257.312b(7)	Pub ord	F	Deviating from motorcycle road test criteria	5
257.312b(8)	Pub ord	F	Forging, counterfeiting, or altering motorcycle road test certification	5
257.329(1)	Property	G	Possession/sale of stolen or counterfeit insurance certificates	5
257.329(2)	Property	E	Possession/sale of stolen or counterfeit insurance certificates — second offense	7
257.329(3)	Property	E	Possession/sale of stolen or counterfeit insurance certificates — third or subsequent offense	15

777.12e Chapter 257; felonies.

Sec. 12e. This chapter applies to the following felonies enumerated in sections 601 to 624b of chapter VI of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.601b(3)	Person	C	Moving violation causing death to construction worker	15
257.601c(2)	Person	C	Moving violation causing death to operator of implement of husbandry	15
257.602a(2)	Pub saf	G	Fleeing and eluding — fourth degree	2
257.602a(3)	Pub saf	E	Fleeing and eluding — third degree	5
257.602a(4)	Person	D	Fleeing and eluding — second degree	10
257.602a(5)	Person	C	Fleeing and eluding — first degree	15
257.617(2)	Person	E	Failure to stop at scene of accident resulting in serious impairment or death	5
257.617(3)	Person	C	Failure to stop at scene of accident resulting in death when at fault	15

777.12f Chapter 257; felonies.

Sec. 12f. This chapter applies to the following felonies enumerated in sections 625 to 625o of chapter VI of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.625(4)(a)	Person	C	Operating a vehicle under the influence or while impaired causing death	15
257.625(4)(b)	Person	B	Operating a vehicle under the influence or while impaired causing death to certain persons	20

257.625(5)	Person	E	Operating a vehicle under the influence or while impaired causing serious impairment	5
257.625(7)(a)(*ii*)	Person	E	Operating a vehicle under the influence or while impaired with a minor in the vehicle — subsequent offense	5
257.625(8)(c)	Pub saf	E	Operating a vehicle under the influence — third or subsequent offense	5
257.625(9)(b)	Person	E	Allowing a vehicle to be operated while under the influence or impaired causing death	5
257.625(9)(c)	Person	G	Allowing a vehicle to be operated while under the influence or impaired causing serious impairment	2
257.625(10)(c)	Pub saf	E	Impaired driving — third or subsequent offense	5
257.625k(7)	Pub saf	D	Knowingly providing false information concerning an ignition interlock device	10
257.625k(9)	Pub saf	D	Failure to report illegal ignition interlock device	10
257.625m(5)	Pub saf	E	Commercial drunk driving — third or subsequent offense	5

777.12g Chapter 257; felonies.

Sec. 12g. This chapter applies to the following felonies enumerated in sections 626 to 750 of chapter VI of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.626c	Person	G	Felonious driving	2
257.653a(3)	Person	G	Failure to use due care and caution causing injury to emergency personnel	2
257.653a(4)	Person	C	Failure to use due care and caution causing death to emergency personnel	15
257.744a	Pub saf	D	False statement in citation — perjury	15

777.12h Chapter 257; felonies.

Sec. 12h. This chapter applies to the following felonies enumerated in chapters VII, VIII, and IX of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.902	Pub saf	E	Motor vehicle code violations	5
257.903(1)	Property	E	Motor vehicle code — false certification — first offense	5
257.903(2)	Property	E	Motor vehicle code — false certification — second offense	7

257.903(3)	Property	D	Motor vehicle code — false certification — third or subsequent offense	15
257.904(4)	Person	C	Operating a vehicle without a license causing death	15
257.904(5)	Person	E	Operating a vehicle without a license causing serious impairment	5
257.904(7)	Person	G	Allowing a vehicle to be operated without a license causing serious impairment	2
	Person	E	Allowing a vehicle to be operated without a license causing death	5

777.12j Chapter 257; felonies.

Sec. 12j. This chapter applies to the following felonies enumerated in chapter 257 of the Michigan Compiled Laws beginning with MCL 257.941:

M.C.L.	Category	Class	Description	Stat Max
257.1353(2)	Pub trst	H	Motor vehicle — fail to record material matter — subsequent offense	2
257.1354(2)	Pub trst	H	Motor vehicle — general violations — subsequent offense	2
257.1355	Pub trst	H	Motor vehicle — fail to record transaction/falsify records	2

777.12k Chapters 258 to 260; felonies.

Sec. 12k. This chapter applies to the following felonies enumerated in chapters 258 to 260 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
259.80f(3)	Pub saf	D	Possessing weapon in sterile area of commercial airport	10
259.83(2)(b)	Pub saf	G	Aircraft — failure to comply with certification requirements — second violation	2
259.83(2)(c)	Pub saf	F	Aircraft — failure to comply with certification requirements — third or subsequent violation	4
259.83b(2)(a)	Pub saf	F	Conducting flight operations without certificate	4
259.83b(2)(b)	Pub saf	E	Conducting flight operations without certificate — second violation	5
259.83b(2)(c)	Pub saf	D	Conducting flight operations without certificate — third or subsequent violation	10
259.183	Property	E	Aircraft — unlawful taking or tampering	5
259.185(4)	Person	C	Operating or serving as crew of aircraft while under the influence causing death	15

259.185(5)	Person	E	Operating or serving as crew of aircraft while under the influence causing serious impairment	5
259.185(8)	Pub saf	E	Operating or serving as crew of aircraft while under the influence — third or subsequent offense	5

777.12m Chapters 285 to 289; felonies.

Sec. 12m. This chapter applies to the following felonies enumerated in chapters 285 to 289 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
285.82	Pub trst	H	Grain dealers act violations	5
285.279(2)(c)	Property	E	False pretenses under Michigan family farm development act involving $1,000 to $20,000 or with prior convictions	5
285.279(2)(d)	Property	D	False pretenses under Michigan family farm development act involving $20,000 or more or with prior convictions	10
286.455(2)	Pub saf	G	Agriculture — hazardous substance	5
286.929(4)	Pub trst	G	Organic products act violations	4
287.323(1)	Person	C	Dangerous animal causing death	15
287.323(2)	Person	G	Dangerous animal causing serious injury	4
287.679	Pub ord	H	Dead animals — third or subsequent violation	1
287.744(1)	Pub ord	G	Animal industry act violations	5
287.855	Pub saf	G	Agriculture — contaminating livestock/false statement/ violation of quarantine	5
287.967(5)	Pub ord	G	Cervidae producer violations	4
288.223	Pub saf	G	Sale or labeling of oleomargarine violations	3
288.257	Pub saf	G	Margarine violations	3
288.284	Pub trst	H	Selling falsely branded cheese	2
289.5107(2)	Pub saf	F	Adulterated, misbranded, or falsely identified food	4

777.12n Chapters 290 to 299; felonies.

Sec. 12n. This chapter applies to the following felonies enumerated in chapters 290 to 299 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
290.629(1)	Person	G	Weights and measures — assaults enforcement officer	2
290.631(3)	Pub trst	G	Weights and measures	5
290.650	Person	G	Motor fuels — assaulting/obstructing director or authorized representative	2
290.650b(3)	Pub trst	H	Motor fuels violations	2

Effective date; exception.

Enacting section 1. Except as provided in enacting section 2, this amendatory act takes effect April 1, 2002.

Effective date of § 777.1.

Enacting section 2. Section 1 of chapter XVII of the code of criminal procedure, 1927 PA 175, MCL 777.1, as amended by this amendatory act, takes effect May 15, 2002.

This act is ordered to take immediate effect.
Approved March 7, 2002.
Filed with Secretary of State March 7, 2002.

[No. 35]

(SB 541)

AN ACT to amend 1945 PA 327, entitled "An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state and by political subdivisions; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics," by amending sections 2, 3, 4, 5, 6, 7, 8, 9, 51, 83, 86, 87, 89, 133, 151, and 205 (MCL 259.2, 259.3, 259.4, 259.5, 259.6, 259.7, 259.8, 259.9, 259.51, 259.83, 259.86, 259.87, 259.89, 259.133, 259.151, and 259.205), sections 2, 3, 4, 5, 6, 7, 8, 51, 83, 86, and 133 as amended by 1996 PA 370, sections 9 and 151 as amended by 2000 PA 382, and section 89 as amended by 1998 PA 81, and by adding sections 80g, 80h, 83a, 83b, 87a, 89a, 205a, and 205b; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

259.2 Definitions; A.

Sec. 2. As used in this act:

(a) "Accident" means an event involving an aircraft that is in-flight or taxiing, resulting in death or injury to any person, damage to the aircraft affecting its ability to safely operate, or damage to public property or property of another person.

(b) "Aeronautical facilities" means any device, physical or otherwise, that is an object of nature or that is human-made, that aids and is used in aeronautics.

(c) "Aeronautics" means any act or matter that treats or deals with flight in the airspace.

(d) "Air navigation" means the operation or navigation of aircraft in the airspace over the land and waters of this state.

(e) "Aircraft" means any contrivance used or designed for navigation of or flight in the air.

(f) "Aircraft, civil" means any aircraft other than a public aircraft.

(g) "Aircraft, public" means any aircraft used exclusively in the service of any government or of any political subdivision of a government, including the government of any state, territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(h) "Airman" means any individual, including the 1 in command, and any pilot, mechanic, or member of the crew, who engages in the navigation of aircraft while under way, and any individual who is in charge of the inspection, overhauling, or repair of aircraft, and any individual who serves in the capacity of aircraft dispatcher or air traffic control tower operator.

(i) "Airport" means any location, either on land or water, that is used for the landing or take-off of aircraft, and includes the buildings and facilities, if any, on that location.

(j) "Airport approach plan" means a plan, or an amendment to a plan, adopted under section 12 of the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.442.

(k) "Airport layout plan" means a plan, or an amendment to a plan, that shows current or proposed layout of an airport and that is approved by the commission.

(*l*) "Airport manager" means any individual who is properly appointed and designated by the airport owner as the airport manager, and who is responsible for the supervision and operation of the airport to the airport owner.

(m) "Airspace approval" means that approval issued by the appropriate federal authority pertaining to the safe and efficient use of airspace by aircraft for an established or proposed airport or landing field.

(n) "Airspace, navigable" means airspace at and above the minimum flight altitudes prescribed in the federal air regulations including airspace needed for safe takeoff and landing.

259.3 Definitions; B to D.

Sec. 3. As used in this act:

(a) "Balloon" means a lighter-than-air aircraft that is not engine driven and that sustains flight through the use of either gas buoyancy or an airborne heater.

(b) "Commercial activity or operations" means an activity or operation such as the sale of gasoline or oil, the soliciting or engaging in charter flying or flight instruction, the provision of shelter or the tie-down of an aircraft, the overhaul or repair of an aircraft or of engines, or other activity or operation that offers aeronautic facilities or services to the public.

(c) "Commission" means the Michigan aeronautics commission.

(d) "Dealer" means a person engaged in the business of purchasing, selling, brokering, exchanging, or dealing in aircraft parts or in aircraft of a type required to be registered.

(e) "Decal plate" means that distinctive tab, sticker, decal, or plate issued by the commission with the registration certificate for an aircraft.

(f) "Department" means the state transportation department, bureau of aeronautics.

(g) "Director" means the deputy director of the department, bureau of aeronautics who is the director of the Michigan aeronautics commission.

259.4 Definitions; F, G.

Sec. 4. As used in this act:

(a) "Flight instructor" means any person who possesses a valid flight instructor certificate or other airman certificate issued by the federal aviation administration authorizing that individual to instruct in aircraft.

(b) "Flight school" means any person providing or offering to provide flight training leading to pilot or flight instructor certification, for hire or compensation, and engaged in any of the following:

(*i*) Advertising or calling oneself a flight school or anything equivalent to a flight school.

(*ii*) Hiring, contracting, or otherwise using 1 or more flight instructors in an endeavor described in this section.

(c) "Flying club" means any group of persons owning, leasing, or operating 1 or more aircraft, not for profit or reward, and using the aircraft for the purpose of providing its members with an aircraft for their personal use and enjoyment.

(d) "Fuel" means any gasoline, distillate, benzine, naphtha, benzol, or other volatile and inflammable liquid produced, compounded, and used for propelling aircraft.

(e) "Garage keeper" means any person who, for hire or reward, publicly offers to store, maintain, keep, or repair aircraft or any accessory used in the operation of aircraft and to furnish accessories and supplies for aircraft or any accessory used in the operation of aircraft.

259.5 Definitions; H, I.

Sec. 5. As used in this act:

(a) "Hazards to air navigation" means any obstruction of whatever character, object of natural growth, or use of land, upon or surrounding or adjacent to an airport, landing field, or other aeronautical facility, that prevents the safe use of the facilities for the take-off or landing of aircraft.

(b) "Heliport" means an area of land, water, or a fixed structure used or intended to be used for the landing and takeoff of helicopters or other rotary wing aircraft.

(c) "Heliport approach surface" means an imaginary plane beginning at the end of the heliport landing area with the same width as the landing area and extending outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1.

(d) "Historic aircraft" means an aircraft that is over 30 years old and that is owned solely as a collector's item or for participation in club activities, exhibitions, tours, parades, or similar uses, but that is not used for general transportation.

(e) "Hospital" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(f) "Hospital heliport" means a heliport limited to serving helicopters engaged in air ambulance or other hospital-related functions.

(g) "Hospital helistop" means a minimally developed facility for the boarding and discharging of helicopter crew and passengers and the loading and unloading of helicopter cargo solely for an air ambulance or other hospital-related functions.

(h) "In-flight" is that time from the beginning of an aircraft's take off run to the end of the landing run.

259.6 Definitions; L to O.

Sec. 6. As used in this act:

(a) "Landing area" means an area of an airport, landing field, or other aeronautical facility used or intended for use in landing, taking off, or taxiing of aircraft, excluding area and facilities for shelter, servicing, or repair of aircraft or for receiving or discharging passengers or cargo.

(b) "Landing field" means any location, either on land or water, that is used for the landing or take-off of aircraft.

(c) "Manufacturer" means a person engaged in the business of manufacturing aircraft, aircraft engines, propellers, component parts, appliances, or accessories.

(d) "Nonresident" means a person who is not a resident of this state.

(e) "Operation of aircraft" or "operate aircraft" means the use of aircraft for the purpose of air navigation, including the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control in the capacity of owner, lessee, or otherwise, of the aircraft, is engaging in the operation of aircraft.

259.7 Definitions; P to R.

Sec. 7. As used in this act:

(a) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(b) "Political subdivision" means a county, city, village, or township of this state, and any other political subdivision, public corporation, authority, or district in this state that is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports, landing fields, and other aeronautical facilities.

(c) "Private landing area" means any location, either on land or water, that is used for the takeoff or landing of aircraft, and its use is restricted to the owner or persons authorized by the owner. Notwithstanding any existing limitation or regulation to the contrary, the owner and any person authorized by the owner has the right to use that private landing area. Commercial operations shall not be conducted on a private landing area.

(d) "Public use facility" means an airport, landing field, or other aeronautical facility that is available for use by the general public without prior approval of the owner or operator.

(e) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

259.8 Definitions; S.

Sec. 8. As used in this act:

(a) "Seaplane" means an aircraft that is capable of landing and taking off on the water.

(b) "Seaplane base" means an area of water used or intended to be used for the landing and takeoff of aircraft, together with appurtenant shoreside buildings and facilities.

(c) "State approach surface" means an imaginary plane longitudinally centered on the extended runway centerline and extending outward and upward from each end of the state primary surface.

(d) "State primary surface" means a surface longitudinally centered on a runway. For a paved runway, the state primary surface extends 200 feet beyond each end of that runway for an unpaved runway or a planned paved runway, the state primary surface ends at each end of that runway. The elevation of any point on the state primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a state primary surface is as follows:

(*i*) One hundred feet for basic utility airports.

(*ii*) Two hundred and fifty feet for general utility airports.

259.9 Definitions; T to V.

Sec. 9. As used in this act:

(a) "Taxi" means the moving of an aircraft under its own power either on the ground or on the surface of the water, prior to the beginning of the take-off run and after the end of the landing run.

(b) "Temporary commercial operations" means any commercial operation conducted for a period not to exceed 120 days per calendar year.

(c) "Ultralight" means an aircraft meeting requirements of 14 C.F.R. part 103.

(d) "Vehicle" means any device in, upon, or by which a person or property is or may be transported, except an aircraft.

259.51 Aeronautics commission; powers and duties generally.

Sec. 51. (1) The commission has general supervision over aeronautics within this state. The commission shall encourage, foster, and participate with and provide grants to the political subdivisions of this state in the development of aeronautics within this state. The commission shall establish and encourage the establishment of airports, landing fields, and other aeronautical facilities. The commission shall promulgate rules that it considers necessary and advisable for the public safety governing the designing, laying out, location, building, equipping, and operation of airports and landing fields and shall exercise exclusive authority to approve the location and operation of airports, landing fields, and other aeronautical facilities within the state, so as to assure a uniformity in regulations covering aeronautics. In order to implement this act, the commission may establish programs of state financial assistance in the form of grants, leases, loans, and purchases, or a combination of grants, leases, loans, and purchases, for assisting political subdivisions or other persons. The commission shall not grant an exclusive right for the use of an aeronautical facility. The commission may by the issuance of appropriate and effective rules register pilot's certificates issued by the civil aeronautics authority or other similar federal authority to resident pilots of the state for which it may charge a fee not to exceed $5.00; govern and regulate commercial operations in intrastate commerce for which it may charge a fee of not more than $25.00; and provide for the licensing of aircraft dealers for which it may charge a fee of not more than $25.00.

(2) The commission shall cooperate with and assist the federal government, state governments, authorities of political subdivisions, and individuals engaged in aeronautics or the development of aeronautics, and shall seek to coordinate the aeronautical activities of these entities. The commission may confer with or hold joint hearings with any federal or state governments, their agencies, the authorities of political subdivisions, and

individuals, in connection with any matter arising under this act, and avail itself of the cooperation, services, records, and facilities of those agencies in the administration and enforcement of this act. The commission shall reciprocate by furnishing governments and their agencies its cooperation, services, records, and facilities, insofar as may be practicable.

(3) The commission may perform acts, issue and amend orders, and make, promulgate, and amend reasonable general or special rules and procedures, and establish minimum standards, consistent with this act, which it considers necessary to implement this act and to perform its duties under this act, all commensurate with and for the purpose of protecting and insuring the general public interest, health, welfare, and safety. The commission may adopt and enforce the provisions of the currently effective federal legislation governing aeronautics. The commission shall promulgate rules to implement this act. The commission may deviate from or add to rules if necessary for the public safety and for the safety of aircraft and airmen within the state. A rule of the commission shall not apply to aeronautical facilities owned by the federal government.

(4) For the safety of aircraft and airmen within this state the commission may designate, establish, or modify a state airways system. The commission may publish and distribute maps, charts, and information relating to that system.

(5) The commission, a commission member or employee, the director, and every state, county, and municipal officer charged with the enforcement of state and municipal laws shall enforce and assist in the enforcement of this act and of rules promulgated under this act, and of all other laws of this state relating to aeronautics. In the aid of enforcement, general police powers are conferred upon the commission, each of its members, the director, and the officers and employees of the commission designated by the commission to exercise those powers. The commission is further authorized to enforce this act and rules promulgated under this act by injunction in the circuit court. The prosecuting attorney of the county in which an offense is committed shall prosecute offenders against this act and other aeronautical laws of this state, or any rule promulgated under this act or order issued by the commission. When a complaint is made before a municipal court in a city having such a court, or the district court in the county, district, or political subdivision in which venue is proper, that court may take cognizance, hear, try, and determine such matters and pass sentence upon offenders in accordance with law.

(6) The commission, a commission member, the director, or an employee designated by the commission may hold investigations, inquiries, and hearings concerning matters covered by this act, aircraft accidents, or orders and rules of the commission. Each person designated may administer oaths and affirmations, certify to official acts, issue subpoenas, and compel the attendance and testimony of witnesses, and the production of papers, books, and documents. In case of failure to comply with a subpoena or order issued under this act, the commission, or its authorized representative, may invoke the aid of a court of general jurisdiction. The court may order the witness to comply with the requirements of the subpoena or order, or to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as contempt.

(7) In order to facilitate investigations by the commission in the interest of public safety and development of aeronautics, the reports of investigations or hearings, or any part of them, shall not be admitted in evidence or used for any purpose in an action or proceeding growing out of a matter referred to in the investigation, hearing, or report, except in case of criminal or other proceedings instituted in behalf of the state under this act or any other law of this state relating to aeronautics. A commissioner, director, or an officer or employee of the commission shall not be required to testify to facts ascertained in, or information gained by reason of, his or her official capacity, or be required to testify

as an expert witness in an action or proceeding involving an aircraft. Except as otherwise provided in this section, the commission may make available to appropriate federal and state agencies information and material developed in the course of its hearings and investigations.

(8) For the purposes of executing its powers and duties under this act, the commission, upon recommendations to the state administrative board, may enter into necessary contracts.

259.80g Operation of ultralight.

Sec. 80g. (1) A person shall not operate an ultralight in a manner that creates a hazard to other persons or property.

(2) A person shall not allow an object to be dropped from an ultralight if it creates a hazard to other persons or property.

(3) A person shall not operate an ultralight between sunset and sunrise. Each person operating an ultralight shall maintain vigilance so as to see and avoid aircraft and shall yield the right-of-way to all aircraft.

(4) A person shall not operate an ultralight in a manner that creates a collision hazard with any other aircraft.

(5) A powered ultralight shall yield the right-of-way to an unpowered ultralight.

(6) A person shall not operate an ultralight over any congested area of a city, town, or settlement, or over an open air assembly of persons.

(7) Notwithstanding subsection (3), an ultralight may be operated up to 30 minutes before sunrise or 30 minutes after sunset if both of the following apply:

(a) The ultralight is equipped with an operating anticollision light visible for at least 3 statute miles.

(b) The ultralight is operating in uncontrolled airspace as defined by federal regulations.

259.80h Seaplane base; takeoff and landing distance.

Sec. 80h. A seaplane operator conducting commercial operations shall assure that the seaplane base used for takeoff or landing has sufficient takeoff and landing distance for the operation being conducted as specified by the manufacturer's operating limitations for the aircraft being operated.

259.83 Operation of civil aircraft; federal airman certification requirements; compliance required.

Sec. 83. (1) A person shall not operate a civil aircraft over or upon the lands and waters of this state unless he or she is complying with the federal airman certification requirements under the code of federal regulations.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) For a first violation, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second violation within 5 years of the first violation, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both.

(c) For a third or subsequent violation within 5 years of the second or subsequent violation, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

259.83a Flight operations requiring federal aviation regulation air carrier or commercial operator's certification.

Sec. 83a. (1) A person holding a valid federal air carrier operating certificate or commercial operator's certificate shall not conduct flight operations in violation of that certificate.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

259.83b Flight operations; prohibition; violation.

Sec. 83b. (1) A person shall not conduct flight operations requiring a federal aviation regulation air carrier or commercial operator's certification without first having been issued a valid federal aviation regulation air carrier or operating certificate or valid commercial operator's certificate.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) For a first violation, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(b) For a second violation within 5 years after the first violation, the person is guilty of a felony punishable by imprisonment for not less than 1 year or more than 5 years or a fine of not less than $5,000.00 or more than $50,000.00, or both.

(c) For a third or subsequent violation within 5 years after a conviction for a violation of this section, the person is guilty of a felony punishable by imprisonment for not less than 4 years or more than 10 years or a fine of not less than $10,000.00 or more than $100,000.00, or both.

259.86 Airport manager; license; fee; expiration; approval of aeronautical facilities; license of approval; requirements; fee in lieu of real property taxes; temporary field permits; statement describing approach clear zones and transitional surface areas.

Sec. 86. (1) Any individual appointed as an airport manager by the owner of a licensed aeronautical facility, before operating as an airport manager, shall be licensed by the department for which the department may make a reasonable charge not to exceed $5.00. An airport manager license expires on December 31, annually.

(2) All airports, landing fields, and other aeronautical facilities, except those owned or operated by the United States government, before operating as such, shall be approved by the department.

(3) The department shall issue annually a license of approval in each case and charge an annual fee not in excess of $100.00. The fee shall be in lieu of all real property taxes on the landing area and improvements to the landing area to the extent permitted by section 7y of the general property tax act, 1893 PA 206, MCL 211.7y.

(4) Commercial operations shall not be performed on any land based landing area other than at a licensed aeronautical facility except that temporary field permits may be issued under this section. All commercial operations shall be based out of a licensed aeronautical facility.

(5) If the owner of an aircraft uses, or proposes to use, an area of land for temporary commercial landing areas, he or she shall apply to the commission for a temporary field permit on forms furnished by the commission.

(6) The annual license of approval issued pursuant to subsection (2) shall include a statement, certified by the director, describing the approach clear zones and transitional

surface areas for the airport for which the license is applicable. Standards for describing approach clear zones and transitional surface areas shall be uniform according to type of runway and shall conform with regularly accepted definitions and usage in the aeronautics field.

259.87 Airports and facilities; rejection of application for permission to operate.

Sec. 87. (1) In any case in which the department rejects an application for permission to operate an airport, landing field, or other aeronautical facility, or in any case where the department shall issue any order requiring certain things to be done, it shall set forth its reasons for the order and shall state the requirements to be met before approval will be given. In any case in which the department considers it necessary, the department may order the closing of any airport, landing field, or other aeronautical facility, until compliance is made with the requirements ordered by the department.

(2) A facility shall not be licensed or approved that requires aircraft to be airborne under a bridge or power line during the approach to or takeoff from a landing area, or that requires aircraft to fly in a manner that may endanger persons or property.

259.87a Certificate of approval; registration; fee.

Sec. 87a. Each certificate of approval of an airport, landing field, or other aeronautical facility shall be registered annually, and the department is authorized to establish a reasonable fee in accordance with issued rules and regulations.

259.89 Private use landing areas.

Sec. 89. Sections 86 and 87a do not apply to landing areas designated and operated for private use if commercial operations are not performed on the landing areas. A landing area for private use shall not be established, without commission approval, within 5 nautical miles of a public use facility certified by the commission or that would violate section 87.

259.89a Ultralight or balloon use; landing areas.

Sec. 89a. Sections 86 and 87a do not apply to landing areas designated and operated for the exclusive use of either ultralights or balloons. A landing area for ultralight or balloon use shall not be established, without commission approval, within 5 nautical miles of a public use facility certified by the commission. For the purposes of this section, "established" means any facility that is used or intended to be used for the operation of balloons or ultralights more than 10 times in any 12-month period.

259.133 Additional powers of political subdivision establishing aeronautical facility.

Sec. 133. In addition to the general powers conferred by this act, a political subdivision that has established or establishes an airport, landing field, or other aeronautical facility may do 1 or more of the following:

(a) Vest authority for the construction, enlargement, improvement, maintenance, equipment, operation, and regulation of the airport, landing field, or other aeronautical facility, in an officer, a board, or body of a political subdivision, by ordinance or resolution that prescribes the powers and duties of the officer, board, or body. In counties operating under the county road system with a population of more than 2,000,000, the board of county road commissioners may implement this section for that county.

(b) Employ a regular airport manager for the airport, landing field, or other aeronautical facility under its control, or in cases where an airport board or body is established, the airport manager may be employed by the board or body.

(c) Adopt and amend all necessary rules, regulations, and ordinances, for the management, government, and use of any properties under its control, whether within or outside of its territorial limits; appoint airport guards or police, with full police powers; establish penalties for the violation of the rules, regulations, and ordinances, and enforce the penalties.

(d) Adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of private airports, landing fields, or other aeronautical facilities within the political subdivision or its police jurisdiction against the perils and hazards of instrumentalities used in aerial navigation. Rules adopted pursuant to this subdivision shall be consistent with and conform as nearly as possible with the laws of this state and the rules of the state transportation department.

(e) Lease for a term of years, donate, or sell, the airport, landing field, or other aeronautical facility, or buildings and structures relating to the airport, landing field, or other aeronautical facility, or real property acquired or set apart for these purposes, to any person or persons, any other political subdivision or the state, or the federal government, or any department of a political subdivision, or the state or federal government, either exclusively or in common with others, for operation and public use; confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities; enter into leases, contracts, agreements, or grants of privileges of concessions with any person or persons, any other political subdivision or the state government or the federal government, or any department of a political subdivision or the state or federal government, for the operation, use, or occupancy, either exclusively or in common with others, of all or any part of the airport, landing field, or other aeronautical facility, including any buildings and structures of the airport, landing field, or aeronautical facility, under its control, for a term or terms not to exceed 50 years, establishing the charges, rentals, or fees at a fixed or variable rate binding upon the parties for the full term of the lease, contract, agreement, or grant, which lease, contract, agreement, or grant may provide for the resolution of disputes or for the fixing of variable terms through arbitration or similar procedure. The terms, charges, rentals, and fees shall be equal and uniform for the same type of facilities provided, services rendered, or privileges granted with no unjust discrimination between users of the same class for like facilities provided, services rendered, or privileges granted. However, the public shall not be deprived of its rightful, equal, and uniform use of facilities provided, services rendered, or privileges granted. Terms, charges, rentals, and fees may vary if necessary, to provide security and funds for payment of bonds to be issued as authorized by this act to finance improvements to any airport, or to allow for other differing costs of financing, construction of facilities, or maintenance and operation of the facility.

(f) Sell, donate, or lease any property, real or personal, acquired for such purposes and belonging to the political subdivision, which in the judgment of its governing body, may not be subsequently required for aeronautic purposes, in accordance with the laws of this state, or the provisions of the charter of the political subdivision, governing the sale or leasing of similarly owned property.

(g) Determine the charges, rentals, or fees for the use of any properties under its control, and the charges for any services or accommodations, and the terms and conditions under which the properties may be used, which rentals, fees, charges, terms, and conditions shall be equal and uniform for the same type of use provided, services rendered, or accommodations granted with no unjust discrimination between users of the

same class for like use provided, services rendered, or accommodations granted, except that any charges, rentals, and fees as may be fixed or determined by any lease, contract, agreement, or grant of privileges of concessions to which the political subdivision is a party or is the grantor, shall be binding upon all parties for the full term prescribed in the lease, contract, agreement, or grant unless the same is sooner modified or terminated by mutual consent of the parties. However, the public shall not be deprived of its rightful, equal, and uniform use of such property. Terms, charges, rentals, and fees may vary if necessary, to provide security and funds for payment of bonds to be issued as authorized by this act to finance improvements to any airport, or to allow for other differing costs of financing, construction of facilities, or maintenance and operation of any such facility. Liens may be attached and enforced by law, as provided in such cases, and their enforcement, for repairs to or improvements or storage or care of any personal property, to enforce the payment of the charges.

(h) Exercise all powers necessarily incidental to the exercise of the general and special powers granted under this section.

259.151 State plan for approach protection areas.

Sec. 151. (1) The commission may create and establish a state plan for approach protection areas surrounding airports, landing fields, and other aeronautical facilities, by establishing standards of height and use to which any structure or obstruction, whether natural or human-made, may be erected or maintained within a distance from the boundaries of any airport, landing field or other aeronautical facility necessary for public safety.

(2) The airport manager of an airport licensed under this act shall promptly file all of the following with any city, village, township, or county that is located in whole or in part within the approach protection area:

(a) A copy of the airport approach plan for the airport, if any.

(b) A copy of the airport layout plan for the airport, if any.

(c) A registration of the airport's name and mailing address for the purposes of receipt of notice under section 4 of the city and village zoning act, 1921 PA 207, MCL 125.584, section 9 of the county zoning act, 1943 PA 183, MCL 125.209, or section 9 of the township zoning act, 1943 PA 184, MCL 125.279.

(3) The filing under subsection (2) shall be made with the zoning board, zoning commission, or other commission appointed to recommend zoning regulations or, if there is no body exercising the powers of such a commission, with the legislative body of the city, village, township, or county.

259.205 Garage keeper lien.

Sec. 205. A garage keeper who in pursuance of any contract, expressed or implied, written or unwritten, furnishes any labor, material, or supplies has a lien upon any aircraft stored, maintained, supplied, or repaired by him or her for the proper charges due for the storage, maintenance, keeping, and repair of the aircraft and for gasoline or aviation fuel, electric current, or other accessories and supplies furnished or expenses bestowed or labor performed on the aircraft at the request or with the consent of the registered owner of the aircraft, whether the owner is a conditional sale vendee or a mortgagor remaining in possession or otherwise. The garage keeper may detain the aircraft at any time it is in his or her possession within 90 days after performing the last labor or furnishing the last supplies for which the lien is claimed. The lien, to the extent it is for labor and material

furnished in making repairs upon an aircraft, has priority over all other liens upon the aircraft.

259.205a Garage keeper lien; priority.

Sec. 205a. (1) If the vehicle subject to a lien under section 1 is an aircraft, the garage keeper's lien shall take priority over any prior lien unless the prior lienholder pays to the garage keeper the amount of the lien attributable to labor and materials, or the following applicable amount, whichever is less:

(a) $5,000.00 in the case of an aircraft that has a single engine of less than 150 horsepower.

(b) $10,000.00 in the case of an aircraft that has a single engine of 150 or more horsepower.

(c) $20,000.00 in the case of a multiengine, nonturbocharged aircraft, or an aircraft that is rated at less than 6,000 pounds maximum certificated gross takeoff weight.

(d) $40,000.00 in the case of a multiengine turbocharged aircraft, or an aircraft that is rated at 6,000 pounds or more maximum certificated gross takeoff weight.

(e) $100,000.00 in the case of a turboprop or turbojet aircraft.

(2) A payment made to a garage keeper under subsection (1) shall be added to the amount of the lien of the prior lienholder who made the payment, and shall be subtracted from the amount of the garage keeper's lien.

(3) The garage keeper's lien established in this act is the sole lien available to a garage keeper as to an aircraft, and the common law garage keeper's lien as to an aircraft is abolished.

259.205b Garage keeper lien; filing of lien claim; sale; notice; purchase; disposition of surplus.

Sec. 205b. (1) If the charges described in section 1 for an aircraft are not paid when due, the garage keeper may, within 60 days after the last work or service is performed, file with the federal aviation administration aircraft registry, a claim of lien, duly acknowledged, stating the name and address of the lien claimant, the amount due, and describing the aircraft by make, model, serial number, and registration number. If charges described in section 1 for an aircraft are not paid within 60 days after a claim of lien together with an itemized statement of the account is delivered to the registered owner of the aircraft by personal service or service by registered or certified mail addressed to the last known address of the registered owner of the aircraft, and a record of the lien described above has been filed with the federal aviation administration aircraft registry, the garage keeper may sell the aircraft at public auction. The sale shall be held not less than 20 days or more than 60 days after the expiration of the 60-day period.

(2) Not later than 20 days before any sale is held, the garage keeper shall give written notice of the time and place of the sale to the federal aviation administration aircraft registry, to any lienholder as shown by the records of the federal aviation administration aircraft registry, and to the registered owner of the aircraft. Notice to the federal aviation administration aircraft registry and the lienholders shall be given by first-class mail, addressed to the federal aviation administration aircraft registry, and to the address of the lienholders. Notice to the registered owner of the aircraft shall be given personally or by certified mail, directly to the last known address of the registered owner. Notice of the time and place of the sale also shall be posted in a conspicuous place at the place of the sale and at every airport within a 25-mile radius of the place of the sale.

(3) The garage keeper may bid for and purchase the aircraft at the sale. If the garage keeper directly or indirectly purchases the aircraft at the sale, the proceeds of the sale shall be determined to be either the amount paid by the garage keeper or the fair cash market value of the aircraft as determined by a neutral aircraft appraiser immediately before the time of sale, whichever is the greater.

(4) Any surplus received at the sale, after all charges of the garage keeper have been paid and satisfied and all costs of sale have been deducted, shall be returned to any lienholder who has a properly recorded security interest in the aircraft or part of the aircraft before distribution of the proceeds of the sale is complete, and the balance shall be returned to the registered owner of the aircraft.

Repeal of §§ 259.10, 259.10a, 259.11, 259.14a, 259.15, 259.15a, 259.15b, 259.16, 259.17, 259.17a, 259.17b, 259.18, 259.19, 259.20, 259.20a, 259.20a[1], 259.20b, 259.20c, 259.20d, 259.21, 259.21a, 259.21b, 259.21c, 259.22, 259.23, 259.24, 259.24a, 259.24b, 259.25, 259.25a, 259.25a[1], 259.25b, 259.25c, 259.25d, 259.25e, 259.86a, 259.86b, and 259.86c.

Enacting section 1. Sections 10, 10a, 11, 14a, 15, 15a, 15b, 16, 17, 17a, 17b, 18, 19, 20, 20a, 20a[1], 20b, 20c, 20d, 21, 21a, 21b, 21c, 22, 23, 24, 24a, 24b, 25, 25a, 25a[1], 25b, 25c, 25d, 25e, 86a, 86b, and 86c of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.10, 259.10a, 259.11, 259.14a, 259.15, 259.15a, 259.15b, 259.16, 259.17, 259.17a, 259.17b, 259.18, 259.19, 259.20, 259.20a, 259.20a[1], 259.20b, 259.20c, 259.20d, 259.21, 259.21a, 259.21b, 259.21c, 259.22, 259.23, 259.24, 259.24a, 259.24b, 259.25, 259.25a, 259.25a[1], 259.25b, 259.25c, 259.25d, 259.25e, 259.86a, 259.86b, and 259.86c, are repealed.

Effective date.

Enacting section 2. This amendatory act takes effect May 15, 2002.

This act is ordered to take immediate effect.
Approved March 7, 2002.
Filed with Secretary of State March 7, 2002.

[No. 36]

(HB 5482)

AN ACT to provide for the formation, regulation, and registration of distance learning corporations; to prescribe their duties, rights, powers, immunities, and liabilities; and to provide for the powers and duties of certain state officers and entities.

The People of the State of Michigan enact:

390.1571 Short title.

Sec. 1. This act shall be known and may be cited as the "career development and distance learning act".

390.1572 Definitions.

Sec. 2. As used in this act:

(a) "Administrator" means that term as defined in section 105 of the nonprofit act, MCL 450.2105.

(b) "Community college" means a community college organized under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or a federal tribally controlled community college that is recognized under the tribally controlled community college assistance act of 1978, Public Law 95-471, and is determined by the department of education to meet the requirements for accreditation by a recognized regional accrediting body.

(c) "Director" means the director of the department of career development or his or her designee.

(d) "Nonprofit act" means the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(e) "Public school" means a local school district, a local act school district, a public school academy, a university school, or an intermediate school district established under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(f) "Registered distance learning corporation" means a distance learning corporation incorporated under the nonprofit act and registered under this act.

(g) "State public university" means a university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

390.1573 Registered distance learning corporation; laws applicable to nonprofit corporations; tax exemption; registration.

Sec. 3. (1) A registered distance learning corporation is subject to the laws of this state applicable to nonprofit corporations, except as provided in this act.

(2) A registered distance learning corporation is a charitable and benevolent institution, and its funds and property are exempt from taxation by this state or any political subdivision of this state.

(3) A corporation shall not act as a registered distance learning corporation except as authorized by and pursuant to a registration issued by the director under this act.

390.1574 Articles of incorporation.

Sec. 4. (1) The articles of incorporation of a registered distance learning corporation shall contain all of the following:

(a) The purposes of the corporation, which shall include at least all of the following:

(*i*) To help promote the use of education technology to accelerate career and workforce development by improving the learning environment, stimulating innovative teaching methods, achieving accountability, and providing residents of this state with greater technology-based educational choices.

(*ii*) To promote technology-based education and training to public and private sector organizations, including, but not limited to, alternative models of education that emphasize partnerships between public education and the business sector.

(*iii*) To provide technology-based services that will enable distance learning education and training to flourish and prosper, including, but not limited to, providing selected industries with business and financial operations, human resource administration, resource development, research, marketing, technology coordination, digital library support, faculty training and development, and other student and academic support operations.

(*iv*) To support and encourage various collaborative efforts among educational institutions, businesses, nonprofit organizations, and government agencies to meet the training and educational needs of the state's workforce.

(*v*) To establish, acquire, or participate in or with other persons that further the purposes of the registered distance learning corporation.

(b) A provision that the board shall include 4 members who are appointed as follows:

(*i*) Two board members appointed by the governor with the advice and consent of the senate.

(*ii*) One board member appointed by the governor from a list of 5 names submitted by the majority leader of the senate.

(*iii*) One board member appointed by the governor from a list of 5 names submitted by the speaker of the house of representatives.

(c) A provision that the board of directors shall consist of the following individuals:

(*i*) The 4 appointed board members described in subdivision (b).

(*ii*) At least 1 board member representing state public universities.

(*iii*) At least 1 board member representing community colleges.

(*iv*) At least 1 board member representing public schools.

(*v*) At least 1 board member representing independent nonprofit degree-granting colleges and universities located in this state.

(*vi*) At least 5 board members representing the private sector.

(d) A provision that the corporation is not an educational corporation for purposes of sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177.

(2) A corporation applying for registration as a registered distance learning corporation shall submit its articles of incorporation and any amendments to its articles of incorporation or restated articles of incorporation to the attorney general for examination. The attorney general shall review the articles or amendments within 60 days, and if the attorney general finds that the articles or amendments comply with this act, the attorney general shall certify this finding to the director.

(3) In addition to any fee required in the nonprofit act, a corporation applying for registration as a registered distance learning corporation shall pay the following fees, which shall be deposited in the state treasury:

(a) A fee of $100.00 to the attorney general for the examination described in subsection (2).

(b) A fee of $500.00 to the director for the examination and registration described in section 5.

390.1575 Registration; requirements.

Sec. 5. (1) To apply for registration as a registered distance learning corporation, a corporation shall file all of the following with the director:

(a) A copy of the articles of incorporation of the corporation, certified by the administrator.

(b) The certificate of the attorney general required under section 4(2). This requirement is waived if the corporation submitted the articles of incorporation under section 4(2) and the attorney general does not act under section 4(2) to certify the articles within 60 days.

(c) A general plan of the proposed activities of the corporation.

(d) A copy of the financial statements of the corporation.

(e) A copy of the bylaws of the corporation.

(2) The director shall examine the documents filed under subsection (1), may conduct any investigation which he or she considers necessary, may request additional oral and written information from the corporation, and may examine under oath any persons interested in or connected with the distance learning corporation seeking registration.

(3) The director shall register a corporation as a registered distance learning corporation if all of the following are met:

(a) The documents filed under subsection (1) are in proper form.

(b) The articles of incorporation of the corporation contain the provisions required under section 4.

(c) The corporation has been in existence for distance learning purposes for 3 years or more at the time it applies for registration.

(d) The internal revenue service has determined that the corporation is exempt from taxation under section 501(c)(3) of the internal revenue code of 1986.

(4) If the director registers a corporation as a registered distance learning corporation under subsection (3), the director shall do both of the following:

(a) Return to the corporation 1 copy of the articles of incorporation, certified that the corporation is a registered distance learning corporation.

(b) Deliver to the administrator a certificate that the corporation is a registered distance learning corporation.

390.1576 Acquiring, holding, and disposing funds and property.

Sec. 6. A registered distance learning corporation shall acquire, hold, and dispose of its funds and property only for the lawful purposes of the corporation and for the benefit of the public. A registered distance learning corporation shall conduct its activities, including acquiring, holding, and disposing of funds and property, in a manner within the scope of the purposes of the corporation as specifically set forth in its articles and consistent with this act.

390.1577 Registered distance learning corporation; powers.

Sec. 7. (1) Subject to the limits contained in this act, the nonprofit act, any other law of this state, or in its articles of incorporation, a registered distance learning corporation may do any act consistent with 1 or more of the purposes of the corporation, including, but not limited to, 1 or more of the following:

(a) Engage in experimental distance learning projects.

(b) Provide training and distance learning services and professional development programs to government employees.

(c) Accept gifts, grants, appropriations, donations, fees for services, royalties, or other payments or property from any source.

(d) In administering any publicly supported distance learning plan, contract or subcontract with any organization that administers or furnishes distance learning services to any federal, state, or local government, agency, or political subdivision.

(e) Make grants for the public welfare.

(f) Participate with any other public or private entity in any transaction the corporation has the power to conduct by itself.

(g) Obtain, hold, and dispose of patents, trademarks, copyrights, or other intellectual property rights in any invention, idea, good, service, or other tangible or intangible

property subject to protection under any applicable intellectual property law, including, but not limited to, property created or developed by an employee of or a person under contract with the corporation.

(h) Offer educators opportunities to learn new knowledge, skills, and strategies for developing and delivering instructional services.

(i) Grant credits, degrees, or high school diplomas only through dual enrollment programs with educational institutions that are authorized to grant credits, degrees, or high school diplomas in this state.

(2) If an act of a registered distance learning corporation is otherwise legal, it is not invalid because the corporation was without capacity or power to do the act. However, the lack of capacity or power may be asserted in any of the following actions:

(a) An action by a board member against the corporation to enjoin an act.

(b) An action by or in the right of the corporation to procure a judgment in its favor against an incumbent or former officer or board member of the corporation for loss or damage due to an unauthorized act of that officer or board member.

(c) An action or special proceeding by the attorney general to enjoin the corporation from the transacting of unauthorized business, to set aside an unauthorized transaction, or to obtain other equitable relief.

(3) A registered distance learning corporation is not and shall not act in this state as a public school or postsecondary degree-granting institution and shall not independently grant degrees or high school diplomas.

390.1578 Complaint alleging violation of act; hearing; determination; cease and desist order; actions.

Sec. 8. (1) If a sworn complaint alleging a violation of this act by a registered distance learning corporation is filed with the director, the director may hold a hearing to consider the alleged violation of this act.

(2) If the director after a hearing determines that the registered distance learning corporation is violating or has violated this act, the director shall reduce his or her findings and decision to writing and shall issue and serve upon the corporation a copy of the findings and an order requiring the corporation to cease and desist from engaging in the prohibited activity.

(3) If a registered distance learning corporation violates a cease and desist order of the director issued under subsection (2), the director after notice and an opportunity for a hearing may by order revoke the registration of the corporation under this act. However, if the corporation shows by a preponderance of the evidence that the prohibited activity described in the cease and desist order resulted from a bona fide error that violated a policy or procedure of the corporation intended to prevent that error, the director shall not revoke the registration but may require that the corporation take specified remedial action. The corporation shall comply with any remedial action that the director requires.

(4) After notice and an opportunity for hearing, the director at any time may by order reopen and alter, modify, or set aside, all or part of an order issued by him or her under this section, if in his or her opinion conditions of fact or of law have so changed as to require that action or if the public interest requires that action.

390.1579 Confidentiality of information.

Sec. 9. (1) To ensure the confidentiality of records containing personal data associated with identifiable individuals, a registered distance learning corporation shall use reasonable

care to secure these records from unauthorized access and to collect only personal data that is necessary for the proper operation of the corporation.

(2) A registered distance learning corporation shall adopt appropriate practices and procedures concerning confidential information in compliance with applicable law.

(3) A registered distance learning corporation may enter into agreements with public and private persons to protect trade secrets, tests and test scores, proprietary information, and other information the disclosure of which would jeopardize the privacy or property rights of another person. Information subject to an agreement under this subsection in the possession of a public body is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

This act is ordered to take immediate effect.
Approved March 7, 2002.
Filed with Secretary of State March 7, 2002.

[No. 37]

(SB 604)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention

authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 2468 and 2662 (MCL 500.2468 and 500.2662).

The People of the State of Michigan enact:

500.2468 Examination of rating organizations; report.

Sec. 2468. (1) The commissioner may make or cause to be made an examination of each rating organization licensed in this state under section 2436, each advisory organization referred to in section 2462, and of each group, association, or other organization referred to in section 2464. The reasonable costs of the examination shall be paid by the rating organization, advisory organization, or group, association, or other organization examined upon presentation to it of a detailed account of those costs. The officer, manager, agents, and employees of the rating organization, advisory organization, or group, association, or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. The examination is subject to the procedure provided for in section 222 relating to examinations of insurance companies.

(2) Instead of an examination under subsection (1), the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of that state.

500.2662 Examination of rating advisory organizations; report.

Sec. 2662. (1) The commissioner may make or cause to be made an examination of each rating organization licensed in this state under section 2630, each advisory organization referred to in section 2654, and of each group, association, or other organization referred to in section 2658. The reasonable costs of the examination shall be paid by the rating organization, advisory organization, or group, association, or other organization examined upon presentation to it of a detailed account of those costs. The officers, managers, agents, and employees of the rating organization, advisory organization, or group, association, or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. The examination is subject to the procedure provided for in section 222 relating to examinations of insurance companies.

(2) Instead of an examination under subsection (1), the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of that state.

This act is ordered to take immediate effect.
Approved March 7, 2002.
Filed with Secretary of State March 7, 2002.

[No. 38]

(SB 605)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or

formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 3114 (MCL 500.3114), as amended by 1984 PA 372.

The People of the State of Michigan enact:

500.3114 Persons entitled to personal protection insurance benefits or personal injury benefits; recoupment barred; order of priority for claim of motor vehicle occupant or motorcycle operator or passenger; 2 or more insurers in same order of priority; partial recoupment.

Sec. 3114. (1) Except as provided in subsections (2), (3), and (5), a personal protection insurance policy described in section 3101(1) applies to accidental bodily injury to the person named in the policy, the person's spouse, and a relative of either domiciled in the same household, if the injury arises from a motor vehicle accident. A personal injury insurance policy described in section 3103(2) applies to accidental bodily injury to the person named in the policy, the person's spouse, and a relative of either domiciled in the same household, if the injury arises from a motorcycle accident. When personal protection insurance benefits or personal injury benefits described in section 3103(2) are payable to

or for the benefit of an injured person under his or her own policy and would also be payable under the policy of his or her spouse, relative, or relative's spouse, the injured person's insurer shall pay all of the benefits and is not entitled to recoupment from the other insurer.

(2) A person suffering accidental bodily injury while an operator or a passenger of a motor vehicle operated in the business of transporting passengers shall receive the personal protection insurance benefits to which the person is entitled from the insurer of the motor vehicle. This subsection does not apply to a passenger in the following, unless that passenger is not entitled to personal protection insurance benefits under any other policy:

(a) A school bus, as defined by the department of education, providing transportation not prohibited by law.

(b) A bus operated by a common carrier of passengers certified by the department of transportation.

(c) A bus operating under a government sponsored transportation program.

(d) A bus operated by or providing service to a nonprofit organization.

(e) A taxicab insured as prescribed in section 3101 or 3102.

(f) A bus operated by a canoe or other watercraft, bicycle, or horse livery used only to transport passengers to or from a destination point.

(3) An employee, his or her spouse, or a relative of either domiciled in the same household, who suffers accidental bodily injury while an occupant of a motor vehicle owned or registered by the employer, shall receive personal protection insurance benefits to which the employee is entitled from the insurer of the furnished vehicle.

(4) Except as provided in subsections (1) to (3), a person suffering accidental bodily injury arising from a motor vehicle accident while an occupant of a motor vehicle shall claim personal protection insurance benefits from insurers in the following order of priority:

(a) The insurer of the owner or registrant of the vehicle occupied.

(b) The insurer of the operator of the vehicle occupied.

(5) A person suffering accidental bodily injury arising from a motor vehicle accident which shows evidence of the involvement of a motor vehicle while an operator or passenger of a motorcycle shall claim personal protection insurance benefits from insurers in the following order of priority:

(a) The insurer of the owner or registrant of the motor vehicle involved in the accident.

(b) The insurer of the operator of the motor vehicle involved in the accident.

(c) The motor vehicle insurer of the operator of the motorcycle involved in the accident.

(d) The motor vehicle insurer of the owner or registrant of the motorcycle involved in the accident.

(6) If 2 or more insurers are in the same order of priority to provide personal protection insurance benefits under subsection (5), an insurer paying benefits due is entitled to partial recoupment from the other insurers in the same order of priority, together with a reasonable amount of partial recoupment of the expense of processing the claim, in order to accomplish equitable distribution of the loss among all of the insurers.

This act is ordered to take immediate effect.
Approved March 7, 2002.
Filed with Secretary of State March 7, 2002.

[No. 39]

(HB 5139)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," (MCL 380.1 to 380.1852) by adding section 1139.

The People of the State of Michigan enact:

380.1139 Access to high school pupil directory by armed forces recruiting representatives.

Sec. 1139. (1) Except as otherwise provided in subsection (2), the school officials of a public high school shall provide at least the same access to the high school campus and to pupil directory information of the pupils enrolled in the high school as is provided to other entities offering educational or employment opportunities to official recruiting representatives of all of the following for the purpose of informing pupils of educational and career opportunities available in the following:

(a) The armed forces of the United States.

(b) The service academies of the armed forces of the United States.

(2) If a high school pupil or the parent or legal guardian of a high school pupil submits a signed, written request to school officials of a public high school that indicates that the pupil or the parent or legal guardian does not want the pupil's directory information to be accessible to official recruiting representatives under subsection (1), then the school officials of the high school shall not allow that access to the pupil's directory information. The governing board of the school district, intermediate school district, or public school academy operating the high school shall ensure that pupils and parents and guardians are notified of the provisions of this subsection.

(3) The school officials of a public high school shall provide any public notice required to be given under section 444 of subpart 4 of part C of the general education provisions act, title IV of Public Law 90-247, 20 U.S.C. 1232g, commonly referred to as the family educational rights and privacy act of 1974, in order to comply with this section and federal law.

(4) The school officials of a public high school may require an official recruiting representative described in subsection (1) to pay a fee, not to exceed the actual costs incurred by the high school, for copying and mailing pupil directory information under this section.

(5) An official recruiting representative who receives pupil directory information under this section shall use that information only to provide information to pupils

concerning educational and career opportunities available in the armed forces of the United States or the service academies of the armed forces of the United States. An official recruiting representative who receives pupil directory information under this section shall not release that information to a person who is not involved in recruiting pupils for the armed forces of the United States or the service academies of the armed forces of the United States.

(6) Public schools are encouraged to assign 1 or more school employees to notify male pupils age 18 or older that they are required to register for the selective service.

(7) The armed forces of the United States are encouraged to work with each other to develop and use a standardized form for requesting access to a high school campus and for requesting a time for the access.

(8) As used in this section:

(a) "Armed forces of the United States" means the armed forces of the United States and their reserve components and the United States coast guard.

(b) "Pupil directory information" means a pupil's name and address and, if it is a listed or published telephone number, the pupil's telephone number.

This act is ordered to take immediate effect.
Approved March 11, 2002.
Filed with Secretary of State March 12, 2002.

[No. 40]

(HB 4690)

AN ACT to enter into the interstate compact for the supervision of adult offenders; and for related purposes.

The People of the State of Michigan enact:

3.1011 Short title.

Sec. 1. This act shall be known and may be cited as the "interstate compact for adult offender supervision".

3.1012 Interstate compact for supervision of adult offenders; form.

Sec. 2. The interstate compact for the supervision of adult offenders is enacted into law and entered into with all jurisdictions legally joining in the compact, in the form substantially as follows:

ARTICLE I

PURPOSE

The compacting states to this interstate compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the bylaws and rules of this compact to travel across state lines both to and from each compacting state in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary, return offenders to the originating jurisdictions. The compacting states also recognize that

congress, by enacting the crime control act, 4 U.S.C. section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime. It is the purpose of this compact and the interstate commission created hereunder, through means of joint and cooperative action among the compacting states, to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits, and obligations of the compact among the compacting states. In addition, this compact will create an interstate commission which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies which will promulgate rules to achieve the purpose of this compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of compact activities to heads of state councils, state executive, judicial, and legislative branches, and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity. The compacting states recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this compact and bylaws and rules promulgated hereunder. It is the policy of the compacting states that the activities conducted by the interstate commission created herein are the formation of public policies and are therefore public business.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

(a) "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

(b) "Bylaws" means those bylaws established by the interstate commission for its governance, or for directing or controlling the interstate commission's actions or conduct.

(c) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this compact, the rules adopted by the interstate commission, and policies adopted by the state council under this compact.

(d) "Compacting state" means any state which has enacted the enabling legislation for this compact.

(e) "Commissioner" means the voting representative of each compacting state appointed pursuant to article III of this compact.

(f) "Interstate commission" means the interstate commission for adult offender supervision established by this compact.

(g) "Member" means the commissioner of a compacting state or designee, who shall be a person officially connected with the commissioner.

(h) "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.

(i) "Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

(j) "Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

(k) "Rules" means acts of the interstate commission, duly promulgated pursuant to article VIII of this compact, substantially affecting interested parties in addition to the interstate commission, which shall have the force and effect of law in the compacting states.

(*l*) "State" means a state of the United States, the District of Columbia, and any other territorial possessions of the United States.

(m) "State council" means the resident members of the state council for interstate adult offender supervision created by each state under article III of this compact.

ARTICLE III

THE COMPACT COMMISSION

The compacting states hereby create the "interstate commission for adult offender supervision". The interstate commission shall be a body corporate and joint agency of the compacting states. The interstate commission shall have all the responsibilities, powers, and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

The interstate commission shall consist of commissioners selected and appointed by resident members of a state council for interstate adult offender supervision for each state. In addition to the commissioners who are the voting representatives of each state, the interstate commission shall include individuals who are not commissioners but who are members of interested organizations; such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, and crime victims. All noncommissioner members of the interstate commission shall be ex officio (nonvoting) members. The interstate commission may provide in its bylaws for such additional, ex officio, nonvoting members as it deems necessary.

Each compacting state represented at any meeting of the interstate commission is entitled to 1 vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. The interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

The interstate commission shall establish an executive committee which shall include commission officers, members, and others as shall be determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission during periods when the interstate commission is not in session, with the exception of

rule-making and/or amendment to the compact. The executive committee oversees the day-to-day activities managed by the executive director and interstate commission staff; administers enforcement and compliance with the provisions of the compact, its bylaws and as directed by the interstate commission; and performs other duties as directed by the commission or set forth in the bylaws.

ARTICLE IV

THE STATE COUNCIL

Each member state shall create a state council for interstate adult offender supervision which shall be responsible for the appointment of the commissioner who shall serve on the interstate commission from that state. Each state council shall appoint as its commissioner the compact administrator from that state to serve on the interstate commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own state council, its membership must include at least 1 representative from the legislative, judicial, and executive branches of government, victims groups, and compact administrators. Each compacting state retains the right to determine the qualifications of the compact administrator who shall be appointed by the state council or by the governor in consultation with the legislature and the judiciary. In addition to appointment of its commissioner to the national interstate commission, each state council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by each member state, including, but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE V

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

(a) To adopt a seal and suitable bylaws governing the management and operation of the interstate commission.

(b) To promulgate rules which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

(c) To oversee, supervise, and coordinate the interstate movement of offenders subject to the terms of this compact and any bylaws adopted and rules promulgated by the compact commission.

(d) To enforce compliance with compact provisions, interstate commission rules, and bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process.

(e) To establish and maintain offices.

(f) To purchase and maintain insurance and bonds.

(g) To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

(h) To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions, including, but not limited to, an executive committee as required by article III which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties hereunder.

(i) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties, and determine their qualifications; and to establish the interstate commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

(j) To accept any and all donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of same.

(k) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

(*l*) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

(m) To establish a budget and make expenditures and levy duties as provided in article X of this compact.

(n) To sue and be sued.

(o) To provide for dispute resolution among compacting states.

(p) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(q) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission.

(r) To coordinate education, training, and public awareness regarding the interstate movement of offenders for officials involved in such activity.

(s) To establish uniform standards for the reporting, collecting, and exchanging of data.

ARTICLE VI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. Bylaws

The interstate commission shall, by a majority of the members, within 12 months of the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(a) Establishing the fiscal year of the interstate commission.

(b) Establishing an executive committee and such other committees as may be necessary.

(c) Providing reasonable standards and procedures:

(*i*) For the establishment of committees.

(*ii*) Governing any general or specific delegation of any authority or function of the interstate commission.

(d) Providing reasonable procedures for calling and conducting meetings of the interstate commission and ensuring reasonable notice of each such meeting.

(e) Establishing the titles and responsibilities of the officers of the interstate commission.

(f) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the interstate commission. Notwithstanding any civil

service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the interstate commission.

(g) Providing a mechanism for winding up the operations of the interstate commission and the equitable return of any surplus funds that may exist upon the termination of the compact after the payment and/or reserving of all of its debts and obligations.

(h) Providing transition rules for "start-up" administration of the compact.

(i) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

The interstate commission shall, by a majority of the members, elect from among its members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the bylaws. The chairperson or, in his or her absence or disability, the vice chairperson shall preside at all meetings of the interstate commission. The officers so elected shall serve without compensation or remuneration from the interstate commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the interstate commission.

The interstate commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the interstate commission may deem appropriate. The executive director shall serve as secretary to the interstate commission and hire and supervise such other staff as may be authorized by the interstate commission, but shall not be a member.

Section C. Corporate Records of the Interstate Commission

The interstate commission shall maintain its corporate books and records in accordance with the bylaws.

Section D. Qualified Immunity, Defense, and Indemnification

The members, officers, executive director, and employees of the interstate commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person. The interstate commission shall defend the commissioner of a compacting state, or his or her representatives or employees, or the interstate commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities; provided, that the actual or alleged act, error, or omission did not result from intentional wrongdoing on the part of such person.

The interstate commission shall indemnify and hold the commissioner of a compacting state, the appointed designee or employees, or the interstate commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against

such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided, that the actual or alleged act, error, or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VII

ACTIVITIES OF THE INTERSTATE COMMISSION

The interstate commission shall meet and take such actions as are consistent with the provisions of this compact.

Except as otherwise provided in this compact and unless a greater percentage is required by the bylaws, in order to constitute an act of the interstate commission, such act shall have been taken at a meeting of the interstate commission and shall have received an affirmative vote of a majority of the members present.

Each member of the interstate commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the interstate commission. A member shall vote in person on behalf of the state and shall not delegate a vote to another member state. However, a state council shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the member state at a specified meeting. The bylaws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication, shall be subject to the same quorum requirements of meetings where members are present in person.

The interstate commission shall meet at least once during each calendar year. The chairperson of the interstate commission may call additional meetings at any time and, upon the request of a majority of the members, shall call additional meetings.

The interstate commission's bylaws shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such rules, the interstate commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission shall promulgate rules consistent with the principles contained in the "government in sunshine act", 5 U.S.C. section 552(b), as may be amended. The interstate commission and any of its committees may close a meeting to the public where it determines by 2/3 vote that an open meeting would be likely to:

(a) Relate solely to the interstate commission's internal personnel practices and procedures.

(b) Disclose matters specifically exempted from disclosure by statute.

(c) Disclose trade secrets or commercial or financial information which is privileged or confidential.

(d) Involve accusing any person of a crime or formally censuring any person.

(e) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(f) Disclose investigatory records compiled for law enforcement purposes.

(g) Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the interstate commission with respect to a regulated entity for the purpose of regulation or supervision of such entity.

(h) Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity.

(i) Specifically relate to the interstate commission's issuance of a subpoena or its participation in a civil action or proceeding.

For every meeting closed pursuant to this provision, the interstate commission's chief legal officer shall publicly certify that, in his or her opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The interstate commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

The interstate commission shall collect standardized data concerning the interstate movement of offenders as directed through its bylaws and rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements.

ARTICLE VIII

RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

The interstate commission shall promulgate rules in order to effectively and efficiently achieve the purposes of the compact including transition rules governing administration of the compact during the period in which it is being considered and enacted by the states.

Rule-making shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rule-making shall substantially conform to the principles of the federal administrative procedure act, 5 U.S.C.S. section 551 et seq., and the federal advisory committee act, 5 U.S.C.S. app. 2, section 1 et seq., as may be amended (hereinafter "APA"). All rules and amendments shall become binding as of the date specified in each rule or amendment.

If a majority of the legislatures of the compacting states reject a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any compacting state.

When promulgating a rule, the interstate commission shall:

(a) Publish the proposed rule stating with particularity the text of the rule which is proposed and the reason for the proposed rule.

(b) Allow persons to submit written data, facts, opinions, and arguments, which information shall be publicly available.

(c) Provide an opportunity for an informal hearing.

(d) Promulgate a final rule and its effective date, if appropriate, based on the rule-making period.

Not later than 60 days after a rule is promulgated, any interested person may file a petition in the United States district court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence (as defined in the APA), in the rule-making record, the court shall hold the rule unlawful and set it aside. Subjects to be addressed within 12 months after the first meeting must, at a minimum, include:

(a) Notice to victims and opportunity to be heard.

(b) Offender registration and compliance.

(c) Violations/returns.

(d) Transfer procedures and forms.

(e) Eligibility for transfer.

(f) Collection of restitution and fees from offenders.

(g) Data collection and reporting.

(h) The level of supervision to be provided by the receiving state.

(i) Transition rules governing the operation of the compact and the interstate commission during all or part of the period between the effective date of the compact and the date on which the last eligible state adopts the compact.

(j) Mediation, arbitration, and dispute resolution.

The existing rules governing the operation of the previous compact superseded by this act shall be null and void 12 months after the first meeting of the interstate commission created hereunder.

Upon determination by the interstate commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rule-making procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

ARTICLE IX

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Section A. Oversight

The interstate commission shall oversee the interstate movement of adult offenders in the compacting states and shall monitor such activities being administered in noncompacting states which may significantly affect compacting states.

The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the interstate commission, the interstate commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

The compacting states shall report to the interstate commission on issues or activities of concern to them and cooperate with and support the interstate commission in the discharge of its duties and responsibilities.

The interstate commission shall attempt to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and noncompacting states.

The interstate commission shall enact a bylaw or promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

Section C. Enforcement

The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions of this compact using any or all means set forth in article XII, section B, of this compact.

ARTICLE X

FINANCE

The interstate commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

The interstate commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the interstate commission and its staff which must be in a total amount sufficient to cover the interstate commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, taking into consideration the population of the state and the volume of interstate movement of offenders in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

The interstate commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the interstate commission.

ARTICLE XI

COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

Any state, as defined in article II of this compact, is eligible to become a compacting state. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 of the states. The initial effective date shall be the later of July 1, 2001, or upon enactment into law by the thirty-fifth jurisdiction. Thereafter, it shall become effective and binding, as to any other compacting state, upon enactment of the compact into law by that state. The governors of nonmember states or their designees will be invited to participate in interstate commission activities on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

Amendments to the compact may be proposed by the interstate commission for enactment by the compacting states. No amendment shall become effective and binding

upon the interstate commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XII

WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided, that a compacting state may withdraw from the compact ("withdrawing state") by enacting a statute specifically repealing the statute which enacted the compact into law.

The effective date of withdrawal is the effective date of the repeal.

The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The interstate commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extends beyond the effective date of withdrawal.

Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

Section B. Default

If the interstate commission determines that any compacting state has at any time defaulted ("defaulting state") in the performance of any of its obligations or responsibilities under this compact, the bylaws, or any duly promulgated rules, the interstate commission may impose any or all of the following penalties:

(a) Fines, fees, and costs in such amounts as are deemed to be reasonable as fixed by the interstate commission.

(b) Remedial training and technical assistance as directed by the interstate commission.

(c) Suspension and termination of membership in the compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the bylaws and rules have been exhausted. Immediate notice of suspension shall be given by the interstate commission to the governor, the chief justice or chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, interstate commission bylaws, or duly promulgated rules. The interstate commission shall immediately notify the defaulting state in writing of the penalty imposed by the interstate commission on the defaulting state pending a cure of the default. The interstate commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the interstate commission, in addition to any other penalties imposed herein, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of suspension. Within 60 days of

the effective date of termination of a defaulting state, the interstate commission shall notify the governor, the chief justice or chief judicial officer, and the majority and minority leaders of the defaulting state's legislature and the state council of such termination.

The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The interstate commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon between the interstate commission and the defaulting state. Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the interstate commission pursuant to the rules.

Section C. Judicial Enforcement

The interstate commission may, by majority vote of the members, initiate legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its offices to enforce compliance with the provisions of the compact, its duly promulgated rules and bylaws, against any compacting state in default. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

Section D. Dissolution of Compact

The compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in the compact to 1 compacting state. Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XIII

SEVERABILITY AND CONSTRUCTION

The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

The provisions of this compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIV

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact. All compacting states' laws conflicting with this compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the compacting states. All agreements between the interstate commission and the compacting states are binding in accordance with their terms.

Upon the request of a party to a conflict over meaning or interpretation of interstate commission actions, and upon a majority vote of the compacting states, the interstate commission may issue advisory opinions regarding such meaning or interpretation. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by such provision upon the interstate commission shall be ineffective and such obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

This act is ordered to take immediate effect.
Approved March 11, 2002.
Filed with Secretary of State March 12, 2002.

[No. 41]

(HB 5337)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 722 (MCL 257.722), as amended by 2000 PA 6.

The People of the State of Michigan enact:

257.722 Maximum axle load; normal loading maximum; designating highways as adequate for heavier loading; restrictions as to tandem axle assemblies; exceptions; normal size of tires; maximum wheel load; reduction of maximum axle load on concrete pavements during March, April, and May; exemptions; suspension of restrictions; determination of gross vehicle weight and axle weights; designation of highways for operation of certain vehicles; definition.

Sec. 722. (1) The maximum axle load shall not exceed the number of pounds designated in the following provisions that prescribe the distance between axles:

(a) If the axle spacing is 9 feet or more between axles, the maximum axle load shall not exceed 18,000 pounds for vehicles equipped with high pressure pneumatic or balloon tires.

(b) If the axle spacing is less than 9 feet between 2 axles but more than 3-1/2 feet, the maximum axle load shall not exceed 13,000 pounds for high pressure pneumatic or balloon tires.

(c) If the axles are spaced less than 3-1/2 feet apart, the maximum axle load shall not exceed 9,000 pounds per axle.

(d) Subdivisions (a), (b), and (c) shall be known as the normal loading maximum.

(2) When normal loading is in effect, the state transportation department, or a local authority with respect to highways under its jurisdiction, may designate certain highways, or sections of those highways, where bridges and road surfaces are adequate for heavier loading, and revise a designation as needed, on which the maximum tandem axle assembly loading shall not exceed 16,000 pounds for any axle of the assembly, if there is no other axle within 9 feet of any axle of the assembly.

(3) On a legal combination of vehicles, only 1 tandem axle assembly shall be permitted on the designated highways at the gross permissible weight of 16,000 pounds per axle, if there is no other axle within 9 feet of any axle of the assembly, and if no other tandem axle assembly in the combination of vehicles exceeds a gross weight of 13,000 pounds per axle. On a combination of truck tractor and semitrailer having not more than 5 axles, 2 consecutive tandem axle assemblies shall be permitted on the designated highways at a gross permissible weight of 16,000 pounds per axle, if there is no other axle within 9 feet of any axle of the assembly.

(4) Notwithstanding subsection (3), on a combination of truck tractor and semitrailer having not more than 5 axles, 2 consecutive sets of tandem axles may carry a gross permissible weight of not to exceed 17,000 pounds on any axle of the tandem axles if there is no other axle within 9 feet of any axle of the tandem axles and if the first and last axles of the consecutive sets of tandem axles are not less than 36 feet apart and the gross vehicle weight does not exceed 80,000 pounds to pick up and deliver agricultural commodities between the national truck network or special designated highways and any other highway. This subsection is not subject to the maximum axle loads of subsections (1), (2), and (3). For purposes of this subsection, a "tandem axle" means 2 axles spaced more than 40 inches but not more than 96 inches apart or 2 axles spaced more than 3-1/2 feet but less than 9 feet apart. This subsection does not apply during that period when reduced maximum loads are in effect pursuant to subsection (7). This subsection does not apply after December 31, 2006.

(5) The exception to the loading maximums and gross vehicle weight requirements of subsection (11) under subsection (7) for a person hauling agricultural commodities or a public utility vehicle applies only if the person who picks up or delivers the agricultural commodity either from a farm or to a farm or the public utility notifies the county road commission for roads under its authority not less than 48 hours before the pickup or delivery of the time and location of the pickup or delivery. The county road commission shall issue a permit to the person or the public utility and charge a fee that does not exceed the administrative costs incurred. The permit shall contain the following:

(a) The designated route or routes of travel for the load.

(b) The date and time period requested by the person who picks up or delivers the agricultural commodities or the public utility during which the load may be delivered or picked up.

(c) A maximum speed limit of travel, if necessary.

(d) Any other specific conditions agreed to between the parties.

(6) The normal size of tires shall be the rated size as published by the manufacturers, and the maximum wheel load permissible for any wheel shall not exceed 700 pounds per inch of width of tire.

(7) Except as provided in this subsection and subsection (8), during the months of March, April, and May in each year, the maximum axle load allowable on concrete pavements or pavements with a concrete base shall be reduced by 25% from the maximum axle load as specified in this chapter, and the maximum axle loads allowable on all other types of roads during these months shall be reduced by 35% from the maximum axle loads as specified. The maximum wheel load shall not exceed 525 pounds per inch of tire width on concrete and concrete base or 450 pounds per inch of tire width on all other roads during the period the seasonal road restrictions are in effect. This subsection does not apply to vehicles transporting agricultural commodities or public utility vehicles on a highway, road, or street under the jurisdiction of a local road agency.

(8) The state transportation department for roads under its jurisdiction and a county road commission for roads under its jurisdiction may grant exemptions from seasonal weight restrictions for milk on specified routes when requested in writing. Approval or denial of a request for an exemption shall be given by written notice to the applicant within 30 days after the date of submission of the application. If a request is denied, the written notice shall state the reason for denial and alternate routes for which the permit may be issued. The applicant shall have the right to appeal to the state transportation commission or the county road commission. These exemptions shall not apply on county roads in counties that have negotiated agreements with milk haulers or haulers of other commodities during periods of seasonal load limits before April 14, 1993. This subsection does not limit the ability of these counties to continue to negotiate such agreements.

(9) The state transportation department, or a local authority with respect to highways under its jurisdiction, may in its discretion suspend the restrictions imposed by this section when and where conditions of the highways or the public health, safety, and welfare warrant suspension, and impose the restricted loading requirements of this section on designated highways at any other time that the conditions of the highway require.

(10) For the purpose of enforcement of this act, the gross vehicle weight of a single vehicle and load or a combination of vehicles and loads, shall be determined by weighing individual axles or groups of axles, and the total weight on all the axles shall be the gross vehicle weight. In addition, the gross axle weight shall be determined by weighing individual axles or by weighing a group of axles and dividing the gross weight of the group of axles by the number of axles in the group. Pursuant to subsection (11), the overall gross weight on a group of 2 or more axles shall be determined by weighing individual axles or several axles, and the total weight of all the axles in the group shall be the overall gross weight of the group.

(11) The loading maximum in this subsection applies to interstate highways, and the state transportation department, or a local authority with respect to highways under its jurisdiction, may designate a highway, or a section of a highway, for the operation of vehicles having a gross vehicle weight of not more than 80,000 pounds that are subject to the following load maximums:

(a) Twenty thousand pounds on any 1 axle, including all enforcement tolerances.

(b) A tandem axle weight of 34,000 pounds, including all enforcement tolerances.

(c) An overall gross weight on a group of 2 or more consecutive axles equaling:

$$W = 500 \left(\frac{LN}{N-1} + 12N + 36 \right)$$

where W = overall gross weight on a group of 2 or more consecutive axles to the nearest 500 pounds, L = distance in feet between the extreme of a group of 2 or more consecutive axles, and N = number of axles in the group under consideration; except that 2 consecutive sets of tandem axles may carry a gross load of 34,000 pounds each if the first and last axles of the consecutive sets of tandem axles are not less than 36 feet apart. The gross vehicle weight shall not exceed 80,000 pounds including all enforcement tolerances. Except for 5 axle truck tractor, semitrailer combinations having 2 consecutive sets of tandem axles, vehicles having a gross weight in excess of 80,000 pounds or in excess of the vehicle gross weight determined by application of the formula in this subsection shall be subject to the maximum axle loads of subsections (1), (2), and (3). As used in this subsection, "tandem axle weight" means the total weight transmitted to the road by 2 or more consecutive axles, the centers of which may be included between parallel transverse vertical planes spaced more than 40 inches but not more than 96 inches apart, extending across the full width of the vehicle. Except as otherwise provided in this section, vehicles transporting agricultural commodities shall have weight load maximums as defined in this subsection.

(12) As used in this section, "agricultural commodities" means those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, mushrooms, fertilizer, livestock bedding, farming equipment, and fuel for agricultural use. The term "agricultural commodities" shall not include trees and lumber.

This act is ordered to take immediate effect.
Approved March 11, 2002.
Filed with Secretary of State March 12, 2002.

[No. 42]

(HB 4987)

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 2512 (MCL 339.2512), as amended by 2000 PA 436.

The People of the State of Michigan enact:

339.2512 Prohibited conduct; penalties.

Sec. 2512. A licensee who commits 1 or more of the following is subject to the penalties set forth in article 6:

(a) Except in a case involving property management, acts for more than 1 party in a transaction without the knowledge of the parties.

(b) Fails to provide a written agency disclosure to a prospective buyer or seller in a real estate transaction as defined in section 2517.

(c) Represents or attempts to represent a real estate broker other than the employer without the express knowledge and consent of the employer.

(d) Fails to account for or to remit money coming into the licensee's possession which belongs to others.

(e) Changes a business location without notification to the department.

(f) In the case of a real estate broker, fails to return a real estate salesperson's license within 5 days as provided in section 2507.

(g) In the case of a licensee engaged in property management, violates section 2512c(2), (5), or (6).

(h) Except as provided in section 2512b, shares or pays a fee, commission, or other valuable consideration to a person not licensed under this article including payment to any person providing the names of, or any other information regarding, a potential seller or purchaser of real estate but excluding payment for the purchase of commercially prepared lists of names. However, a licensed real estate broker may pay a commission to a licensed real estate broker of another state if the nonresident real estate broker does not conduct in this state a negotiation for which a commission is paid.

(i) Conducts or develops a market analysis not in compliance with section 2601(a)(*ii*).

(j) Except in the case of property management accounts, fails to deposit in the real estate broker's custodial trust or escrow account money belonging to others coming into the hands of the licensee in compliance with the following:

(*i*) A real estate broker shall retain a deposit or other money made payable to a person, partnership, corporation, or association holding a real estate broker's license under this article pending consummation or termination of the transaction involved and shall account for the full amount of the money at the time of the consummation or termination of the transaction.

(*ii*) A real estate salesperson shall pay over to the real estate broker, upon receipt, a deposit or other money on a transaction in which the real estate salesperson is engaged on behalf of the real estate broker.

(*iii*) A real estate broker shall not permit an advance payment of funds belonging to others to be deposited in the real estate broker's business or personal account or to be commingled with funds on deposit belonging to the real estate broker.

(*iv*) A real estate broker shall deposit, within 2 banking days after the broker has received notice that an offer to purchase is accepted by all parties, money belonging to others made payable to the real estate broker into a separate custodial trust or escrow account maintained by the real estate broker with a bank, savings and loan association, credit union, or recognized depository until the transaction involved is consummated or terminated, at which time the real estate broker shall account for the full amount received.

(*v*) A real estate broker shall keep records of funds deposited in its custodial trust or escrow account, which records shall indicate clearly the date and from whom the money was received, the date deposited, the date of withdrawal, and other pertinent information concerning the transaction, and shall show clearly for whose account the money is deposited and to whom the money belongs. The records shall be subject to inspection by the department. A real estate broker's separate custodial trust or escrow account shall designate the real estate broker as trustee, and the custodial trust or escrow account shall

provide for withdrawal of funds without previous notice. This article and the rules promulgated pursuant to this article do not prohibit the deposit of money accepted under this section in a noninterest bearing account of a state or federally chartered savings and loan association or a state or federally chartered credit union.

(*vi*) If a purchase agreement signed by a seller and purchaser provides that a deposit be held by an escrowee other than a real estate broker, a licensee in possession of such a deposit shall cause the deposit to be delivered to the named escrowee within 2 banking days after the licensee has received notice that an offer to purchase is accepted by all parties.

This act is ordered to take immediate effect.
Approved March 12, 2002.
Filed with Secretary of State March 12, 2002.

[No. 43]

(SB 180)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 451 (MCL 750.451).

The People of the State of Michigan enact:

750.451 Prior convictions; penalty; establishment; definition.

Sec. 451. (1) A person who violates section 448, 449, 449a, or 450 shall be punished by imprisonment for not more than 90 days or by a fine of not more than $100.00, or both. A person who violates section 448, 449, 449a, or 450 and has a prior conviction is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $500.00, or both. A person who violates section 448, 449, 449a, or 450 and has 2 or more prior convictions is guilty of a felony punishable by imprisonment for not more than 2 years.

(2) A prior conviction shall be established at sentencing by 1 or more of the following:

(a) An abstract of conviction.

(b) An admission by the defendant.

(3) As used in this section, "prior conviction" means a violation of section 448, 449, 449a, or 450 or a local ordinance substantially corresponding to section 448, 449, 449a, or 450.

Effective date.

Enacting section 1. This amendatory act takes effect June 1, 2001.

This act is ordered to take immediate effect.
Approved March 13, 2002.
Filed with Secretary of State March 14, 2002.

[No. 44]

(HB 4325)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 451 (MCL 750.451).

The People of the State of Michigan enact:

750.451 Violation of §§ 750.448, 750.449, 750.449a, 750.450, or 750.462; prior convictions; penalty; definition.

Sec. 451. (1) Except as otherwise provided in this section, a person convicted of violating section 448, 449, 449a, 450, or 462 is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(2) A person 16 years of age or older who is convicted of violating section 448, 449, 449a, 450, or 462 and who has 1 prior conviction is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(3) A person convicted of violating section 448, 449, 449a, 450, or 462 and who has 2 or more prior convictions is guilty of a felony punishable by imprisonment for not more than 2 years, or a fine of not more than $2,000.00, or both.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(5) As used in this section, "prior conviction" means a violation of section 448, 449, 449a, 450, or 462 or a violation of a law of another state or of a political subdivision of this state or another state substantially corresponding to section 448, 449, 449a, 450, or 462.

Effective date.

Enacting section 1. This amendatory act takes effect June 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 180.

(b) Senate Bill No. 1029.

(c) House Bill No. 5449.

This act is ordered to take immediate effect.
Approved March 13, 2002.
Filed with Secretary of State March 14, 2002.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 180 was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 43, Imd. Eff. Mar. 14, 2002.
Senate Bill No. 1029 was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 46, Eff. June 1, 2002.
House Bill No. 5449 was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 45, Eff. June 1, 2002.

[No. 45]

(HB 5449)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 145a, 145b, and 448 (MCL 750.145a, 750.145b, and 750.448).

The People of the State of Michigan enact:

750.145a Accosting, enticing or soliciting child for immoral purpose.

Sec. 145a. A person who accosts, entices, or solicits a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age with the intent to induce or force that child or individual to commit an immoral act, to submit to an act of sexual intercourse or an act of gross indecency, or to any other act of depravity or delinquency, or who encourages a child less than 16 years of age, regardless of whether the person knows the individual is a child or knows the actual age of the child, or an individual whom he or she believes is a child less than 16 years of age to engage in any of those acts is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

750.145b Accosting, enticing or soliciting child for immoral purpose; prior conviction; penalty.

Sec. 145b. (1) A person convicted of violating section 145a who has 1 or more prior convictions is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both.

(2) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before

sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(3) As used in this section, "prior conviction" means a violation of section 145a or a violation of a law of another state substantially corresponding to section 145a.

750.448 Soliciting, accosting, or inviting to commit prostitution or immoral act; crime.

Sec. 448. A person 16 years of age or older who accosts, solicits, or invites another person in a public place or in or from a building or vehicle, by word, gesture, or any other means, to commit prostitution or to do any other lewd or immoral act, is guilty of a crime punishable as provided in section 451.

Effective date.

Enacting section 1. This amendatory act takes effect June 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 180.

(b) Senate Bill No. 1029.

(c) House Bill No. 4325.

This act is ordered to take immediate effect.
Approved March 13, 2002.
Filed with Secretary of State March 14, 2002.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 180 was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 43, Imd. Eff. Mar. 14, 2002.
Senate Bill No. 1029 was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 46, Eff. June 1, 2002.
House Bill No. 4325 was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 44, Eff. June 1, 2002.

[No. 46]

(SB 1029)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 449, 450, and 462 (MCL 750.449, 750.450, and 750.462).

The People of the State of Michigan enact:

750.449 Admitting to place for purpose of prostitution; crime.

Sec. 449. A person 16 years of age or older who receives or admits or offers to receive or admit a person into a place, structure, house, building, or vehicle for the purpose of prostitution, lewdness, or assignation, or who knowingly permits a person to remain in a place, structure, house, building, or vehicle for the purpose of prostitution, lewdness, or assignation, is guilty of a crime punishable as provided in section 451.

750.450 Aiders and abettors; crime.

Sec. 450. A person 16 years of age or older who aids, assists, or abets another person to commit or offer to commit an act prohibited under section 448 or 449 is guilty of a crime punishable as provided in section 451.

750.462 Female 16 years of age or less in house of prostitution; crime.

Sec. 462. A person who, for a purpose other than prostitution, takes or conveys to, or employs, receives, detains, or allows a person 16 years of age or less to remain in, a house of prostitution, house of ill-fame, bawdy-house, house of assignation, or any house or place for the resort of prostitutes or other disorderly persons is guilty of a crime punishable as provided in section 451.

Effective date.

Enacting section 1. This amendatory act takes effect June 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 180.

(b) House Bill No. 4325.

(c) House Bill No. 5449.

This act is ordered to take immediate effect.
Approved March 13, 2002.
Filed with Secretary of State March 14, 2002.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 180 was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 43, Imd. Eff. Mar. 14, 2002.
House Bill No. 4325 was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 44, Eff. June 1, 2002.
House Bill No. 5449 was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 45, Eff. June 1, 2002.

[No. 47]

(HB 5033)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations;

to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16g of chapter XVII (MCL 777.16g), as amended by 2000 PA 279.

The People of the State of Michigan enact:

CHAPTER XVII

777.16g §§ 750.135 to 750.147b; felonies to which chapter applicable.

Sec. 16g. (1) This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.135	Person	D	Exposing children with intent to injure or abandon	10
750.136b(2)	Person	B	Child abuse — first degree	15
750.136b(4)	Person	F	Child abuse — second degree	4
750.136b(5)	Person	G	Child abuse — third degree	2
750.136c	Person	B	Buying or selling an individual	20
750.145a	Person	F	Soliciting child to commit an immoral act	4
750.145b	Person	D	Accosting children for immoral purposes with prior conviction	10
750.145c(2)	Person	B	Child sexually abusive activity or materials — active involvement	20
750.145c(3)	Person	D	Child sexually abusive activity or materials — distributing, promoting, or financing	7
750.145d(2)(b)	Variable	G	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 1 year but less than 2 years	2

750.145d(2)(c)	Variable	F	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 2 years but less than 4 years	4
750.145d(2)(d)	Variable	D	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 4 years but less than 10 years	10
750.145d(2)(e)	Variable	C	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 10 years but less than 15 years	15
750.145d(2)(f)	Variable	B	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 15 years or for life	20
750.145n(1)	Person	C	Vulnerable adult abuse — first degree	15
750.145n(2)	Person	F	Vulnerable adult abuse — second degree	4
750.145n(3)	Person	G	Vulnerable adult abuse — third degree	2
750.145o	Person	E	Death of vulnerable adult caused by unlicensed caretaker	5
750.145p(1)	Person	G	Vulnerable adult — commingling funds, obstructing investigation, or filing false information	2
750.145p(2)	Person	G	Retaliation or discrimination by caregiver against vulnerable adult	2
750.145p(5)	Person	E	Vulnerable adult — caregiver violations — subsequent offense	5
750.147b	Person	G	Ethnic intimidation	2

(2) For a violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d, determine the offense category, offense variable level, and prior record variable level based on the underlying offense.

Effective date.

Enacting section 1. This amendatory act takes effect June 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5449 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 13, 2002.
Filed with Secretary of State March 14, 2002.

Compiler's note: House Bill No. 5449, referred to in enacting section 2, was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 45, Eff. June 1, 2002.

[No. 48]

(SB 880)

AN ACT to create a telecommunication rights-of-way oversight authority; to provide for fees; to prescribe the powers and duties of municipalities and certain state agencies and officials; to provide for penalties; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

484.3101 Short title; purpose of act.

Sec. 1. (1) This act shall be known and may be cited as the "metropolitan extension telecommunications rights-of-way oversight act".

(2) The purpose of this act is to do all of the following:

(a) Encourage competition in the availability, prices, terms, and other conditions of providing telecommunication services.

(b) Encourage the introduction of new services, the entry of new providers, the development of new technologies, and increase investment in the telecommunication infrastructure in this state.

(c) Improve the opportunities for economic development and the delivery of telecommunication services.

(d) Streamline the process for authorizing access to and use of public rights-of-way by telecommunication providers.

(e) Ensure the reasonable control and management of public rights-of-way by municipalities within this state.

(f) Provide for a common public rights-of-way maintenance fee applicable to telecommunication providers.

(g) Ensure effective review and disposition of disputes under this act.

(h) Allow for a tax credit as the sole means by which providers can recover the costs under this act and to insure that the providers do not pass these costs on to the end-users of this state through rates and charges for telecommunication services.

(i) Promote the public health, safety, welfare, convenience, and prosperity of this state.

(j) Create an authority to coordinate public right-of-way matters with municipalities.

484.3102 Definitions.

Sec. 2. As used in this act:

(a) "Authority" means the metropolitan extension telecommunications rights-of-way oversight authority created in section 3.

(b) "Broadband internet access transport services" means the broadband transmission of data between an end-user and the end-user's internet service provider's point of interconnection at a speed of 200 or more kilobits per second to the end-user's premises.

(c) "Commission" means the Michigan public service commission in the department of consumer and industry services.

(d) "Exchange" means that term as defined under section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

(e) "Incumbent local exchange carrier" means that term as defined under section 251(h) of title II of the communications act of 1934, chapter 652, 110 Stat. 61, 47 U.S.C. 251.

(f) "Metropolitan area" means 1 or more municipalities located, in whole or in part, within a county having a population of 10,000 or more or a municipality that enacts an ordinance or resolution electing to be classified as part of a metropolitan area under this act.

(g) "Municipality" means a township, city, or village.

(h) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(i) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, alley, easement, or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

(j) "Telecommunication facilities" or "facilities" means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 C.F.R. 20.3, and service provided by any wireless, 2-way communications device.

(k) "Telecommunication provider", "provider", and "telecommunication services" mean those terms as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in section 332(d) of part I of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 C.F.R. 20.3, or service provided by any wireless, 2-way communication device. For the purposes of this act only, a provider also includes all of the following:

(*i*) A cable television operator that provides a telecommunication service.

(*ii*) Except as otherwise provided by this act, a person who owns telecommunication facilities located within a public right-of-way.

(*iii*) A person providing broadband internet transport access service.

484.3103 Metropolitan extension telecommunications rights-of-way oversight authority; establishment within department of consumer and industry services; director of authority; appointment; duties; power of authority to assess fees; annual report; rules.

Sec. 3. (1) Pursuant to section 27 of article VII of the state constitution of 1963 and any other applicable law, the metropolitan extension telecommunications rights-of-way oversight authority is established as an autonomous agency within the department of consumer and industry services. The director of the authority shall be appointed by the governor for a 4-year term. The director of the authority shall report directly to the governor. The department of consumer and industry services shall provide the authority all budget, procurement, and management-related functions. The department of consumer and industry services shall also provide suitable offices, facilities, equipment, staff, and supplies for the authority in the city of Lansing.

(2) The director of the authority is responsible for carrying out the powers and duties of the authority under this act.

(3) The authority shall coordinate public right-of-way matters with municipalities, assess the fees required under this act, and have the exclusive power to assess fees on telecommunication providers owning telecommunication facilities in public rights-of-way within a municipality in a metropolitan area to recover the costs of using the rights-of-way by the provider.

(4) The authority shall file an annual report of its activities for the preceding year with the governor and the members of the legislative committees dealing with energy, technology, and telecommunications issues on or before March 1 of each year.

(5) The authority may promulgate rules for the implementation and administration of this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

484.3104 Enactment of local laws; limitation; existing rights.

Sec. 4. (1) Except as otherwise provided by this act, after the effective date of this act, a municipality in a metropolitan area shall not enact, maintain, or enforce an ordinance, local law, or other legal requirement applicable to telecommunication providers that is inconsistent with this act or that assesses fees or requires other consideration for access to or use of the public rights-of-way that are in addition to the fees required under this act.

(2) This act shall not affect any existing rights that a provider or municipality may have under a permit issued by a municipality or contract between the municipality and the provider related to the use of the public rights-of-way.

(3) Obtaining a permit or paying the fees required under this act does not give a provider a right to use conduit or utility poles.

484.3105 Use of public rights-of-way; providers subject to permit and fee requirements; facilities located in public right-of-way at effective date of act; permit application.

Sec. 5. (1) A provider using or seeking to use public rights-of-way in a metropolitan area for its telecommunication facilities shall obtain a permit under section 15 from the municipality and pay all fees required under this act. Authorizations or permits previously obtained from a municipality under section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, satisfy the permit requirement of this section.

(2) A provider asserting rights under 1883 PA 129, MCL 484.1 to 484.10, is subject to the permit and fee requirements of this act.

(3) Within 180 days from the effective date of this act, a provider with facilities located in a public right-of-way as of the effective date of this act that has not previously obtained authorization or a permit under section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, shall submit an application for a permit to each municipality in which the provider has facilities located in a public right-of-way. A provider submitting an application under this subsection is not required to pay the administrative fee required under section 6(4).

(4) The authority may, for good cause, allow a provider up to an additional 180 days to submit the application required under subsection (3).

484.3106 Applications and permits issued after effective date of act; form and process; disagreement on terms; appointment of mediator; determination by commissioner; extension; request for emergency relief; filing permit application with municipality; route maps; maintenance of website by commission.

Sec. 6. (1) For applications and permits issued after the effective date of this act, the commission shall prescribe the form and application process to be used in applying to a

municipality for a permit under section 15 and the provisions of a permit issued under section 15. The initial application forms and, unless otherwise agreed to by the parties, permit provisions shall be those approved by the commission as of August 16, 2001.

(2) If the parties cannot agree on the requirement of additional information requested by the municipality or the use of additional or different permit terms, either the municipality or the provider shall notify the commission, which shall appoint a mediator within 7 days from the date of the notice to make recommendations within 30 days from the date of the appointment for a resolution of the dispute. The commission may order that the permit be temporarily granted pending resolution of the dispute. If any of the parties are unwilling to comply with the mediator's recommendations, any party to the dispute may within 30 days of receipt of the recommendation request the commission for a review and determination of a resolution of the dispute. Except as provided in subsection (3), the determination by the commission under this subsection shall be issued within 60 days from the date of the request to the commission. The interested parties to the dispute may agree to an extension for up to 30 days of the 60-day requirement under this subsection.

(3) A request for emergency relief under section 18(1) shall have the same time requirements and procedures as under section 203 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2203.

(4) Except as otherwise provided by this act, a provider shall file an application for a permit and pay a 1-time $500.00 application fee to each municipality whose boundaries include public rights-of-way for which access or use is sought by the provider.

(5) An application for a permit under this section shall include route maps showing the location of the provider's existing and proposed facilities in the format as required by the authority under subsection (8). Except as otherwise provided by a mandatory protective order issued by the commission, information included in the route maps of a provider's existing and proposed facilities that is a trade secret, proprietary, or confidential information is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) A municipality shall notify the commission when it grants or denies a permit, including information regarding the date on which the application was filed and the date on which the permit was granted or denied. The commission shall maintain on its website a listing showing the length of time required by each municipality to grant an application during the immediately preceding 3 years.

(7) Within 90 days after the substantial completion of construction of new facilities in a municipality, a provider shall submit route maps showing the location of the telecommunication facilities to both the commission and the affected municipalities.

(8) The commission shall, after input from providers and municipalities, require that the route maps required under this section be in a paper or electronic format as the commission may prescribe.

484.3107 Inability of provider and municipality to agree; appointment of mediator by commission; determination by commission; issuance; extension.

Sec. 7. If a provider and 1 or more municipalities are unable to agree on arrangements for coordinating and minimizing the disruption of public rights-of-way, ensuring the efficient construction of facilities, restoring the public rights-of-way after construction or other activities by a provider, protecting the public health, safety, and welfare, and resolving disputes arising under this act, the commission shall appoint a mediator within 7 days from the date of the notice to make recommendations within 30 days from the date

of the appointment for a resolution of the dispute. If any of the parties are unwilling to comply with the mediator's recommendations, any party to the dispute may within 30 days of receipt of the recommendation request the commission for a review and determination of a resolution of the dispute. The determination by the commission under this section shall be issued within 60 days from the date of the request to the commission. The commission shall issue its determination within 15 days from the date of the request if a municipality demonstrates that the public health, safety, and welfare require a determination before the expiration of the 60 days. The interested parties to the dispute may agree to an extension for up to 30 days of the 60-day requirement under this section.

484.3108 Maintenance fee.

Sec. 8. (1) Except as otherwise provided by this act, a provider shall pay to the authority an annual maintenance fee as required under this act.

(2) The authority shall determine for each provider the amount of fees required under this section. April 1 to March 31 shall be the annual period covered by each assessment and April 29 the date due for payment. The authority shall prescribe the schedule for the allocation and disbursement of the fees under this act. The authority shall disburse the annual maintenance fee to each municipality as provided under sections 10, 11, and 12 on or before the last day of the month following the month of receipt of the fees by the authority. The authority may authorize the department of treasury to collect and make the allocations and disbursements of fees required under this act. Any interest accrued on the revenue collected under this act shall be used only as provided by this act.

(3) Except as otherwise provided under subsection (6), for the period of November 1, 2002 to March 31, 2003, a provider shall pay an initial annual maintenance fee to the authority on April 29, 2003 of 2 cents per each linear foot of public right-of-way occupied by the provider's facilities within a metropolitan area, prorated for the period specified in this subsection.

(4) Except as otherwise provided under subsection (6), for each year after the initial period provided for under subsection (3), a provider shall pay the authority an annual maintenance fee of 5 cents per each linear foot of public right-of-way occupied by the provider's facilities within a metropolitan area.

(5) The fee required under this section is based on the linear feet occupied by the provider regardless of the quantity or type of the provider's facilities utilizing the public right-of-way or whether the facilities are leased to another provider.

(6) In recognition of the need to provide nondiscriminatory compensation to municipalities for management of their rights-of-way, the fees required under this section shall be the lesser of the amounts prescribed under subsections (3) and (4) or 1 of the following:

(a) For a provider that was an incumbent local exchange carrier in this state on January 1, 2002, the fees within the exchange in which that provider was providing basic local exchange service on January 1, 2002, when restated by the authority on a per access line per year basis, shall not exceed the statewide per access line per year fee of the provider with the highest number of access lines in this state. The authority shall annually determine the statewide per access line per year fee by dividing the amount of the total annual fees the provider is required to pay under subsections (3) and (4) by the provider's total number of access lines in this state.

(b) For all other providers in an exchange, the fee per linear foot for the provider's facilities located in the public rights-of-way in that exchange shall be the same as that of the incumbent local exchange carrier.

(7) If the provider with the highest number of access lines in this state is unable to provide the exact number of linear feet for a determination under subsection (6), the provider shall no later than February 1, 2003 make a good faith estimate, in consultation with the staff of the authority, of the number of linear feet of rights-of-way in which facilities owned by the provider are located in a metropolitan area and pay an annual maintenance fee to the authority based upon the estimate.

(8) If an estimate of the linear feet is made under subsection (7), the statewide per access line per year cost shall be determined by the authority based on that provider's good faith estimate. Upon the true up of the estimated linear feet under subsection (9), the authority shall adjust the fees of all providers affected by subsection (6).

(9) Within 360 days of the effective date of this act, a provider making an estimate under subsection (8) shall true up the estimated amount of linear feet of the provider's facilities in rights-of-way in a metropolitan area to the actual amount of linear feet of rights-of-way in a metropolitan area owned by the provider. If the actual amount of linear feet of rights-of-way in which facilities owned by the provider are located exceeds the estimated amount, the provider shall pay the authority the difference within 30 days of the true up. If the actual amount of linear feet of rights-of-way in which facilities owned by the provider are located is less than the estimated amount, the provider shall receive a corresponding credit from the authority against the annual maintenance fee due for payment in the succeeding year.

(10) The authority may prescribe the forms, standards, methodology, and procedures for assessing fees under this act. Each provider and municipality shall provide reasonably requested information regarding public rights-of-way that is required to assist the authority in computing and issuing the assessments under this section.

(11) Notwithstanding any other provision of this act, a provider possessing a franchise or operating with the consent of a municipality to provide and that is providing cable services within a metropolitan area is subject to an annual maintenance fee of 1 cent per linear foot of public right-of-way occupied by the provider's facilities within the metropolitan area. An affiliate of such a provider shall not pay any additional fees to occupy or use the same facilities in public rights-of-way as initially constructed for and used by a cable provider. The fee required under this subsection is in lieu of any other maintenance fee or other fee except for fees paid by the provider under a cable franchise or consent agreement. A cable franchise or consent agreement from a municipality that allows the municipality to seek right-of-way related information comparable to that required by a permit under this act and that provides insurance for right-of-way related activities shall satisfy any requirement for the holder of the cable franchise or consent agreement or its affiliates to obtain a permit to provide information services or telecommunications services in the municipality.

(12) The cable provider may satisfy the fee requirement under subsection (11) by certifying to the authority that the provider's aggregate investment in this state, since January 1, 1996, in facilities capable of providing broadband internet transport access service exceeds the aggregate amount of the maintenance fees assessed under subsection (11).

(13) The fees collected under this act shall be used only as provided by this act and shall be subject to an audit by the state auditor general.

(14) A provider may apply to the commission for a determination of the maximum amount of credit available under section 13b(5) of 1905 PA 282, MCL 207.13b. Each application shall include sufficient documentation to permit the commission to accurately determine the allowable credit. Except as otherwise provided under subsection (15), the commission shall issue its determination within 45 days from the date of the application.

Upon certification by the commission of the documentation provided in subdivisions (a) and (b), a provider shall qualify for a credit equal to the costs paid under this act, less the amount of any credit determined under section 13b(1) of 1905 PA 282, MCL 207.13b, and shall not be subject to subsection (16) if the provider files the following documentation under this subsection:

(a) Verification of the costs paid by the provider under this act.

(b) Verification that the provider's rates and charges for basic local exchange service, including revenues from intrastate subscriber line or end-user line charges, do not exceed the commission's approved rates and charges for those services.

(15) If the commission finds that it cannot make a determination based on the documentation required under subsection (14), it may require the provider to file its application under section 203 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2203.

(16) The maximum credit allowed under subsection (14) or (15) shall be the lesser of the following:

(a) The costs paid under this act, less the amount of any credit determined under section 13b(1) of 1905 PA 282, MCL 207.13b.

(b) The amount that the costs paid under this act, together with the provider's total service long run incremental cost of basic local exchange service, exceeds the provider's rates for basic local exchange service plus any additional charges of the provider used to recover its total service long run incremental cost for basic local exchange service. "Total service long run incremental cost" means that term as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

(17) The tax credit allowed under subsections (14) and (15) shall be the sole method of recovery for the costs required under this act. A provider shall not recover the costs required under this act through rates and charges to the end-users for telecommunication services.

(18) An educational institution is not required to pay the fees and charges or fulfill the mapping requirements required under this act for facilities that are constructed and used as provided under applicable provisions of section 307 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2307. To the extent that an educational institution provides services beyond that allowed by section 307 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2307, the educational institution shall obtain a permit, pay the fees and charges, and fulfill the mapping requirement required under this act for each linear foot of public right-of-way used in providing telecommunication services to residential or commercial customers. An educational institution shall notify the commission if it provides telecommunication services beyond that allowed by section 307 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2307, to a residential or commercial customer for compensation.

(19) An electric or gas utility, or an affiliate of a utility, or an electric transmission provider is not required to obtain a permit, pay the fees and charges, or fulfill the mapping requirements required under this act for facilities located in the public rights-of-way that are used solely for electric or gas utility services including internal utility communications and customer services such as billing or load management. The electric or gas utility, or an affiliate of a utility, or an electric transmission provider shall only obtain a permit, pay the fees and charges, and fulfill the mapping requirements required under this act for each linear foot of public right-of-way containing facilities leased or otherwise provided to an unaffiliated telecommunication provider or used in providing telecommunication services to a person other than the utility, or its affiliate, for compensation. An electric or gas

utility, or an affiliate of a utility, or an electric transmission provider shall notify the commission if the electric or gas utility, or an affiliate of a utility, or an electric transmission provider provides or leases telecommunication services to a person other than the utility or its affiliate for compensation. For the purposes of this subsection, electric and gas utility services include billing and metering services performed for an alternative electric supplier, an alternative gas supplier, electric utility, electric transmission provider, natural gas utility, or a water utility.

(20) A state, county, municipality, municipally owned utility, or an affiliate is not required to obtain a permit, pay the fees and charges, or fulfill the mapping requirements required under this act for facilities located in the public rights-of-way that are used solely for state, county, municipality, or governmental entity, or utility services including internal state, county, municipality, governmental entity, or utility communications and customer services such as billing or load management. The state, county, municipality, municipally owned utility, or an affiliate shall only obtain a permit, pay the fees and charges, and fulfill the mapping requirements required under this act for each linear foot of public right-of-way containing facilities leased or otherwise provided to an unaffiliated telecommunication provider or used in providing telecommunication services to a person other than the state, county, another governmental entity, municipality, municipally owned utility, or its affiliate for compensation. A state, county, municipality, municipally owned utility, or an affiliate shall notify the commission if the state, county, municipality, municipally owned utility, or an affiliate provides or leases telecommunication services to a person other than the state, county, another governmental entity, municipality, municipally owned utility, or its affiliate for compensation. For the purposes of this subsection, utility services include billing and metering services performed for an alternative electric supplier, an alternative gas supplier, electric utility, electric transmission provider, natural gas utility, or a water utility.

(21) The authority may grant to a provider a waiver of the fee requirement of this section for telecommunication facilities located in underserved areas as identified by the authority if 2/3 of the affected municipalities approve the granting of a waiver. If a waiver is granted under this subsection, the amount of the waived fees shall be deducted from the fee revenue the affected municipalities would otherwise be entitled under sections 11 and 12. A waiver granted under this subsection shall not be for more than 10 years. As used in this subsection, "underserved area" means that term as defined under section 7 of the Michigan broadband development authority act.

484.3109 Fee discount.

Sec. 9. (1) If 2 or more providers implement a shared use arrangement and meet the requirements of this section, each provider participating in the arrangement is entitled to a discount of the fees required under section 8 as provided under this section.

(2) To qualify for the shared use discount, each participating provider shall do all of the following:

(a) To the extent permitted by the safety provisions of the applicable electrical code, occupy and use the same poles, trenches, conduits, ducts, or other common spaces or physical facilities jointly with another provider.

(b) Coordinate the construction or installation of its own facilities with the construction schedules of another provider so that any pavement cuts, excavation, construction, or other activities undertaken to construct or install the facilities occur contemporaneously and do not impair the physical condition, or interrupt the normal uses, of the public rights-of-way on more than 1 occasion.

(c) Enter the shared use arrangement after the effective date of this act.

(3) This section does not apply to the utilization or attachment to poles, trenches, conduits, ducts, or other common facilities that were placed in the public rights-of-way before the effective date of this act.

(4) Two or more providers that qualify for a shared use discount are entitled to a 40% discount of the fees imposed by section 8 for each linear foot of public right-of-way in which the shared use occurs.

484.3110 Fee-sharing payments.

Sec. 10. (1) Except as reduced by the amount provided for under subsection (2), the authority shall allocate the annual maintenance fees collected under this act to fund the fee-sharing mechanism under section 11.

(2) To the extent that fees exceed $30,000,000.00 in any year and are from fees for linear feet of rights-of-way in which telecommunication facilities are constructed by a provider after the effective date of this act, the authority shall allocate that amount to fund the fee-sharing mechanism under section 12.

(3) To be eligible to receive fee-sharing payments under this act, a municipality shall comply with this act. For the purpose of the distribution under sections 11 and 12, a municipality is considered to be in compliance with this act unless the authority finds to the contrary in a proceeding against the municipality affording due process initiated by a provider, the commission, or the attorney general. If a municipality is found not to be in compliance, fee-sharing payments shall be held by the authority in escrow until the municipality returns to compliance. A municipality is not ineligible to receive fee-sharing payments for any matter found to be a good faith dispute or matters of first impression under this act or other applicable law.

(4) The amount received under sections 11 and 12 shall be used by the municipality solely for rights-of-way related purposes. Rights-of-way purposes does not include constructing or utilizing telecommunication facilities to serve residential or commercial customers.

(5) A municipality receiving funds under sections 11 and 12 with a population of less than 10,000 may file and a municipality receiving funds under sections 11 and 12 with a population of 10,000 or more shall file an annual report with the authority on the use and disposition of the funds. The authority shall prescribe the form of the report to be filed under this subsection, which report shall be in a simplified format.

484.3111 Fee sharing; allocation of fund under section 10(1); excluded municipalities.

Sec. 11. (1) The authority shall allocate the funding provided for fee sharing under section 10(1) as follows:

(a) 75% to be disbursed to cities and villages in a metropolitan area on the basis of the distribution to each city or village under section 13 of 1951 PA 51, MCL 247.663, for the most recent year as a proportion of the total distribution to all cities and villages located in metropolitan areas under section 13 of 1951 PA 51, MCL 247.663, for the most recent year.

(b) 25% to be disbursed to townships in a metropolitan area on the basis of each township's proportionate share of the total linear feet of public rights-of-way occupied by providers within all townships located in metropolitan areas.

(2) Except as otherwise provided under sections 13 and 14, municipalities that are ineligible under section 13 or 14 shall be excluded from the computation, allocation, and distribution of funding under this section.

484.3112 Fee sharing; allocation of fund under section 10(2); weighted linear feet; excluded municipalities.

Sec. 12. (1) The authority shall allocate the funding provided for fee sharing under section 10(2) as follows:

(a) The amount available under this section multiplied by the percentage of weighted linear feet attributable to cities and villages, as compared to the total weighted linear feet attributable to cities, villages, and townships, shall be disbursed to cities and villages in a metropolitan area on the basis of the distribution to each city or village under section 13 of 1951 PA 51, MCL 247.663, for the most recent year as a proportion of the total distribution to all cities and villages located in metropolitan areas under section 13 of 1951 PA 51, MCL 247.663, for the most recent year.

(b) The amount available under this section multiplied by the percentage of weighted linear feet attributable to townships, as compared to the total weighted linear feet attributable to cities, villages, and townships, shall be disbursed to townships on the basis of each township's proportionate share of the total unweighted linear feet of public rights-of-way in or on which providers' facilities are located within all townships located in metropolitan areas.

(2) The following shall be used under this section in determining the weighted linear feet in which telecommunications facilities are first placed by any telecommunications provider after the effective date of this act:

(a) All underground linear feet shall receive a weight of 3.0.

(b) All linear feet in a city, village, or township with a population in excess of 5,000 and not covered under subdivision (a) shall receive a weight of 2.0.

(c) All other linear feet shall receive a weight of 1.0.

(3) Except as otherwise provided under sections 13 and 14, municipalities that are ineligible under section 13 or 14 shall be excluded from the computation, allocation, and distribution of funding under this section.

484.3113 Modification of fees by municipality.

Sec. 13. (1) A municipality is not eligible to receive funds under sections 11 and 12 unless by December 31, 2003 the municipality has modified to the extent necessary any fees charged to providers after the effective date of this act relating to access to and usage of the public rights-of-way to an amount not exceeding the amounts of fees and charges required under this act.

(2) To the extent a telecommunications provider pays fees to a municipality that have not been modified as required by this section, both of the following apply:

(a) The provider may deduct the fees paid from the fee required to be paid under section 8 for those rights-of-way.

(b) The amounts received shall be deducted from the amounts the municipality is eligible to receive under sections 11 and 12.

(3) The authority may allow a municipality in violation of this section to become eligible to receive funds under sections 11 and 12 if the authority determines that the violation occurred despite good faith efforts and the municipality rebates to the authority

any fees received in excess of those required under section 8, including any interest as determined by the authority.

(4) A municipality is considered to have modified the fees under subsection (1) if it has adopted a resolution or ordinance, effective no later than January 1, 2004, approving the modification so that providers with telecommunication facilities in public rights-of-way within the municipality's boundaries pay only those fees required under section 8. The municipality shall provide each provider affected by the fee a copy of the resolution or ordinance passed under this subsection.

(5) Except as otherwise provided by a municipality, if section 8 is found to be invalid or unconstitutional, a modification of fees under this section is void from the date the modification was made.

(6) To be eligible to receive fee-sharing payments under this act, a municipality shall not hold a cable television operator in default or seek any remedy for failure to satisfy an obligation, if any, to pay after the effective date of this act a franchise fee or other similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

484.3114 Telecommunication or cable modem service through broadband internet access transport service; requirements; exceptions; violation; complaint.

Sec. 14. (1) Except as otherwise provided by subsection (2), a county, municipality, or an affiliate, shall comply with all of the following requirements:

(a) Before the passage of any ordinance or resolution authorizing a county or municipality to either construct telecommunication facilities or provide a telecommunication or cable modem service provided through a broadband internet access transport service, a county or municipality shall conduct at least 1 public hearing. A notice of the public hearing shall be provided as required by law.

(b) Not less than 30 days before the hearing required under subdivision (a), the county or municipality shall prepare reasonable projections of at least a 3-year cost-benefit analysis. This analysis shall identify and disclose the total projected direct costs of and the revenues to be derived from constructing the telecommunication facilities and providing the telecommunication or cable modem service through a broadband internet access transport service. The costs shall be determined by using accounting standards developed under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(c) A county or municipality shall prepare and maintain accounting records in accordance with accounting standards developed under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a. The accounting records required under this subdivision are subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(d) Charges for telecommunication service and cable modem services provided through a broadband internet access transport service shall include all of the following:

(*i*) All capital costs attributable to the provision of the service.

(*ii*) All costs attributable to the provision of the service that would be eliminated if the service was discontinued.

(*iii*) The proportionate share of costs identified with the provision of 2 or more county or municipal services including telecommunication services.

(e) A county or municipality that provides a telecommunication service or cable modem service provided through a broadband internet access transport service shall not adopt an ordinance or a policy that unduly discriminates against another person providing

the same service. Subject to other requirements of this section, this subsection shall not be construed as precluding a county or municipality from establishing rates different from those of another person providing the same service.

(f) In providing a telecommunication or cable modem service provided through a broadband internet access transport service, a municipality shall not employ terms more favorable or less burdensome than those imposed by the municipality upon other providers of the same service within its jurisdiction concerning access to public rights-of-ways.

(g) A municipality shall not impose or enforce against a provider any local regulation with respect to public rights-of-way that is not also applicable to the municipality in its provision of a telecommunication or cable modem service provided through a broadband internet access transport service.

(h) In providing a telecommunication or a cable modem service provided through a broadband internet access transport service, a municipality shall not employ terms more favorable or less burdensome than those imposed by the municipality upon other providers of the same service within its jurisdiction concerning access to and rates for pole attachments.

(2) Subsection (1) does not apply to either of the following:

(a) Telecommunication facilities constructed and operated by a county, municipality, or an affiliate, to provide telecommunication service or a cable modem service provided through a broadband internet access transport service that is not provided to any residential or commercial premises.

(b) Telecommunication facilities that are owned or operated by a county, municipality, or an affiliate for compensation, and that are located within the territory served by the county, municipality or its affiliate that provided a telecommunications service or a cable modem service provided through broadband internet access transport service before December 31, 2001 or that allowed any third party to use the county's or municipality's telecommunication facilities for compensation before December 31, 2001, to provide such a service.

(3) If a complaint is filed under section 18 alleging a violation of this section, the commission shall allow a county or municipality to take reasonable steps to correct a violation found by the commission before the commission imposes any penalties.

(4) The commission, in reviewing a complaint under subsection (3), shall consider, in determining whether charges imposed by a county or municipality are in compliance with subsection (1), the applicable federal, state, county, and local taxes and fees paid by the complainant or providers serving that county or municipality.

484.3115 Provider access to and use of public rights-of-way.

Sec. 15. (1) Except as otherwise provided in this section, a municipality shall, upon application, grant to providers a permit for access to and the ongoing use of all public rights-of-way located within its municipal boundaries. A municipality shall act reasonably and promptly on all applications filed for a permit involving an easement or public place.

(2) This section shall not limit a municipality's right to review and approve a provider's access to and ongoing use of a public right-of-way or limit the municipality's authority to ensure and protect the health, safety, and welfare of the public.

(3) A municipality shall approve or deny access under this section within 45 days from the date a provider files an application for a permit for access to a public right-of-way. A provider's right to access and use of a public right-of-way shall not be unreasonably

denied by a municipality. A municipality may require as a condition of the permit that a bond be posted by the provider, which shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the provider's access and use.

(4) Any conditions of a permit granted under this section shall be limited to the provider's access and usage of any public right-of-way.

(5) A provider undertaking an excavation or constructing or installing facilities within a public right-of-way or temporarily obstructing a public right-of-way, as authorized by the permit, shall promptly repair all damage done to the street surface and all installations on, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition. The authority shall also have the jurisdiction to require the repair and restoration of any right-of-way, including state right-of-way, which has not been repaired or restored after installation.

484.3116 Cable franchise.

Sec. 16. This act does not affect the requirement of a cable operator to obtain a cable franchise from a municipality.

484.3117 Review of decision or review.

Sec. 17. A decision or assessment of the authority is subject to a de novo review by the commission upon the request of an interested person. A decision or order of the commission issued under this act is subject to review as provided under section 26 of 1909 PA 300, MCL 462.26.

484.3118 Complaint; proceeding; remedies and penalties.

Sec. 18. (1) Except as otherwise provided by this act, the time requirements and procedures governing a complaint proceeding under this act shall be the same as those under section 203 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2203.

(2) If after notice and hearing the commission finds that a person has violated this act, the commission shall order remedies and penalties to protect and make whole persons who have suffered an economic loss as a result of the violation, including, but not limited to, 1 or more of the following:

(a) For failure to pay an undisputed fee assessed by the authority under this act, order the provider to pay a fine of not more than 1% of the amount of the unpaid assessment for each day that the assessment remains unpaid. For each subsequent offense under this subdivision, a fine of not more than 2% for each day the assessment remains unpaid.

(b) For a violation under section 14, order the suspension or termination of all or a portion of the fee-sharing payments to the municipality provided for under section 11 or 12.

(c) Order the person who violated this act to pay a fine of not less than $200.00 or more than $20,000.00 per day that the person is in violation. For each subsequent offense, a fine of not less than $500.00 or more than $40,000.00 per day that the person is in violation of this act.

(d) If the person is a provider, order that the provider's permit allowing access to and use of a municipality's public right-of-way be conditioned or amended.

(e) Issue cease and desist orders.

(f) Order the person who violates this act to pay attorney fees and actual costs of a person that is not a provider of telecommunication services to 250,000 or more end-users.

484.3119 Provisions found invalid or unconstitutional; effect.

Sec. 19. (1) If the application of any provision of section 8 to a certain person is found to be invalid or unconstitutional, that provision and sections 3 and 15 shall not apply to any person.

(2) If section 15 does not apply under subsection (1), the permit process for access to and use of public rights-of-way shall be as follows:

(a) Except as provided in subdivisions (b) and (c), a local unit of government shall grant a permit for access to and the ongoing use of all rights-of-way, easements, and public places under its control and jurisdiction to providers of telecommunication services.

(b) This section shall not limit a local unit of government's right to review and approve a provider's access to and ongoing use of a right-of-way, easement, or public place or limit the unit's authority to ensure and protect the health, safety, and welfare of the public.

(c) A local unit of government shall approve or deny access under this section within 90 days from the date a provider files an application for a permit for access to a right-of-way, easement, or public place. A provider's right to access and use of a right-of-way, easement, or public place shall not be unreasonably denied by a local unit of government. A local unit of government may require as a condition of the permit that a bond be posted by the provider, which shall not exceed the reasonable cost, to ensure that the right-of-way, easement, or public place is returned to its original condition during and after the provider's access and use.

(d) Any conditions of a permit granted under this subsection shall be limited to the provider's access and usage of any right-of-way, easement, or public place.

(e) Any fees or assessments made under this subsection shall be on a nondiscriminatory basis and shall not exceed the fixed and variable costs to the local unit of government in granting a permit and maintaining the rights-of-way, easements, or public places used by a provider.

(f) A provider using the highways, streets, alleys, or other public places shall obtain a permit as required under this subsection.

(3) If section 15 does not apply under subsection (1), it is the intent of the legislature in enacting subsection (2) to return to the status quo prior to the effective date of this act for the granting of permits for access to and the use of all rights-of-way. Subsection (2) shall have the same construction and interpretation as sections 251 to 254 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251 to 484.2254, had prior to the repeal of these sections by this act.

(4) Except as provided under subsection (1), if any other provision or the application of any provision of this act to a certain person is found to be invalid or unconstitutional, the remaining provisions or application of a provision to other persons shall not be affected and will remain in full force and effect.

484.3120 Supreme court opinion; request by legislature or governor.

Sec. 20. Pursuant to section 8 of article III of the state constitution of 1963, either house of the legislature or the governor may request the opinion of the supreme court on important questions of law as to the constitutionality of this act.

Repeal of §§ 484.2251, 484.2252, 484.2253, and 484.2254.

Enacting section 1. Sections 251, 252, 253, and 254 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251, 484.2252, 484.2253, and 484.2254, are repealed.

Effective date.

Enacting section 2. This act takes effect November 1, 2002.

Conditional effective date.

Enacting section 3. This act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 881.

(b) Senate Bill No. 999.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 14, 2002.

Compiler's note: Senate Bill No. 881, referred to in enacting section 3, was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 49, Imd. Eff. Mar. 14, 2002.

Senate Bill No. 999, also referred to in enacting section 3, was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 50, Imd. Eff. Mar. 14, 2002.

[No. 49]

(SB 881)

AN ACT to create the Michigan broadband development authority; to create funds and accounts; to authorize the issuing of bonds and notes; to prescribe the powers and duties of the authority; and to provide incentives for the development of broadband services.

The People of the State of Michigan enact:

484.3201 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan broadband development authority act".

484.3202 Legislative findings.

Sec. 2. The legislature finds that certain areas of this state are not being adequately served with broadband services and that, for the benefit of the people of this state and the improvement of their health, welfare, and living conditions, the improvement of the economic and educational welfare of this state, and the improvement of its public safety and security, it is essential that broadband infrastructure be expanded to provide broadband services throughout this state and that the private sector should be encouraged to invest in the deployment of broadband services and networks and that financing by this authority will encourage broadband investment. This act shall provide a method to assure that economic, technological, and logistical integrated broadband services are provided throughout this state on a nondiscriminatory basis. The provision of affordable broadband services and networks will assure the long-term growth of and the enhancement and delivery of services by the educational, medical, commercial, and governmental entities within this state, including, but not limited to, municipalities and counties, public safety facilities, judicial and criminal facilities, telemedical facilities, schools, colleges, universities, hospitals, libraries, community centers, businesses, nonprofit organizations, and residential properties. To increase the speed and availability at which affordable broadband services become available in this state, it is declared to be a valid public purpose to assist in the

financing and refinancing of the private and public sectors' development of a statewide broadband infrastructure. It is further declared to be a valid public purpose for the authority created under this act to issue bonds and notes to provide for financing or refinancing to broadband developers and broadband operators, to make loans and provide joint venture and partnership arrangements subject to section 7(2) and (3) to broadband developers and broadband operators, to enter into contracts for the lease or management of all or portions of the broadband infrastructure, and to enter into joint venture and partnership arrangements and partnerships with persons that will acquire, construct, develop, create, maintain, own, and operate all or portions of the broadband infrastructure. The legislature finds that the authority created and powers conferred by this act constitute a necessary program and serve a necessary public purpose.

484.3203 Definitions.

Sec. 3. As used in this act:

(a) "Authority" means the Michigan broadband development authority created under section 4.

(b) "Board" means the board of directors of the authority.

(c) "Capital reserve fund requirement" means the fund amount requirement that may be established in the resolution authorizing notes or bonds for which a capital reserve fund has been established under section 8. The required amount shall not exceed the maximum amount of principal and interest maturing and becoming due in a succeeding calendar year on the notes or bonds secured in whole or in part by the fund.

(d) "Broadband developer" means a person selected by the authority to acquire, construct, develop, and create any part of the broadband infrastructure.

(e) "Broadband infrastructure" means all facilities, hardware, and software and other intellectual property necessary to provide broadband services in this state, including, but not limited to, voice, video, and data.

(f) "Broadband operator" means a person selected by the authority to operate any part of the broadband infrastructure.

(g) "Broadband services" means those services, including, but not limited to, voice, video, and data, that provide capacity for transmission in excess of 200 kilobits per second in at least 1 direction regardless of the technology or medium used, including, but not limited to, wireless, copper wire, fiber optic cable, or coaxial cable. If voice transmission capacity is offered in conjunction with other services utilizing transmission in excess of 200 kilobits per second, the voice transmission capacity may be less than 200 kilobits per second.

(h) "Development costs" means the costs associated with the broadband infrastructure that have been approved by the authority and include, but are not limited to, all of the following:

(*i*) The costs for the planning, acquiring, leasing, constructing, maintaining, and operating of the broadband infrastructure.

(*ii*) Payments for options to purchase, deposits on contracts of purchase, and payments for the purchases of properties for the broadband infrastructure.

(*iii*) Financing, refinancing, acquisition, demolition, construction, rehabilitation, and site development of new and existing buildings.

(*iv*) Carrying charges during construction.

(*v*) Purchases of hardware, software, facilities, or other expenses related to the broadband infrastructure.

(*vi*) Legal, organizational, and marketing expenses, project manager and clerical staff salaries, office rent, and other incidental expenses.

(*vii*) Payment of fees for preliminary feasibility studies and advances for planning, engineering, and architectural work.

(*viii*) Any other costs and expenses necessary for the acquisition, construction, maintenance, and operation of all or portions of the broadband infrastructure.

(i) "Person" means an individual, corporation, limited or general partnership, joint venture, or limited liability company or a governmental entity, including state authorities, municipalities, counties, and townships, police, fire and other public safety organizations, judicial entities, medical entities, schools, colleges, universities, hospitals, libraries, community centers, and local economic development entities. Except to the extent that state authorities, police, fire, and other public safety organizations, judicial entities, medical entities, schools, colleges, universities, hospitals, and libraries may constitute state entities, person does not include this state.

484.3204 Michigan broadband development authority; creation; duties.

Sec. 4. (1) The Michigan broadband development authority is created as a public body corporate and politic within the department of treasury.

(2) The authority may do all of the following:

(a) Assist through financing and refinancing the expansion of broadband infrastructure services to residential, commercial, public, and nonprofit customers in this state.

(b) Authorize the issuance of bonds and notes to finance or refinance the private and public sectors' development of the broadband infrastructure.

(c) Authorize the making of loans and joint venture and partnership arrangements subject to section 7(2) and (3) to broadband developers and broadband operators.

(d) Authorize the imposition and collection of rents, charges, and fees for the services furnished by the broadband infrastructure in conjunction with financing entered into by the authority.

(e) Enter into joint venture and partnership arrangements and partnerships subject to section 7(2) and (3) to acquire, construct, maintain, and operate the broadband infrastructure.

(f) Assist broadband developers and operators with all other matters necessary for the acquisition, construction, maintenance, and operation of the broadband infrastructure.

(g) Continuously evaluate all types of technologies in order to encourage the widest deployment of broadband services and broadband infrastructure in this state.

(h) Make broadband services to schools and libraries a priority under authority financing programs.

(i) Insure that the financing and refinancing of the development of broadband services under this act includes provisions that small businesses and that each region of this state have an equal opportunity to receive financing and refinancing.

484.3205 Administrative functions; performance under direction and supervision of state treasurer.

Sec. 5. The authority shall exercise its duties independently of the state treasurer. The budgeting, procurement, and related administrative functions of the authority shall be performed under the direction and supervision of the state treasurer.

484.3206 Board of directors; membership; service of representative in member's absence; compensation; chairperson; officers; quorum; voting; open meetings act; confidentiality; "trade secrets, commercial, financial, or proprietary information" defined; employees; discharge of duties.

Sec. 6. (1) The authority shall exercise its duties through its board of directors.

(2) The board shall be made up of the following members:

(a) The president and CEO of the Michigan economic development corporation.

(b) The state treasurer.

(c) The executive director of the Michigan state housing development authority.

(d) Eight members with knowledge, skill, or experience in the academic, business, technology, or financial fields appointed by the governor with the advice and consent of the senate. Not more than 2 of the 8 appointed members shall be, during their term on the board, employees of this state. The 2 members of the board who are employees of the state under this subdivision shall not hold any other positions with the state during their term on the board. Six of the 8 appointed members shall serve for fixed terms. Not more than 3 of the 6 appointed members serving for fixed terms shall be members of the same political party. Of the 6 fixed-term members first appointed, 2 shall be appointed for a term that expires December 31, 2003, 2 shall be appointed for a term that expires December 31, 2004, and 2 shall be appointed for a term that expires December 31, 2005. Upon completion of each fixed term, a member shall be appointed for a term of 4 years. The 2 appointed members serving without a fixed term shall serve at the pleasure of the governor. The 8 appointed members shall serve until a successor is appointed. A vacancy in a fixed-term membership shall be filled for the balance of the unexpired term in the same manner as the original appointment. As used in this subdivision, "members of the same political party" includes a person who, in the determination of the governor, is currently a member of the same political party and a person who was a member of the same political party at any time within the immediately preceding 2 years, as attested by the person to be appointed.

(3) Each member of the board serving under subsection (2)(a), (b), and (c) may appoint a representative to serve in his or her absence.

(4) Except for the board president, who shall serve as the board's chief executive officer pursuant to subsection (5), and vice president, members of the board shall serve without compensation but may receive reasonable reimbursement for necessary travel and expenses incurred in the discharge of their duties. The board shall establish reasonable compensation for the board president and vice president.

(5) The governor shall designate 1 member of the board to serve as its chairperson who shall serve at the pleasure of the governor. Of the 2 board members serving without a fixed term at the pleasure of the governor, the governor shall designate 1 member to serve as the board's president and chief executive officer and the other member to serve as its vice president.

(6) A majority of the serving members of the board shall constitute a quorum of the board for the transaction of business. Actions of the board shall be approved by a majority vote of the members present at a meeting. The business of the board shall be conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(7) A record or portion of a record, material, information, or other data received, prepared, used, or retained by the authority in connection with an application to or project related to the broadband infrastructure assisted by the authority that relates to trade

secrets, commercial, financial, or proprietary information submitted by the applicant, and which is requested in writing by the applicant and acknowledged in writing by the president of the authority to be confidential, is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. As used in this subsection, "trade secrets, commercial, financial, or proprietary information" means information that has not been publicly disseminated or that is unavailable from other sources, the release of which might cause the applicant significant competitive harm.

(8) The authority may employ or contract for legal, financial, and technical experts, and officers, agents, and employees, permanent and temporary, as the authority requires, and shall determine their qualifications, duties, and compensation. The board may delegate to 1 or more agents or employees those powers or duties with any limitations that the board considers proper.

(9) The members of the board and officers and employees of the authority are subject to 1968 PA 317, MCL 15.321 to 15.330, or 1968 PA 318, MCL 15.301 to 15.310.

(10) A member of the board or officer, employee, or agent of the authority shall discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging the duties of his or her position, a member of the board or an officer, employee, or agent of the authority, when acting in good faith, may rely upon the opinion of counsel for the authority, upon the report of an independent appraiser selected with reasonable care by the board, or upon financial statements of the authority represented to the member of the board or officer, employee, or agent of the authority to be correct by the president or the officer of the authority having charge of its books or account, or stated in a written report by a certified public accountant or firm of certified public accountants to fairly reflect the financial condition of the authority.

484.3207 Powers of authority.

Sec. 7. (1) The powers of the authority shall include all those necessary to carry out and effectuate the purposes of this act, including, but not limited to, all of the following:

(a) To borrow money and issue bonds and notes to fund operations of the authority, to finance or refinance part or all of the development costs of the broadband infrastructure, to refinance existing debt for technology that constitutes a part of or is related to the broadband infrastructure, and to secure bonds and notes by mortgage, assignment, or pledge of any of its revenues and assets.

(b) To invest any money of the authority at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for its money.

(c) To enter into joint venture and partnership arrangements subject to subsections (2) and (3) with persons that will acquire, construct, develop, maintain, and operate all or portions of the broadband infrastructure.

(d) To be designated the state program manager for federal telecommunications assistance, to represent this state in negotiations with the federal government regarding telecommunications assistance, and to receive and distribute federal funding, including loans, grants, and other forms of funding and assistance on this state's behalf.

(e) To receive and distribute state or local funding including grants, loans, general appropriations, or an appropriation made for the purposes under subsection (4).

(f) To make loans and to enter into any joint venture and partnership arrangements subject to subsections (2) and (3) with broadband developers and broadband operators

that will acquire, construct, maintain, and operate all or portions of the broadband infrastructure.

(g) To provide operating assistance to make broadband services more affordable to broadband developers, broadband operators, and broadband customers, in conjunction with broadband infrastructure financed by the authority.

(h) To impose and collect charges, fees, or rentals for the services furnished by those portions of the broadband infrastructure financed by the authority under this act.

(i) To set construction, operation, and financing standards for the broadband infrastructure in connection with authority financing and to provide for inspections to determine compliance with those standards.

(j) To acquire from any person interests in real or personal property necessary for the operation of the authority.

(k) To procure insurance against any loss in connection with the broadband infrastructure and any other property, assets, or activities of the authority.

(*l*) To sue and be sued, to have a seal, and to make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise of the authority's powers.

(m) To enforce financial, operational, warranty, security, lease, and guaranty terms and conditions established under financings by the authority. The authority may under this subsection acquire, construct, develop, lease, create, and maintain all or portions of the broadband infrastructure and acquire from any person interests in real and personal property.

(n) To make and amend bylaws.

(o) To indemnify and procure insurance indemnifying any members of the board of the authority from personal liability by reason of their service as a board member.

(p) To investigate, evaluate, and assess the current broadband infrastructure and the future broadband infrastructure needs of this state and to encourage and participate in aggregation strategies for the broadband services of all public entities and nonprofit corporations in this state to maximize the interconnectivity and efficiencies of the broadband infrastructure.

(2) Notwithstanding any other provision of this act, the authority shall not make loans to, or enter into any joint venture and partnership arrangements or participation with, any governmental entity or nonprofit organization except in connection with the financing or refinancing of development costs for that allocable portion of the broadband infrastructure used or to be used exclusively by governmental entities or nonprofit organizations, including, but not limited to, universities, colleges, hospitals, school districts, public safety agencies, judicial organizations, libraries, cities, townships, and counties. No allocable portion of the broadband infrastructure financed by a loan to a governmental entity or a nonprofit organization shall be used to serve residential, business, or other commercial customers.

(3) Notwithstanding any other provision of this act, except in connection with financing or refinancing under subsection (2) or enforcement procedures authorized under subsection (1)(m), the authority shall acquire real or personal property constituting portions of the broadband infrastructure only in connection with the participation of persons other than governmental entities or nonprofit organizations through joint ventures and partnership arrangements, or other co-ownership arrangements and only if the participation is necessary to assure availability of financing or refinancing derived from the issuance by the authority of bonds or notes, the interest on which is exempt from taxation under the United States internal revenue code, and the financing derived from

the tax-exempt bonds or notes is allocated only to those development costs relating to that portion of the broadband infrastructure that is to be used by governmental bodies or nonprofit organizations.

(4) The authority shall establish a seed capital loan program to make capital loans to persons planning to apply to the authority for financing of broadband infrastructure. Priority for the seed capital loan program shall be given for developments targeted to underserved areas. During the initial 2 years of operations, the authority shall designate a minimum of $500,000.00 to be targeted to rural underserved areas and a minimum of $500,000.00 targeted to urban underserved areas. Community economic development programs and small providers shall be given a preference to receive loans under this subsection. The terms and conditions for the seed capital loans shall be established by the authority. As used in this act, "underserved areas" means geographical areas of this state identified by the authority as having the greatest need for broadband development. In identifying underserved areas, the authority shall consider the area's economic conditions, including, but not limited to, family income, affordability of access, lack of options available, low percentage of residents subscribing, and any other criteria considered important by the authority in determining whether an area is underserved.

(5) As part of an application for financing under this act, the broadband developer and broadband operator shall file with the authority a participation plan for small and minority owned businesses and a communitywide outreach plan to educate the public of the availability of broadband services. The authority shall not approve an application unless a plan is submitted under this subsection.

484.3208 Reserve capital account; creation; administration; credit of proceeds from sale of notes or bonds; capital reserve fund; creation; use; security arrangements; transfer of income or interest earned.

Sec. 8. (1) A reserve capital account is created under the jurisdiction and control of the authority and shall be administered by the authority to secure notes and bonds of the authority. The authority shall credit to the reserve capital account the proceeds of the sale of notes or bonds to the extent provided for in the authorizing resolution of the authority, and any other money that is made available to the authority for the purpose of the reserve capital account.

(2) In the resolution authorizing the issuance of notes or bonds, the authority may establish a capital reserve fund for the payment of the principal and interest of notes or bonds, for the purchase or redemption of the notes or bonds, or for the payment of a redemption premium required to be paid when the notes or bonds are redeemed before maturity. The authority shall not use a capital reserve fund for an optional purchase or optional redemption of notes or bonds if the use would reduce the total of the money in the capital reserve fund to less than the capital reserve fund requirement established for the fund.

(3) In addition to, or in lieu of, depositing money in the reserve capital account or in a capital reserve fund, the authority may obtain or pledge letters of credit, insurance policies, surety bonds, guarantees, or other security arrangements if the security arrangements are approved by the state treasurer. The amount available under letters of credit, insurance policies, surety bonds, guarantees, or other security arrangements pledged to the capital reserve fund shall be credited toward the capital reserve fund requirement for the fund.

(4) Income or interest earned by the reserve capital account may be transferred by the authority to other funds or accounts of the authority.

(5) Income or interest earned by a capital reserve fund may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the total of the amount of money and security arrangements authorized under subsection (3) in the fund below the capital reserve fund requirement for that fund.

484.3209 Capital reserve fund; amount; deficiency; restoration; liability of state for notes or bonds.

Sec. 9. (1) The authority shall accumulate in a capital reserve fund an amount equal to the capital reserve fund requirement for that fund. If at any time the amount of a capital reserve fund falls below the capital reserve fund requirement for that fund, the authority shall transfer from the reserve capital account to the capital reserve fund an amount equal to the capital reserve fund requirement. If a deficiency exists in more than 1 capital reserve fund and the amount in the reserve capital account is not sufficient to fully restore the capital reserve funds, the money in the reserve capital account shall be allocated between the deficient capital reserve funds pro rata according to the amounts of the deficiencies. If at any time the reserve capital account has been exhausted and the amount of the capital reserve fund is insufficient to meet the capital reserve fund requirement, the authority on or before September 1 shall certify to the governor the amount necessary to restore the capital reserve fund to an amount equal to the capital reserve fund requirement for that fund. The governor shall include in his or her annual budget the amount certified under this subsection by the authority.

(2) This state is not liable on notes or bonds of the authority and the notes and bonds are not a debt of this state. The notes and bonds shall contain on their face a statement of the limitation contained under this section.

484.3210 Notes and bonds; issuance, renewal, and refund by authority.

Sec. 10. (1) The authority may issue notes and bonds as provided under this act to do all of the following:

(a) Pay the development costs associated with acquiring, leasing, constructing, maintaining, and operating the broadband infrastructure.

(b) Make loans to persons for development costs.

(c) Make loans to persons to make purchases related to the broadband infrastructure.

(d) Make loans to persons to refinance existing debt of the authority or other persons incurred in connection with the acquisition or development of technology that constitutes a part of or is related to the broadband infrastructure.

(e) Pay the interest on bonds and notes of the authority.

(f) Establish reserves to secure the bonds and notes of the authority.

(g) Make other expenditures necessary to carry out the authority's duties under this act, including the payment of the authority's operating expenses.

(2) The authority may issue renewal notes, issue bonds to pay notes, and refund bonds by the issuance of new bonds, whether or not the bonds to be refunded have matured. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded. The authority may issue instruments separate from the obligations described in this subsection that establish a contractual right in the holder of the instrument to require mandatory tender for purchase of the obligations to which the instrument applies for a period of time and subject to provisions as the authority may determine.

(3) Except as otherwise provided by the authority or this act, every note or bond issue of the authority shall be a general obligation of the authority payable out of revenues or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging any particular receipts or revenues.

(4) Whether or not the notes or bonds are of a form or character as to be negotiable instruments, the notes or bonds are negotiable instruments within the meaning of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102.

484.3211 Notes and bonds; issuance by resolution; form and terms; sale; prices.

Sec. 11. (1) The notes and bonds shall be authorized by resolution of the authority and mature at the time provided in the resolution. The notes and bonds shall be in a form, bear interest at a rate or rates, be in the denominations, carry registration privileges, be payable, and be subject to the terms of redemption as provided in the resolution.

(2) The notes and bonds of the authority may be sold by the authority at public or private sales at prices as the authority determines.

484.3212 Notes or bonds; contents of resolutions.

Sec. 12. A resolution relating to authorizing notes or bonds may contain any of the following provisions, which shall be a part of the contract with the holders of the notes or bonds:

(a) Pledging all or any part of the revenues of the authority, and all or any part of the money received in payment of loans and interest on loans, and other money received or to be received to secure the payment of the notes or bonds.

(b) Pledging all or any part of the assets of the authority, including mortgages and obligations obtained by the authority in connection with its programs, to secure the payment of the notes or bonds.

(c) Pledging any loan, grant, or contribution from a government entity.

(d) The use and disposition of the gross income from contracts and leases of the authority.

(e) The setting aside of reserves or sinking funds and the regulation and disposition of reserves or sinking funds.

(f) Limitations on the purpose to which the proceeds of sale of notes or bonds may be applied and pledging proceeds to secure the payment of the notes or bonds.

(g) Limitations on the issuance of additional notes or bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding or other notes or bonds.

(h) The procedure, if any, by which the terms of any contract with noteholders or bondholders may be amended or abrogated, the amount of notes or bonds the holders of which shall consent to the amendment or abrogation, and the manner in which the consent is to be given.

(i) Vesting in a trustee or trustees property, rights, powers, and duties in trust as the authority may determine, which may include any of the rights, powers, and duties of the trustee appointed by the bondholders under this act and limiting or abrogating the right of the bondholders to appoint a trustee under this section or limiting the rights, powers, and duties of the trustee.

(j) Establishing a contractual right to require mandatory tender for purchase of the notes or bonds in an instrument separate from the notes or bonds. The instrument may be issued or sold by the authority to investors.

(k) Except as otherwise prohibited by this act, any other provision that may affect the security or protection of the notes or bonds.

(*l*) Delegating to an officer or other employee of the authority, or an agent designated by the authority, for a period of time as the authority determines, the power to cause the issue, sale, and delivery of the notes or bonds within limits on those notes or bonds established by the authority as to any of the following:

(*i*) The form.

(*ii*) The maximum interest rate or rates.

(*iii*) The maturity date or dates.

(*iv*) The purchase price.

(*v*) The denominations.

(*vi*) The redemption premiums.

(*vii*) The nature of the security.

(*viii*) The selection of the applicable interest rate index.

(*ix*) Other terms and conditions with respect to issuance of the notes or bonds as the authority shall prescribe.

484.3213 Money or property pledged and received by authority.

Sec. 13. (1) Any pledge made by the authority is valid and binding from the date that the pledge is made.

(2) The money or property pledged and received by the authority shall immediately be subject to the lien of the pledge without any physical delivery or further act and the lien of the pledge is valid and binding against all parties having claims in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the lien.

(3) The resolution or any other instrument by which a pledge is created need not be recorded.

484.3214 Notes or bonds; personal liability.

Sec. 14. The members of the board or any person executing the notes or bonds under this act are not liable personally on the notes or bonds or subject to any personal liability or accountability by reason of the issuance of the notes or bonds.

484.3215 Notes or bonds; power of authority to purchase.

Sec. 15. Subject to any agreements with noteholders or bondholders, the authority has the power to use any funds available to purchase notes or bonds of the authority at a price determined by the authority.

484.3216 Rights of authority to fulfill terms of agreement not limited, altered, or impaired.

Sec. 16. This state pledges and agrees with the holders of any notes or bonds issued under this act, that this state will not limit or alter the rights vested in the authority to fulfill the terms of any agreements made with the holders, or in any way impair the rights and remedies of the holders until the notes or bonds, together with earned interest, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of this state in any agreement with the holders of notes or bonds under this act.

484.3217 Notes or bonds as limited obligations.

Sec. 17. (1) The authority may issue notes or bonds that are expressly stated not to be general obligations of the authority but that constitute limited obligations of the authority payable solely from and secured solely by the revenues, money, and property as the authority may specify.

(2) The notes or bonds designated as limited obligations under this section shall not be payable from or secured by the reserve capital account, and any reserve fund established for the limited obligation notes or bonds shall not constitute a capital reserve fund under this act.

484.3218 Default.

Sec. 18. (1) If the authority defaults in the payment of principal or interest of any notes or bonds when due, whether at maturity or upon call for redemption, and the default continues for a period of 30 days, or if the authority fails or refuses to comply with this act, or defaults in any agreement made with the holders of any notes or bonds, the holders of 25% in aggregate principal amount of the notes or bonds then outstanding may apply to the circuit court of Ingham county for the appointment of a trustee to represent the holders of the notes or bonds.

(2) A trustee appointed under this act may, and upon the written request of the holders of 25% in aggregate principal amount of the notes or bonds shall, do any of the following:

(a) Enforce all rights of the noteholders or bondholders, including the right to require the authority to perform its duties under this act.

(b) Bring suit upon the notes or bonds.

(c) Require the authority to account as if it were the trustee of an express trust for the holders of the notes or bonds.

(d) Enjoin any acts or things that may be unlawful or in violation of the rights of the holders of the notes or bonds.

(e) Declare all the notes or bonds due and payable.

(3) Before declaring the principal of notes or bonds due and payable, the trustee shall first give 30 days' notice in writing to the governor, to the authority, and to the attorney general.

(4) The trustee has all of the powers necessary or appropriate for the general representation of bondholders or noteholders in the enforcement and protection of their rights.

(5) An action under this section shall be brought in the circuit court for the county of Ingham.

484.3219 Disposition of money held by authority.

Sec. 19. (1) Money of the authority shall be held by the authority and deposited in a financial institution approved by the state treasurer, which financial institution may give security for the deposits.

(2) The authority may, subject to the approval of the state treasurer, contract with the holders of any of its notes or bonds as to the custody, collection, securing, investment, and payment of money of the authority, of any money held in trust or otherwise for the payment of notes or bonds, and to carry out the contract. Money held in trust or otherwise for the payment of notes or bonds or in any way to secure notes or bonds and deposits of money may be secured in the same manner as money of the authority.

(3) The authority may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance of its notes or bonds or in connection with its then outstanding notes or bonds.

484.3220 Notes and bonds as securities; investment.

Sec. 20. The notes and bonds of the authority are securities in which public officers and bodies of this state and municipalities and municipal subdivisions, insurance companies and associations and other persons carrying on an insurance business, banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, administrators, guardians, executors, trustees and other fiduciaries, and any other person who is now or may be authorized to invest in bonds or other obligations of this state, may properly and legally invest funds, including capital, in their control or belonging to them.

484.3221 Full faith and credit bonds; issuance; vote.

Sec. 21. The authority, at its discretion, may recommend an issuance of full faith and credit bonds to the legislature for a vote of the people.

484.3222 Notes and bonds; exemption from tax.

Sec. 22. This state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued under this act and the income from the notes and bonds and all its fees, charges, grants, revenues, receipts, and other money received or to be received, pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state, city, county, or other taxation provided by the laws of this state, except for estate and gift taxes and taxes on transfers.

484.3223 Property; exemption from tax.

Sec. 23. The property of the authority and its income and operation are exempt from all taxation by this state or any of its political subdivisions.

484.3224 Annual report.

Sec. 24. The authority shall submit an annual report no later than March 1 of each year relating to its activities for the preceding calendar year to the governor, the speaker of the house of representatives, the majority leader of the senate, and to each member of the house and senate committees with oversight over utility and energy issues.

484.3225 New partnerships or joint ventures; limitation.

Sec. 25. Except to the extent necessary to maintain, improve, complete, or expand within the defined service area, an element of the broadband infrastructure already acquired or financed under this act, the authority shall not enter into new partnerships or other joint ventures arrangements or provide new loans or joint venture and partnership arrangements after December 31, 2008.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 14, 2002.

[No. 50]

(SB 999)

AN ACT to amend 1905 PA 282, entitled "An act to provide for the assessment of the property, by whomsoever owned, operated or conducted, of railroad companies, union station and depot companies, telegraph companies, telephone companies, sleeping car companies, express companies, car loaning companies, stock car companies, refrigerator car companies, and fast freight companies, and all other companies owning, leasing, running or operating any freight, stock, refrigerator, or any other cars, not being exclusively the property of any railroad company paying taxes upon its rolling stock under the provisions of this act, over or upon the line or lines of any railroad or railroads in this state, and for the levy of taxes thereon by a state board of assessors, and for the collection of such taxes, and to repeal all acts or parts of acts contravening any of the provisions of this act," (MCL 207.1 to 207.21) by adding section 13b.

The People of the State of Michigan enact:

207.13b Tax credit; amount; limitation; prohibition; credit against remaining tax; carrying forward credit to offset tax liability in subsequent years; application; submission to state board of assessors; form; definitions.

Sec. 13b. (1) Subject to subsections (2), (3), and (4), a company shall be allowed a credit against the tax imposed under this act for the tax year equal to 6% of eligible expenditures incurred in the calendar year immediately preceding the tax year for which the credit under this subsection is claimed.

(2) The amount of the credit under subsection (1) shall be limited as follows:

(a) For the 2003 tax year, the credit shall not exceed 3% of the company's liability for the tax levied under this act in the 2003 tax year.

(b) For the 2004 tax year, the credit shall not exceed the greater of 6% of the company's liability for the tax levied under this act in the 2004 tax year or 100% of the credit the company received under this subsection in the 2003 tax year.

(c) For the 2005 tax year, the credit shall not exceed the greater of 9% of the company's liability for the tax levied under this act in the 2005 tax year or 100% of the credit the company received under this subsection in the 2004 tax year.

(d) For the 2006 tax year and each year after the 2006 tax year, the credit shall not exceed the greater of 12% of the company's liability for the tax levied under this act in the tax year in which the credit is claimed or 100% of the credit the company received under this subsection in the immediately preceding tax year.

(3) The amount of the credit under subsection (1) shall not exceed a company's liability for the tax levied under this act in the tax year in which the credit is claimed.

(4) A credit under subsection (1) may not be claimed by a company in a tax year in which 1 or more of the following conditions apply:

(a) The company is not subject to the annual maintenance fee required under section 8 of the metropolitan extension telecommunications rights-of-way oversight act.

(b) The company is subject to the annual maintenance fees required under section 8 of the metropolitan extension telecommunications rights-of-way oversight act, and has failed to pay the annual maintenance fees that are due and payable as of May 1 in that year.

(5) After any credit under subsection (1) is determined, a company shall be allowed a credit against any remaining tax imposed under this act equal to the credit allowed under section 8 of the metropolitan extension telecommunications rights-of-way oversight act, less the amount of any credit determined under subsection (1). If the credit allowed under this subsection for the tax year and any unused carryforward of the credit allowed by this subsection exceed the company's remaining tax liability for the tax year after any credit under subsection (1) is determined, that portion of the credit that exceeds the remaining tax liability for the tax year shall not be refunded but may be carried forward to offset any tax liability in subsequent tax years that remains after any credit claimed under subsection (1) in that subsequent tax year is determined until used up. A credit may not be claimed under this subsection in a tax year in which 1 or more of the conditions set forth in subsection (4) apply.

(6) A company may apply for the credit under subsection (1) by submitting to the state board of assessors an application in a form prescribed by the state board of assessors at the time the annual report required under section 6 is due.

(7) A company may apply for the credit under subsection (5) by submitting to the state board of assessors an application in a form prescribed by the state board of assessors before May 1.

(8) As used in this section:

(a) "Eligible expenditures" means expenditures made by a company to purchase and install eligible equipment after December 31, 2001.

(b) "Eligible equipment" means property placed into service in this state for the first time with information carrying capability in excess of 200 kilobits per second in both directions.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 880 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 14, 2002.

Compiler's note: Senate Bill No. 880, referred to in enacting section 1, was filed with the Secretary of State March 14, 2002, and became P.A. 2002, No. 48, Eff. Nov. 1, 2002.

[No. 51]

(HB 4672)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and

other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," (MCL 380.1 to 380.1852) by adding section 1178a.

The People of the State of Michigan enact:

380.1178a Administration of medications; duties of department.

Sec. 1178a. (1) Not later than October 1, 2002, the department shall do all of the following:

(a) Review all guidelines, policies, or other publications produced by the department or another state agency concerning administration of medications to pupils at school and revise them as necessary.

(b) Make available to all school districts, intermediate school districts, and public school academies a model local policy concerning administration of medications to pupils at school.

(2) The model local policy developed under subsection (1) shall address the type and amount of training that may be required for persons who participate in administering medications to pupils at school. In developing this part of the policy, the department may consider training programs offered by the Michigan association of school nurses and by other public health organizations.

(3) Not later than 1 year after the effective date of this section, each school board, intermediate school board, and public school academy board of directors shall review its local policy concerning administration of medications to pupils at school. This review shall take place at a public meeting.

(4) School boards, intermediate school boards, and public school academy boards of directors are encouraged to align their local policies with the model policy developed under subsection (1) and are encouraged to provide appropriate training to persons who participate in administering medications to pupils at school.

This act is ordered to take immediate effect.
Approved March 12, 2002.
Filed with Secretary of State March 15, 2002.

[No. 52]

(SB 796)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 1902, 1903, and 1904 (MCL 324.1902, 324.1903, and 324.1904), section 1902 as amended by 1996 PA 134 and sections 1903 and 1904 as added by 1995 PA 60, and by adding section 1907a.

The People of the State of Michigan enact:

324.1902 Michigan natural resources trust fund; establishment; contents; transfer of amount to Michigan state parks endowment fund; receipts; investment; report on accounting of revenues and expenditures.

Sec. 1902. (1) In accordance with section 35 of article IX of the state constitution of 1963, the Michigan natural resources trust fund is established in the state treasury. The trust fund shall consist of all bonuses, rentals, delayed rentals, and royalties collected or reserved by the state under provisions of leases for the extraction of nonrenewable resources from state owned lands. However, the trust fund shall not include bonuses, rentals, delayed rentals, and royalties collected or reserved by the state from the following sources:

(a) State owned lands acquired with money appropriated from the game and fish protection fund created in part 435.

(b) State owned lands acquired with money appropriated from the subfund account created by former section 4 of former 1976 PA 204.

(c) State owned lands acquired with money appropriated from related federal funds made available to the state under chapter 899, 50 Stat. 917, 16 U.S.C. 669 to 669b and 669c to 669i, commonly known as the federal aid in wildlife restoration act, or chapter 658, 64 Stat. 430, 16 U.S.C. 777 to 777e, 777f to 777i, and 777k to 777*l*, commonly known as the federal aid in fish restoration act.

(d) Money received by the state from net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, 26 U.S.C. 29, as provided for in section 503.

(2) Notwithstanding subsection (1), until the trust fund reaches an accumulated principal of $500,000,000.00, $10,000,000.00 of the revenues from bonuses, rentals, delayed rentals, and royalties described in this section, but not including money received by the state from net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, 26 U.S.C. 29, as provided for in section 503, otherwise dedicated to the trust fund that are received by the trust fund each state fiscal year shall be transferred to the state treasurer for deposit into the Michigan state parks endowment fund created in section 74119. However, until the trust fund reaches an accumulated principal of $500,000,000.00, in any state fiscal year, not more than 50% of the total revenues from bonuses, rentals, delayed rentals, and royalties described in this section, but not including net proceeds allocable to the nonconventional fuel credit contained in section 29 of the internal revenue code of 1986, 26 U.S.C. 29, as provided in section 503, otherwise dedicated to the trust fund that are received by the trust fund each state fiscal year shall be transferred to the Michigan state parks endowment fund. To implement this subsection, until the trust fund reaches an accumulated principal of $500,000,000.00, the department shall transfer 50% of the money received by the trust fund each month pursuant to subsection (1) to the state treasurer for deposit into the Michigan state parks endowment fund. The department shall make this transfer on the last day of each month or as soon as practicable thereafter. However, not more than a total of $10,000,000.00 shall be transferred in any state fiscal year pursuant to this subsection.

(3) In addition to the contents of the trust fund described in subsection (1), the trust fund shall consist of money transferred to the trust fund pursuant to section 1909.

(4) The trust fund may receive appropriations, money, or other things of value.

(5) The state treasurer shall direct the investment of the trust fund. The state treasurer shall have the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140*l*.

(6) The department shall annually prepare a report containing an accounting of revenues and expenditures from the trust fund. This report shall identify the interest and earnings of the trust fund from the previous year, the investment performance of the trust fund during the previous year, and the total amount of appropriations from the trust fund during the previous year. This report shall be provided to the senate and house of representatives appropriations committees and the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment.

324.1903 Expenditures.

Sec. 1903. (1) Subject to the limitations of this part and of section 35 of article IX of the state constitution of 1963, the interest and earnings of the trust fund in any 1 state fiscal year may be expended in subsequent state fiscal years only for the following purposes:

(a) The acquisition of land or rights in land for recreational uses or protection of the land because of its environmental importance or its scenic beauty.

(b) The development of public recreation facilities.

(c) The administration of the fund, including payments in lieu of taxes on state owned land purchased through the trust fund.

(2) In addition to the money described in subsection (1), 33-1/3% of the money, exclusive of interest and earnings, received by the trust fund in any state fiscal year may be expended in subsequent state fiscal years for the purposes described in subsection (1). However, the authorization for the expenditure of money provided in this subsection does not apply after the state fiscal year in which the total amount of money in the trust fund, exclusive of interest and earnings and amounts authorized for expenditure under this section, exceeds $500,000,000.00.

(3) An expenditure from the trust fund may be made in the form of a grant to a local unit of government, subject to the following conditions:

(a) The grant is used for the purposes described in subsection (1) and meets the requirements of either subdivision (b) or (c).

(b) A grant for the purposes described in subsection (1)(a) is matched by the local unit of government or public authority with at least 25% of the total cost of the project.

(c) A grant for the purposes described in subsection (1)(b) is matched by the local unit of government with 25% or more of the total cost of the project.

(4) Not less than 25% of the total amounts made available for expenditure from the trust fund from any state fiscal year shall be expended for acquisition of land and rights in land, and not more than 25% of the total amounts made available for expenditure from the trust fund from any state fiscal year shall be expended for development of public recreation facilities.

(5) If property that was acquired with money from the trust fund is subsequently sold or transferred by the state to a nongovernmental entity, the state shall forward to the state treasurer for deposit into the trust fund an amount of money equal to the following:

(a) If the property was acquired solely with trust fund money, the greatest of the following:

(*i*) The net proceeds of the sale.

(*ii*) The fair market value of the property at the time of the sale or transfer.

(*iii*) The amount of money that was expended from the trust fund to acquire the property.

(b) If the property was acquired with a combination of trust fund money and other restricted funding sources governed by federal or state law, an amount equal to the percentage of the funds contributed by the trust fund for the acquisition of the property multiplied by the greatest of subdivision (a)(*i*), (*ii*), or (*iii*).

324.1904 Limitation on amount accumulated in trust fund; deposit and distribution of amount.

Sec. 1904. The amount accumulated in the trust fund shall not exceed $500,000,000.00, exclusive of interest and earnings and amounts authorized for expenditure under this part. Any amount of money that would be a part of the trust fund but for the limitation stated in this section shall be deposited in the Michigan state parks endowment fund created in section 74119, until the Michigan state parks endowment fund reaches an accumulated principal of $800,000,000.00. After the Michigan state parks endowment fund reaches an accumulated principal of $800,000,000.00, any money that would be part of the Michigan state parks endowment fund but for this limitation shall be distributed as provided by law.

324.1907a Project status; report.

Sec. 1907a. If within 2 years after a parcel of property that is approved for acquisition or development by the legislature has not been acquired or developed in the manner determined by the board and is not open for public use, the board shall report to the standing committees of the senate and the house of representatives with jurisdiction over issues related to natural resources and the environment on the status of the project and the reason why the property has not been purchased or developed in the manner determined by the board.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Joint Resolution T of the 91st Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.

This act is ordered to take immediate effect.
Approved March 12, 2002.
Filed with Secretary of State March 15, 2002.

Compiler's note: Senate Joint Resolution T, referred to in enacting section 1, was submitted to, and approved by, the electors as Proposal 02-2 at a special election held at the same time as the August 6, 2002 statewide primary election. This amendment to the Constitution of Michigan of 1963 became effective September 21, 2002.

[No. 53]

(SB 797)

AN ACT to amend 1946 (1st Ex Sess) PA 9, entitled "An act to create the Michigan veterans' trust fund, and to define who shall be eligible to receive assistance therefrom; to provide for the disbursement of the income thereof and surplus therein; to create a board of trustees, and to prescribe its powers and duties; to provide for county and district committees, and their powers, duties, and expenses; to prescribe penalties; and to make appropriations to carry out the provisions of this act," by amending section 5 (MCL 35.605).

The People of the State of Michigan enact:

35.605 Earnings of Michigan veterans' trust fund; allocation; investment; accounting.

Sec. 5. (1) The earnings of the Michigan veterans' trust fund shall be allocated from time to time by the board of trustees as follows:

(a) The operating expenses of the fund shall be approved annually and funded from the surplus earnings.

(b) Fifty percent of the remaining surplus in and the earnings of the fund shall be allocated for distribution to county and district committees on the basis of need as determined by the board.

(c) The balance of the surplus in and earnings of the trust fund after allocations under subdivisions (a) and (b) shall be allocated in part or in whole to the several county and district committees on the basis of veteran population. The funds made available to the board of trustees for distribution to county and district committees on the basis of need as determined by the board of trustees shall be disbursed only for the same purposes of providing for needs of Michigan veterans as defined by 1965 PA 190, MCL 35.61 to 35.62, or their dependents as are the funds allocated to county and district committees on the basis of veteran population.

(2) The state treasurer shall direct the investment of the Michigan veterans' trust fund. The state treasurer shall have the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140*l*. The trust fund shall be considered state funds and shall be protected by the official bond of the state treasurer.

(3) The state treasurer shall annually prepare an accounting of revenues and expenditures from the trust fund. This accounting shall specifically identify the interest and earnings of the trust fund, shall describe how the amount of interest and earnings has been affected by the expanded investment options provided for in subsection (2), and shall identify how the increased interest and earnings, if any, have been expended. This accounting shall be provided to the senate and house of representatives appropriations committees.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Joint Resolution T becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.

This act is ordered to take immediate effect.
Approved March 12, 2002.
Filed with Secretary of State March 15, 2002.

Compiler's note: Senate Joint Resolution T, referred to in enacting section 1, was submitted to, and approved by, the electors as Proposal 02-2 at a special election held at the same time as the August 6, 2002 statewide primary election. This amendment to the Constitution of Michigan of 1963 became effective September 21, 2002.

[No. 54]

(SB 798)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to

the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 74119 (MCL 324.74119), as added by 1995 PA 58.

The People of the State of Michigan enact:

324.74119 Michigan state parks endowment fund.

Sec. 74119. (1) In accordance with section 35a of article IX of the state constitution of 1963, the Michigan state parks endowment fund is created within the state treasury. The Michigan state parks endowment fund may be referred to as the Genevieve Gillette state parks endowment fund.

(2) The state treasurer may receive money or other assets from any source for deposit into the endowment fund. The state treasurer shall direct the investment of the endowment fund. The state treasurer shall have the same authority to invest the assets of the endowment fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140*l*. The state treasurer shall credit to the endowment fund interest and earnings from endowment fund investments.

(3) Money in the endowment fund at the close of the fiscal year shall remain in the endowment fund and shall not lapse to the general fund.

(4) The accumulated principal of the endowment fund shall not exceed $800,000,000.00, which amount shall be annually adjusted pursuant to the Detroit consumer price index—all items beginning when the endowment fund reaches $800,000,000.00. This annually adjusted figure is the accumulated principal limit of the endowment fund.

(5) Money in the endowment fund shall be expended for operations, maintenance, and capital improvements at Michigan state parks and for the acquisition of land or rights in land for Michigan state parks.

(6) Money in the endowment fund shall be expended as follows:

(a) Until the endowment fund reaches an accumulated principal of $800,000,000.00, each state fiscal year the legislature may appropriate not more than 50% of the money received under section 35 of article IX of the state constitution of 1963 plus interest and earnings and any private contributions or other revenue to the endowment fund.

(b) Once the accumulated principal in the endowment fund reaches $800,000,000.00, only the interest and earnings of the endowment fund in excess of the amount necessary to maintain the endowment fund's accumulated principal limit shall be expended.

(7) Unexpended appropriations of the endowment fund from any state fiscal year as authorized by this section may be carried forward or may be appropriated as determined by the legislature for purposes of this section.

(8) The department shall annually prepare a report containing an accounting of revenues and expenditures from the endowment fund. This report shall identify the interest and earnings of the endowment fund from the previous year, the investment performance of the endowment fund during the previous year, and the total amount of appropriations from the endowment fund during the previous year. This report shall be provided to the senate and house of representatives appropriations committees and the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Joint Resolution T becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.

This act is ordered to take immediate effect.
Approved March 12, 2002.
Filed with Secretary of State March 15, 2002.

Compiler's note: Senate Joint Resolution T, referred to in enacting section 1, was submitted to, and approved by, the electors as Proposal 02-2 at a special election held at the same time as the August 6, 2002 statewide primary election. This amendment to the Constitution of Michigan of 1963 became effective September 21, 2002.

[No. 55]

(SB 799)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 43902 (MCL 324.43902), as amended by 2000 PA 69.

The People of the State of Michigan enact:

324.43902 Nongame fish and wildlife trust fund.

Sec. 43902. (1) The nongame fish and wildlife trust fund is created in the state treasury. The trust fund shall consist of all money credited to the trust fund pursuant to section 439 of the income tax act of 1967, 1967 PA 281, MCL 206.439, and section 811*l* of the Michigan vehicle code, 1949 PA 300, MCL 257.811*l*, and any interest and earnings accruing from the saving and investment of that money.

(2) The trust fund may receive appropriations, money, or other things of value.

(3) The state treasurer shall direct the investment of the trust fund. The state treasurer shall have the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140*l*.

(4) The department shall annually prepare a report containing an accounting of revenues and expenditures from the trust fund. This report shall identify the interest and earnings of the trust fund from the previous year, the investment performance of the trust fund during the previous year, and the total amount of appropriations from the trust fund during the previous year. This report shall be provided to the senate and house of representatives appropriations committees and the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Joint Resolution T of the 91st Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.

This act is ordered to take immediate effect.
Approved March 12, 2002.
Filed with Secretary of State March 15, 2002.

Compiler's note: Senate Joint Resolution T, referred to in enacting section 1, was submitted to, and approved by, the electors as Proposal 02-2 at a special election held at the same time as the August 6, 2002 statewide primary election. This amendment to the Constitution of Michigan of 1963 became effective September 21, 2002.

[No. 56]

(SB 800)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 43704 (MCL 324.43704), as amended by 2001 PA 50.

The People of the State of Michigan enact:

324.43704 Investment of trust fund; report on accounting of revenues and expenditures.

Sec. 43704. (1) The state treasurer shall direct the investment of the trust fund. The state treasurer shall have the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140*l*.

(2) The department shall annually prepare a report containing an accounting of revenues and expenditures from the trust fund. This report shall identify the interest and earnings of the trust fund from the previous year, the investment performance of the trust fund during the previous year, and the total amount of appropriations from the trust fund during the previous year. This report shall be provided to the senate and house of representatives appropriations committees and the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Joint Resolution T of the 91st Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.

This act is ordered to take immediate effect.
Approved March 12, 2002.
Filed with Secretary of State March 15, 2002.

Compiler's note: Senate Joint Resolution T, referred to in enacting section 1, was submitted to, and approved by, the electors as Proposal 02-2 at a special election held at the same time as the August 6, 2002 statewide primary election. This amendment to the Constitution of Michigan of 1963 became effective September 21, 2002.

[No. 57]

(SB 801)

AN ACT to amend 1984 PA 22, entitled "An act to establish the Michigan civilian conservation corps; to prescribe the powers and duties of certain state officers, agencies, and departments; to create and provide for the use of an endowment fund; and to provide for an appropriation," by amending section 12a (MCL 409.312a), as added by 1994 PA 394.

The People of the State of Michigan enact:

409.312a Michigan civilian conservation corps endowment fund; creation; disposition, investment, and credit of money and assets; money to remain in endowment fund; expenditure of interest and earnings; report on accounting of revenues and expenditures.

Sec. 12a. (1) The Michigan civilian conservation corps endowment fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the endowment fund. The state treasurer shall direct the investment of the endowment fund. The state treasurer shall have the same authority to invest the assets of the endowment fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140*l*. The state treasurer shall credit to the endowment fund interest and earnings from endowment fund investments.

(3) Money in the endowment fund at the close of the fiscal year shall remain in the endowment fund and shall not lapse to the general fund.

(4) The department with the concurrence of the commission, shall expend only the interest and earnings of the endowment fund for the operation of the corps.

(5) The department shall annually prepare a report containing an accounting of revenues and expenditures from the endowment fund. This report shall identify the interest and earnings of the endowment fund from the previous year, the investment performance of the endowment fund during the previous year, and the total amount of appropriations from the endowment fund during the previous year. This report shall be provided to the senate and house of representatives appropriations committees and the standing committees of the senate and house of representatives with jurisdiction over issues pertaining to natural resources and the environment.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Joint Resolution T of the 91st Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.

This act is ordered to take immediate effect.
Approved March 12, 2002.
Filed with Secretary of State March 15, 2002.

Compiler's note: Senate Joint Resolution T, referred to in enacting section 1, was submitted to, and approved by, the electors as Proposal 02-2 at a special election held at the same time as the August 6, 2002 statewide primary election. This amendment to the Constitution of Michigan of 1963 became effective September 21, 2002.

[No. 58]

(HB 5404)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 442 (MCL 380.442), as amended by 1985 PA 22.

The People of the State of Michigan enact:

380.442 Borrowing powers of first class school district board; limitations on loans and bonds.

Sec. 442. (1) The first class school district board may do all of the following:

(a) Borrow, subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for temporary school purposes sums of money and give notes of the district for temporary school purposes.

(b) Borrow, subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, sums of money for the purpose of purchasing sites for buildings, playgrounds, or athletic fields and purchasing or erecting and equipping a building or making a permanent improvement that it is authorized to make. The board may accomplish this by the issuance and sale of bonds of the school district on terms the board considers advisable, or by other reasonable means. The board shall designate officers to execute the bonds on behalf of the school district. The designated officers may include the chief fiscal officer.

(2) A loan shall not be made, except as otherwise provided in this subsection, for a sum that, together with the total outstanding bonded indebtedness of the school district, exceeds 5% of the state equalized valuation of the taxable property within the district, unless the proposition of making the loans or of issuing bonds is submitted to a vote of the school electors of the district at a general or special school election and approved by the majority of the school electors voting on the question. Regardless of the amount of outstanding bonded indebtedness of the school district, a vote of the school electors is not necessary in order to issue bonds for a purpose described in section 1274a. Loans may be made or bonds may be issued for the purposes stated in this section in an amount equal to that provided by part 17.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 59]

(HB 5405)

AN ACT to amend 1961 PA 108, entitled "An act to provide for loans by the state of Michigan to school districts for the payment of principal and interest upon school bonds; to prescribe the terms and conditions of the loans and the conditions upon which levies for bond principal and interest shall be included in computing the amount to be so loaned by the state; to prescribe the powers and duties of the superintendent of public instruction and the state treasurer in relation to such loans; to provide for the repayment of such loans; to provide incentives for repayment of such loans; to provide for other matters in respect to such loans; and to make an appropriation," by amending section 4 (MCL 388.954), as amended by 1992 PA 228.

The People of the State of Michigan enact:

388.954 Issuance of certificate qualifying bond issue; application; findings; refunding bonds; applicability of subsection (1)(f) to certain bond issues.

Sec. 4. (1) The superintendent of public instruction shall issue his or her certificate qualifying an issue of bonds, upon application for a certificate being made by the school district, if the superintendent finds the following:

(a) That the last maturity date of the issue of bonds is not less than 10 years from the issuance date appearing on the bonds subject to the following qualifications and exceptions:

(*i*) Except for bonds issued for a purpose described in section 1274a of the revised school code, 1976 PA 451, MCL 380.1274a, or as otherwise provided in this subparagraph, if the ratio of debt to valuation of the school district exceeds 4%, the last maturity date of the issue of bonds shall be not less than 15 years from the issuance date appearing on the bonds; if the ratio of debt to valuation of the school district exceeds 7%, the last maturity date of the issue of bonds shall be not less than 25 years from the issuance date appearing on the bonds; or if the ratio of debt to valuation of the school district exceeds 12%, the last maturity date of the issue of bonds shall be not less than 29 years from the issuance date appearing on the bonds. Regardless of the ratio of debt to valuation of a school district, the state treasurer may authorize the last maturity date of an issue of bonds of that school district to be not less than 10 years from the issuance date appearing on the bonds if the state treasurer determines it is financially beneficial to the state or to the school district. As used in this section, "ratio of debt to valuation" means that ratio arrived at by dividing the total tax supported bonded indebtedness of the school district outstanding as of the date of the filing of the application required by this act, including the bonds proposed to be qualified, by the assessed valuation of the school district as last equalized by the state. The refunding part of any proposed issue of bonds shall not be included in the total indebtedness of the school district for the purposes of this section.

(*ii*) If the bonds are issued for a purpose described in section 1274a of the revised school code, 1976 PA 451, MCL 380.1274a, the last maturity of the issue of bonds may be less than 10 years from the issuance date appearing on the bonds but not less than the number of years approved by the superintendent of public instruction in the certificate of qualification. The certificate of qualification of the superintendent of public instruction shall contain a certification and approval that the bonds are issued for such a purpose, which approval shall be final and conclusive and shall set forth the minimum number of years for the last maturity of the bonds.

(b) That the yearly principal maturity date is not less than 5 months after the major part of the taxes for the bonds becomes by law a lien upon the property assessed.

(c) Except as otherwise provided in this subdivision, that the amount of principal maturing in any calendar year is not less than the amount of principal maturing in any prior calendar year and, except for bonds issued for a purpose described in section 1274a of the revised school code, 1976 PA 451, MCL 380.1274a, if the ratio of debt to valuation of the school district exceeds 12%, that the first 10 principal maturities do not in the aggregate exceed 25% of the total principal amount of the bonds proposed to be qualified. Regardless of the amount of principal maturing in any calendar year and regardless of the ratio of debt to valuation of the school district, the state treasurer may authorize principal maturities in any amount if the state treasurer determines it is financially beneficial to the state or to the school district. At the request of the school district, the state treasurer may grant that authorization as part of the procedure of preliminary qualification under subdivision (f).

(d) That the cost of the project for which the bonds are to be issued is within reasonable standards of cost as established by the state board of education, which standards may vary as to different localities in accordance with any variance in construction costs between localities.

(e) Except for bonds issued for a purpose described in section 1274a of the revised school code, 1976 PA 451, MCL 380.1274a, that there exists a need for the project based upon current and probable future enrollment and that the project is designed to provide school facilities reasonably adequate to meet that need.

(f) Subject to subsection (3), if a bond issue requires an election, that a bond issue that a school district wishes to qualify has been given preliminary qualification prior to the official action of the board of education calling for the election on the bond issue.

(g) If the bonds are issued for a purpose described in section 1274a of the revised school code, 1976 PA 451, MCL 380.1274a, and if the bonds have not been approved by a majority of the school electors voting on the question, that the school district has demonstrated and the state treasurer has approved the method of payment for, and the ability to pay, the bonds.

(2) For refunding bonds issued to refund bonds issued before May 4, 1955, the superintendent of public instruction shall issue the certificate of qualification if the superintendent finds that the refunding bonds comply with the requirements set forth in subsection (1)(c). For refunding bonds issued to refund bonds issued on or after May 4, 1955, or issued to refund loans from the state made under the authority of this act, the superintendent shall issue the certificate of qualification if the superintendent finds that the refunding bonds comply with the requirements set forth in subsection (1)(c) and also that the refunding bonds are being issued to refund loans from the state made under the authority of this act or that the bonds representing the original indebtedness either were qualified or satisfied the requirements for qualification set forth in subsection (1)(d) and (e) in effect when issued or would have satisfied the requirements set forth in subsection (1)(d) and (e) had those requirements been in effect when the bonds were issued. Refunding bonds issued to refund loans from the state made under the authority of this act shall be considered as refunding bonds for all purposes including section 16 of article IX of the state constitution of 1963.

(3) The requirement of subsection (1)(f) does not apply to a bond issue that is approved by the school district electors between December 31, 1990 and July 1, 1991 and that is in part ineligible for qualification. A series of bonds for such a bond issue may be qualified by the superintendent of public instruction if it is limited to either a project or projects eligible for qualification or refunding of obligations issued for a purpose described in section 1274a of the revised school code, 1976 PA 451, MCL 380.1274a, or both.

This act is ordered to take immediate effect.

Approved March 14, 2002.

Filed with Secretary of State March 15, 2002.

[No. 60]

(HB 5406)

AN ACT to repeal 1973 PA 12, entitled "An act to provide for emergency financial assistance for school districts; to prescribe certain powers and duties of the intermediate board of education in connection therewith; to provide certain powers and duties of the state board of education in connection therewith; to create an emergency loan revolving fund; and to make an appropriation," (MCL 388.251 to 388.271).

The People of the State of Michigan enact:

Repeal of §§ 388.251 to 388.271.

Enacting section 1. 1973 PA 12, MCL 388.251 to 388.271, is repealed.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 61]

(HB 5407)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 629 (MCL 380.629), as amended by 1997 PA 152.

The People of the State of Michigan enact:

380.629 Borrowing by intermediate school board; purposes; limitations on borrowing money or issuing bonds; resolution by constituent school district not to participate in cooperative program or conduct election.

Sec. 629. (1) An intermediate school board may borrow, subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, sums of money on terms the intermediate school board considers necessary for 1 or more of the following purposes:

(a) For temporary purposes for which the intermediate school board may give notes of the intermediate school district. The intermediate school board shall not borrow a sum that exceeds the amount that has been voted by the intermediate school board or the school electors of the intermediate school district.

(b) To purchase sites for buildings; to purchase, erect, complete, remodel, improve, furnish, refurnish, equip, or reequip buildings and facilities the board is authorized to acquire, including, but not limited to, general administrative, vocational, or special education buildings or facilities, or parts of those buildings or facilities, or additions to those buildings or facilities, and prepare, develop, or improve sites for those buildings or facilities; to purchase and install information technology systems, together with the equipment and software, as are necessary for programs conducted by the intermediate school district under section 627(2); and to issue and sell bonds of the intermediate school district in the form and on the terms the board considers advisable.

(2) An intermediate school board shall not borrow money or issue bonds for a sum that, together with the total outstanding bonded indebtedness of the intermediate school district, exceeds 1/9 of 1% of the state equalized valuation of the taxable property within the district, unless the question of borrowing the money or issuing bonds is submitted first to a vote of the school electors of the intermediate school district held under sections 661 and 662 and approved by the majority of the registered school electors voting on the question. Regardless of the amount of outstanding bonded indebtedness of the intermediate school district, a vote of the school electors is not necessary in order to issue bonds for a purpose described in section 1274a or to issue bonds under section 11i of the state school aid act of 1979, 1979 PA 94, MCL 388.1611i. Money may be borrowed and bonds may be issued for the purposes stated in this section in an amount equal to that provided by part 17. For the purposes of this subsection, bonds authorized by vote of the school electors for special education facilities under part 30 and for area vocational-technical education facilities under sections 681 to 690 and bonds issued under section 11i of the state school aid act of 1979, 1979 PA 94, MCL 388.1611i, shall not be included in computing the total outstanding bonded indebtedness of an intermediate school district.

(3) Not later than 30 days after receipt of notice that the question of issuing bonds under this section to purchase and install information technology systems as are necessary for a cooperative program under section 627(2) will be submitted to the school electors of the intermediate school district, the board of a constituent school district by resolution may elect not to participate in the cooperative program and not to conduct an election on the question within the constituent school district.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 62]

(HB 5408)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and

other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 687 (MCL 380.687), as amended by 1995 PA 289.

The People of the State of Michigan enact:

380.687 Borrowing money and issuing bonds; purposes; limitation; submission to school electors; form of ballot.

Sec. 687. (1) An intermediate school board in which an area vocational-technical education program is established, by a majority vote of the intermediate school electors voting on the question at an annual or at a special election called for that purpose, may borrow money and issue bonds of the intermediate school district subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to defray all or part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping area vocational-technical buildings and other facilities, or parts of buildings and other facilities or additions to buildings and other facilities; acquiring, preparing, developing, or improving sites, or parts of sites or additions to sites, for area vocational-technical buildings and other facilities; refunding all or part of existing bonded indebtedness; or accomplishing a combination of the foregoing purposes. An intermediate school district shall not issue bonds under this part for an amount greater than 1.5% of the total assessed valuation of the intermediate school district.

(2) A bond qualified under section 16 of article IX of the state constitution of 1963 and implementing legislation shall not be included for purposes of calculating the foregoing 1.5% limitation.

(3) An intermediate school board may submit a proposal to issue bonds of the intermediate school district, authorized under this section, to the intermediate school electors at the same election at which the intermediate school electors vote on the establishment of an area vocational-technical education program. If these questions are presented to the school electors at the same election, the board shall include the bond proposal in the 60-day notice given the boards of constituent districts. The establishment of an area vocational-technical education program shall become effective if approved by a majority of the intermediate school electors voting on the question. The authority to issue bonds is effective only if a majority of the intermediate school electors approve both the establishment of the area vocational-technical education program and the issuance of bonds.

(4) The ballot used in submitting the question of borrowing money and issuing bonds under this section shall be in substantially the following form:

"Shall _____ (here state the legal name of the intermediate school district designating the name of a district of not less than 18,000 pupils or first class school district that has elected not to come under this act as far as an area vocational-technical education program is concerned) state of Michigan, borrow the sum of not to exceed $_____ and issue its bonds therefor, for the purpose of _____?

Yes ( )

No ( )".

This act is ordered to take immediate effect.

Approved March 14, 2002.

Filed with Secretary of State March 15, 2002.

[No. 63]

(HB 5409)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1215 (MCL 380.1215).

The People of the State of Michigan enact:

380.1215 Accounting for moneys; fund designations.

Sec. 1215. (1) Operating taxes shall be accounted for under the title of "general fund". The state board may establish other fund designations to clarify further the expenditure classifications for which general fund moneys may be used.

(2) Library money shall be accounted for under the title of "library fund".

(3) Building and site money shall be accounted for under the title of "building and site fund".

(4) Taxes collected for retiring bonded indebtedness shall be accounted for as required by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 64]

(HB 5410)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and

other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1216 (MCL 380.1216), as amended by 1992 PA 236.

The People of the State of Michigan enact:

380.1216 Use of money raised by tax.

Sec. 1216. Except as provided in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, money raised by tax shall not be used for a purpose other than that for which it was raised without the consent of a majority of the school electors of the district voting on the question at an annual or special meeting or election.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 65]

(HB 5414)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1351a (MCL 380.1351a), as amended by 1997 PA 152.

The People of the State of Michigan enact:

380.1351a Borrowing money and issuing bonds.

Sec. 1351a. (1) Beginning with bonds issued after May 1, 1994, a school district shall not borrow money and issue bonds of the district under section 1351(1). However, a school district may borrow money and issue bonds of the district to defray all or a part of the cost of purchasing, erecting, completing, remodeling, or equipping or reequipping, except for equipping or reequipping for technology, school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities, or parts of or additions to those facilities; furnishing or refurnishing new or remodeled school buildings; acquiring, preparing, developing, or improving sites, or parts of or additions to sites, for school

buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities; purchasing school buses; acquiring, installing, or equipping or reequipping school buildings for technology; or accomplishing a combination of the purposes set forth in this subsection. Section 1351(2) to (4) applies to bonds issued under this section.

(2) The proceeds of bonds issued under this section or under section 11i of the state school aid act of 1979, 1979 PA 94, MCL 388.1611i, shall be used for capital expenditures and to pay costs of bond issuance, and shall not be used for maintenance costs. Except as otherwise provided in this subsection, a school district that issues bonds under this section or under section 11i of the state school aid act of 1979, 1979 PA 94, MCL 388.1611i, shall have an independent audit, using generally accepted accounting principles, of its bonding activities under these sections conducted within 120 days after completion of all projects financed by the proceeds of the bonds and shall submit the audit report to the department of treasury. For bonds issued under section 11i of the state school aid act of 1979, 1979 PA 94, MCL 388.1611i, the independent audit required under this subsection may be conducted and submitted with the annual report required under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) A school district shall not borrow money and issue notes or bonds under this section to defray all or part of the costs of any of the following:

(a) Upgrades to operating system or application software.

(b) Media, including diskettes, compact discs, video tapes, and disks, unless used for the storage of initial operating system software or customized application software included in the definition of technology under this section.

(c) Training, consulting, maintenance, service contracts, software upgrades, trouble-shooting, or software support.

(4) A resident of a school district has standing to bring suit against the school district to enforce the provisions of this section in a court having jurisdiction.

(5) As used in this section, "technology" means any of the following:

(a) Hardware and communication devices that transmit, receive, or compute information for pupil instructional purposes.

(b) The initial purchase of operating system software or customized application software, or both, accompanying the purchase of hardware and communication devices under subdivision (a).

(c) The costs of design and installation of the hardware, communication devices, and initial operating system software or customized application software authorized under this subsection.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 66]

(HB 5412)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the

laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1227 (MCL 380.1227), as added by 1995 PA 289.

The People of the State of Michigan enact:

380.1227 Estimates of necessary taxes; insurance reserve funds; adoption of budget; apportionment of school taxes.

Sec. 1227. (1) The board of a school district shall prepare annual estimates of the amount of taxes necessary for the school district's needs for the ensuing fiscal year. The estimates shall specify the amount required for the "general fund", the amount required for the "capital projects fund", and the amount required for the "debt retirement fund", in accordance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and outstanding bonding resolutions.

(2) The school board may include in the "capital projects fund" an amount not exceeding in 1 year .01% of the school district's taxable value to establish and maintain a school district insurance reserve fund from which school buildings or other school property damaged or destroyed by fire, lightning, or otherwise may be repaired, rebuilt, or replaced by other buildings or property to be used in its place. Taxes shall not be levied for this purpose while the insurance reserve fund exceeds or equals .1% of the school district's taxable value. The board shall carry the insurance reserves forward as an encumbered reserve and may add to the reserve in the manner prescribed in this section. Insurance reserve funds may be invested in the manner provided in section 1223. Income from the investment shall be considered a part of the "general fund". If an emergency is declared by a 2/3 vote of the members elected to and serving on the board, the insurance reserve funds may be borrowed for the emergency, but the funds shall be returned to the insurance reserve fund from the collection of taxes in the next ensuing fiscal year.

(3) The school board shall adopt a budget in the same manner and form as required for its estimates and, subject to limitations under law, determine the amount of tax levy necessary for the budget. The board shall certify the amount to the city and township before the date required by law.

(4) The proper officials of the city and township shall apportion the school taxes in the school district in the same manner as the other taxes of the city or township are apportioned. Except as otherwise provided under part 26, the amount apportioned shall be assessed, levied, collected, and returned for each portion of the school district in the same manner as taxes of the city or township in which the portion of the school district is located.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 67]

(HB 5413)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1351 (MCL 380.1351), as amended by 1997 PA 152.

The People of the State of Michigan enact:

380.1351 Borrowing money and issuing bonds; purposes; limitations; bonds or notes as full faith and credit tax limited obligations.

Sec. 1351. (1) Until May 1, 1994, a school district may borrow money and issue bonds of the district to defray all or a part of the cost of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities, or parts of or additions to those facilities; acquiring, preparing, developing, or improving sites, or parts of or additions to sites, for school buildings, including library buildings, structures, athletic fields, playgrounds, or other facilities; purchasing school buses; participating in the administrative costs of an urban renewal program through which the school district desires to acquire a site or addition to a site for school purposes; refunding all or part of existing bonded indebtedness; or accomplishing a combination of the purposes set forth in this subsection. In addition, until December 31, 1991 a school district may borrow money and issue bonds to defray all or part of the cost of purchasing textbooks.

(2) Except as otherwise provided in this subsection, a school district shall not borrow money or issue bonds for a sum that, together with the total outstanding bonded indebtedness of the district, exceeds 5% of the state equalized valuation of the taxable property within the district, unless the proposition of borrowing the money or issuing the bonds is submitted to a vote of the school electors of the district at an annual or special election and approved by the majority of the school electors voting on the question. Regardless of the amount of outstanding bonded indebtedness of the school district, a vote of the school electors is not necessary in order to issue bonds for a purpose described in section 1274a or to issue bonds under section 11i of the state school aid act of 1979, 1979 PA 94, MCL 388.1611i. For the purposes of this subsection, bonds issued under section 11i of the state school aid act of 1979, 1979 PA 94, MCL 388.1611i, shall not be included in computing the total outstanding bonded indebtedness of a school district.

(3) A school district shall not issue bonds under this part for an amount greater than 15% of the total assessed valuation of the district, except as provided in section 1356. A bond qualified under section 16 of article IX of the state constitution of 1963 and implementing legislation shall not be included for purposes of calculating the 15% limitation. Bonds issued under this part are subject to the revised municipal finance act, 2001 PA 34,

MCL 141.2101 to 141.2821, except that bonds issued for a purpose described in section 1274a may be sold at a public or publicly negotiated sale at the time or times, at the price or prices, and at a discount as determined by the board of the school district.

(4) Bonds or notes issued by a school district or intermediate school district under this part or section 442, 629, or 1274a shall be full faith and credit tax limited obligations of the district pledging the general funds, voted and allocated tax levies, or any other money available for such a purpose and shall not allow or provide for the levy of additional millage for payment of the bond or note without a vote of the qualified electorate of the district.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 68]

(HB 5416)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1362 (MCL 380.1362).

The People of the State of Michigan enact:

380.1362 Bonds; issuance; conditions prescribed by school district board.

Sec. 1362. (1) The board of a school district that votes to borrow a sum of money may issue the bonds of the district.

(2) The board shall prescribe all of the following:

(a) The form of the bonds.

(b) The amount of the bonds, which shall not be less than $50.00 each.

(c) The time for payment of the bonds.

(d) The interest rates on the bonds.

(e) The manner in which the president and secretary of the board shall execute the bonds.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 69]

(HB 5417)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1363 (MCL 380.1363).

The People of the State of Michigan enact:

380.1363 School districts subject to revised municipal finance act; handling moneys received to discharge indebtedness.

Sec. 1363. Money raised by taxes or otherwise received by a school district for the purpose of paying and discharging the principal and interest of the indebtedness is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 70]

(HB 5418)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1731 (MCL 380.1731).

The People of the State of Michigan enact:

380.1731 Borrowing money and issuing bonds; purposes; limitation.

Sec. 1731. (1) An intermediate school district may borrow money and issue bonds of the intermediate school district subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to defray all or part of the costs of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping buildings for special education facilities; acquiring, preparing, developing, or improving sites, or parts of sites or additions to sites, for buildings and other special education facilities; refunding all or part of existing bonded indebtedness; or the accomplishment of a combination of the foregoing purposes.

(2) An intermediate school district shall not issue bonds for purposes of purchasing, erecting, completing, remodeling, improving, furnishing, refurnishing, equipping, or reequipping buildings for special education for an amount greater than 1.5% of the total assessed valuation of the intermediate school district.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 71]

(HB 5419)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to prescribe penalties; and to repeal acts and parts of acts," by amending section 17a (MCL 388.1617a), as amended by 1996 PA 300.

The People of the State of Michigan enact:

388.1617a Withholding payment district or intermediate district entitled to receive under act; extent; plan for financing outstanding obligation defaulted upon by district or intermediate district; use of amounts withheld; agreement assigning or pledging payment; statement; "trustee of a pooled arrangement" defined.

Sec. 17a. (1) The department may withhold all or part of any payment that a district or intermediate district is entitled to receive under this act to the extent the withholdings are a component part of a plan, developed and implemented pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or other statutory authority, for financing an outstanding obligation upon which the district or intermediate district defaulted. Amounts withheld shall be used to pay, on behalf of the district or intermediate district, unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding obligation upon which the district or intermediate district defaulted.

(2) Under an agreement entered into by a district or intermediate district assigning all or a portion of the payment that it is eligible to receive under this act to the Michigan municipal bond authority or to the trustee of a pooled arrangement or pledging the amount for payment of an obligation it incurred with the Michigan municipal bond authority or with the trustee of a pooled arrangement, the state treasurer shall transmit to the Michigan municipal bond authority or a trustee designated by the authority or to the trustee of a pooled arrangement the amount of the payment that is assigned or pledged under the agreement. Notwithstanding the payment dates prescribed by this act for distributions under this act, the state treasurer may advance all or part of a payment that is dedicated for distribution or for which the appropriation authorizing the payment has been made if and to the extent, under the terms of an agreement entered into by a district or intermediate district and the Michigan municipal bond authority, the payment that the district or intermediate district is eligible to receive has been assigned to or pledged for payment of an obligation it incurred with the Michigan municipal bond authority. This subsection does not require the state to make an appropriation to any school district or intermediate school district and shall not be construed as creating an indebtedness of the state, and any agreement made pursuant to this subsection shall contain a statement to that effect. As used in this subsection, "trustee of a pooled arrangement" means the trustee of a trust approved by the state treasurer and, subject to the conditions and requirements of that approval, established for the purpose of offering for sale, as part of a pooled arrangement, certificates representing undivided interests in notes issued by districts or intermediate districts under section 1225 of the revised school code, 1976 PA 451, MCL 380.1225. If a trustee applies to the state treasurer for approval of a trust for the purposes of this subsection, the state treasurer shall approve or disapprove the trust within 10 days after receipt of the application.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 72]

(HB 5420)

AN ACT to amend 1966 PA 331, entitled "An act to revise and consolidate the laws relating to community colleges; to provide for the creation of community college districts; to provide a charter for such districts; to provide for the government, control and administration of such districts; to provide for the election of a board of trustees; to define the powers and duties of the board of trustees; to provide for the assessment, levy, collection and return of taxes therefor; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 122 (MCL 389.122), as amended by 1984 PA 148.

The People of the State of Michigan enact:

389.122 Board of trustees; powers.

Sec. 122. The board of trustees may do all of the following:

(a) Borrow, subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for community college purposes, including capital expenditures,

money on the terms it considers desirable and give notes of the district for those purposes. If a newly organized community college district borrows in anticipation of the collection of the first tax levy of the district, the loan shall not exceed 50% of the estimated amount of the first tax levy.

(b) Borrow, subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, money as it considers necessary and issue bonds of the community college district, to purchase sites for buildings, playgrounds, athletic fields, or agricultural farms; to purchase or erect and equip any building or buildings that it is authorized to purchase and erect; or to make any permanent improvement that it is authorized to make. A loan shall not be made and bonds shall not be issued for any sum that, together with the total outstanding bonded indebtedness of the district, including bonds voted but not issued, exceeds the total of 1-1/2% of the first $250,000,000.00 plus 1% of the excess over $250,000,000.00 of the last confirmed state equalized valuation of all taxable property in the district unless the proposition of making the loan or of issuing bonds has been submitted first to a vote of the qualified electors of the district, at a general or special election, and approved by the majority of the electors voting at the election, in which event loans may be made or bonds may be issued in an amount not to exceed 15% of the total state equalized valuation of the district.

(c) Provide for energy conservation improvements to be made to community college facilities and may pay for the improvements from operating funds of the district or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air conditioning controls, and entrance or exit way closures. The board of trustees may acquire 1 or more energy conservation improvements by installment contract or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract or notes issued pursuant to this subdivision shall extend for a period of time not to exceed 10 years. Notes issued pursuant to this subdivision shall be full faith and credit, tax limited obligations of the community college district, payable from tax levies and the general fund as pledged by the board of trustees. The notes are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. This subdivision does not limit in any manner the borrowing or bonding authority of a community college as provided by law.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 73]

(HB 5423)

AN ACT to amend 1966 PA 331, entitled "An act to revise and consolidate the laws relating to community colleges; to provide for the creation of community college districts; to provide a charter for such districts; to provide for the government, control and

administration of such districts; to provide for the election of a board of trustees; to define the powers and duties of the board of trustees; to provide for the assessment, levy, collection and return of taxes therefor; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 144 (MCL 389.144), as amended by 1990 PA 287.

The People of the State of Michigan enact:

389.144 Levy and collection of taxes; use of funds; limitation; determination and certification of rate and amount of taxes; manner and time of levy and collection; summer property tax levy; applicability of subsection (3); disposition of money collected; subjects of taxation.

Sec. 144. (1) The board of trustees of each community college district may levy for the purposes specified as within the power of the board a tax that does not exceed the rate previously or subsequently authorized by the qualified electors of the district or the rate derived through the previous adoption by the electors of the district of former 1955 PA 188, or the rate that is allocated to the community college district in accordance with the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a. The funds may be used for all purposes authorized, except that to the extent permitted under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued may be imposed without limitation as to rate or amount. This limitation may be increased to not more than 5 mills if approved by a majority of the qualified electors voting on the question at any general or special election of the community college district.

(2) Except as provided in subsection (3), the board of trustees shall determine the total taxes required for any year and shall certify the approved tax rate to be levied and the amount of taxes to be raised to the proper assessing officer of each city and township in which the territory of the community college district is situated on or before September 1 of each year, except that the board of trustees may provide by resolution that taxes to be raised against property within any city or township, any portion of which lies within the community college district boundaries, may be levied and collected in the same manner and at the same time as the city or township taxes or in the same manner and at the same time as school district or intermediate school district taxes are being collected by the city or township under part 26 of the revised school code, 1976 PA 451, MCL 380.1611 to 380.1615.

(3) By resolution of its board on or before May 15 of the year in which it is established, a community college district established under this act between January 1 and May 1 of any calendar year may impose a summer property tax levy of either the total or 1/2 of the community college district property taxes for that tax year. The board resolution shall also determine the total taxes required for that tax year and certify the approved tax rate to be levied and the amount of taxes to be raised to the proper assessing officer of each city or township in which the territory of the community college district is situated. Upon receipt of that board resolution, each city and township in which the community college district is situated that collects a summer property tax levy pursuant to section 1613 of the revised school code, 1976 PA 451, MCL 380.1613, shall collect the summer levy for that year. The reasonable and actual expenses incurred by a city or township in collecting the community college district property taxes under this subsection, to the extent these expenses are in addition to the expense of collecting and assessing any other taxes at the same time and exceed the amount of any fees imposed for the collection of the community college property taxes, shall be billed to and paid by the community college district. For

the purposes of this subsection, reasonable and actual expenses shall not exceed the current collection agreements negotiated with the largest intermediate school district within the community college district. This subsection applies until December 31, 1992.

(4) All money collected by any tax collecting officer from the tax levied pursuant to this section shall be returned to the community college district pursuant to section 43 of the general property tax act, 1893 PA 206, MCL 211.43, or to the county treasurer who shall pay the taxes so returned immediately to the community college district.

(5) The subjects of taxation for the community college district purposes shall be the same as for state, county, and other school purposes as provided under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 74]

(SB 592)

AN ACT to amend 1984 PA 218, entitled "An act to provide for the regulation of third party administrators; to provide for the licensure of administrative service managers; to provide for certain powers and duties for certain state agencies and officers; to provide for the confidentiality of certain personal data; and to prescribe penalties for a violation of this act," by amending sections 14 and 18 (MCL 550.914 and 550.918); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

550.914 Certificate of authority; issuance; notice of disapproval; continued compliance with subsection (1).

Sec. 14. (1) The commissioner shall issue a certificate of authority to operate as a TPA if the commissioner is satisfied that the TPA has adequate facilities, personnel, and managers to act as a third party administrator.

(2) If the commissioner disapproves an application for a certificate of authority, he or she shall notify the applicant in writing of the reasons for the disapproval.

(3) A TPA shall continue to meet the conditions required under subsection (1) after the certificate of authority is issued.

550.918 Fees; payment; collection; and designation.

Sec. 18. (1) The commissioner shall collect, and the persons affected shall pay to the commissioner, the following fees:

(a) Filing fee to accompany application for third party administrator's certificate of authority	$200.00.
(b) Certificate of authority for a third party administrator	$ 25.00.
(c) Filing fee for annual statement of a third party administrator, each year	$ 25.00.

(2) Fees paid under this section shall be designated for the insurance bureau to cover the additional costs incurred as a result of this act.

Repeal of §§ 550.916 and 550.962.

Enacting section 1. Sections 16 and 62 of the third party administrator act, 1984 PA 218, MCL 550.916 and 550.962, are repealed.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 75]

(SB 692)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 36105, 36106, 36109, 36111, 36111a, and 36206 (MCL 324.36105, 324.36106, 324.36109, 324.36111, 324.36111a, and 324.36206), sections 36105 and 36106 as amended and section 36111a as added by 1996 PA 233, section 36109 as amended by 2000 PA 421, and section 36111 as amended and section 36206 as added by 2000 PA 262.

The People of the State of Michigan enact:

324.36105 Land subject to § 324.36101(j)(*i*); application for open space development rights easement; approval or rejection; provisions; tax exemption.

Sec. 36105. (1) If an owner of open space land desires an open space development rights easement, and the land is subject to section 36101(j)(*i*), the procedures for filing an application provided by the state land use agency shall follow as provided in section 36104, except section 36104(7) and (12) do not apply to an open space development rights easement.

(2) The state land use agency, within 60 days after the open space development rights easement application is received, shall approve or reject the application. If the application is approved by the state land use agency, the state land use agency shall prepare an open space development rights easement that includes the following provisions:

(a) A structure shall not be built on the land without the approval of the state land use agency.

(b) Improvement to the land shall not be made without the approval of the state land use agency.

(c) An interest in the land shall not be sold, except for a scenic, access, or utility easement that does not substantially hinder the character of the open space land.

(d) Access to the open space land may be provided if access is agreed to by the owner and if access will not jeopardize the conditions of the land.

(e) Any other condition or restriction on the land as agreed to by the parties that is considered necessary to preserve the land or appropriate portions of it as open space land.

(3) Upon receipt of the application, the state land use agency shall notify the state tax commission. Upon notification, the state tax commission shall within 60 days make an on-site appraisal of the land in compliance with the Michigan state tax commission assessors manual. The application shall contain a statement specifying the current fair market value of the land and the current fair market value of the development rights. The state land use agency shall submit to the legislature each application for an open space development rights easement and an analysis of its cost to the state. The application shall be approved in both houses by a resolution concurred in by a majority of the members elected and serving in each house. The amount of the cost shall be returned to the local governing body if lost revenues are indicated. A copy of the approved application and the open space development rights easement shall be forwarded by the state land use agency to the applicant for execution and to the local assessing office where the land is situated.

(4) If an application for an open space development rights easement is rejected under subsection (2), the applicant may reapply for an open space development rights easement beginning 1 year after the rejection.

(5) The development rights held by the state as expressed in an open space development rights easement under this section are exempt from ad valorem taxation.

324.36106 Land subject to § 324.36101(j)(*ii*); application for open space development rights easement; form; contents; notice; review, comments, and recommendations; approval or rejection; preparation and contents of easement; appraisal; statement of fair market value; execution and recordation of easement; forwarding copies of easement; appeal; legislative approval; costs; reapplication; tax exemption.

Sec. 36106. (1) An owner of open space land desiring an open space development rights easement whose land is subject to section 36101(j)(*ii*) may apply by filing an application with the local governing body. The application shall be made on a form prescribed by the state land use agency. The application shall contain information reasonably necessary to properly identify the land as open space. This information shall include a land survey or a legal description of the land and a map showing the significant natural features and all structures and physical improvements located on the land.

(2) Upon receipt of an application, the local governing body shall notify the county planning commission, the regional planning commission, and the soil conservation district agency. If the local governing body is the county board of commissioners, the county board shall also notify the township board of the township in which the land is situated. If the land is within 3 miles of the boundary of a city or within 1 mile of the boundary of a village, the local governing body shall notify the governing body of the city or village.

(3) An entity receiving notice under subsection (2) has 30 days to review, comment, and make recommendations to the local governing body with which the application was filed.

(4) The local governing body shall approve or reject the application after considering the comments and recommendations of the reviewing entities and within 45 days after the application was received by the local governing body, unless that period is extended by agreement of the parties involved. The local governing body's approval or rejection of the application shall be based upon, and consistent with, rules promulgated by the state land use agency under section 36116. If the local governing body does not act within the time prescribed or agreed upon, the applicant may proceed as provided in subsection (9) as if the application was rejected.

(5) If the application is approved by the local governing body, the local governing body shall prepare the easement. If the application is approved by the state land use agency on appeal, the state land use agency shall prepare the easement. An easement prepared under this section shall contain all of the following provisions:

(a) A structure shall not be built on the land without the approval of the local governing body.

(b) An improvement to the land shall not be made without the approval of the local governing body.

(c) An interest in the land shall not be sold, except for a scenic, access, or utility easement that does not substantially hinder the character of the open space land.

(d) Public access to the open space land may be provided if agreed upon by the owner and if access will not jeopardize the conditions of the land.

(e) Any other condition or restriction on the land as agreed to by both parties that is considered necessary to preserve the land or appropriate portions of it as open space land.

(6) Upon receipt of the application, the local governing body shall direct either the local assessing officer or an independent certified assessor to make an on-site appraisal of the land within 30 days in compliance with the Michigan state tax commission assessors manual. The approved application shall contain a statement specifying the current fair market value of the land and the current fair market value of the development rights, if any. A copy of the approved application and the development rights easement shall be forwarded to the applicant for his or her execution.

(7) If the owner of the land executes the approved easement, it shall be returned to the local governing body for its execution. The local governing body shall record the development rights easement with the register of deeds of the county. A copy of the approved easement shall be forwarded to the local assessing office and to the state land use agency for their information.

(8) The decision of the local governing body may be appealed to the state land use agency, pursuant to subsection (9).

(9) If an application for an open space development rights easement is rejected by the local governing body, the local governing body shall notify the applicant and all reviewing entities with a written statement of the reasons for rejection. Within 30 days after receipt of the rejected application, the applicant may appeal the rejection to the state land use agency. The state land use agency shall have 60 days to approve or reject the application. The state land use agency shall submit to the legislature each approved application for an open space development rights easement and an analysis of its cost. The application shall be approved in both houses by a resolution concurred in by a majority of the members elected and serving in each house. The amount of the cost shall be returned to the local governing body where lost revenues are indicated. A copy of the approved application and an appropriate easement shall be forwarded by the state land use agency to the applicant for execution and to the local governing body where the land is situated.

(10) If an application for an open space development rights easement is rejected under subsection (4), the applicant may reapply for an open space development rights easement beginning 1 year after the final rejection.

(11) The development rights held by the local governing body as expressed in an open space development rights easement are exempt from ad valorem taxation.

324.36109 Credit against state income tax or state single business tax.

Sec. 36109. (1) An owner of farmland and related buildings subject to 1 or more development rights agreements under section 36104 or agricultural conservation

easements or purchases of development rights under section 36111b or 36206 who is required or eligible to file a return as an individual or a claimant under the state income tax act may claim a credit against the state income tax liability for the amount by which the property taxes on the land and structures used in the farming operation, including the homestead, restricted by the development rights agreements, agricultural conservation easements, or purchases of development rights exceed 3.5% of the household income as defined in section 508 of the income tax act of 1967, 1967 PA 281, MCL 206.508, excluding a deduction if taken under section 613 of the internal revenue code of 1986. For the purposes of this section, all of the following apply:

(a) A partner in a partnership is considered an owner of farmland and related buildings owned by the partnership and covered by a development rights agreement, agricultural conservation easement, or purchase of development rights. A partner is considered to pay a proportion of the property taxes on that property equal to the partner's share of ownership of capital or distributive share of ordinary income as reported by the partnership to the internal revenue service or, if the partnership is not required to report that information to the internal revenue service, as provided in the partnership agreement or, if there is no written partnership agreement, a statement signed by all the partners. A partner claiming a credit under this section based upon the partnership agreement or a statement shall file a copy of the agreement or statement with his or her income tax return. If the agreement or statement is not filed, the department of treasury shall deny the credit. All partners in a partnership claiming the credit allowed under this section shall compute the credit using the same basis for the apportionment of the property taxes.

(b) A shareholder of a corporation that has filed a proper election under subchapter S of chapter 1 of subtitle A of the internal revenue code of 1986, 26 U.S.C. 1361 to 1379, is considered an owner of farmland and related buildings covered by a development rights agreement that are owned by the corporation. A shareholder is considered to pay a proportion of the property taxes on that property equal to the shareholder's percentage of stock ownership for the tax year as reported by the corporation to the internal revenue service. Except as provided in subsection (8), this subdivision applies to tax years beginning after 1987.

(c) Except as otherwise provided in this subdivision, an individual in possession of property for life under a life estate with remainder to another person or holding property under a life lease is considered the owner of that property if it is farmland and related buildings covered by a development rights agreement. Beginning January 1, 1986, if an individual in possession of property for life under a life estate with remainder to another person or holding property under a life lease enters into a written agreement with the person holding the remainder interest in that land and the written agreement apportions the property taxes in the same manner as revenue and expenses, the life lease or life estate holder and the person holding the remainder interest may claim the credit under this act as it is apportioned to them under the written agreement upon filing a copy of the written agreement with the return.

(d) If a trust holds farmland and related buildings covered by a development rights agreement and an individual is treated under subpart E of subchapter J of subchapter A of chapter 1 of the internal revenue code of 1986, 26 U.S.C. 671 to 679, as the owner of that portion of the trust that includes the farmland and related buildings, that individual is considered the owner of that property.

(e) An individual who is the sole beneficiary of a trust that is the result of the death of that individual's spouse is considered the owner of farmland and related buildings covered by a development rights agreement and held by the trust if the trust conforms to all of the following:

(*i*) One hundred percent of the trust income is distributed to the beneficiary in the tax year in which the trust receives the income.

(*ii*) The trust terms do not provide that any portion of the trust is to be paid, set aside, or otherwise used in a manner that would qualify for the deduction allowed by section 642(c) of the internal revenue code of 1986.

(f) A member in a limited liability company is considered an owner of farmland and related buildings covered by a development rights agreement that are owned by the limited liability company. A member is considered to pay a proportion of the property taxes on that property equal to the member's share of ownership or distributive share of ordinary income as reported by the limited liability company to the internal revenue service.

(2) An owner of farmland and related buildings subject to 1 or more development rights agreements under section 36104 or agricultural conservation easements or purchases of development rights under section 36111b or 36206 to whom subsection (1) does not apply may claim a credit under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, for the amount by which the property taxes on the land and structures used in farming operations restricted by the development rights agreements, agricultural conservation easements, or purchases of development rights exceed 3.5% of the adjusted business income of the owner as defined in section 36 of the single business tax act, 1975 PA 228, MCL 208.36, plus compensation to shareholders not included in adjusted business income, excluding any deductions if taken under section 613 of the internal revenue code of 1986. When calculating adjusted business income for tax years beginning before 1987, federal taxable income shall not be less than zero for the purposes of this subsection only. A participant is not eligible to claim a credit and refund against the state single business tax unless the participant demonstrates that the participant's agricultural gross receipts of the farming operation exceed 5 times the property taxes on the land for each of 3 out of the 5 tax years immediately preceding the year in which the credit is claimed. This eligibility requirement does not apply to those participants who executed farmland development rights agreements under this part before January 1, 1978. A participant may compare, during the contract period, the average of the most recent 3 years of agricultural gross receipts to property taxes in the first year that the participant entered the program under the present contract in calculating the gross receipts qualification. Once an election is made by the participant to compute the benefit in this manner, all future calculations shall be made in the same manner.

(3) If the farmland and related buildings covered by a development rights agreement under section 36104 or an agricultural conservation easement or purchase of development rights under section 36111b or 36206 are owned by more than 1 owner, each owner is allowed to claim a credit under this section based upon that owner's share of the property tax payable on the farmland and related buildings. The department of treasury shall consider the property tax equally apportioned among the owners unless a written agreement signed by all the owners is filed with the return, which agreement apportions the property taxes in the same manner as all other items of revenue and expense. If the property taxes are considered equally apportioned, a husband and wife shall be considered 1 owner, and a person with respect to whom a deduction under section 151 of the internal revenue code of 1986 is allowable to another owner of the property shall not be considered an owner.

(4) A beneficiary of an estate or trust to which subsection (1) does not apply is entitled to the same percentage of the credit provided in this section as that person's percentage of all other distributions by the estate or trust.

(5) If the allowable amount of the credit claimed exceeds the state income tax or the state single business tax otherwise due for the tax year or if there is no state income tax or the state single business tax due for the tax year, the amount of the claim not used as

an offset against the state income tax or the state single business tax, after examination and review, shall be approved for payment to the claimant pursuant to 1941 PA 122, MCL 205.1 to 205.31. The total credit allowable under this part and chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532, or the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, shall not exceed the total property tax due and payable by the claimant in that year. The amount the credit exceeds the property tax due and payable shall be deducted from the credit claimed under this part.

(6) For purposes of audit, review, determination, appeals, hearings, notices, assessments, and administration relating to the credit program provided by this section, the state income tax act or single business tax act, 1975 PA 228, MCL 208.1 to 208.145, applies according to which tax the credit is claimed against. If an individual is allowed to claim a credit under subsection (1) based upon property owned or held by a partnership, S corporation, or trust, the department of treasury may require that the individual furnish to the department a copy of a tax return, or portion of a tax return, and supporting schedules that the partnership, S corporation, or trust files under the internal revenue code.

(7) The department of treasury shall account separately for payments under this part and not combine them with other credit programs. A payment made to a claimant for a credit claimed under this part shall be issued by 1 or more warrants made out to the county treasurer in each county in which the claimant's property is located and the claimant, unless the claimant specifies on the return that a copy of the receipt showing payment of the property taxes that became a lien in the year for which the credit is claimed, or that became a lien in the year before the year for which the credit is claimed, is attached to the income tax or single business tax return filed by the claimant. If the claimant specifies that a copy of the receipt is attached to the return, the payment shall be made directly to the claimant. A warrant made out to a claimant and a county treasurer shall be used first to pay delinquent property taxes, interest, penalties, and fees on property restricted by the development rights agreement. If the warrant exceeds the amount of delinquent taxes, interest, penalties, and fees, the county treasurer shall remit the excess to the claimant. If a claimant falsely specifies that the receipt showing payment of the property taxes is attached to the return and if the property taxes on the land subject to that development rights agreement were not paid before the return was filed, all future payments to that claimant of credits claimed under this act attributable to that development rights agreement may be made payable to the county treasurer of the county in which the property subject to the development rights agreement is located and to that claimant.

(8) For property taxes levied after 1987, a person that was an S corporation and had entered into a development rights agreement before January 1, 1989, and paid property taxes on that property, may claim the credit allowed by this section as an owner eligible under subsection (2). A subchapter S corporation claiming a credit as permitted by this subsection for taxes levied in 1988 through 1990 shall claim the credit by filing an amended return under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145. If a subchapter S corporation files an amended return as permitted by this subsection and if a shareholder of the subchapter S corporation claimed a credit under subsection (1)(b) for the same property taxes, the shareholder shall file an amended return under the state income tax act. A subchapter S corporation is not entitled to a credit under this subsection until all of its shareholders file the amended returns required by this subsection. The department of treasury shall first apply a credit due to a subchapter S corporation under this subsection to repay credits claimed under this section by the subchapter S corporation's shareholders for property taxes levied in 1988 through 1990 and shall refund

any remaining credit to the S corporation. Interest or penalty is not due or payable on an income tax liability resulting from an amended return required by this subsection. A subchapter S corporation electing to claim a credit as an owner eligible under subsection (2) shall not claim a credit under subsection (1) for property taxes levied after 1987.

324.36111 Expiration or relinquishment of development rights agreement.

Sec. 36111. (1) A development rights agreement expires at the expiration of the term of the agreement unless renewed with the consent of the owner of the land. If the owner of the land has complied with the requirements of this part regarding development rights agreements, the owner is entitled to automatic renewal of the farmland covered by the agreement upon written request of the owner. A development rights agreement may be renewed for a term of not less than 7 years. If a development rights agreement is renewed, the state land use agency shall send a copy of the renewal contract to the local governing body of the local unit of government in which the farmland is located.

(2) A development rights agreement or a portion of the farmland covered by a development rights agreement may be relinquished as provided in this section and section 36111a. Farmland may be relinquished by this state before a termination date contained in the instrument under either of the following circumstances:

(a) If approved by the local governing body and the state land use agency, land containing structures that were present before the recording of the development rights agreement may be relinquished from the agreement. Not more than 2 acres may be relinquished under this subdivision unless additional land area is needed to encompass all of the buildings located on the parcel, in which case not more than 5 acres may be relinquished. If the parcel proposed to be relinquished is less in area than the minimum parcel size required by local zoning, the parcel may not be relinquished unless a variance is obtained from the local zoning board of appeals to allow for the smaller parcel size.

(b) If approved by the local governing body and the state land use agency, land may be relinquished from the agreement for the construction of a residence by an individual essential to the operation of the farm as defined in section 36110(5). Not more than 2 acres may be relinquished under this subdivision. If the parcel proposed to be relinquished is less in area than the minimum parcel size required by local zoning, the parcel may not be relinquished unless a variance is obtained from the local zoning board of appeals to allow for the smaller parcel size.

(3) Until April 1, 1997, if an owner who entered into or renewed a development rights agreement before April 15, 1994 makes a request, in writing, to the state land use agency, to terminate that development rights agreement with respect to all or a portion of the farmland covered by the agreement, the state land use agency shall approve the request and relinquish that farmland from the development rights agreement. If farmland is relinquished under this subsection, the state land use agency shall notify the local governing body of the local unit of government in which the land is located of the relinquishment.

(4) If the request for relinquishment of the development rights agreement is approved, the state land use agency shall prepare an instrument, subject to subsections (5), (6), (7), and (8), and record it with the register of deeds of the county in which the land is situated.

(5) If a development rights agreement or a portion of a development rights agreement is to be relinquished pursuant to subsection (2) or section 36111a, the state land use agency shall record a lien against the property formerly subject to the development rights agreement for the total amount of the allocated tax credit of the last 7 years, including the year of termination, received by an owner for that property under the agreement under

section 36109, attributable to the property formerly subject to the development rights agreement, plus interest at the rate of 6% per annum simple interest from the time the credit was received until the lien is placed on the property.

(6) If the property being relinquished from the development rights agreement is less than all of the property subject to that development rights agreement, the allocated tax credit for the development rights agreement shall be multiplied by the property's share of the taxable value of the agreement. As used in this subsection:

(a) "The allocated tax credit" means the amount obtained by multiplying the owner's total farmland preservation credit claimed in that year on all agreements by the quotient of the ad valorem property tax levied in that year on property subject to the development rights agreement that included the property being relinquished from the agreement divided by the total property taxes levied on property subject to any development rights agreement and used in determining the farmland preservation credit in that year.

(b) "The property's share of the taxable value of the agreement" means the quotient of the taxable value of the property being relinquished from the agreement divided by the total taxable value of property subject to the development rights agreement that included the property being relinquished from the agreement. For years before 1995, taxable value means assessed value.

(7) Thirty days before the recording of a lien under this section, the state land use agency shall notify the owner of the farmland subject to the development rights agreement of the amount of the lien, including interest, if any. If the lien amount is paid before 30 days after the owner is notified, the lien shall not be recorded. The lien may be paid and discharged at any time and is payable to the state by the owner of record at the time the land or any portion of it is sold by the owner of record, or if the land is converted to a use prohibited by the former development rights agreement. The lien shall be discharged upon renewal or reentry in a development rights agreement, except that a subsequent lien shall not be less than the lien discharged.

(8) Upon the termination of all or a portion of the development rights agreement under subsection (3), the termination of a development rights agreement under subsection (13), or, subject to subsection (15), the termination of a development rights agreement under subsection (1), the state land use agency shall prepare and record a lien, if any, against the property formerly subject to the development rights agreement for the total amount of the allocated tax credit of the last 7 years, including the year of termination, received by the owner under section 36109, attributable to the property formerly subject to the development rights agreement. The lien shall be without interest or penalty and is payable subject to subsection (7).

(9) Upon termination of a development rights agreement, the state land use agency shall notify the department of treasury for their records.

(10) Until October 1, 2000, the proceeds from lien payments made under this part shall be used by the state land use agency to administer this part and, pursuant to section 36111b, to purchase development rights on farmland that does not necessitate direct purchase of the fee interest in the land. Beginning on October 1, 2000, the unappropriated proceeds from lien payments made under this part shall be forwarded to the state treasurer for deposit in the agricultural preservation fund created in section 36202. On October 1, 2000, all unexpended proceeds from lien payments made under this part that are held by the state shall be transferred to the agricultural preservation fund created in section 36202.

(11) Upon the relinquishment of all of the farmland under section 36110(2) or a portion of the farmland under section 36110(3), the state land use agency shall prepare and record

a lien against the property formerly subject to a development rights agreement in an amount calculated as follows:

(a) Establishing a term of years by multiplying 7 by a fraction, the numerator of which is the number of years the farmland was under the development rights agreement, including any extensions, and the denominator of which is the number representing the term of years of that agreement, including any extensions.

(b) The lien amount equals the total amount of the allocated tax credit claimed attributable to that development rights agreement in the immediately preceding term of years as determined in subdivision (a).

(12) When a lien is paid under this section, the state land use agency shall prepare and record a discharge of lien with the register of deeds in the county in which the land is located. The discharge of lien shall specifically state that the lien has been paid in full, that the lien is discharged, that the development rights agreement and accompanying contract are terminated, and that the state has no further interest in the land under that agreement.

(13) An owner of farmland, upon written request to the state land use agency on or before April 1, 1997, may elect to have the remaining term of the development rights agreement reduced to 7 years if the farmland has been subject to that development rights agreement for 10 or more years. If the farmland has not been subject to a development rights agreement for 10 or more years, an owner of farmland may, upon written request to the state land use agency on or before April 1, 1997, elect to have the term of the development rights agreement reduced to 17 years from the initial year of enrollment.

(14) A farmland development rights agreement is automatically relinquished when the farmland becomes subject to an agricultural conservation easement or purchase of development rights under section 36111b or 36206.

(15) If, upon expiration of the term of a farmland development rights agreement, the farmland becomes subject to an agricultural conservation easement or purchase of development rights under section 36111b or 36206 or if a farmland development rights agreement is automatically relinquished under subsection (14), the farmland is not subject to a lien under this section.

324.36111a Relinquishment of development rights agreement; conditions; "economic viability" defined.

Sec. 36111a. (1) Upon request from a landowner and a local governing body, the state land use agency shall relinquish farmland from the development rights agreement if 1 or both of the following occur:

(a) The local governing body determines 1 or more of the following:

(*i*) That, because of the quality of the farmland, agricultural production cannot be made economically viable with generally accepted agricultural and management practices.

(*ii*) That surrounding conditions impose physical obstacles to the agricultural operation or prohibit essential agricultural practices.

(*iii*) That significant natural physical changes in the farmland have occurred that are generally irreversible and permanently limit the productivity of the farmland.

(*iv*) That a court order restricts the use of the farmland so that agricultural production cannot be made economically viable.

(b) The local governing body determines that the relinquishment is in the public interest and that the farmland to be relinquished meets 1 or more of the following conditions:

(*i*) The farmland is to be owned, operated, and maintained by a public body for a public use.

(*ii*) The farmland had been zoned for the immediately preceding 3 years for a commercial or industrial use.

(*iii*) The farmland is zoned for commercial or industrial use and the relinquishment of the farmland will be mitigated by 1 of the following means:

(A) For every 1 acre of farmland to be relinquished, an agricultural conservation easement will be acquired over 2 acres of farmland of comparable or better quality located within the same local unit of government where the farmland to be relinquished is located. The agricultural conservation easement shall be held by the local unit of government where the farmland to be relinquished is located or, if the local governing body declines to hold the agricultural conservation easement, by the state land use agency.

(B) If an agricultural conservation easement cannot be acquired as provided under sub-subparagraph (A), there will be deposited into the state agricultural preservation fund created in section 36202 an amount equal to twice the value of the development rights to the farmland being relinquished, as determined by a certified appraisal.

(*iv*) The farmland is to be owned, operated, and maintained by an organization exempt from taxation under section 501(c)(3) of the internal revenue code of 1986, 26 U.S.C. 501, and the relinquishment will be beneficial to the local community.

(2) In determining public interest under subsection (1)(b), the governing body shall consider all of the following:

(a) The long-term effect of the relinquishment upon the preservation and enhancement of agriculture in the surrounding area, including any nonfarm encroachment upon other agricultural operations in the surrounding area.

(b) Any other reasonable and prudent site alternatives to the farmland to be relinquished.

(c) Any infrastructure changes and costs to the local governmental unit that will result from the development of the farmland to be relinquished.

(3) If a landowner's relinquishment application under this section is denied by the local governing body, the landowner may appeal that denial to the state land use agency. In determining whether to grant the appeal and approve the relinquishment, the state land use agency shall follow the criteria established in subsection (1)(a) or follow the criteria in subsection (1)(b) and consider the factors described in subsection (2).

(4) The state land use agency shall review an application approved by the local governing body to verify that the criteria provided in subsection (1)(a) were met or the criteria in subsection (1)(b) were met and the factors in subsection (2) were considered. If the local governing body did not render a determination in accordance with this subsection, the state land use agency shall not relinquish the farmland from the development rights agreement.

(5) A local governing body may elect to waive its right to make a relinquishment determination under subsection (1)(a) or (b) by providing written notice of that election to the state land use agency. The written notice shall grant the state land use agency sole authority to grant or deny the application as provided in this section.

(6) A decision by the state land use agency to grant or deny an application for relinquishment under this section that adversely affects a land owner or a local governing body is subject to a contested case hearing as provided under this act and the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(7) As used in this section, "economic viability" means that the cash flow returning to the farming operation is positive. The local governing body or state land use agency shall

evaluate an application for relinquishment, and determine the economic viability of the affected farming operation, by doing all of the following:

(a) Estimating crop, livestock, or product value of the farmland using locally accepted production methods and local United States department of agriculture yield capabilities for the specific soil types and average price for crop, livestock, or product over the past 5 years.

(b) Adding average yearly property tax credits afforded by the development rights agreement over the immediately preceding 5-year period.

(c) Subtracting estimated expenses directly attributed to the production of the crop, livestock, or product, including, but not limited to, seed, fertilizer, insecticide, building and machinery repair, drying, trucking, and property taxes.

(d) Subtracting the estimated cost of the operator's labor and management time at rates established by the United States department of agriculture for "all labor", Great Lakes area, as published in the United States department of agriculture labor reports.

(e) Subtracting typical capital replacement cost per acre of nonland assets using a useful life depreciation rate for comparable farming operations.

324.36206 Distribution of grants to local units of government; condition; reviewing permitted uses; contribution of development rights; purchase by local unit of government through installment purchase agreement; joint holding by state and local unit of government; delegation of enforcement authority; transfer to property owner; tax credits under § 324.36109.

Sec. 36206. (1) After the board determines which grants should be awarded, and the amount of the grants, the department shall distribute the grants to the local units of government awarded the grants. The department shall condition the receipt of a grant upon the department's approval of the agricultural conservation easements being acquired.

(2) In reviewing permitted uses contained within an agricultural conservation easement under subsection (1), the department shall consider all of the following:

(a) Whether the permitted uses adversely affect the productivity of farmland.

(b) Whether the permitted uses materially alter or negatively affect the existing conditions or use of the land.

(c) Whether the permitted uses result in a material alteration of an existing structure to a nonagricultural use.

(d) Whether the permitted uses conform with all applicable federal, state, and local laws and ordinances.

(3) The department may accept contributions of all or a portion of the development rights to 1 or more parcels of land, including a conservation easement or a historic preservation easement as defined in section 2140, as part of a transaction for the purchase of an agricultural conservation easement.

(4) A local unit of government that purchases an agricultural conservation easement with money from a grant may purchase the agricultural conservation easement through an installment purchase agreement under terms negotiated by the local unit of government.

(5) An agricultural conservation easement acquired under this part shall be held jointly by the state and the local unit of government in which the land subject to the agricultural conservation easement is located. However, the state may delegate enforcement authority of 1 or more agricultural conservation easements to the local units of government in which the agricultural conservation easements are located.

(6) An agricultural conservation easement acquired under this part may be transferred to the owner of the property subject to the agricultural conservation easement if the state and the local unit of government holding the agricultural conservation easement agree to the transfer and the terms of the transfer.

(7) Section 36109 provides for tax credits for an owner of farmland subject to an agricultural conservation easement under this section.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 76]

(HB 5119)

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 525 (MCL 436.1525), as amended by 2001 PA 223.

The People of the State of Michigan enact:

436.1525 License fees.

Sec. 525. (1) The following license fees shall be paid at the time of filing applications or as otherwise provided in this act:

(a) Manufacturers of spirits, but not including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, $1,000.00.

(b) Manufacturers of beer, $50.00 per 1,000 barrels, or fraction of a barrel, production annually with a maximum fee of $1,000.00, and in addition $50.00 for each motor vehicle used in delivery to retail licensees. A fee increase shall not apply to a manufacturer of less than 15,000 barrels production per year.

(c) Outstate seller of beer, delivering or selling beer in this state, $1,000.00.

(d) Wine makers, blenders, and rectifiers of wine, including makers, blenders, and rectifiers of wines containing 21% or less alcohol by volume, $100.00. The small wine maker license fee shall be $25.00.

(e) Outstate seller of wine, delivering or selling wine in this state, $300.00.

(f) Outstate seller of mixed spirit drink, delivering or selling mixed spirit drink in this state, $300.00.

(g) Dining cars or other railroad or Pullman cars selling alcoholic liquor, $100.00 per train.

(h) Wholesale vendors other than manufacturers of beer, $300.00 for the first motor vehicle used in delivery to retail licensees and $50.00 for each additional motor vehicle used in delivery to retail licensees.

(i) Watercraft, licensed to carry passengers, selling alcoholic liquor, a minimum fee of $100.00 and a maximum fee of $500.00 per year computed on the basis of $1.00 per person per passenger capacity.

(j) Specially designated merchants, for selling beer or wine for consumption off the premises only but not at wholesale, $100.00 for each location regardless of the fact that the location may be a part of a system or chain of merchandising.

(k) Specially designated distributors licensed by the commission to distribute spirits and mixed spirit drink in the original package for the commission for consumption off the premises, $150.00 per year, and an additional fee of $3.00 for each $1,000.00 or major fraction of that amount in excess of $25,000.00 of the total retail value of merchandise purchased under each license from the commission during the previous calendar year.

(*l*) Hotels of class A selling beer and wine, a minimum fee of $250.00 and, for all bedrooms in excess of 20, $1.00 for each additional bedroom, but not more than $500.00.

(m) Hotels of class B selling beer, wine, mixed spirit drink, and spirits, a minimum fee of $600.00 and, for all bedrooms in excess of 20, $3.00 for each additional bedroom. If a hotel of class B sells beer, wine, mixed spirit drink, and spirits in more than 1 public bar, the fee shall entitle the hotel to sell in only 1 public bar, other than a bedroom, and a license shall be secured for each additional public bar, other than a bedroom, the fee for which shall be $350.00.

(n) Taverns, selling beer and wine, $250.00.

(o) Class C license selling beer, wine, mixed spirit drink, and spirits, $600.00. If a class C licensee sells beer, wine, mixed spirit drink, and spirits in more than 1 bar, a fee of $350.00 shall be paid for each additional bar. In municipally owned or supported facilities in which nonprofit organizations operate concession stands, a fee of $100.00 shall be paid for each additional bar.

(p) Clubs selling beer, wine, mixed spirit drink, and spirits, $300.00 for clubs having 150 or fewer duly accredited members and $1.00 for each additional member. The membership list for the purpose only of determining the license fees to be paid under this section shall be the accredited list of members as determined by a sworn affidavit 30 days before the closing of the license year. This section shall not prevent the commission from checking a membership list and making its own determination from the list or otherwise. The list of members and additional members shall not be required of a club paying the maximum fee. The maximum fee shall not exceed $750.00 for any 1 club.

(q) Warehousers, to be fixed by the commission with a minimum fee for each warehouse of $50.00.

(r) Special licenses, a fee of $50.00 per day, except that the fee for that license or permit issued to any bona fide nonprofit association, duly organized and in continuous existence for 1 year before the filing of its application, shall be $25.00. Not more than 5 special licenses may be granted to any organization, including an auxiliary of the organization, in a calendar year.

(s) Airlines licensed to carry passengers in this state which sell, offer for sale, provide, or transport alcoholic liquor, $600.00.

(t) Brandy manufacturer, $100.00.

(u) Mixed spirit drink manufacturer, $100.00.

(v) Brewpub, $100.00.

(w) Class G-1, $1,000.00.

(x) Class G-2, $500.00.

(2) The fees provided in this act for the various types of licenses shall not be prorated for a portion of the effective period of the license.

This act is ordered to take immediate effect.
Approved March 14, 2002.
Filed with Secretary of State March 15, 2002.

[No. 77]

(HB 5585)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 6013 (MCL 600.6013), as amended by 2001 PA 175.

The People of the State of Michigan enact:

600.6013 Interest on money judgment.

Sec. 6013. (1) Interest is allowed on a money judgment recovered in a civil action, as provided in this section. However, for complaints filed on or after October 1, 1986, interest is not allowed on future damages from the date of filing the complaint to the date of entry of the judgment. As used in this subsection, "future damages" means that term as defined in section 6301.

(2) For complaints filed before June 1, 1980, in an action involving other than a written instrument having a rate of interest exceeding 6% per year, the interest on the judgment is calculated from the date of filing the complaint to June 1, 1980, at the rate of 6% per year and on and after June 1, 1980, to the date of satisfaction of the judgment at the rate of 12% per year compounded annually.

(3) For a complaint filed before June 1, 1980, in an action involving a written instrument having a rate of interest exceeding 6% per year, the interest on the judgment is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate specified in the instrument if the rate was legal at the time the instrument was executed. However, the rate after the date judgment is entered shall not exceed either of the following:

(a) Seven percent per year compounded annually for a period of time between the date judgment is entered and the date of satisfaction of the judgment that elapses before June 1, 1980.

(b) Thirteen percent per year compounded annually for a period of time between the date judgment is entered and the date of satisfaction of the judgment that elapses after May 31, 1980.

(4) For a complaint filed on or after June 1, 1980, but before January 1, 1987, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate of 12% per year compounded annually unless the judgment is rendered on a written instrument having a higher rate of interest. In that case interest is calculated at the rate specified in the instrument if the rate was legal at the time the instrument was executed. The rate shall not exceed 13% per year compounded annually after the date judgment is entered.

(5) Except as provided in subsection (6), for a complaint filed on or after January 1, 1987, but before July 1, 2002, if a judgment is rendered on a written instrument, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate of 12% per year compounded annually, unless the instrument has a higher rate of interest. In that case, interest shall be calculated at the rate specified in the instrument if the rate was legal at the time the instrument was executed. The rate shall not exceed 13% per year compounded annually after the date judgment is entered.

(6) For a complaint filed on or after January 1, 1987, but before July 1, 2002, if the civil action has not resulted in a final, nonappealable judgment as of July 1, 2002, and if a judgment is or has been rendered on a written instrument that does not evidence indebtedness with a specified interest rate, interest is calculated as provided in subsection (8).

(7) For a complaint filed on or after July 1, 2002, if a judgment is rendered on a written instrument evidencing indebtedness with a specified interest rate, interest is calculated from the date of filing the complaint to the date of satisfaction of the judgment at the rate specified in the instrument if the rate was legal at the time the instrument was executed. If the rate in the written instrument is a variable rate, interest shall be fixed at the rate in effect under the instrument at the time the complaint is filed. The rate under this subsection shall not exceed 13% per year compounded annually.

(8) Except as otherwise provided in subsections (5) and (7) and subject to subsection (13), for complaints filed on or after January 1, 1987, interest on a money judgment recovered in a civil action is calculated at 6-month intervals from the date of filing the complaint at a rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer, and compounded annually, according to this section. Interest under this subsection is calculated on the entire amount of the money judgment, including attorney fees and other costs. The amount of interest attributable to that part of the money judgment from which attorney fees are paid is retained by the plaintiff, and not paid to the plaintiff's attorney.

(9) If a bona fide, reasonable written offer of settlement in a civil action based on tort is made by the party against whom the judgment is subsequently rendered and is rejected by the plaintiff, the court shall order that interest is not allowed beyond the date the bona fide, reasonable written offer of settlement is filed with the court.

(10) Except as otherwise provided in subsection (1) and subject to subsections (11) and (12), if a bona fide, reasonable written offer of settlement in a civil action based on tort is not made by the party against whom the judgment is subsequently rendered, or is made and is not filed with the court, the court shall order that interest be calculated from the date of filing the complaint to the date of satisfaction of the judgment.

(11) If a civil action is based on medical malpractice and the defendant in the medical malpractice action failed to allow access to medical records as required under section 2912b(5),

the court shall order that interest be calculated from the date notice was given in compliance with section 2912b to the date of satisfaction of the judgment.

(12) If a civil action is based on medical malpractice and the plaintiff in the medical malpractice action failed to allow access to medical records as required under section 2912b(5), the court shall order that interest be calculated from 182 days after the date the complaint was filed to the date of satisfaction of the judgment.

(13) Except as otherwise provided in subsection (1), if a bona fide, reasonable written offer of settlement in a civil action based on tort is made by a plaintiff for whom the judgment is subsequently rendered and that offer is rejected and the offer is filed with the court, the court shall order that interest be calculated from the date of the rejection of the offer to the date of satisfaction of the judgment at a rate of interest equal to 2% plus the rate of interest calculated under subsection (8).

(14) A bona fide, reasonable written offer of settlement made according to this section that is not accepted within 21 days after the offer is made is rejected. A rejection under this subsection or otherwise does not preclude a later offer by either party.

(15) As used in this section:

(a) "Bona fide, reasonable written offer of settlement" means either of the following:

(*i*) With respect to an offer of settlement made by a defendant against whom judgment is subsequently rendered, a written offer of settlement that is not less than 90% of the amount actually received by the plaintiff in the action through judgment.

(*ii*) With respect to an offer of settlement made by a plaintiff, a written offer of settlement that is not more than 110% of the amount actually received by the plaintiff in the action through judgment.

(b) "Defendant" means a defendant, a counter-defendant, or a cross-defendant.

(c) "Party" means a plaintiff or a defendant.

(d) "Plaintiff" means a plaintiff, a counter-plaintiff, or a cross-plaintiff.

This act is ordered to take immediate effect.
Approved March 21, 2002.
Filed with Secretary of State March 21, 2002.

[No. 78]

(HB 5205)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for

the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 719 (MCL 257.719), as amended by 2000 PA 306.

The People of the State of Michigan enact:

257.719 Height of vehicle; liability for damage to bridge or viaduct; normal length maximum; prohibitions; connecting assemblies and lighting devices; gross weight; violation as civil infraction; definitions.

Sec. 719. (1) A vehicle unloaded or with load shall not exceed a height of 13 feet 6 inches. The owner of a vehicle that collides with a lawfully established bridge or viaduct is liable for all damage and injury resulting from a collision caused by the height of the vehicle, whether the clearance of the bridge or viaduct is posted or not.

(2) Lengths described in this subsection shall be known as the normal length maximum. Except as provided in subsection (3), the following vehicles and combinations of vehicles shall not be operated on a highway in this state in excess of these lengths:

(a) Any single vehicle: 40 feet; any single bus: 45 feet.

(b) Articulated buses: 65 feet.

(c) Notwithstanding any other provision of this section, a combination of a truck and semitrailer or trailer, or a truck tractor, semitrailer, and trailer, or truck tractor and semitrailer or trailer, designed and used exclusively to transport assembled motor vehicles or bodies, recreational vehicles, or boats, that does not exceed a length of 65 feet. Stinger-steered combinations shall not exceed a length of 75 feet. The load on the combinations of vehicles described in this subdivision may extend an additional 3 feet beyond the front and 4 feet beyond the rear of the combinations of vehicles. Retractable extensions used to support and secure the load that do not extend beyond the allowable overhang for the front and rear shall not be included in determining length of a loaded vehicle or vehicle combination.

(d) Truck tractor and semitrailer combinations: no overall length, the semitrailer not to exceed 50 feet.

(e) Truck and semitrailer or trailer: 59 feet.

(f) Truck tractor, semitrailer, and trailer, or truck tractor and 2 semitrailers: 59 feet.

(g) More than 1 motor vehicle, wholly or partially assembled, in combination, utilizing 1 tow bar or 3 saddle mounts with full mount mechanisms and utilizing the motive power of 1 of the vehicles in combination, not to exceed 55 feet.

(3) Notwithstanding subsection (2), the following vehicles and combinations of vehicles shall not be operated on a designated highway of this state in excess of these lengths:

(a) Truck tractor and semitrailer combinations: no overall length limit, the semitrailer not to exceed 53 feet. All semitrailers longer than 50 feet shall have a wheelbase of 37.5 to 40.5 feet plus or minus 0.5 feet, measured from the kingpin coupling to the center of the rear axle or the center of the rear axle assembly. Before April 1, 2003, a semitrailer with a length longer than 50 feet shall not operate with more than 2 axles on the semitrailer. After March 31, 2003, a semitrailer with a length longer than 50 feet shall not operate with more than 3 axles on the semitrailer. City, village, or county authorities may prohibit stops of vehicles with a semitrailer longer than 50 feet within their jurisdiction unless the stop occurs along appropriately designated routes, or is necessary for emergency purposes or to reach shippers, receivers, warehouses, and terminals along designated routes.

(b) Truck and semitrailer or trailer combinations: 65 feet, except that a person may operate a truck and semitrailer or trailer designed and used to transport saw logs, pulpwood, and tree length poles that does not exceed an overall length of 70 feet. A person may operate a truck tractor and semitrailer designed and used to transport saw logs, pulpwood, and tree length wooden poles with a load overhang to the rear of the semitrailer which does not exceed 6 feet if the semitrailer does not exceed 50 feet in length.

(c) Truck tractor and 2 semitrailers, or truck tractor, semitrailer, and trailer combinations: no overall length limit, if the length of each semitrailer or trailer does not exceed 28-1/2 feet each, or the overall length of the semitrailer and trailer, or 2 semitrailers as measured from the front of the first towed unit to the rear of the second towed unit while the units are coupled together does not exceed 58 feet.

(d) More than 1 motor vehicle, wholly or partially assembled, in combination, utilizing 1 tow bar or 3 saddle mounts with full mount mechanisms and utilizing the motive power of 1 of the vehicles in combination, not to exceed 75 feet.

(4) The following combinations and movements are prohibited:

(a) A truck shall not haul more than 1 trailer or semitrailer, and a truck tractor shall not haul more than 2 semitrailers or 1 semitrailer and 1 trailer in combination at any 1 time, except that a farm tractor may haul 2 wagons or trailers, or garbage and refuse haulers may, during daylight hours, haul up to 4 trailers for garbage and refuse collection purposes, not exceeding in any combination a total length of 55 feet and at a speed limit not to exceed 15 miles per hour.

(b) A combination of vehicles or a vehicle shall not have more than 11 axles, except when operating under a valid permit issued by the state transportation department or a local authority with respect to a highway under its jurisdiction.

(c) Any combination of vehicles not specifically authorized under this section is prohibited.

(d) A combination of 2 semitrailers pulled by a truck tractor, unless each semitrailer uses a fifth wheel connecting assembly which conforms to the requirements of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22.

(e) A vehicle or a combination of vehicles shall not carry a load extending more than 3 feet beyond the front of the lead vehicle.

(f) A vehicle described in subsections (2)(e) and (3)(d) employing triple saddle mounts unless all wheels that are in contact with the roadway have operating brakes.

(5) All combinations of vehicles under this section shall employ connecting assemblies and lighting devices that are in compliance with the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22.

(6) The total gross weight of a truck tractor, semitrailer, and trailer combination or a truck tractor and 2 semitrailers combination that exceeds 59 feet in length shall not exceed a ratio of 400 pounds per engine net horsepower delivered to clutch or its equivalent specified in the handbook published by the society of automotive engineers, inc. (SAE), 1977 edition.

(7) A person who violates this section is responsible for a civil infraction. The owner of the vehicle may be charged with a violation of this section.

(8) As used in this section:

(a) "Designated highway" means a highway approved by the state transportation department or a local authority with respect to a highway under its jurisdiction.

(b) "Length" means the total length of a vehicle, or combination of vehicles, including any load the vehicle is carrying. Length does not include safety and energy conservation devices including, but not limited to, impact absorbing bumpers, rear view mirrors, turn signal lamps, marker lamps, steps and hand holds for entry and egress, flexible fender extensions, mud flaps, or splash and spray suppressant devices; load induced tire bulge; refrigeration or heating units; or air compressors attached to the vehicle. A safety or energy conservation device shall be excluded from a determination of length only if it is not designed or used for the carrying of cargo, freight, or equipment. Semitrailers and trailers shall be measured from the front vertical plane of the foremost transverse load supporting structure to the rearmost transverse load supporting structure.

(c) "Stinger-steered combinations" means a truck tractor and semitrailer combination in which the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 25, 2002.

[No. 79]

(HB 4859)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 7411 (MCL 333.7411), as amended by 1993 PA 169.

The People of the State of Michigan enact:

333.7411 Probation of individual with no previous conviction; entering adjudication of guilt upon violation of probation; discharge and dismissal without adjudication of guilt; nonpublic record of arrest and discharge and dismissal; effect of civil fine for

first violation; requiring individual to attend course of instruction or rehabilitation program; failure to complete instruction or program as violation of probation; screening and assessment; participation in rehabilitative programs; payment of costs; failure to complete program as violation of probation.

Sec. 7411. (1) When an individual who has not previously been convicted of an offense under this article or under any statute of the United States or of any state relating to narcotic drugs, coca leaves, marihuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under section 7403(2)(a)(*v*), 7403(2)(b), (c), or (d), or of use of a controlled substance under section 7404, or possession or use of an imitation controlled substance under section 7341 for a second time, the court, without entering a judgment of guilt with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that shall include, but are not limited to, payment of a probation supervision fee as prescribed in section 3c of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3c. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this section shall be without adjudication of guilt and, except as provided in subsection (2)(b), is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions under section 7413. There may be only 1 discharge and dismissal under this section as to an individual.

(2) The records and identifications division of the department of state police shall retain a nonpublic record of an arrest and discharge or dismissal under this section. This record shall be furnished to either or both of the following:

(a) To a court or police agency upon request for the purpose of showing that a defendant in a criminal action involving the possession or use of a controlled substance, or an imitation controlled substance as defined in section 7341, covered in this article has already once utilized this section.

(b) To the state department of corrections or a law enforcement agency, upon the department's or law enforcement agency's request, subject to all of the following conditions:

(*i*) At the time of the request, the individual is an employee of the department or the law enforcement agency or an applicant for employment with the department or the law enforcement agency.

(*ii*) If the individual is an employee of the department or the law enforcement agency, the date on which the court placed the individual on probation occurred after the effective date of the 2002 amendatory act that added this subdivision.

(*iii*) The record shall be used by the department of corrections or the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

(3) For purposes of this section, a person subjected to a civil fine for a first violation of section 7341(4) shall not be considered to have previously been convicted of an offense under this article.

(4) Except as provided in subsection (5), if an individual is convicted of a violation of this article, other than a violation of section 7401(2)(a)(*i*) to (*iv*) or section 7403(2)(a)(*i*) to (*iv*), the court as part of the sentence, during the period of confinement or the period of probation, or both, may require the individual to attend a course of instruction or

rehabilitation program approved by the department on the medical, psychological, and social effects of the misuse of drugs. The court may order the individual to pay a fee, as approved by the director, for the instruction or program. Failure to complete the instruction or program shall be considered a violation of the terms of probation.

(5) If an individual is convicted of a second violation of section 7341(4), before imposing sentence under subsection (1), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence imposed under subsection (1), the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services. Failure to complete a program shall be considered a violation of the terms of the probation.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 25, 2002.

[No. 80]

(HB 5434)

AN ACT to amend 1939 PA 141, entitled "An act to permit the director of the department of agriculture of this state to regulate the storage, warehousing, buying, and selling of farm produce within this state; to provide for the licensing, regulation, and bonding of grain dealers; to provide for warehouse receipts and price later agreements and their priority; to provide for the creation of security interests; to provide for the establishment of an inspection service and personnel for licensed grain dealers; and to provide penalties for the violation of this act," by amending the title and sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, and 22 (MCL 285.62, 285.63, 285.64, 285.65, 285.66, 285.67, 285.68, 285.69, 285.70, 285.71, 285.72, 285.73, 285.74, 285.75, 285.76, 285.78, 285.79, 285.80, 285.81, and 285.82), the title as amended by 1984 PA 169, sections 2, 3, 5, 6, and 18 as amended and section 21 as added by 1996 PA 311, and section 7 as amended by 1982 PA 33, and by adding sections 17, 23, 24, 25, 26, 27, and 28; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to regulate the storage, warehousing, buying, and selling of farm produce within this state; to provide for the licensing, regulation, and bonding of grain dealers; to provide for warehouse receipts, acknowledgment forms, and price later agreements and their use and priority; to provide for the creation of security interests; to provide for certain powers and duties of the department of agriculture and its director; to impose certain duties on insurance companies and sureties; and to provide administrative remedies and penalties for the violation of this act.

285.62 Definitions.

Sec. 2. As used in this act:

(a) "Acknowledgment form" means a scale weight ticket, a load slip, or any other evidence of deposit issued by a grain dealer or his or her authorized representative to a depositor that identifies the farm produce being transferred from the possession of the depositor to the possession of the grain dealer.

(b) "Allowable net assets" does not include intangible assets or assets that the department or a certified public accountant determines have no monetary value.

(c) "Cash sale" means a sale in which the title to farm produce is transferred only after a price is decided upon before or at the time of delivery and payment for the farm produce meets 1 of the following:

(*i*) Payment of the price is made to the depositor in cash or by check, money order, wire transfer, or draft within 10 days of delivery.

(*ii*) Payment of the price is made by placing the amount of the price in the depositor's account and a credit statement is sent to the depositor within 10 days of delivery.

(d) "Claimant" means a person to whom a grain dealer owes a financial obligation for farm produce or who is entitled to the farm produce delivered to the grain dealer or the proceeds of the farm produce.

(e) "Collateral warehouse receipt" means a warehouse receipt issued to a financial institution by a grain dealer for unencumbered grain owned by that grain dealer.

(f) "Department" means the department of agriculture.

(g) "Depositor" means either of the following:

(*i*) A person who delivers farm produce to a licensed grain dealer for storage, processing, shipment, or sale and has title to the farm produce at the time of delivery.

(*ii*) A person who owns or who is legal holder of an acknowledgment form or warehouse receipt issued by a licensed grain dealer for farm produce.

(h) "Director" means the director of the department or his or her designee.

(i) In a farm produce transaction, "disposition" means a cash sale or other transfer of farm produce or placement of farm produce on a warehouse receipt or price later agreement.

(j) "Facility" means an edifice, silo, tank, bin, crib, interstice, or protected enclosed structure, or more than 1 edifice, silo, tank, bin, crib, interstice, or protected enclosed structure located contiguous to each other, used to receive, deposit, or store farm produce in bulk.

(k) "Failure" of a licensee or grain dealer means any of the following:

(*i*) Inability of a licensee or grain dealer to financially satisfy claimants.

(*ii*) A public declaration of insolvency by a licensee or grain dealer.

(*l*) "Farm produce" means 1 or more of dry edible beans, soybeans, small grains, cereal grains, or corn.

(m) "Farm produce handled" means the number of bushels or hundredweight of farm produce that a licensee receives or is otherwise obligated for in a fiscal period.

(n) "Farm produce handling" means any of the following:

(*i*) Engaging or participating in the business of purchasing farm produce.

(*ii*) Operating a grain elevator for the receiving, storing, shipping, or processing of farm produce.

(*iii*) Receiving farm produce into a facility under a price later agreement.

(o) "Farm produce trucker" means a person engaged in the business of hauling farm produce that issues price later agreements or acknowledgment forms, transfers warehouse receipts, or is responsible for payment to a depositor, but that does not own a facility.

(p) "Financial institution" means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state, or a national bank for cooperatives subject to the farm credit act of 1971, Public Law 92-181, 85 Stat. 583.

(q) "Grain bank" or "feed bank" means farm produce stored on a nonnegotiable warehouse receipt that the owner intends to periodically, partially withdraw.

(r) "Grain dealer" means a person engaged in the business of receiving, buying, exchanging, selling, or storing farm produce in this state. The term includes a farm produce trucker, grain merchandiser, or processor. The term does not include a person solely engaged in 1 of the following:

(*i*) Selling farm produce produced by the person.

(*ii*) Buying farm produce in a cash sale to feed the person's livestock or poultry.

(*iii*) If the person handled less than 30,000 bushels of farm produce in the person's preceding fiscal year and in the person's current fiscal year, buying farm produce in a cash sale.

(*iv*) Purchasing farm produce from a person other than the grower or producer of the farm produce in a cash sale.

(*v*) Contracting for land or services to produce seed for sowing or propagation.

(s) "Grain merchandiser" means a person engaged in the business of receiving, buying, exchanging, selling, or taking title to farm produce and who is responsible for payment to a depositor but does not operate a truck or a facility.

(t) "License" means a license issued by the department to a grain dealer in the manner provided under this act. The term includes a permit issued under section 6.

(u) "Licensee" means a grain dealer licensed under this act.

(v) "Open storage" means the storage of farm produce for 30 days or less under an acknowledgment form that does not contain a designation of a specific transaction type.

(w) "Operating within this state" includes the transfer of physical possession or title of farm produce from an owner to a person within the boundaries of this state.

(x) "Person" means an individual, corporation, limited liability company, partnership, association, cooperative organization, or other legal entity.

(y) "Price later agreement" means a written or electronically transmitted agreement between a depositor and a grain dealer where the grain dealer receives title to farm produce and the depositor retains the option to price the farm produce after delivery based on conditions in the agreement.

(z) "Processing" means drying, cleaning, packaging, or otherwise changing the physical characteristics of farm produce.

(aa) "Processor" means a person engaged in processing farm produce and storing the farm produce for a period of 24 hours or more.

(bb) "Receiving point" means a facility where farm produce is received, weighed, and stored and an acknowledgment form is issued.

(cc) With respect to a financial statement, "reviewed" means performing inquiry and analytical procedures that provide an accountant with a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statement for it to conform with generally accepted accounting principles.

(dd) "Revocation" means the removal of a grain dealer's license under this act in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The term does not include a suspension of a grain dealer's license under this act.

(ee) "Shortage" means that a grain dealer does not have a sufficient amount of farm produce by class and quality to cover the grain dealer's outstanding warehouse receipt obligations for that farm produce.

(ff) "Storage" means the deposit of farm produce in trust with a grain dealer by a depositor.

(gg) "Temporary facility" means a facility that does not have a receiving point and is used by a licensee to store farm produce.

(hh) "Warehouse receipt" means a written or electronically transmitted receipt issued by a grain dealer to a depositor at the time the grain dealer accepts farm produce for storage. A warehouse receipt is 1 of the following:

(*i*) A negotiable warehouse receipt if it states that the grain dealer will deliver the farm produce to the bearer of the receipt or to the order of a person named in the receipt.

(*ii*) A nonnegotiable warehouse receipt if it does not satisfy subparagraph (*i*).

285.63 Grain dealer; license required; issuance; prohibited conduct; allowable net asset requirements; surety bond; acting as grain dealer without license; misdemeanor; review of books and records; injunction.

Sec. 3. (1) A person shall not act or offer to act as a grain dealer in this state without a license from the department issued under this act.

(2) A grain dealer shall not process or store farm produce, issue a warehouse receipt, charge or collect a fee for storage of farm produce, issue a price later agreement, or issue an acknowledgment of receipt for delivery of farm produce except in compliance with this act.

(3) Subject to subsection (4), the department may refuse to issue or renew a license to a grain dealer unless the grain dealer meets at least 1 of the following at the time the grain dealer submits the application:

(a) Has allowable net assets of more than $1,000,000.00.

(b) Has allowable net assets of $50,000.00 or more and handled 500,000 or fewer bushels of farm produce in the grain dealer's most recent fiscal year.

(c) Has allowable net assets of $50,000.00 or more, and the allowable net assets equal or exceed the product of 10 cents multiplied by the number of bushels of farm produce handled by the grain dealer in the grain dealer's most recent completed fiscal year.

(4) If a grain dealer fails to meet any of the allowable net asset requirements under subsection (3), the department may issue or renew the license if the grain dealer provides the department with a negotiable bond issued by a surety authorized to conduct business in this state, or proof of establishment of a restricted account in a financial institution that conducts business in this state, acceptable to the department and of which the department is the sole beneficiary, that is in an amount equal to the amount by which the grain dealer's allowable net assets failed to meet the allowable net asset requirement applicable under subsection (3).

(5) A person who acts or offers to act as a grain dealer without a license is guilty of a misdemeanor. Each day that the person acts or offers to act as a grain dealer without a license is a separate misdemeanor.

(6) If the director has probable cause to believe that a person is acting or offering to act as a grain dealer without a license, the director may review the books and records relating to the operations of the person.

(7) Upon application of the department, a court in this state shall issue a temporary or permanent injunction enjoining a person from acting as a grain dealer without a license, issuing a warehouse receipt or price later agreement without a license, or interfering with an employee of the department or a receiver appointed under this act that is performing his or her duties under this act.

285.64 License; conduct; term; display; term of new license.

Sec. 4. (1) The department may issue, amend, or renew a license if the department determines that the applicant has complied with this act and rules promulgated under this act.

(2) A licensee may receive farm produce for storage or processing, assess and collect storage or processing charges on farm produce stored or processed, issue warehouse receipts on stored farm produce, issue price later agreements, collect handling charges on price later agreements, and issue acknowledgment forms.

(3) Except as provided in subsection (4), a license is issued for a term of 1 year. A license is not transferable by the licensee. A licensee shall prominently display his or her license on the vehicle of a licensee who is a farm produce trucker or at the principal place of business of a licensee who is a grain merchandiser or at a facility, as applicable.

(4) The department may, in its discretion, issue a new license for a term of up to 21 months.

285.65 Revocation of license; application for new license; events; notice of event.

Sec. 5. (1) The department may revoke a grain dealer's license, but the grain dealer may apply for a new license, if any of the following events occur:

(a) The licensee is a party to a merger, consolidation, conversion, or similar transaction. The department may decide not to revoke the license if the successor to the licensee is licensed under this act and executes a successor's agreement acceptable to the department.

(b) Fifty percent or more of the shares, other than publicly traded shares, or other ownership interests in the licensee are sold, exchanged, or otherwise transferred. The department may decide not to revoke the license if the transferee is licensed under this act and executes a successor's agreement acceptable to the department.

(c) Fifty percent or more of the property and assets of the licensee are sold, leased, exchanged, or otherwise transferred. The department may waive this requirement if the transferee is licensed under this act and executes a successor's agreement acceptable to the department.

(d) The licensee ceases to pay its debts in the ordinary course of business, cannot pay its debts as they become due, or is insolvent under an applicable bankruptcy or insolvency law.

(e) If the grain dealer has 100 or more stockholders, members, partners, or owners, as applicable, more than 1/2 of the grain dealer's board of directors or other governing body or board are replaced with different individuals.

(f) The name of the grain dealer is changed.

(2) If an event described in subsection (1) occurs, the grain dealer shall file a notice of the event with the department within 1 business day of the event.

285.66 Temporary permit.

Sec. 6. (1) If a grain dealer has applied for a license but needs additional time to comply with the requirements of this act for issuance of a license, the department may issue 1 temporary permit to the applicant. A permit issued under this section expires on the expiration date set by the department, which may not be more than 30 days after the permit is issued, when a license is issued, or when the application for license is denied, whichever occurs first. The department may grant 1 extension of up to 30 days of a permit issued under this section.

(2) A grain dealer who has been granted a permit under this section has the same rights and obligations of a licensee under this act.

285.67 Grain dealer's license; application; form; contents; submission.

Sec. 7. (1) A grain dealer shall file an application for a new license or for renewal or amendment of a license with the department. The department may determine the time when an application is filed and the form of the application. A complete application shall include all of the following:

(a) The name and ownership interest of each owner, stockholder, member, or partner of the grain dealer who owns at least 5% of the shares, other than publicly traded shares, or other ownership interests of the grain dealer, or for a grain dealer described in section 9(3), at least 5% of the shares, other than publicly traded shares, or other ownership interests of the parent corporation.

(b) The location and storage capacity of each facility of the grain dealer.

(c) Proof of insurance for all farm produce stored at each facility of the grain dealer.

(d) A statement that none of the events described in section 10 have occurred within the 5 years preceding the date of the license application, or if any of those events have occurred, a description of those events.

(e) A statement of the total bushels of farm produce handled by the grain dealer during the grain dealer's most recent completed fiscal year.

(f) If the grain dealer's most recent completed fiscal year was for a period of less than 12 months or the grain dealer materially changed its farm produce handling practices in that fiscal year, a projection of the total bushels of farm produce the grain dealer expects to handle in the current fiscal year.

(g) Copies of all warehouse receipt forms, price later agreement forms, and acknowledgment forms used by the grain dealer.

(h) Copies of all of the grain dealer's facility lease agreements and bin charts.

(i) If the grain dealer does not maintain an office in this state and does not have a resident agent in this state, the application shall include a written appointment of a statutory agent upon whom process, notice, or demand may be served. The statutory agent shall be an individual residing in this state or a corporation whose principal place of business is located in this state. If the identity or address of the statutory agent changes while the application is pending or after a license is issued, the grain dealer shall within 3 days file with the department a written appointment of the new statutory agent or written notice of the new address, as applicable.

(2) The department shall issue or deny a license within 30 days after receipt of the completed application under this section, license fee described in section 8, and financial statement described in section 9.

(3) For a license renewal, the licensee shall submit the application, license fee, and financial statement to the department at least 30 days before the expiration of the current license term.

(4) If an application is withdrawn before a license or renewal is approved, the department shall retain $50.00 for processing and return the remainder of the license fee to the grain dealer.

(5) By submitting an application, a grain dealer consents to inspection and auditing of its farm produce and financial records and its operations by the department. The grain dealer shall make the records available to the department in this state if the department makes a request to inspect or audit the records.

285.68 License fee; grain dealer's fees fund; fee schedule adjustment.

Sec. 8. (1) A grain dealer shall pay a license fee to the department with an application for a license or renewal of a license. The license fee is the sum of all of the following that apply to the grain dealer:

(a) For each receiving point of the grain dealer that has total bushel capacity of:

(*i*) 100,000 or less	$150.00
(*ii*) More than 100,000 and 200,000 or less	$225.00
(*iii*) More than 200,000 and 300,000 or less	$300.00
(*iv*) More than 300,000 and 400,000 or less	$375.00
(*v*) More than 400,000	$450.00

(b) For vehicles owned by a farm produce trucker:

(*i*) For 1 vehicle	$200.00
(*ii*) For each additional vehicle	$100.00

(c) For a grain merchandiser's license $450.00

(2) The grain dealer's fees fund is created in the state treasury. The department shall deposit license fees and administrative fines received under this act in the grain dealer's fees fund, to be used pursuant to legislative appropriation by the director in carrying out those duties required by law. After the payment of the amounts appropriated by the legislature for the necessary expenses incurred in the administration of this act, the money remaining in the grain dealer's fees fund shall not revert or be credited to the general fund at the close of the fiscal year but shall remain in the grain dealer's fees fund.

(3) A license fee determined pursuant to subsection (1) is the fee for a 1-year license. If the department has issued a license for a period of longer than 1 year under section 4(3), it shall require a license fee increased on a proportionate basis to reflect the longer term of the license.

(4) Every 3 years, the department may adjust the fee schedule in subsection (1) by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index over the 3-year period. An adjustment under this subsection shall not exceed 5% even if the amount determined by the state treasurer to reflect the cumulative annual percentage change over the 3-year period is more than 5%. A fee adjusted under this subsection shall be rounded to the nearest whole dollar. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

285.69 Application for license or renewal; financial statement.

Sec. 9. (1) A grain dealer shall include with an application for a license or renewal a financial statement for the grain dealer's most recent completed fiscal year. The financial statement shall be a reviewed or audited financial statement, prepared by a certified public accountant in accordance with generally accepted accounting principles. The end of the grain dealer's most recent completed fiscal year shall be within 6 months of the expiration date of the grain dealer's current license. The financial statement shall include at least all of the following:

(a) An accountant's report, a balance sheet, an income statement, and notes and disclosures.

(b) A statement of the grain dealer's allowable net assets for purposes of section 3.

(2) If a financial statement described in subsection (1) discloses that the grain dealer during the preceding fiscal year had a current asset to current liability ratio of less than 1 to 1, the licensee shall include with the application a plan and timetable to increase the current asset to current liability ratio to 1 to 1 or more.

(3) If a financial statement described in subsection (1) is a financial statement of the licensee's parent corporation or a consolidated financial statement of the licensee and its parent corporation, the application shall include a declaration of liability signed by an authorized representative of the parent corporation, by which the parent corporation assumes all financial obligations incurred by the licensee during the term of the license.

285.70 Revocation or refusal to issue or renew license; hearing; conditions.

Sec. 10. After a hearing conducted in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the department may revoke or refuse to issue or renew a license, or require a fidelity bond in an amount and on terms determined by the department, if any of the following occurred within the 5 years preceding the date of the license application:

(a) The applicant, a manager employed by the applicant, or any other individual with management responsibilities for the farm produce handling business of the applicant was a principal in a grain dealer receivership or insolvency proceeding that resulted in losses to creditors or depositors.

(b) The applicant, a manager employed by the applicant, or any other individual with management responsibilities for the farm produce handling business of the applicant pled guilty or was convicted of any felony involving fraud, conversion, or embezzlement.

(c) The applicant's license under the United States warehouse act, 39 Stat. 486, 7 U.S.C. 241 to 273, was revoked or canceled due to a violation of that act.

285.71 Temporary facility.

Sec. 11. (1) A grain dealer who uses a temporary facility shall report to the department on the daily position report required under section 15 the address and bushel capacity of the temporary facility for any period that the temporary facility is in use. The grain dealer shall provide the department with a copy of the lease agreement and bin charts, if any, for the temporary facility if the grain dealer has not previously provided them.

(2) A grain dealer using a temporary facility shall pay an additional license fee, calculated under section 8, based on the bushel capacity of the temporary facility. The grain dealer shall pay the additional license fee to the department with the position report for the first month the grain dealer uses the temporary facility.

285.72 Destruction or damage of farm produce; certificate of insurance required; reimbursement to depositors; notice of cancellation or nonrenewal of insurance.

Sec. 12. (1) A licensee shall maintain on file with the department a current certificate of insurance evidencing an effective policy of insurance issued by an insurance company authorized to do business in this state. The policy shall insure in the name of the grain dealer all farm produce in the facilities of the grain dealer for the full market value of the farm produce against loss by fire, explosion, lightning, and windstorm. In addition to any other remedy available under this act, the department may deny, revoke, or suspend a license for a violation of this subsection.

(2) If fire, explosion, lightning, or windstorm destroys or damages any farm produce in a facility operated by a licensee, and the depositor of the farm produce demands reimbursement and provides the licensee with a warehouse receipt or other evidence of ownership of the farm produce, the licensee shall reimburse the depositor of the farm produce for the market price of the farm produce minus any charges or advances to the depositor. As used in this subsection, "market price" means the average price paid for farm produce of the same type, grade, and quality on the date of the loss at the location of the facility.

(3) A grain dealer shall reimburse all depositors whose farm produce is destroyed or damaged by fire, explosion, lightning, or windstorm, within 10 days after the licensee receives payment from an insurer under a policy described in subsection (1). In addition to any other remedy available under this act, the department may deny, revoke, or suspend a license for a violation of this subsection.

(4) If the department determines that a licensee's insurance is insufficient, even if the insurance was previously acceptable to the department, the department shall require that the licensee obtain additional insurance that conforms to the requirements of this act.

(5) An insurance company may not cancel or nonrenew insurance required by this act, including insurance provided by binder, unless it sends a notice of intent to cancel or nonrenew to the department by certified or registered mail more than 15 days before the cancellation or nonrenewal of the insurance is effective.

285.73 Availability of books and records; confidentiality; disclosure.

Sec. 13. (1) The director may require that a grain dealer make its books and records available for audit or inspection.

(2) Except as provided in subsection (3), financial information and daily position report information submitted to the department by an applicant or licensee for purposes of this act are confidential and are not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except that disclosure of financial information or daily position report information may be made in any of the following circumstances:

(a) With the written consent of the applicant or licensee.

(b) Pursuant to a court proceeding.

(c) The disclosure is made to an agent or employee of the department.

(d) The disclosure is made to an agent or employee of a state or the federal government authorized by law to see or review the information.

(3) The department may disclose information described in subsection (2) in the form of an information summary or profile, or as part of a statistical study that includes data on

more than 1 grain dealer that does not identify the grain dealer to whom any specific information applies.

285.74 Commingling produce; limitations on transactions; warehouse receipt or acknowledgment; standard of care; failure of depositor to remove or sell farm produce; limitation on loan balance.

Sec. 14. (1) Upon request, the department shall provide to each grain dealer a current copy of this act, any rules promulgated under this act, and any amendments to the act or rules.

(2) A licensee may commingle a depositor's farm produce with other fungible farm produce, unless the licensee and depositor have executed a written agreement that requires the licensee to keep the depositor's farm produce separate from other farm produce and available for identification and delivery to or as directed by the depositor.

(3) A licensee that elects to limit the types of farm produce transactions it offers shall post a list of the types of farm produce transactions it offers at a readily visible location in each office or at each scale of the licensee.

(4) If a warehouse receipt or acknowledgment form issued under this act is outstanding by the grain dealer who issued it, the grain dealer shall not issue another warehouse receipt or acknowledgment form for all or any part of that farm produce except as provided in this subsection. If a warehouse receipt or acknowledgment form is lost, stolen, or destroyed, the holder of the warehouse receipt or acknowledgment form is entitled to a substitute warehouse receipt or acknowledgment form. If a substitute warehouse receipt or acknowledgment form is issued under this subsection, it has the same legal effect as the original warehouse receipt or acknowledgment form and the issuance of the substitute cancels the original warehouse receipt or acknowledgment form. A substitute warehouse receipt or acknowledgment form shall state the number and date of the original warehouse receipt or acknowledgment form; shall contain a notarized statement by the holder that the original was lost, stolen, or destroyed; and shall contain a notarized statement of the holder and grain dealer that the substitute warehouse receipt or acknowledgment form contains the same terms as and is issued to replace the original warehouse receipt or acknowledgment form. If the lost, stolen, or destroyed instrument is a negotiable warehouse receipt, the holder shall provide the grain dealer with a lost instrument bond in an amount equal to 2 times the current market value of the farm produce covered by that warehouse receipt, in a form prescribed by the department from a surety authorized to conduct business in this state.

(5) A grain dealer shall exercise due care as the custodian of the farm produce in his or her custody.

(6) If a depositor fails to remove or sell farm produce in accordance with the written terms of the depositor's agreement with the licensee, the licensee may sell the farm produce in accordance with the written terms of the depositor's agreement.

(7) A grain dealer may not borrow money or hold an outstanding loan balance secured by farm produce inventory in an amount greater than the net positive accumulated dollar value of farm produce, as reported on its daily position report, at any point in time.

285.75 Daily position report.

Sec. 15. (1) A grain dealer shall keep a complete and accurate daily position report. The grain dealer shall submit the daily position report for the last business day of the

preceding fiscal month to the department during the first 10 business days of the grain dealer's fiscal month.

(2) A daily position report shall include all of the following information about the grain dealer's operations, as of the last business day of the preceding fiscal month, on a form approved by the director:

(a) The quantity of each type of farm produce in inventory.

(b) The quantity of farm produce covered by outstanding warehouse receipts, open storage, and price later agreements, including price later agreements and warehouse receipts for farm produce in other grain dealers' facilities.

(c) The quantity of farm produce covered by collateral warehouse receipts.

(d) The total dollar amounts of loans against grain inventory.

(e) A description and quantity of any other farm produce obligations resulting in the grain dealer's balance position of farm produce.

(f) If a deficiency concerning price later agreements exists, the quantity of offsetting purchase commitments.

(3) If the department determines that there is a deficiency in any warehouse receipt position, the department shall notify the grain dealer and require that the grain dealer cover the shortage or furnish bond or security in an amount and on terms required by the department. If the grain dealer fails to comply, the department may seize grain assets for the benefit of claimants.

(4) If a net deficiency concerning price later agreements exists, based upon daily bid prices, the grain dealer shall cover the deficiency by placing in an escrow account cash, cash equivalents, or marketable securities equal to 80% of the deficiency and offsetting purchase commitments equal to at least 20% of the deficiency. The grain dealer shall file a copy of the escrow agreement with the department. The escrow agreement shall require that the escrow institution submit a monthly statement for the escrow account to the department.

(5) A violation of this section by a grain dealer may result in a fine or suspension or revocation of the grain dealer's license under section 22. If the violation is the intentional filing of a false daily position report, in addition to license revocation, the grain dealer is subject to the penalty described in section 23 for each violation.

285.76 Records and accounts.

Sec. 16. (1) A licensee shall keep a complete and accurate set of records and accounts of all transactions pertaining to the operation of each facility, including, but not limited to, records and accounts of all farm produce received in or withdrawn from a facility, of all unissued warehouse receipts and acknowledgment forms in the grain dealer's possession, and of all issued warehouse receipts and acknowledgment forms, copies of all contracts, and any warehouse receipts and acknowledgment forms returned to and settled by the licensee. A grain dealer shall retain a paper copy or a copy stored in electronic or other form of a warehouse receipt, acknowledgment form, or other document evidencing ownership of any farm produce or liability as a grain dealer for at least the period that the document is outstanding, and if the document has been canceled, for a period of not less than 3 years from the date of cancellation. A grain dealer shall retain any other records and the accounts for at least 7 years.

(2) A licensee shall keep its records and accounts concerning its farm produce handling business separate and distinct from the records and accounts of any other business conducted by the licensee.

(3) The department may examine the records and accounts pertaining to the grain dealer's farm produce handling business at any time during normal business hours.

(4) A grain dealer shall not intentionally maintain false or misleading books and records. A grain dealer who violates this subsection is subject to the penalty described in section 23.

285.77 Notice of intent to discontinue business.

Sec. 17. (1) If a grain dealer intends to discontinue his or her farm produce handling business at or before the expiration of his or her license, at least 30 days before the date the grain dealer intends to discontinue the business, the grain dealer shall by registered or certified mail provide notice of intent to discontinue business to the director, each person storing farm produce in a facility of the grain dealer, and each known holder of a warehouse receipt, acknowledgment form, or open storage or price later agreement issued by the grain dealer. If the holder of a warehouse receipt, acknowledgment form, or open storage or price later agreement is not known, the grain dealer shall publish the notice in a newspaper of general circulation in each county in which a facility is located.

(2) If a grain dealer has provided or published a notice of intent to discontinue business under subsection (1) and the department determines that there is sufficient farm produce to cover warehouse receipts and open storage arrangements, a depositor of farm produce under a warehouse receipt or open storage arrangement in a facility of the grain dealer may remove or direct the removal of the farm produce from the facility before the expiration of the 30-day period described in subsection (1).

(3) Within 14 days of discontinuing his or her farm produce handling business, the grain dealer shall file a list of all farm produce liabilities assumed by a purchaser of the business, or any person other than the licensee, with the department.

285.78 Receipt of farm produce; acknowledgment form.

Sec. 18. (1) A grain dealer shall acknowledge receipt of farm produce by issuing an acknowledgment form to the depositor. The depositor or his or her authorized agent must sign the acknowledgment form if it will be used as a price later agreement, and the depositor and grain dealer are not parties to a prior written agreement governing title and delivery of the farm produce. The grain dealer shall provide a copy of the acknowledgment form to the depositor at the time the farm produce is delivered to the grain dealer.

(2) An acknowledgment form must contain all of the following:

(a) The name and address of the grain dealer.

(b) The date of transfer, weight, and type of farm produce deposited.

(c) A statement that unless the parties agree to another disposition within 30 days of the delivery to the grain dealer, the farm produce transaction is a price later agreement transaction.

(3) Farm produce delivered to a grain dealer is in open storage, and the responsibilities of the grain dealer and depositor under an acknowledgment form are the same as if a nonnegotiable warehouse receipt had been issued for the farm produce, unless 1 of the following occurs:

(a) The acknowledgment form satisfies the requirements applicable to a price later agreement and is signed by the depositor and grain dealer or their authorized agents.

(b) The farm produce is sold for a set price at the time of delivery to the grain dealer or another disposition occurs.

(4) If a grain dealer obtains farm produce from a depositor and the farm produce is not being delivered to a facility of the grain dealer, the grain dealer shall issue a temporary acknowledgment form identifying the estimated quantity, type of farm produce, grain dealer's name and address, and the name of the driver of the transporting vehicle.

(5) A grain dealer shall record the disposition of the farm produce on the acknowledgment form unless he or she provides other settlement documentation referencing the acknowledgment form.

(6) If a depositor deposits farm produce at a facility in the name of another grain dealer, the grain dealer in whose name the farm produce is deposited shall issue the acknowledgment form for the farm produce.

(7) If a grain dealer's license is revoked or terminated, the grain dealer shall deliver all unused acknowledgment forms to the department.

285.79 Suspension or revocation of grain dealer's license; reservation of rights; weighing and inspecting produce.

Sec. 19. (1) A grain dealer shall post at each facility a notice that states that the grain dealer reserves the right to terminate storage, processing, shipping, and handling arrangements and collect outstanding charges if the grain dealer's license is suspended or revoked.

(2) A licensee receiving farm produce for deposit shall weigh and inspect the farm produce.

285.80 Warehouse receipt.

Sec. 20. (1) If the licensee and depositor agree, a licensee shall issue a warehouse receipt for any farm produce received from a depositor for storage.

(2) If a grain dealer issues a warehouse receipt for a deposit, the warehouse receipt must be on a form approved by the department that includes spaces for inserting all of the following information and statements, as applicable:

(a) The location of the facility.

(b) The date the warehouse receipt is issued.

(c) The grain dealer's storage rate and the calculation of the depositor's storage charge.

(d) The net weight and grade factors of the farm produce.

(e) Whether the warehouse receipt is negotiable or nonnegotiable, which shall be conspicuously printed on the form.

(f) The signature of the grain dealer or his or her authorized agent.

(g) An expiration date. At the expiration date, the grain dealer and holder shall renegotiate the terms of storage or settle at market price.

(h) A statement of the amount of advances made or liability incurred for which the grain dealer claims a lien. If the exact amount of advances made or liabilities incurred at the time of issuance of the warehouse receipt is unknown to the grain dealer, the warehouse receipt shall include a statement of the fact that advances have been made or liabilities incurred.

(i) A statement that the warehouse receipt is issued subject to this act and rules promulgated under this act.

(3) The holder of a warehouse receipt has legal title to farm produce held under the warehouse receipt.

(4) A grain dealer shall sequentially number its warehouse receipts and issue them in numerical sequence and retain any voided warehouse receipts.

(5) If a grain dealer's license is revoked or terminated, the grain dealer shall deliver all unused warehouse receipts to the department.

(6) A person shall not do any of the following:

(a) Issue a warehouse receipt for farm produce except on a form approved by the director under this section.

(b) Falsely make, alter, forge, or counterfeit a warehouse receipt.

(c) Knowingly deposit farm produce under a warehouse receipt without disclosing any lien or lack of title.

(7) If a grain dealer delivers from storage a portion of the farm produce for which he or she has issued a negotiable warehouse receipt, the grain dealer shall cancel the original warehouse receipt and issue a new warehouse receipt for the remainder of the farm produce still in storage. The new warehouse receipt shall contain the number and date of the original warehouse receipt in addition to meeting the other requirements of this section.

(8) A warehouse receipt issued for farm produce identified and stored separately shall describe the storage location of the farm produce.

(9) A licensee may issue a collateral warehouse receipt only against farm produce owned and unencumbered by the licensee at the time of issuance.

(10) A grain dealer shall place farm produce held in a grain bank or feed bank on a warehouse receipt.

285.81 Price later agreement.

Sec. 21. (1) If there is no other disposition within 30 days after the delivery of farm produce to a grain dealer, the farm produce transaction is a price later agreement transaction.

(2) Title of farm produce subject to a price later agreement is transferred to the grain dealer at the time the price later agreement is executed.

(3) A grain dealer shall maintain a separate file in numerical sequence of noncanceled price later agreements that is available for inspection during normal business hours by the department. The grain dealer shall include in the records an account of any information required by the director to document the grain dealer's obligation to a depositor under a price later agreement.

(4) A grain dealer shall not include a charge for storage in any transaction that includes a price later agreement.

(5) The form and content of a price later agreement shall be approved by the department. Each price later agreement must contain blank lines or spaces for inserting all of the following information, statements, and provisions, as applicable:

(a) The date of receipt of the farm produce.

(b) The grain dealer's handling charge rates and the calculation of the depositor's charges.

(c) The net weight, type, and grade factors of the farm produce.

(d) The signature of the grain dealer or his or her authorized agent.

(e) The name and address of the depositor.

(f) The signature of the depositor or, if signed by an authorized agent of the depositor, the name and signature of the depositor's authorized agent. This subdivision does not apply to a transaction described in subsection (1).

(g) An expiration date.

(h) A statement that the price later agreement is issued subject to this act and rules promulgated under this act.

(6) A person shall not knowingly deposit farm produce under a price later agreement without disclosing any lien on or lack of title to the farm produce.

(7) A price later agreement shall not be converted to a warehouse receipt.

(8) At the expiration date of a price later agreement, a grain dealer shall settle at market price or renegotiate.

285.82 Administration and enforcement of act; rules; powers and duties of director.

Sec. 22. (1) The director shall administer and enforce this act. In addition to any other powers conferred by this act, the director may do any of the following:

(a) Audit and investigate the receiving, storing, processing, buying, selling, and handling of farm produce and any complaints concerning the receiving, storing, processing, buying, selling, and handling of farm produce.

(b) Require a grain dealer to terminate receiving, storing, processing, buying, selling, or other farm produce handling upon revocation, suspension, or summary suspension of his or her license.

(c) Administer oaths and issue subpoenas to compel the attendance and testimony of witnesses and the production of records in connection with any investigation or hearing under this act.

(d) Prescribe and approve all forms, within the limitations set forth in this act, including the forms of warehouse receipts, acknowledgment forms, and applications for licenses.

(e) Employ investigatory personnel, including, but not limited to, a certified public accountant or an individual with accounting background and specialized investigative training and experience.

(2) The department may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement and administer this act.

(3) The director may revoke or suspend the license of a grain dealer or deny a license to a grain dealer if the director finds that the licensee has done any of the following:

(a) Engaged in fraudulent or deceptive practices.

(b) Violated or attempted to violate this act or rules promulgated under this act.

(c) Failed to maintain insurance coverage required by this act.

(d) Failed to maintain accurate and complete records as required by this act.

(e) Failed to pay a fee required by this act.

(f) Refused to allow any authorized representative of the department to examine the applicant's or licensee's accounting records, accounts, farm produce inventories, or facilities during regular business hours.

(g) Failed to possess sufficient farm produce to cover the outstanding warehouse receipts or acknowledgment forms issued or assumed by the applicant or licensee.

(h) Issued a warehouse receipt in violation of this act or any rules adopted under this act.

(i) Failed to maintain the net allowable assets required by this act.

(j) Failed to submit a financial statement in compliance with this act.

(k) Failed to secure his or her obligations for price later agreements.

(4) In a proceeding to suspend or revoke a license pursuant to subsection (3), the director shall comply with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The director may order a summary suspension of a license pursuant to section 92(2) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292.

(5) The director shall post a notice on the property of a grain dealer whose license has been restricted, suspended, or revoked that states the limitations or restrictions imposed on the grain dealer. The notice shall not be removed from the property without written authorization from the director.

(6) If a grain dealer's license is suspended or revoked, the grain dealer may terminate storage, processing, shipping, or handling arrangements and collect outstanding charges.

(7) If a grain dealer's license is suspended or revoked, the director shall notify all known warehouse receipt holders and unpaid depositors of the grain dealer.

(8) If the director revokes a license under this section or a license expires, the grain dealer shall terminate all arrangements for farm produce handling in any facility of the grain dealer covered by the license in the manner prescribed by the director. Under the direction or supervision of the director, the grain dealer may liquidate farm produce previously received by the grain dealer.

(9) If the director suspends a grain dealer's license under this act, the grain dealer may under direction or supervision of the director operate the grain dealer's facilities, but shall not receive any farm produce for handling during the term of the suspension.

(10) During a license suspension or revocation proceeding, on behalf of this state and for the protection of holders of warehouse receipts or open storage or price later agreements of the licensee, the director may seize and protect the assets of the licensee by any legal, civil, or criminal proceedings necessary. If the grain dealer's license is revoked, the director may liquidate the grain dealer's warehouse receipts, open storage and price later agreements, and other assets. The director shall distribute the proceeds, first to the holders of warehouse receipts and open storage agreements, then to the secured holders of price later agreements, and then to all remaining holders of price later agreements. The director shall return any remaining proceeds to the grain dealer.

285.83 Violation of act or rule; prohibited conduct; penalty.

Sec. 23. (1) Unless otherwise provided in this act, a person who violates this act is guilty of a misdemeanor and is also liable for all damages sustained by a depositor for farm produce handled in violation of this act. In an enforcement action, a court may order restitution to a party injured by the handling of farm produce in violation of this act in addition to any other penalty provided by law.

(2) A grain dealer who violates this act or a rule promulgated under this act is guilty of a misdemeanor and shall be fined not more than $5,000.00 for each offense.

(3) A grain dealer who intentionally violates this act or a rule promulgated under this act is guilty of a misdemeanor and shall be fined not more than $10,000.00 for each offense. The court may allow the department to recover reasonable costs of investigation incurred in a prosecution resulting in a conviction for a violation described in this subsection.

(4) A person who does any of the following is guilty of a felony punishable by a fine of not more than $20,000.00 or by imprisonment for not more than 5 years, or both:

(a) Intentionally alters or destroys a warehouse receipt or price later agreement or a record of warehouse receipts or price later agreements required by this act.

(b) Intentionally falsifies a position sheet, or issues a warehouse receipt if the farm produce or commodities enumerated in the warehouse receipt is not in fact in the facility stated in the warehouse receipt.

(c) With intent to defraud, issues a second or other warehouse receipt or agreement for farm produce if a valid warehouse receipt or agreement is outstanding and in force for the farm produce.

(d) While a valid warehouse receipt is outstanding and in force and without the consent of the holder of the warehouse receipt, sells, pledges, mortgages, encumbers, or transfers farm produce in violation of this act or permits the sale, pledge, mortgage, encumbrance, or transfer of farm produce in violation of this act.

(e) Knowingly receives farm produce from a person in violation of subdivision (d).

(f) Intentionally files a false daily violation report.

(g) Intentionally maintains false or misleading records and accounts required under section 16.

285.84 Violation of act or rule; administrative fines; warning; action by attorney general; license revocation; disposition of fine, costs, and recovery.

Sec. 24. (1) In addition to any other penalty provided by law, a person who individually, or by the action of his or her agent or employee, or as the employee or agent of another, violates this act or a rule promulgated under this act is subject to 1 of the following administrative fines:

(a) For a first violation, a fine of not less than $50.00 or more than $1,000.00, plus actual costs of the investigation and the amount of any economic benefit associated with the violation.

(b) For a second violation within 2 years from the date of the first violation, a fine of not less than $100.00 or more than $5,000.00, plus actual costs of the investigation and the amount of any economic benefit associated with the violation.

(c) For a third violation within 2 years from the date of the first violation, a fine of not less than $500.00 or more than $10,000.00, plus actual costs of the investigation and the amount of any economic benefit associated with the violation.

(2) Upon the request of a person to whom the director has assessed an administrative fine under subsection (1), the director shall conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) If the director finds that a violation of this act has occurred despite the exercise of due care, the director may issue a warning instead of imposing an administrative fine under subsection (1).

(4) The director may advise the attorney general of the failure of a person to pay an administrative fine imposed under subsection (1), and the attorney general may bring an action in a court of competent jurisdiction to recover the fine.

(5) The director may revoke the license of a licensee who does not pay an administrative fine imposed under subsection (1).

(6) An administrative fine, costs, and the recovery of any economic benefit associated with a violation collected by the department under this section shall be retained by the department and used pursuant to legislative appropriation for the administration of this act.

285.85 Injunction; applicability of penalties to public officials; civil or criminal liability; hearing; local ordinance, regulation, or resolution; preemption.

Sec. 25. (1) The director may bring an action to enjoin the violation or threatened violation of this act or a rule promulgated under this act in a state court in the county in which the violation occurs or is threatened to occur or in Ingham county.

(2) The penalties provided for a violation of this act do not apply to a public official of this state or the federal government engaged in the performance of his or her official duties in administering the laws, rules, or regulations of this state or the federal government.

(3) Enactment of this amendatory act does not terminate or in any way modify any civil or criminal liability under this act in existence on or before the effective date of the amendatory act adding this section.

(4) A person aggrieved by an order of the director issued under this act may request a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) Beginning on the effective date of the amendatory act that added this section, this act preempts and supersedes any local ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on grain dealers than those contained in this act. A local unit of government shall not adopt or enforce an ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on grain dealers than those contained in this act.

285.86 Possession, liquidation, and distribution of assets; satisfaction of claims; reduction.

Sec. 26. (1) If a grain dealer fails, the director shall take possession of, liquidate, and distribute the assets and proceeds of the assets to satisfy claims as follows:

(a) To all of the following on a pro rata basis, if any:

(*i*) Claimants, including lenders, who possess warehouse receipts for farm produce stored by the grain dealer.

(*ii*) Claimants who possess acknowledgment forms or other written evidence of ownership other than warehouse receipts that disclose a storage obligation of the grain dealer.

(*iii*) Claimants who surrendered warehouse receipts to the grain dealer as part of a farm produce transaction but were not fully paid for the farm produce within 21 days after the surrender.

(b) If assets or proceeds of assets remain after satisfying all claims described in subdivision (a), the remaining assets or proceeds of assets shall be distributed pro rata to claimants who possess price later agreements.

(c) If assets or proceeds of assets remain after satisfying all claims described in subdivisions (a) and (b), the remaining assets or proceeds of assets shall be distributed pro rata to claimants who possess acknowledgment forms, similar forms of farm produce delivery contracts, or other written evidence of the sale of farm produce and who completed delivery and pricing of the farm produce within 30 days prior to the failure of the grain dealer.

(d) If assets or proceeds of assets remain after satisfying all claims described in subdivisions (a), (b), and (c), the remaining assets or proceeds of assets shall be distributed

pro rata to all other claimants who possess written evidence of the sale of farm produce to the grain dealer.

(e) If assets or proceeds of assets remain after satisfying all claims described in subdivisions (a), (b), (c), and (d), the remaining assets or proceeds of assets shall be distributed to the grain dealer.

(2) The director may reduce the amount of a claim under subsection (1) to reflect the liabilities owed to the grain dealer by the claimant.

285.87 Grain dealer license; surety bond; requirements; security for warehouse receipts and open storage transactions.

Sec. 27. (1) Before a license is issued to a grain dealer other than a grain merchandiser or farm produce trucker, the grain dealer shall provide a bond to the department that secures only the grain dealer's warehouse receipts and open storage transactions. Except as provided in subsection (3), the amount of the bond shall be $15,000.00 for the first 10,000 bushels of storage capacity of the dealer's facility used for open storage and storage under warehouse receipts, plus $5,000.00 for each additional 10,000 bushel capacity or fraction of that capacity used for open storage and storage under warehouse receipts other than collateral warehouse receipts.

(2) A bond provided under this section shall name the department as payee, be executed by the applicant as principal, and be issued by a surety authorized to conduct business in this state. The department shall prescribe the form and terms and conditions of the bond. The bond shall contain the address and storage capacity of the facility of the grain dealer.

(3) A grain dealer who owns 2 or more facilities and is required to provide a bond under subsection (1) may furnish separate bonds for each facility or a blanket surety bond to satisfy his or her obligation under subsection (1). The amount of a blanket surety bond shall be the lesser of the cumulative amount determined by applying subsection (1) to each facility or $400,000.00. A blanket security bond shall contain the address and storage capacity of each facility of the grain dealer.

(4) A bond provided under this section shall secure the faithful performance of the grain dealer of his or her obligations under all warehouse receipts and open storage agreements outstanding on or after the effective date of the bond and outstanding at the time the license of the grain dealer is revoked or the bond is canceled as provided in this act, whichever occurs first. The bond shall secure the grain dealer's faithful performance of those obligations whether the grain dealer is licensed or not.

(5) A bond provided under subsection (1) shall have a continuous term and shall not have a fixed expiration or termination date.

(6) The total aggregate liability of a surety under a bond provided under this section is limited to the amount of the bond without regard to the number of claimants involved in a transaction in which a claim on the bond is made. The liability of a surety on a bond provided under this section shall not accumulate for any successive license period.

(7) A person required to provide a bond to the department under this section may at his or her option provide the department with a certificate of deposit or other security acceptable to the department in lieu of all or part of the bond, payable to the department. The principal amount of the certificate of deposit or other security provided, or the aggregate amount of the bond provided and the principal amount of the certificate of deposit or other security provided, shall be the same as the amount of the bond otherwise required under this section. The interest on the certificate of deposit or other security provided under this subsection shall be made payable to the person or other purchaser of

the certificate of deposit or other security. The certificate of deposit or other security shall remain on deposit until it is released, canceled, or discharged as provided for by rule of the department. The provisions of this section that apply to a bond required under this section apply to a certificate of deposit or other security provided under this subsection.

(8) Holders of collateral warehouse receipts or warehouse receipts issued in the name of the grain dealer may not recover against a bond provided under subsection (1).

(9) If the department determines that a bond previously provided under this section is insufficient, the department shall require that the grain dealer provide an additional bond. The additional bond shall be in an amount determined by the department and conform with all other requirements of this section.

(10) A grain dealer shall not cancel a bond required by this section without the consent of the department and the department's prior approval of a substitute bond.

(11) The surety on a bond required by this section may not cancel the bond unless it sends a notice of intent to cancel to the department more than 60 days before it cancels the bond. If the department receives a notice from a surety under this subsection, it shall promptly notify the grain dealer that provided the bond. The department may suspend or revoke the license of a licensee who fails to provide a new bond within 60 days after the department receives notice of intent to cancel from a surety.

285.88 Grain merchandiser or farm produce trucker; surety bond; requirements.

Sec. 28. (1) Before a license is issued to a grain merchandiser or farm produce trucker, the grain merchandiser or farm produce trucker shall provide a bond to the department in the amount of $100,000.00.

(2) A bond provided under this section shall name the department as payee, be executed by the applicant as principal, and be issued by a surety authorized to conduct business in this state. The department shall prescribe the form and terms and conditions of the bond.

(3) A bond provided under this section shall secure the faithful performance of the grain merchandiser or farm produce trucker of his or her obligations in any farm produce transaction outstanding on or after the effective date of the bond and outstanding at the time the license of the grain merchandiser or farm produce trucker is revoked or the bond is canceled as provided in this act, whichever occurs first. The bond shall secure the faithful performance by the grain merchandiser or farm produce trucker of those obligations whether the grain merchandiser or farm produce trucker is licensed or not.

(4) The total aggregate liability of a surety under a bond provided under this section is limited to the amount of the bond without regard to the number of claimants involved in a transaction in which a claim on the bond is made. The liability of a surety on a bond provided under this section shall not accumulate for any successive license period.

(5) A grain merchandiser or farm produce trucker required to provide a bond to the department under this section may at his or her option provide the department with a certificate of deposit or other security acceptable to the department in lieu of all or part of the bond, payable to the department as trustee. The principal amount of the certificate of deposit or other security provided, or the aggregate amount of the bond provided and the principal amount of the certificate of deposit or other security provided, shall be the same as the amount of the bond otherwise required under this section. The interest on the certificate of deposit or other security provided under this subsection shall be made payable to the grain merchandiser or farm produce trucker or other purchaser of the certificate of deposit or other security. The certificate of deposit or other security shall

remain on deposit until it is released, canceled, or discharged as provided for by rule of the department. The provisions of this section that apply to a bond required under this section apply to a certificate of deposit or other security provided under this subsection.

(6) If the department determines that a bond previously provided under this section is insufficient, the department shall require that the grain merchandiser or farm produce trucker provide an additional bond. The additional bond shall be in an amount determined by the department and conform with all other requirements of this section.

(7) A grain merchandiser or farm produce trucker shall not cancel a bond required by this section without the consent of the department and the department's prior approval of a substitute bond.

(8) The surety on a bond required by this section may not cancel the bond unless it sends a notice of intent to cancel to the department more than 60 days before it cancels the bond. If the department receives a notice from a surety under this subsection, it shall promptly notify the grain merchandiser or farm produce trucker that provided the bond. The department shall revoke the license of a grain merchandiser or farm produce trucker who fails to provide a new bond within 60 days after the department receives notice of intent to cancel from a surety.

Repeal of §§ 285.66a, 285.66b, 285.67a, 285.69a, 285.71a, and 285.82a.

Enacting section 1. Sections 6a, 6b, 7a, 9a, 11a, and 22a of the grain dealers act, 1939 PA 141, MCL 285.66a, 285.66b, 285.67a, 285.69a, 285.71a, and 285.82a, are repealed.

Approved March 25, 2002.
Filed with Secretary of State March 25, 2002.

[No. 81]

(HB 4860)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 43524 (MCL 324.43524), as amended by 1996 PA 585.

The People of the State of Michigan enact:

324.43524 Wild turkey hunting license; fees; lottery; issuance of license; use of fees.

Sec. 43524. (1) A person shall not hunt wild turkey without a wild turkey hunting license. The fee for a resident wild turkey hunting license is $15.00. The fee for a nonresident wild turkey hunting license is $69.00. Subject to the requirements of section 40113a, the commission may issue an order requiring that all applications for wild turkey hunting licenses, or applications for wild turkey hunting licenses for certain geographic

areas, be entered into a lottery designed and run by the department. A person selected in a lottery, upon meeting the requirements of this part, is authorized to purchase a wild turkey hunting license. The license shall be issued for a specified hunting period and shall confer upon the holder of the license the right to hunt wild turkeys.

(2) The department may charge a nonrefundable application fee not to exceed $4.00 for each application for a wild turkey hunting license that is entered into a lottery pursuant to subsection (1).

(3) From fees collected under subsection (1) or (2), the following amounts shall be used for scientific research, biological survey work on wild turkeys, and wild turkey management in this state:

(a) Resident wild turkey hunting license	$ 9.50
(b) Nonresident wild turkey hunting license	$50.00
(c) Senior wild turkey hunting license	$ 1.00
(d) Wild turkey hunting application	amount of application fee, if any, but not more than $ 3.00.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 25, 2002.

[No. 82]

(HB 5026)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 231a (MCL 750.231a).

The People of the State of Michigan enact:

750.231a Exceptions to § 750.227(2); definitions.

Sec. 231a. (1) Subsection (2) of section 227 does not apply to any of the following:

(a) To a person holding a valid license to carry a pistol concealed upon his or her person issued by his or her state of residence except where the pistol is carried in nonconformance with a restriction appearing on the license.

(b) To the regular and ordinary transportation of pistols as merchandise by an authorized agent of a person licensed to manufacture firearms.

(c) To a person carrying an antique firearm as defined in subsection (2), completely unloaded in a closed case or container designed for the storage of firearms in the trunk of a vehicle.

(d) To a person while transporting a pistol for a lawful purpose that is licensed by the owner or occupant of the motor vehicle in compliance with section 2 of 1927 PA 372,

MCL 28.422, and the pistol is unloaded in a closed case designed for the storage of firearms in the trunk of the vehicle.

(e) To a person while transporting a pistol for a lawful purpose that is licensed by the owner or occupant of the motor vehicle in compliance with section 2 of 1927 PA 372, MCL 28.422, and the pistol is unloaded in a closed case designed for the storage of firearms in a vehicle that does not have a trunk and is not readily accessible to the occupants of the vehicle.

(2) As used in this section:

(a) "Antique firearm" means either of the following:

(*i*) A firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including a matchlock, flintlock, percussion cap, or similar type of ignition system or replica of such a firearm, whether actually manufactured before or after 1898.

(*ii*) A firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(b) "Lawful purpose" includes the following:

(*i*) While en route to or from a hunting or target shooting area.

(*ii*) While transporting a pistol en route to or from his or her home or place of business and place of repair.

(*iii*) While moving goods from 1 place of abode or business to another place of abode or business.

(*iv*) While transporting a licensed pistol en route to or from a law enforcement agency for the purpose of having a safety inspection performed on the pistol as is required by section 9 of 1927 PA 372, MCL 28.429, or for the purpose of having a law enforcement official take possession of the weapon.

(*v*) While en route to or from his or her abode or place of business and a gun show or places of purchase or sale.

(*vi*) While en route to or from his or her abode to a public shooting facility or public land where discharge of firearms is permitted by law, rule, regulation, or local ordinance.

(*vii*) While en route to or from his or her abode to a private property location where the pistol is to be used as is permitted by law, rule, regulation, or local ordinance.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 26, 2002.

[No. 83]

(SB 884)

AN ACT to amend 1919 PA 149, entitled "An act to accept the requirements and benefits of an act of the sixty-fourth congress of the United States, approved February 23, 1917, known as the Smith-Hughes act, or Public Act No. 347, relating to appropriations to be made by the federal government to the several states for the support and control of instruction in agriculture, the trades, industries, and home economics, and for the

preparation of teachers of vocational subjects; to designate a state board of control for vocational education; to provide for the proper custody and administration of funds received by the state from such appropriations; and to provide for appropriations by the state and by local school authorities to meet the conditions of said act of congress," by amending sections 7 and 8 (MCL 395.7 and 395.8).

The People of the State of Michigan enact:

395.7 State board of control; inspection of schools; certification of amounts due; payment.

Sec. 7. The state board of control for vocational education shall provide for the proper inspection of the work in the schools and institutions which operate under the provisions of this act. And upon the approval of the work done and the receipt of satisfactory reports from each school or institution, the state superintendent of public instruction shall certify to the state treasurer the amount of the state and federal money due to each board of education, or board of control of any school maintaining a vocational school or department, and to the board of control of each institution engaged in the training of teachers of vocational subjects according to the provisions of this act. The state treasurer shall, upon the certificate of the superintendent of public instruction, draw his or her warrant for the amount of money due to each school district or institution and payable to the treasurer of the board of education or of the board of control of the institution, and those amounts shall be forwarded to the treasurers.

395.8 State board of control; estimate of money to meet federal appropriations; report to state treasurer; tax levy.

Sec. 8. The state board of control for vocational education shall estimate the amount of money which should be appropriated by the state to meet federal allotments during each succeeding biennial period, and when the state board of control shall have estimated the amount of money necessary to meet the federal appropriations, they shall report said estimate to the state treasurer, who shall include that amount of money in the state tax levy for each year as reported to the state legislature.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 26, 2002.

[No. 84]

(SB 885)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of

dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," by amending section 15 (MCL 400.15).

The People of the State of Michigan enact:

400.15 Gifts; acceptance by commission; duties of attorney general.

Sec. 15. The commission may receive on behalf of the state of Michigan any grant, devise, bequest, donation, gift, or assignment of money, bonds, or choses in action, or any property, real or personal, and accept that property, so that the right and title to that property shall pass to the state of Michigan. All bonds, notes, or choses in action, or the proceeds of the bonds, notes, or choses in action when collected, and all other property or things of value received by the commission shall be reported to the state treasurer and used for the purposes set forth in the grant, devise, bequest, donation, gift, or assignment if such purposes are within the powers conferred on the commission. If it is necessary to protect or assert the right or title to any property received or derived under this section, or to collect or reduce into possession any bond, note, bill, or chose in action, the attorney general, upon request of the commission, shall take the necessary and proper proceedings and bring suit in the name of the commission on behalf of the state of Michigan in any court of competent jurisdiction, state or federal, and prosecute all such suits.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 26, 2002.

[No. 85]

(SB 886)

AN ACT to amend 1921 PA 59, entitled "An act to relieve the county and state from the support of certain classes of aliens who are subject to deportation from the United States; making an appropriation therefor and providing penalties for the non-performance of duties under the provisions of this act," by amending section 2 (MCL 404.32).

The People of the State of Michigan enact:

404.32 Institutional records; contents; blanks for recording.

Sec. 2. The keeper, manager, superintendent, warden, or person in charge of any institution described in section 1 shall keep a record of all persons committed to or who become inmates of that institution. The record shall contain the following information: name, age, whether married or single, whether he or she can read or write, place of birth, nationality, names and addresses of parents or nearest relatives, or friends, date of arrival in United States, port of arrival, name of steamship, and if a naturalized citizen of the

United States the date and place of naturalization. The state treasurer, upon request, shall furnish each of the institutions described in this act printed blanks for the purpose of recording the information described in this section.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 26, 2002.

[No. 86]

(SB 888)

AN ACT to amend 1846 RS 21, entitled "Of specific state taxes and duties," by amending section 30 (MCL 446.30).

The People of the State of Michigan enact:

446.30 Statement on oath; forwarding to state treasurer; payment over of duties.

Sec. 30. Each county treasurer shall, immediately after receiving the statement, forward it to the state treasurer, and shall pay over all auction duties received by him or her to the state treasurer, in the manner directed by the state treasurer.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 26, 2002.

[No. 87]

(SB 890)

AN ACT to repeal 1909 PA 263, entitled "An act to authorize the Michigan dairymen's association to hold an annual meeting and such auxiliary meetings as may be determined by the association, and making an appropriation therefor," (MCL 453.451 to 453.452).

The People of the State of Michigan enact:

Repeal of §§ 453.451 to 453.452.

Enacting section 1. 1909 PA 263, MCL 453.451 to 453.452, is repealed.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 26, 2002.

[No. 88]

(SB 894)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of

courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 26a of chapter XIV and section 6 of chapter XVI (MCL 774.26a and 776.6), section 26a of chapter XIV as amended by 1980 PA 506.

The People of the State of Michigan enact:

CHAPTER XIV

774.26a Blank forms for recording information concerning money received in criminal case; approval; completion.

Sec. 26a. (1) The county treasurer shall provide a municipal court within the county with blank forms which have been approved by the state treasurer. The forms shall provide space for recording the following information with respect to all sums of money which the municipal court receives in a criminal case on account of any forfeiture of bail, bond, recognizance, fine, penalty, or taxation of costs:

(a) Receipt number.

(b) Docket number.

(c) Nature of offense.

(d) Amount of the fine.

(e) Amount of statutory court fees.

(f) Officers' fees.

(g) Other receipts, including a forfeitured bond.

(h) Total receipts.

(i) Disposition of the case.

(j) Name of defendant.

(k) The name of the municipal judge.

(*l*) The name of the city.

(2) Each municipal judge shall complete the forms and shall furnish 1 copy to the county treasurer, and 1 copy either to the county clerk or to the controller or board of auditors, in counties having a controller or board of auditors, and shall retain 1 completed form for the municipal court files.

CHAPTER XVI

776.6 Extradition; agent to demand certain persons from another state or government; appointment; payment of accounts.

Sec. 6. The governor of this state may in any case authorized by the constitution and laws of the United States, appoint agents to demand of the executive authority of any other state or territory, or from the executive authority of any foreign government, any fugitive from justice or any person charged with treason; and the accounts of the agents appointed for that purpose shall, unless otherwise directed by the governor, be audited by the state treasurer and paid out of the state treasury.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 26, 2002.

[No. 89]

(SB 895)

AN ACT to amend 1893 PA 118, entitled "An act to revise and consolidate the laws relative to state prisons, to state houses of correction, and branches of state prisons and reformatories, and the government and discipline thereof and to repeal all acts inconsistent therewith," by amending sections 49 and 61 (MCL 800.49 and 800.61).

The People of the State of Michigan enact:

800.49 Conveyance of convict to prison; fees and expenses; payment.

Sec. 49. The fees and actual expenses of sheriffs in conveying convicts to a prison shall be made out in a bill containing the fees or expenses, and shall be presented to the warden when the prisoner is delivered at the prison. The warden shall certify on it that the prisoner has been received, and the bill, including the sheriff's actual expenses in returning to the county from where the prisoner was sent, shall be audited by the state treasurer and paid from the state treasury. Before drawing his or her warrant the state treasurer shall correct any errors in the bill as to form, items, or amount, and the sheriff shall be paid for the services, his or her actual traveling expenses and the expenses of the convict, and the sum of $3.00 for each and every day so employed.

800.61 Escaped convicts; measures for apprehension; reward; sentence.

Sec. 61. Whenever any convict shall escape from a prison, the warden shall take all proper measures for the apprehension of the convict, and for that purpose he or she may offer a reward not exceeding $50.00 for the apprehension and delivery of that convict; but with the consent of his or her board the reward may be increased to a sum not exceeding $500.00. All suitable rewards and other sums of money, necessarily paid for advertising

and apprehending any convict who may escape from prison, shall be audited by the state treasurer, and paid out of the state treasury. If any prisoner shall be retaken, the time between the escape and his or her recommittal shall not be computed as part of the term of imprisonment, but he or she shall remain in the prison a sufficient length of time after the term of his or her sentence would have expired, if he or she had not escaped, to equal the period of time he or she may have been absent by reason of the escape.

This act is ordered to take immediate effect.
Approved March 25, 2002.
Filed with Secretary of State March 26, 2002.

[No. 90]

(SB 690)

AN ACT to amend 1945 PA 327, entitled "An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state and by political subdivisions; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics," (MCL 259.1 to 259.208) by amending the title and by adding chapter VIA; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state, by political subdivisions, or by public airport authorities; providing for the incorporation of public airport authorities and providing for the powers, duties, and obligations of public airport authorities; providing for the transfer

of airport management to public airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics.

CHAPTER VIA. ACQUISITION AND OPERATION OF AIRPORTS, LANDING FIELDS, AND OTHER AERONAUTICAL FACILITIES BY PUBLIC AIRPORT AUTHORITIES

259.108 Short title of chapter.

Sec. 108. This chapter shall be known and may be cited as the "public airport authority act".

259.109 Definitions.

Sec. 109. As used in this chapter:

(a) "Airport" means a publicly owned airport licensed by the state transportation department, bureau of aeronautics under section 86 and includes all airport facilities at the airport. An airport is "publicly owned" if the portion used for the landing and taking off of aircraft is owned, operated, controlled, leased to, or leased by the United States or any agency or department of the United States, this state, a local government or any municipality or other political subdivision of this state, or any other governing body, public agency, or other public corporation. Property to be included as part of an airport shall include all of the following:

(*i*) Property within the area identified in the latest exhibit A, the property map based on deeds, title opinions, land surveys, an approved airport layout plan, and project documentation included with or attached to federal grant agreements executed by the local government that owns or operates the airport prior to the transfer of operational jurisdiction over the airport to an authority created under this chapter, and lands purchased with federal funds and passenger facility charges related to the airport.

(*ii*) Other property acquired with the proceeds of any airport generated revenues, passenger facility charges, federal grants-in-aid related to the airport, or other federal grants for airport purposes by the local government that owns the airport over which operational jurisdiction is being transferred to an authority.

(*iii*) Other property owned or acquired by an authority for airport purposes.

(b) "Airport facilities" means any of the following at an airport:

(*i*) Real or personal property, or interest in real or personal property, used for the landing, taking off, taxiing, parking, storing, shelter, supply, or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used for airport buildings or other airport facilities, and all appurtenant rights-of-way.

(*ii*) Real or personal property, and easements above, on, or under the surface of real or personal property, used or intended to be used for over-flight, for noise abatement or noise buffers, for clear zones, or for side transition zones.

(*iii*) Real or personal property, and easements above, on, or under the surface of real or personal property, used or intended to be used for the full or partial satisfaction of environmental mitigation requirements imposed by any federal, state, county, or other municipal government or agency as a condition of approving the acquisition, construction, expansion, or operation of other airport facilities, whether or not located within the boundaries of the local unit of government that owns the airport over which operational jurisdiction is transferred pursuant to this chapter.

(*iv*) Other structures, improvements, and buildings of all types used or useful for airport related purposes for the convenience of the public or for commercial or general aviation activities, located on the property acquired by or under the operational jurisdiction of the authority, including, but not limited to, restaurants, hotels, motels, exhibition halls, convention facilities, automotive parking facilities, retail stores, aircraft fueling systems, automotive service centers, cargo buildings, warehouses, kitchen facilities, drainage systems, utilities, roadways, automobile and aircraft bridges, and surface transportation terminals and facilities.

(*v*) Beacons, markers, communications systems, and all navigation facilities for use in aid of air navigation.

(*vi*) Any and all other improvements or facilities necessary, useful, or desirable to serve the occupants, passengers, users, employees, operators, airlines, or lessees of any portion of the property or facilities of the authority, or which are otherwise deemed by the authority to be in the public interest, including, but not limited to, facilities necessary, used, useful, or intended for use for handling, parking, storing, display, sale, or servicing of aircraft, either private or commercial; for the accommodation of persons and handling of freight, mail, and other items transported by air, for the furnishing and supplying of goods, commodities, services, things, and facilities that are deemed by the authority to be appropriate for the safety or convenience of the traveling public or of the operators of aircraft, or otherwise in the public interest; and in or for the equipping, operation, and maintenance of any airport facilities of the authority.

(c) "Approval date" means the effective date of the issuance by the federal aviation administration to the authority assuming operational jurisdiction of an airport of a certificate under part 139 of chapter 14 of the code of federal regulations with respect to the airport, and the concurrence by the FAA of the designation of the authority as a sponsor of the airport, including the FAA's approval of the assignment of existing grant agreements to the authority.

(d) "Authority" means a public airport authority created by or pursuant to section 110 and governed by a board.

(e) "Board" means the governing body of an authority appointed pursuant to section 111.

(f) "Department" means the state transportation department.

(g) "Enplanement" means a domestic, territorial, or international revenue passenger who boards an aircraft at an airport in scheduled or nonscheduled service of aircraft in intrastate, interstate, or foreign service and includes an in-transit passenger who boards an international flight that transits an airport in the United States for nontraffic purposes.

(h) "FAA" means the federal aviation administration of the United States department of transportation, or any successor agency.

(i) "Fiscal year" means that annual period that is the fiscal year of the local government that owns the airport over which an authority has assumed operational jurisdiction or, if the local government is not required to include the authority in the financial statements of the local government, that annual period established by the board.

(j) "Legislative body" means the elected body of a local government having legislative powers.

(k) "Local chief executive officer" means the mayor or manager of a city or village, the township supervisor of a township, or the county executive of a county or, if a county does not have a county executive, the chairperson of the county board of commissioners.

(*l*) "Local government" means a county, city, township, or village that owns or operates an airport.

(m) "Passenger facility charge" or "PFC" means a passenger facility fee authorized under section 40117 of title 49 of the United States Code, 49 U.S.C. 40117, and designated as a passenger facility charge under part 158 of title 14 of the code of federal regulations.

(n) "Qualified airport" means an airport, other than a military airport, that has 10,000,000 or more enplanements in any 12-month period.

(o) "Sponsor" means the public agency authorized by subchapter I of chapter 471 of title 49 of the United States Code, 49 U.S.C. 47101 to 47134, to submit requests for, and thereafter accept, and be responsible for performing all of the assurances associated with accepting grant agreements with respect to airports from the FAA or this state and to impose a passenger facility charge at airports, and to perform certain duties and responsibilities previously assumed by the local government that owns or operates the airport prior to the transfer of operational jurisdiction of the airport to an authority created under this chapter by virtue of the local government's acceptance prior to the approval date of grants for the benefit of the airport from the FAA or any other agency of the United States or this state.

259.110 Public airport authority; political subdivision and instrument of local government; public agency; airport manager; qualified airport; powers of authority; incorporation of authority; presumption of validity; court jurisdiction; state transportation department as party; rules prohibited.

Sec. 110. (1) Except as otherwise provided in this chapter, an authority created under or pursuant to this section shall be a political subdivision and instrumentality of the local government that owns the airport and shall be considered a public agency of the local government for purposes of state and federal law. An authority created under or pursuant to this section also shall be the airport owner for purposes of appointing and designating an airport manager under this act. An authority shall not levy a tax or special assessment.

(2) For a local government that owns or operates a qualified airport on the effective date of this chapter, there is created an authority on the effective date of this chapter. For a local government that operates an airport that becomes a qualified airport after the effective date of this chapter, there is created an authority on the date the airport becomes a qualified airport. An authority is vested with powers granted by this chapter to manage and operate the qualified airport and airport facilities of a qualified airport and any other airport and related airport facilities owned or operated by the local government on the approval date. Before the approval date, an authority may organize and exercise all powers granted under this chapter, except those powers related to the management and operation of a qualified airport. Officials and employees of the local government and the authority shall actively cooperate with the local government, the authority, this state, and the federal government to the end that the FAA will recognize the authority as the sponsor of the qualified airport, and to obtain FAA approval of the transfers contemplated by this chapter. Any action required by this state related to the approval shall be coordinated by the department. The local government shall execute such additional

documents as necessary to obtain FAA approval of the transfers contemplated by this chapter and to obtain recognition of the authority as the sponsor with respect to the qualified airport.

(3) A local government that owns or operates an airport that is not a qualified airport may, by resolution, declare its intention to incorporate an authority. In the resolution of intent, the legislative body of the local government shall set a date for the holding of a public hearing on the adoption of a proposed resolution incorporating the authority. After a public hearing, which shall be held in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, if the legislative body of the local government intends to proceed with the incorporation of the authority, it shall adopt, by majority vote of its members, a resolution incorporating the authority. The adoption of the resolution is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the local chief executive officer or other officer of the local government and the adoption of an ordinance over his or her veto. The resolution shall take effect upon being filed with the secretary of state.

(4) The validity of the creation or incorporation of the authority shall be conclusively presumed unless questioned in an original action filed in the court of appeals within 60 days after the creation or incorporation of the authority under this chapter. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner. The state transportation department is a necessary party in any action under this subsection.

(5) The department shall not promulgate rules under this chapter.

259.111 Public airport authority; board; membership; appointment; terms; qualifications; violation of subsection 5(b); chief executive officer; chief financial officer; duties.

Sec. 111. (1) An authority created under or pursuant to this chapter shall be directed and governed by a board consisting of 7 members.

(2) The members of a board created under section 110(2) shall be appointed as follows:

(a) Two board members shall be appointed by the governor, with 1 board member appointed for an initial term of 6 years and 1 board member appointed for an initial term of 8 years.

(b) One board member shall be appointed by the legislative body of the local government that owns the airport, for an initial term of 4 years. Notwithstanding any other statute, law, ordinance, or charter provision to the contrary, the board member appointed by the legislative body may be a member of the legislative body of the local government that owns the airport, but only while continuing to serve as a member of the legislative body of that local government.

(c) Four board members shall be appointed by the local chief executive officer of the local government that owns the airport, with 1 board member appointed for an initial term of 4 years, 1 board member appointed for an initial term of 2 years, and 2 board members appointed for an initial term of 6 years.

(d) Each appointing entity shall file each appointment under this subsection with the department. Each subsequent appointment by an appointing entity to fill a vacancy on the board shall also be filed with the department.

(3) Upon incorporation of an authority pursuant to section 110(3), the local chief executive officer, with the consent of the legislative body of the local government if the local chief executive officer is not elected, shall appoint the members of the board. Of the

board members first appointed under this subsection, 1 board member shall be appointed for a term of 2 years, 2 board members shall be appointed for terms of 4 years each, 3 board members shall be appointed for terms of 6 years each, and 1 board member shall be appointed for a term of 8 years.

(4) A board member appointed pursuant to subsection (2)(b) or (c) or (3) must be a citizen of the United States and a resident of the local government that owns the airport over which operational jurisdiction will be transferred to an authority. A board member appointed pursuant to subsection (2)(a) must be a citizen of the United States and a resident of the area within the jurisdiction of the regional planning commission created under 1945 PA 281, MCL 125.11 to 125.25, in which the airport over which operational jurisdiction will be transferred is located. Except as permitted by subsection (2)(b), a person shall not be appointed under subsection (2) or (3) as a board member if he or she is, or was during the 12 months preceding the date of appointment, an elected public official or employee of this state or an agency or instrumentality of this state, a local government or an agency or instrumentality of a local government, or the federal government or an agency or instrumentality of the federal government.

(5) A board member appointed pursuant to subsection (2) or (3), a chief executive officer, and chief financial officer of an authority, shall, at time of appointment or hiring and subject to subsection (6), meet all of the following qualifications:

(a) Neither the board member or the chief executive officer or chief financial officer, nor the spouse or his or her siblings, children or their spouses, parents, or siblings or their spouses of the board member or the chief executive officer or chief financial officer, are actively engaged or employed in any other business, vocation, or employment of any civil aeronautics enterprise connected with the airport under the control of the authority.

(b) Neither the board member or the chief executive officer or chief financial officer, nor the spouse or his or her siblings, children or their spouses, parents, or siblings or their spouses of the board member or the chief executive officer or chief financial officer, have a combined 15% or greater direct pecuniary interest in any civil aeronautics enterprise connected with the airport under the control of the authority.

(c) The board member or the chief executive officer or chief financial officer would not be considered to have a conflict of interest under 1968 PA 318, MCL 15.301 to 15.310, in respect to any contract or subcontract involving the airport if the board member or the chief executive officer or chief financial officer were considered a state officer under 1968 PA 318, MCL 15.301 to 15.310.

(6) A board member who, at any time during his or her term of service, becomes in violation of subsection (5)(b) shall have 30 days to divest, or arrange for the divestment of, the interest that caused the violation. If the board member or his or her relative is still in violation of subsection (5)(b) after the expiration of the 30-day period, the entity that appointed that board member shall remove the board member from office.

(7) Notwithstanding any law or charter provision to the contrary, appointments by a local chief executive officer under subsection (2) shall not be subject to the approval by the legislative body of the local government.

(8) The board shall appoint a chief executive officer who shall be an ex officio member, without vote, of the board and shall not be considered in determining the presence of a quorum, who shall have professional qualifications commensurate with the responsibility of the jobs to be performed by such officials. The board may enter into a contract with the chief executive officer for a commercially reasonable length of time commensurate with the length of time for contracts of airport chief executive officers, directors, or managers

with similar responsibilities at other airports or airport authorities within or without this state with a comparable number of annual enplanements.

(9) The chief executive officer shall appoint a chief financial officer who shall be the treasurer of the authority, who shall have professional qualifications commensurate with the responsibility of the jobs to be performed by such officials. Notwithstanding any law or charter provision to the contrary, it shall be the duty and right of the chief financial officer of the authority to receive all money belonging to the authority, or arising or received in connection with the airport over which operational jurisdiction has been transferred to the authority, from whatever source derived. Money of the authority shall be deposited, invested, and paid by the chief financial officer only in accordance with policies, procedures, ordinances or resolutions adopted by the board. Upon the approval date, the authority shall be considered to be the owner of all money or other property then or thereafter received by the treasurer of the local government or deposited in the treasury of a local government to the credit of the airport for which operational jurisdiction has been transferred to the authority. The authority shall be entitled to all interest and other earnings on those funds on and after the latter of the effective date of this chapter or the date on which the authority is created or incorporated. The treasurer of any local government receiving or having custody of money or other property belonging to an authority under this chapter shall promptly transfer the money and other property to the custody of the chief financial officer of the authority. The chief financial officer shall provide the board with copies of all reports made by the chief financial officer to the chief executive officer.

259.112 Full term appointments; terms; expiration date; resignation; vacancy; removal; oath of office.

Sec. 112. (1) Upon the expiration of the term of an initial appointment under section 111(2) or (3), all full term appointments shall be for a term of 6 years. The expiration date of the term of office of a member of the board shall be on October 1 of the year in which the term is to expire, but a member of the board shall hold office until the board member's successor is appointed and qualified, or until resignation or removal. If a member of the board is unable to complete his or her term of office, a successor shall be appointed in the same manner as the original appointment to complete the term. A member of the board may resign by written notice to the authority. The resignation is effective upon its receipt by the secretary or chairperson of the authority or at a subsequent time as set forth in the notice of resignation.

(2) A member of the board may not be appointed to serve more than 2 consecutive full terms. For purposes of this subsection, an initial term under section 111(2) and an appointment to fill a vacancy in a term with more than 3 years remaining count as full terms.

(3) The appointing entity for any board member appointed under section 111(2) or (3) may only remove a board member appointed by the appointing entity for cause.

(4) Before assuming the duties of office, a member of the board shall qualify by taking and subscribing to the constitutional oath of office.

259.113 First meeting of board; compliance with open meetings act; delegation of power; reimbursement of expenses; action by resolution or ordinance; voting.

Sec. 113. (1) Upon the appointment of at least 4 members of the board under section 111(2), the board may hold its first meeting. If less than 4 members of the board have been appointed under section 111(2) within 30 days after the date on which the authority is

created, a majority of those board members appointed may hold the first meeting of the board after the expiration of that 30-day period. The first meeting of the board shall not be held more than 60 days after the creation date of the authority. Not later than 60 days after an authority is incorporated under section 110(3), the board of the authority shall hold its first meeting. At the first meeting, the board shall organize by electing a chairperson, a vice-chairperson, a secretary, and additional officers of the board as the board considers necessary. All officers of the board shall be elected annually by the board. All officers of the authority, except the chief executive officer and the chief financial officer, must be members of the board.

(2) The business that the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board shall adopt rules consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings.

(3) Except for those powers reserved or delegated to the chief executive officer of an authority by this chapter or by the board, the board shall not delegate any power of the board to any other officer or committee of the authority except as provided in section 114(3). The board may withdraw from the chief executive officer any power that the board had delegated to the chief executive officer.

(4) Members of a board may be reimbursed by an authority for actual and necessary expenses incurred in the discharge of their official duties. The members of the board shall not be compensated for service to the authority or attendance at any meetings.

(5) A board may act only by resolution or ordinance. A majority of the members of the board then in office, or of any committee of the board, shall constitute a quorum for the transaction of business. A vote of a majority of the members of the board serving at the time of the vote is necessary to approve the issuance by the authority of bonds, including special facilities bonds, or other obligations payable from revenues, including special facilities revenues, derived from the airport, or to approve or amend the annual budget of the authority or hire, remove or discharge, or set the salary of the chief executive officer. Except as otherwise provided in this chapter, a vote of the majority of the board members present at a meeting at which a quorum is present constitutes the action of the board or of the committee.

259.114 Meetings; frequency; special meeting; system of accounts; reports; bond; audit committee; appointment; meetings; duty to recommend 3 independent certified public accounting firms; selection; contract terms and conditions; appointment and compensation of chief executive officer; duties and responsibilities; power and authority; contracting policies and procedures; conflicts of interest; ethics manual; airport noise and fumes mitigation.

Sec. 114. (1) After organization, a board shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. The board shall meet not less than quarterly per year. The board chairperson shall call a special meeting upon request of 3 members of the board in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board shall keep a written or printed record of each meeting, which record and any other writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) A board shall provide for a system of accounts to conform to a uniform system required by law and for the auditing at least once a year of the accounts of the authority by an independent certified public accountant selected by the audit committee pursuant to subsection (3). A board shall meet any and all auditing or financial reporting requirements imposed by law and shall file a copy of its annual audit with the department and with the clerk of the house of representatives and the secretary of the senate. An authority shall provide the necessary reports to the local government that owns the airport over which operational jurisdiction has been transferred in a timely manner in order for the local government to be able to comply with the reporting requirements of the government finance officers association of the United States and Canada. A board shall require of the chief financial officer and chief executive officer of the authority a suitable bond of not less than $100,000.00 by a responsible bonding company, and the cost of the premium of the bond shall be paid by the authority.

(3) A board appointed under section 111(3) shall appoint an audit committee consisting of 3 members of the board. With respect to boards appointed pursuant to section 111(2), the board shall have a 3-member audit committee with each appointing entity represented on the board designating 1 board member appointee to serve on the audit committee. The audit committee shall hold its first meeting within 60 days after the creation or incorporation of the authority under this chapter. A majority of members appointed and designated as audit committee members by an appointing entity under this subsection may conduct the business of the committee. The audit committee shall meet not less than 4 times each year with the chief financial officer, the chief executive officer of the authority, and the authority's independent public auditors to review the reports related to the financial condition, operations, performance, and management of the authority and airport including, but not limited to, all contractors and subcontractors, and may also order special investigations or audits, the cost of which shall be reimbursed by the authority. The audit committee shall also review the activities and reports of the internal auditor of the authority who shall be appointed by the chief executive officer of the authority. The audit committee of a board appointed pursuant to section 111(2) shall once every 2 years, recommend 3 independent certified public accounting firms that, in the judgment of the audit committee, possess sufficient resources and qualifications to conduct annual financial audits of the accounts of the authority. Not less than 90 days prior to the first full fiscal year of the authority and the last fiscal year of each subsequent contract period for which financial audits will be conducted under section 114(2), the 3 recommendations of the audit committee shall be presented to the legislative body of the local government that owns the airport over which operational jurisdiction has been transferred pursuant to this chapter. From the 3 recommendations of the audit committee, the legislative body of the local government may select, not more than 30 days after receipt of the recommendations of the audit committee, the independent certified public accounting firm with whom the authority shall execute an agreement to conduct annual financial audits for the succeeding 2 fiscal years of the accounts of the authority. If the legislative body does not select 1 of the recommended independent certified public accounting firms to conduct annual financial audits for the next 2 fiscal years of the authority within 30 days after receipt of the recommendations of the audit committee, the audit committee shall have the sole power to select the independent certified public accounting firm with whom the authority shall execute an agreement to conduct annual financial audits of the accounts of the authority for the next 2 fiscal years. The terms and conditions of a contract to be entered into with the independent certified public accounting firm selected by the legislative body of the local government shall be exclusively established by the authority. The legislative body of the local government shall not have the right or power to modify any proposed terms and conditions of a contract between the

authority and an independent certified public accounting firm recommended by the audit committee. Neither the legislative body nor any member of the legislative body of the local government shall impose any requirement, restriction or condition upon, or solicit any agreement or contribution from, the independent certified public accounting firm or any member or employee of the independent certified public accounting firm, selected or considered by the legislative body of the local government. No charter provision or resolution of the local government shall contradict, supplement, or expand this subsection. A person may not prevent or prohibit the internal auditor or the audit committee from carrying out or completing any audit or investigation. The internal auditor and members of the audit committee shall be protected under the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

(4) A board shall appoint and fix the compensation of a chief executive officer of the authority by a vote of not less than the majority of the members of the board then serving. The board shall prescribe those duties and responsibilities of the chief executive officer of the authority that are in addition to the duties and responsibilities imposed upon the chief executive officer of the authority by this chapter. The chief executive officer of an authority shall serve at the pleasure of the board and the board may remove or discharge the chief executive officer of the authority by a vote of not less than the majority of the members of the board then serving. The chief executive officer of an authority shall supervise, and be responsible for, all of the following:

(a) The day-to-day operation of the airport, including the control, supervision, management, and oversight of the functions of the airport.

(b) The issuance of bonds and notes approved by the board.

(c) The negotiation and establishment of compensation and other terms and conditions of employment for employees of the authority.

(d) The appointment, dismissal, discipline, demotion, promotion, and classification of employees of the authority.

(e) The negotiation, supervision, and enforcement of contracts entered into by the authority, and the supervision of contractors and subcontractors of the authority in their performance of their duties.

(f) The appointment of an internal auditor who shall have professional qualifications commensurate with the responsibility of the jobs to be performed by such an official, and who shall:

(*i*) Report to the chief executive officer and provide information to the board and its audit committee as required under this chapter.

(*ii*) Receive and investigate any allegations that false or misleading information was received in evaluating the authority's internal accounting and administrative control system.

(*iii*) Conduct and supervise audits relating to financial activities of the authority's operations.

(*iv*) Recommend policies for activities to protect the authority's assets and to prevent and detect fraud and abuse.

(*v*) Conduct other audit and investigative activities as assigned by the board, the audit committee, or the chief executive committee.

(*vi*) Adhere to appropriate professional and auditing standards.

(*vii*) Provide to the audit committee on an annual basis a report prepared by the internal auditor on the evaluation of the authority's internal accounting and administrative

control system. For the period reviewed, the report shall include, but not be limited to, both of the following:

(A) A description of any material inadequacy or weakness discovered in connection with the evaluation of the authority's internal accounting and administrative control system and a time schedule for correcting the internal accounting and administrative control system, described in detail.

(B) A listing of each audit or investigation performed by the internal auditor pursuant to this chapter.

(5) The chief executive officer of an authority shall have the power and authority to execute and deliver, and to delegate signatory power for, contracts, leases, obligations, and other instruments approved by the board or for which power to approve has been delegated to the chief executive officer of the authority. The chief executive officer of an authority shall have all powers incident to the performance of his or her duties that are prescribed by this chapter or by the board. The board may delegate additional powers to the chief executive officer of the authority not enumerated in this chapter. All actions of the chief executive officer of an authority shall be in conformance with the policies of the board and in compliance with law. The chief executive officer of an authority shall attend the meetings of the board and shall render to the board a regular report covering the activities and financial condition of the airport. If the chief executive officer of an authority is temporarily absent or disabled, the chief executive officer of the authority may designate a qualified person as acting chief executive officer of the authority to perform the duties of the office. If the chief executive officer of an authority fails or is unable to designate an acting chief executive officer of the authority, the board shall designate an acting chief executive officer of the authority for the period of absence or disability of the chief executive officer of the authority. The chief executive officer of the authority shall furnish the board with information or reports governing the operation of the airport as the board requires.

(6) The authority shall establish contracting policies and procedures providing for all of the following:

(a) Except for the negotiated construction contracts permitted under this subdivision, a contract shall not be awarded by an authority or the chief executive officer of the authority for the construction, repair, remodeling, or demolition of an airport facility unless the contract is let pursuant to a procedure that requires a competitive bidding. A negotiated construction contract shall not be required to be let by competitive bidding if the board or the chief executive officer of the authority with delegated authority to enter into contracts determines that any of the following apply:

(*i*) The negotiated contract amount is less than $50,000.00. However, if the contract amount, including change orders, subsequently exceeds $50,000.00, the authority shall detail, in writing, the reasons why the contract amount exceeded $50,000.00.

(*ii*) As determined in writing by the board or the chief executive officer with delegated authority to enter into contracts, the contract is for emergency repair or construction necessitated by a sudden, unforeseen occurrence or situation of a serious and urgent nature and is not for convenience or expediency.

(*iii*) As determined in writing by the board or the chief executive officer with delegated authority to enter into contracts, the repair or construction is necessary to ensure passenger safety or otherwise protect life or property.

(b) The authority shall establish policies and procedures for hiring professional service contractors.

(c) The authority shall utilize competitive bidding for all purchases and all other contracts unless the board, or, if authorized by the board to approve procurements, the chief executive officer of the authority, determines and details in writing the reason that competitive solicitation of bids or proposals is not appropriate, that procurement by competitive bids is not practicable to efficiently and effectively meet the authority's needs, or that another procurement method is in the public's best interests.

(7) The authority may enter into lease purchases or installment purchases for periods not exceeding the anticipated useful life of the items purchased. The authority may enter into a cooperative purchasing agreement with the state or other public entities for the purchase of goods, including, but not limited to, recycled goods, and services necessary for the authority.

(8) The chief executive officer of an authority shall comply with all federal and state contracting requirements pertaining to disadvantaged business enterprises, minority business enterprises, and other targeted business enterprises and shall seek to ensure maximum participation of disadvantaged business enterprises, minority business enterprises, and other targeted business enterprises in contracting opportunities with the authority.

(9) Members of the board and officers, appointees, and employees of the authority are public servants under 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. The board shall establish policies and procedures requiring periodic disclosure of relationships which may give rise to conflicts of interest. The board shall require that a member of the board or a chief executive officer or chief financial officer who has a direct interest in any matter before the authority disclose the member's or officer's interest and any reasons reasonably known to the member of the board or officer why the transaction may not be in the best interest of the public or the authority before the board takes any action with respect to the matter. The disclosure shall become part of the record of an authority's proceedings.

(10) An authority shall establish an ethics manual governing the conducting of airport business and the conduct of airport employees. An authority shall establish policies that are no less stringent than those provided for public officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the authority to preclude the opportunity for and the occurrence of transactions by the authority that would create a conflict of interest involving members of the board and employees of the authority. At a minimum, these policies shall include compliance by each member of the board and employees of the authority who regularly exercise significant discretion over the award and management of authority procurements with policies governing all of the following:

(a) Immediate disclosure of the existence and nature of any financial interest that would reasonably be expected to create a conflict of interest.

(b) Withdrawal by an employee or member from participation in or discussion or evaluation of any recommendation or decision involving an authority procurement that would reasonably be expected to create a conflict of interest for that employee or member.

(11) An authority shall work collaboratively with appropriate local governmental units in the implementation of any federally sanctioned and funded programs for the mitigation of aircraft noise and fuel fumes.

259.115 Preparation of annual budget.

Sec. 115. Before the beginning of each fiscal year, the board shall prepare a budget containing an itemized statement of the estimated current operational expenses and the expenses for capital outlay including funds for the operation and development of the

airport under the jurisdiction of the board, and the amount necessary to pay the principal and interest of any outstanding bonds or other obligations of the authority maturing during the ensuing fiscal year or which have previously matured and are unpaid, and an estimate of the revenue of the authority from all sources for the ensuing fiscal year. The board shall adopt that budget in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

259.116 Authority as public body corporate; powers; personal liability; transfer of operational jurisdiction; indemnification for local government with civil claim; imposition of fees or charges; airport revenues, facilities, or assets as security; prohibited actions; completion of airport or facility project; preparation, submission, and administration of grants; custodian of funds.

Sec. 116. (1) An authority is a public body corporate with the following powers:

(a) An authority may adopt a corporate seal.

(b) An authority may sue or be sued in any court of the state.

(c) An authority has the power and duty of planning, promoting, extending, maintaining, acquiring, purchasing, constructing, improving, repairing, enlarging, and operating all airports and airport facilities under the operational jurisdiction of or owned by the authority.

(d) An authority has the power to assume and perform the obligations and the covenants related to the airport that are contained in an agreement or other document between or by the local government that owns the airport for which operational jurisdiction has been transferred to the authority pursuant to this chapter and the state or the federal aviation administration relative to grants for the airport or airport facilities.

(e) An authority may take by grant, purchase, devise, or lease, or by the exercise of the right of eminent domain, or otherwise acquire and hold, real and personal property, in fee simple or any lesser interest or easement, as an authority may deem necessary either for the construction of any airport facilities or for the efficient operation or for the extension of any airport facilities acquired or constructed or to be constructed under this chapter, and, except as otherwise provided by this act, to hold in its name, lease, and dispose of all real and personal property owned by or under the operational jurisdiction of the authority. If land is acquired by condemnation, the provisions of the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.76, or any successor statute, shall be adopted and used for the purpose of instituting and prosecuting the condemnation proceedings. For the purpose of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage. The acquisition of any land by an authority for an airport or airport facilities in furtherance of the purposes of the authority, and the exercise of any other powers of the authority, are hereby declared as a matter of legislative determination to be public, governmental and municipal functions, purposes and uses exercised for a public purpose, and matters of public necessity.

(f) An authority may make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter with any department or agency of the United States, with any state or local governmental agency, or with any other person, public or private, upon those terms and conditions acceptable to the authority consistent with section 114(6).

(g) An authority has the exclusive responsibility to study and plan any improvements, expansion, or enhancements that affect the airport.

(h) An authority may commission planning, engineering, economic, and other studies to provide information for making decisions about the location, design, management, and other features of the airport or airport facilities.

(i) An authority is responsible for developing all aspects of the airport and airport facilities, including, but not limited to, all of the following:

(*i*) The location of terminals, hangars, aids to air navigation, parking lots and structures, cargo facilities, and all other facilities and services necessary to serve passengers and other customers of the airport.

(*ii*) Street and highway access and egress with the objective of minimizing, to the extent practicable, traffic congestion on access routes in the vicinity of the airport.

(j) An authority may act as a sponsor and submit requests for, accept, and be responsible to perform all of the assurances associated with accepting grants from the federal aviation administration or any other agency of the United States or of this state, with respect to the airport under the operational jurisdiction of the authority, and to perform the duties and responsibilities previously assumed by the local government that owns the airport under the operational jurisdiction of the authority by virtue of its acceptance of grants from the federal aviation administration or any other agency of the United States or this state.

(k) An authority may enter into agreements to use the facilities or services of the state, any subdivision or department of the state, any county or municipality, or the federal government or any agency of the federal government as necessary or desirable to accomplish the purposes of this chapter for that consideration or pursuant to that cost allocation formula that may be acceptable to the authority in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state, including, but not limited to, policies of the FAA prohibiting revenue diversion or the payment of fees exceeding the value of services provided by a governmental agency.

(*l*) An authority may allow the state, any subdivision or department of the state, any county or municipality, or the federal government or any agency of the federal government to utilize airport facilities or the services of the authority as necessary or desirable to accomplish the purposes of this chapter, for consideration acceptable to the authority in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(m) An authority may adopt and enforce in a court of competent jurisdiction of this state reasonable rules, regulations, and ordinances for the orderly, safe, efficient, and sanitary operation and use of airport facilities owned by the authority or under its operational jurisdiction. The authority may establish civil and criminal penalties for the violation of rules, regulations, and ordinances authorized under this subdivision to the same extent as the local government that owns the airport.

(n) An authority may enter into exclusive or nonexclusive contracts, leases, franchises, or other arrangements with any person or persons for terms not exceeding 50 years, for granting the privilege of using or improving, or having access to the airport or any airport facility, or any portions of the airport or the authority's airport facilities, for commercial airline-related purposes consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(o) An authority may enter into exclusive or nonexclusive contracts, leases, or other arrangements not described in subdivision (n) for commercially reasonable terms

consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(p) Subject to section 119, an authority may appoint and vest with police powers airport law enforcement officers, guards, or police officers under this chapter. The law enforcement officers, guards, or police officers of the authority shall have the full police powers and the authority of peace officers within the areas over which the authority has operational jurisdiction, including, but not limited to, the prevention and detection of crime, the power to investigate and enforce the laws of this state, rules, regulations, and ordinances issued by the authority, and, to the extent permitted or required by federal law and regulations, requirements of federal law and regulations governing airport security. The officers may issue summons, make arrests, and initiate criminal proceedings. An authority is responsible for all actions of its officers committed under color of their official position and authority.

(q) An authority may procure insurance or become a self-funded insurer against loss in connection with the property, assets, or activities of the authority.

(r) An authority may invest money of the authority, at the board's discretion, in instruments, obligations, securities, or property determined proper by the board, and name and use depositories for its money.

(s) Except as otherwise prohibited by this chapter, an authority shall have all the powers of a political subdivision under this act, but shall not levy or impose a tax or special assessment.

(t) An authority may exercise its powers and duties under this chapter notwithstanding any charter provision, ordinance, resolution, contract, regulation, or rule of a local government to the contrary. This subdivision does not apply to a contract entered into by a local government after the authority is created if the contract also has been approved or ratified by the authority. Nothing in this chapter shall be construed to limit the exercise of the powers of a local government in which an airport is located to zone property under the city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600, or to engage in land planning under 1931 PA 285, MCL 125.31 to 125.45, with respect to property that is not part of the airport.

(u) An authority may fix, charge, and collect rates, fees, rentals, and charges within and for the use and operation of the airport or airports under the operational jurisdiction of the authority.

(2) A member of the board or an officer, appointee, or employee of the authority shall not be subject to personal liability when acting in good faith within the scope of his or her authority or on account of liability of the authority, and the board may defend and indemnify a member of the board or an officer, appointee, or employee of the authority against liability arising out of the discharge of his or her official duties. An authority may indemnify and procure insurance indemnifying members of the board and other officers and employees of the authority from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the authority. The authority may also purchase and maintain insurance on behalf of any person against any liability asserted against the person and incurred by the person in any capacity or arising out of the status of the person as a member of the board or an officer or employee of the authority, whether or not the authority would have the power to indemnify the person against that liability under this subsection. An authority, pursuant to bylaw, contract, agreement, or resolution of its board, may obligate itself in advance to defend and indemnify persons.

(3) An authority shall indemnify and hold harmless the local government that owns the airport over which operational jurisdiction has been transferred to the authority for any civil claim existing or any civil action or proceeding pending by or against the local government involving or relating to the airport, airport facilities, or any civil liability related to the obligations of the local government issued or incurred with respect to the airport which was pending at the time of, or which had been incurred prior to, the transfer of operational jurisdiction of the airport to the authority.

(4) Notwithstanding any other provision of law to the contrary, an authority does not have the power to impose or levy taxes, except the authority has the power to impose fees or charges permitted by federal law.

(5) Unless an authority obtains the approval of the legislative body of the local government that owns the airport over which operational jurisdiction has been transferred to the authority pursuant to section 117, the authority shall not incur any indebtedness pledging, on a parity or superior basis, any revenues from airport facilities that are otherwise pledged to secure any obligation, note, bond, or other instrument of indebtedness for which the full faith and credit of the local government has been pledged.

(6) Upon the creation or incorporation of an authority under this chapter, the local government that owns the airport over which operational jurisdiction may be transferred pursuant to section 117 shall not pledge airport facilities or assets to secure any instrument of indebtedness except to secure airport revenue bonds issued for airport capital improvement projects after the creation or incorporation of the authority and prior to the approval date.

(7) An authority shall not take any action contrary to obligations assumed or entered into under federal rules or regulations or any agreement entered into or assumed with respect to state or federal grants.

(8) A local government shall not take any action contrary to obligations or covenants under applicable federal law, regulations, and assurances associated with the state or federal government. A local government, or an official of the local government acting in an official capacity, shall take no action, including, but not limited to, action pursuant to charter provision, ordinance, resolution, contract, regulation, or rule, to impede the exercise of powers or duties under this chapter.

(9) If a local government previously acted as a sponsor and action by, or concurrence of, the local government is required to complete a project related to the airport or airport facilities, the local government shall not withhold, condition, or delay concurrence with any authority action necessary to complete the project in accordance with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(10) The authority to which operational jurisdiction for an airport is transferred shall be the agent of a local government for the preparation, submission, and administration of all state or federal grants pending as of the approval date. The authority shall also be the custodian of all funds received or to be received by the local government or the authority for the projects for which the grants were awarded.

259.117 Actions, commitments, and proceedings occurring on approval date; exclusive rights and authority; acquisitions or transfers.

Sec. 117. (1) All of the following occur on the approval date:

(a) The authority acquires, succeeds to, and assumes the exclusive right, responsibility, and authority to occupy, operate, control, and use the airport and the airport

facilities of an airport owned by the local government on that date, including all lands, buildings, improvements, structures, aviation easements, rights of access, and all other privileges and appurtenances pertaining to the airport, subject only to those restrictions imposed by this act.

(b) The authority acquires and succeeds to all rights, title, and interests in and to the fixtures, equipment, materials, furnishings, and other personal property owned and used for purposes of the airport on that date by the local government that owned the airport. The officers of the local government that owns the airport under the operational jurisdiction of the authority shall execute those instruments of conveyance, assignment, and transfer as may be necessary or appropriate to accomplish the foregoing.

(c) The authority assumes, accepts, and becomes liable for all of the lawful obligations, promises, covenants, commitments, and other requirements in respect of the airport of the local government that owns the airport under the operational jurisdiction of the authority, whether known or unknown, contingent or matured, but excepting any full faith and credit pledge of the local government in respect of bonds issued by the local government for airport purposes, and shall perform all of the duties and obligations and shall be entitled to all of the rights of the local government in respect of the airport under any ordinances, agreements, or other instruments and under law. Consistent with this chapter, this assumption includes, and there shall be transferred to the authority, all licenses, permits, approvals, or awards related to the airport, all grant agreements, grant pre-applications, the right to receive the balance of any funds payable under the agreements, the right to receive any amounts, including PFCs, payable to the local government on the approval date and amounts paid to the local government after the approval date, as well as the benefit of contracts and agreements, and all of the local government's duties, liabilities, responsibilities, and obligations as sponsor of the airport, except for any obligation or liabilities contested in good faith by the authority.

(d) The authority assumes unfunded obligations to provide pensions or retiree health insurance in an amount and manner determined by a professional actuary acceptable to the authority and the local government. However, the authority shall not assume any such obligations in excess of the amount properly allocable to the airport over which the authority is exercising operational jurisdiction under the local government's allocation procedures in effect on the date the authority is created or incorporated, and the amount of obligations so assumed by the authority shall not exceed its pro rata share of such obligations, based upon the percentage which the amount of such obligations attributable to employees of the authority is of the amount of all such obligations prior to such assumption.

(2) All lawful actions, commitments, and proceedings, including, but not limited to, revenue bond financings for which a notice of intent resolution has been adopted, of the local government made, given, or undertaken before the date of assumption by the authority under this section are ratified, confirmed, and validated upon assumption by the authority. All actions, commitments, or proceedings undertaken shall, and all actions, commitments, or proceedings of the local government in respect of the airport in the process of being undertaken by, but not yet a commitment or obligation of, the local government in respect of the airport may, from and after the date of assumption by the authority under this section, be undertaken and completed by the authority in the manner and at the times provided in this chapter or other applicable law and in any lawful agreements made by the local government before the date of assumption by the authority under this section.

(3) The exclusive right and authority to occupy, operate, control, and use the airport facilities includes, but is not limited to, all of the following:

(a) Operational jurisdiction over all real property of the airport, including, but not limited to, all terminals, runways, taxiways, aprons, hangars, aids to air navigation, emergency vehicles or facilities, parking facilities for passengers and employees, and buildings and facilities used to operate, maintain, and manage the airport, subject to any liens on the real property and restrictions and limitations on the use of the real property.

(b) The local government's right, title, and interest in, and all of the local government's responsibilities arising under leases, concessions, and other contracts for airport facilities.

(4) The acquisitions, assumptions, successions, or transfers described under this section include, but are not limited to, all of the following:

(a) All contracts with airlines, tenants, concessionaires, leaseholders, and others at the airport.

(b) All financial obligations secured by revenues and fees generated from the operations of the airport, including, but not limited to, airport revenue bonds, special facilities revenue bonds, and all bonded indebtedness associated with the airport.

(c) All cash balances and investments relating to or resulting from operations of the airport for which operational jurisdiction has been transferred to an authority, all funds held under an ordinance, resolution, or indenture related to or securing obligations of the local government that have been assumed by the authority, and all of the accounts receivable or choses in action arising from operations of the airport as well as all benefits of contracts and agreements.

(d) All office equipment, including, but not limited to, computers, records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, and general administration.

259.118 Operational jurisdiction over airport; transfer to authority; effect.

Sec. 118. (1) The transfer of the operational jurisdiction over an airport to the authority may not in any way impair any contracts with airlines, vendors, tenants, bondholders, or other parties in privity with the local government that owns the airport over which operational jurisdiction has been transferred to an authority.

(2) Upon the transfer of operational jurisdiction over an airport pursuant to section 117, a local government shall be relieved from all further costs and responsibility arising from or associated with control, operation, development, and maintenance of that airport, except as otherwise required under obligations retained by the local government under this chapter or as otherwise agreed by the local government.

(3) A local government that owns an airport for which an authority has been created or incorporated under this chapter shall comply with all of the following:

(a) Refrain from any action that would impair an authority's exercise of the powers granted to the authority under this chapter or that would impair the efficient operation and management of the airport.

(b) Refrain from any action to sell, transfer, or otherwise encumber or dispose of airport facilities owned by the local government for which operational jurisdiction has been transferred without the consent of the authority and, where necessary, the federal aviation administration.

(c) Take all action reasonably necessary to cure any defects in title to airport facilities over which an authority has been transferred operational jurisdiction.

(d) At the request of an authority that has been transferred operational jurisdiction of an airport owned by the local government, grant any license, easement, or right-of-way in

connection with the airport to the extent the authority has not been empowered to take these actions.

(e) Upon creation or incorporation of an authority and before the approval date, conduct operations of the airport in the ordinary and usual course of business.

(f) Maintain and repair, including providing snow removal for, any road providing ingress and egress to the airport over which responsibility for maintenance and repair is retained by the local government pursuant to agreement or law.

(4) At the request of the authority, a local government that owns a qualified airport over which operational jurisdiction has been transferred to an authority shall provide the authority with transitional services previously performed by the local government and related to the operation of the qualified airport until the date the authority elects to assume these services. The reasonable cost of these services shall be paid by the authority.

259.119 Election by employees to transfer to authority; requirements.

Sec. 119. (1) For employees who elect to transfer to the authority under subsection (2) and who are covered by the terms of a collective bargaining agreement with the local government that owns an airport over which operational jurisdiction will be transferred, the authority shall assume and be bound by those existing collective bargaining agreements for the remainder of the term of the agreement. A representative of the employees or a group of employees in the local government who represents or is entitled to represent the employees or a group of employees of the local government, pursuant to 1947 PA 336, MCL 423.201 to 423.217, shall continue to represent the employees or group of employees after the employees transfer to the authority and the authority shall honor all obligations of a public sector employer after the expiration of any collective bargaining agreement with respect to transferring employees.

(2) Local government employees employed at an airport from which operational jurisdiction will be transferred to an authority may agree to transfer to the employment of the authority on or before a date established by the authority. The date established by the authority shall not be later than the approval date. Local government employees, who do not agree to transfer to the employment of the authority, shall be reassigned within the local government. The local government shall not, as a result of the creation or incorporation of an authority for a period of not more than 1 year, layoff or reduce the pay or benefits of any employee of the local government into whose position a local government employee who was previously employed at the airport is reassigned. The authority shall consider any person hired by the authority to fill a position that had been previously filled with a local government employee who did not agree to transfer to the employment of the authority to be under the collective bargaining agreement covering, and to be represented by the collective bargaining representative of, the local government employee who did not agree to transfer to the authority. The authority shall accept the transfers without a break in employment, subject to all rights and benefits held by the transferring employees under a collective bargaining agreement. Transferring employees shall not be placed in a worse position by reason of the transfer for a period of 1 year after the approval date, or any longer period as may be required in connection with the assumption of any applicable collective bargaining agreement, with respect to wages, workers' compensation, pension, seniority, sick leave, vacation, or health and welfare insurance or any other term and condition of employment that a transferring employee may have under a collective bargaining agreement that the employee received as an employee of the local government. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement except that any employee who

as of the effective date of this chapter has the right, by contract or statute, to submit any unresolved disputes to the procedures set forth in 1969 PA 312, MCL 423.231 to 423.247, shall continue to have that right, or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the authority. Employees who elect to transfer shall not by reason of the transfer have their accrued local government pension benefits or credits diminished. If a transferring employee is not vested in his or her local government pension rights at the time of transfer, his or her post-transfer service with the authority shall be credited toward vesting in any local government retirement system in which the transferring employee participated prior to the transfer, but the post-transfer service with the authority shall not be credited for any other purpose under the local government's retirement system, except as provided in subsections (3) and (4). An employee who elects to transfer to the authority may, upon return to employment with the local government within 1 year from the approval date, do so without loss of seniority unless contrary to a collective bargaining agreement. Notwithstanding any other provision of this section, a political appointee, other than a member of the board appointed under section 111, at an airport previously operated by the local government from which operational authority has been transferred to an authority shall not be placed in a worse position in regards to terms and conditions of employment until December 31 of the year in which the authority is created.

(3) If a local government employee described in this section elects to transfer to an authority or if a person is hired by the authority as a new employee after the date on which the authority assumes operational jurisdiction over an airport, the employee shall remain or become a participant in the local government retirement system until the authority has established its own retirement system or pension plan. During this period the employee remains or is a participant in the local government system, the employee's post-transfer service with the authority during this period and his or her post-transfer compensation from the authority during this period shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan.

(4) If a local government employee described in this section elects to transfer to the authority, then the transferred employee may elect to remain a participant in the local government retirement system in lieu of participation in any retirement system or pension plan of the authority. By electing to remain a participant in the local government system, the employee's post-transfer service with the authority and his or her post-transfer compensation from the authority shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan. Any election to remain in a local government system or plan shall be made within 60 days following the date the authority has established its own retirement system or pension plan and shall be irrevocable. Employees eligible to make the election described in this subsection shall be those employees who immediately before their transfer date were participating in the local government system and who agree to make any employee contributions required for continuing participation in the local government system and also agree to meet all requirements and be subject to all conditions which, from time to time, apply to employees of the local government who participate in the local government system.

(5) For each employee meeting the requirements of subsection (4) who elects to remain a participant in the local retirement system, the authority shall, on a timely basis, contribute the following amounts, as applicable, to the trustees of that retirement system:

(a) An amount determined by the local government system's actuary toward amortization of unfunded actuarial accrued liabilities which, as of the transfer date, are reasonably allocated to that employee on the local government system's records.

(b) An amount determined by the local government system's actuary sufficient to fund the liability for all of that employee's retirement and other benefits under the system on a current basis, as those liabilities are accrued on and after the transfer date.

(c) An amount determined by the local government system's actuary equal to all actuarial losses net of actuarial gains, costs, and administrative expenses of the system which are reasonably allocated to the employee.

(d) An amount equal to the percentage of compensation that the local government would have contributed for the employee had he or she remained in the employ of the local government.

(e) An amount corresponding to what the local government would have contributed toward retiree health coverage for the employee. However, the authority shall succeed to all rights of the local government to modify, amend, replace, suspend, or discontinue the retiree health coverage being provided to the persons who retire from authority employment.

259.120 Sources of revenue.

Sec. 120. (1) An authority may raise revenues to fund all of its activities, operations, and investments consistent with its purposes. However, an authority shall not levy a tax or impose a special assessment. The sources of revenue available to the authority may include, but are not limited to, fees, rents, or other charges the authority may fix, regulate, and collect for the airport facilities under the control of and services furnished by the authority, including fees, rentals, and charges fixed in connection with agreements entered into under section 116. The revenues raised by an authority may be pledged, in whole or in part, for the repayment of bonded indebtedness and other expenditures issued or incurred by the authority.

(2) To the extent practicable, an authority shall endeavor to maximize the revenues generated from enterprises located at the airport consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(3) The authority may make application for and receive loans, grants, guarantees, or other financial assistance in aid of airport facilities and the operation of the airport from any state, federal, county, or municipal government or agency or from any other source, public or private, including financial assistance for purposes of planning, constructing, improving, and operating the airport, for providing security at the airport, and for providing ground access to the airport.

259.121 Other publicly owned airports; transfer of operational jurisdiction.

Sec. 121. The authority may accept the transfer of operational jurisdiction of other publicly owned airports that hold an airport operating certificate issued by the FAA under part 139 of chapter 14 of the code of federal regulations, within and without the local government. In accepting a transfer, the authority may assume no financial obligations other than those associated with the operation of the airport being transferred and with debt issued to finance improvements at the airport being transferred. If a governmental entity transfers operational jurisdiction over an airport to an authority under this section, the authority shall not sell or transfer any property of the governmental entity without the consent of the governmental entity that provided the transfer of operational jurisdiction under this section. An authority that operates a qualified airport shall not operate an airport that is located in a city having a population of more than 750,000.

259.122 Issuance of bonds by authority.

Sec. 122. For the purpose of acquiring, purchasing, constructing, improving, enlarging, furnishing, equipping, reequipping, or repairing airports and airport facilities for which operational jurisdiction is transferred pursuant to this chapter or is acquired by the authority, the authority may issue self-liquidating bonds of the authority in accordance with and exercise all of the powers conferred upon public corporations by the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.139.

259.123 Borrowing money and issuing municipal securities.

Sec. 123. The authority may borrow money and issue municipal securities in accordance with and exercise all of the powers conferred upon municipalities by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

259.124 Bonds or other evidence of indebtedness; tax exemption.

Sec. 124. All bonds or other evidences of indebtedness issued by an authority under this chapter, and the interest thereon, are free and exempt from all taxation within the state, except for transfer and franchise taxes.

259.125 Legislative body of local government; actions.

Sec. 125. (1) The legislative body of any local government that owns an airport over which the operational jurisdiction has been transferred to an authority is hereby authorized, with the consent of the authority, to take 1 or more of the following actions:

(a) Pledge its full faith and credit behind any obligation or evidence of indebtedness of the authority.

(b) Advance funds to the authority for working capital and other purposes of the authority on terms and conditions agreed to by the authority and the local government consistent with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(c) Appropriate and grant funds to the authority in furtherance of its purposes.

(d) Grant and convey to the authority real or personal property of any kind or nature, or any interest in real or personal property, for the carrying out of the authorized purposes of the authority.

(2) A pledge made pursuant to this section shall be at the discretion of the legislative body of the local government and may be subject to an agreement providing for terms and conditions of the pledge and for repayment of any amount paid pursuant to the pledge as the authority and the local government may determine necessary and advisable consistent with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(3) Any agreement by an authority to repay an advance made pursuant to this section, and any obligation incurred by the authority under that agreement, shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

259.125a Interest rate exchange or agreement.

Sec. 125a. (1) For the purpose of more effectively managing its debt service, an authority may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of obligations or other evidences of indebtedness or in connection with its then outstanding obligations or other evidences of indebtedness.

(2) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, the authority may create a reserve fund for the payment thereof.

(3) An agreement entered into pursuant to this section shall comply with all of the following:

(a) The agreement is not a debt of the authority entering into the agreement for any statutory or charter debt limitation purpose.

(b) The agreement is payable from general funds of the authority or, subject to any existing contracts, from any available money or revenue sources, including revenues that shall be specified by the agreement, securing the obligation or evidence of indebtedness in connection with the agreement.

259.125b Contract between authority and bond holder; provisions.

Sec. 125b. (1) Notwithstanding any other provisions of this chapter or any other law, the provisions of all ordinances, resolutions, and other proceedings of the local government with respect to any outstanding bonds, notes, or any and all evidences of indebtedness or liability assumed by an authority pursuant to this chapter shall constitute a contract between the authority and the holders of the bonds, notes, or evidences of indebtedness or liability, and shall have their provisions enforceable against the authority or any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction in accordance with law.

(2) Bonds, notes, or any and all evidences of indebtedness or liability that are assumed by an authority under this chapter are payable solely from and secured solely by the sources of revenue that were pledged to those bonds, notes, or evidences of indebtedness or liability under the ordinance, resolution, or other proceedings of the local government, and do not constitute a full faith and credit obligation of the authority.

(3) Nothing in this chapter or in any other law shall be held to relieve an authority from any bonded or other debt or liability lawfully contracted by the local government with respect to the airport and outstanding as of the effective date of the transfer of the operational jurisdiction over the airport to the authority.

(4) An authority shall not take any action to impair the rights or remedies of the holders of the bonds or other obligations of the local government that owns the airport that were lawfully issued prior to the transfer of operational jurisdiction of the airport to the authority.

(5) Upon the transfer of operational jurisdiction over the airport to an authority, trustees, paying agents, and registrars for any obligation of the local government that has been assumed by the authority pursuant to section 117 shall perform all of their duties and obligations and provide all notices related to those obligations as if the authority were the issuer of the obligations. These trustees, paying agents, and registrars shall care for and consider all revenues and funds pledged to secure obligations of the local government that have been assumed by the authority pursuant to section 117 as revenues and funds of the authority. The authority shall indemnify and hold harmless these trustees, paying agents, and registrars from liability incurred in compliance with this subsection.

259.125c Severability.

Sec. 125c. If any portion of this chapter or the application of this chapter to any person or circumstances is found to be invalid by a court, that invalidity shall not affect the remaining portions or applications of this chapter, which can be given effect without the invalid portion or application, as long as the remaining portions are not determined by the court to be inoperable; and to this end, this chapter is declared to be severable.

Repeal of §§ 125.2521 to 125.2546.

Enacting section 1. The international tradeport development authority act, 1994 PA 325, MCL 125.2521 to 125.2546, is repealed.

This act is ordered to take immediate effect.
Approved March 26, 2002.
Filed with Secretary of State March 26, 2002.

[No. 91]

(HB 5216)

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending sections 2, 33, 770, 770a, 771, 773, 794a, 795, and 971 (MCL 168.2, 168.33, 168.770, 168.770a, 168.771, 168.773, 168.794a, 168.795, and 168.971), section 2 as amended by 1999 PA 216, section 33 as amended by 1996 PA 583, section 794a as amended by 1995 PA 261, section 795 as amended by 2001 PA 269, and section 971 as amended by 1976 PA 66, and by adding section 37; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

168.2 Definitions.

Sec. 2. As used in this act:

(a) "Business day" or "secular day" means a day that is not a Saturday, Sunday, or legal holiday.

(b) "Election" means an election or primary election at which the electors of this state or of a subdivision of this state choose or nominate by ballot an individual for public office or decide a ballot question lawfully submitted to them.

(c) "Name that was formally changed" means a name changed by a proceeding under chapter XI of the probate code of 1939, 1939 PA 288, MCL 711.1 to 711.3, or former 1915 PA 314, or through a similar, statutorily sanctioned procedure under the law of another state or country.

(d) "Uniform voting system" means the voting system that is used at all elections in every election precinct throughout the state.

168.33 Training schools on conducting elections in accordance with election laws; conduct; cost.

Sec. 33. (1) The director of elections shall conduct training schools throughout this state preceding the general November election, and preceding such other elections as the director considers advisable, for county clerks and their representatives with respect to

the conducting of elections in accordance with the election laws. Included in this training shall be instruction on the uniform voting system. In case any county clerk shall fail to conduct in his or her county a training school for election boards within the county, the director of elections shall conduct such training school, the cost of the training school to be charged as an obligation of the county.

(2) The director of elections shall train all county, city, and township clerks who are involved in the training of precinct inspectors. The training shall include team training and monitoring of their performance as trainers.

(3) The director of elections shall conduct all precinct inspector training in counties where the clerk has not been accredited to conduct the training schools.

168.37 Uniform voting system; advisory committee; selection; notice of selection; schedule for acquisition and implementation; repetition of process; appropriation required; repeal of section.

Sec. 37. (1) The secretary of state shall select a uniform voting system under the provisions of this section. The secretary of state shall convene an advisory committee on the selection of the uniform voting system, whose membership represents county, city, and township election officials and other relevant organizations. In addition, the speaker and minority leader of the house of representatives and the majority and minority leaders of the senate may each appoint 1 advisory committee member.

(2) The secretary of state may conduct tests of a voting system in order to select the uniform voting system. The secretary of state shall not consider a voting system for selection as the uniform voting system unless the voting system is approved and certified as provided in section 795a. At the secretary of state's request, the board of state canvassers shall perform the approval and certification review, as provided in section 795a, of a voting system that the secretary of state wants to consider for selection as the uniform voting system.

(3) When the uniform voting system is selected or at an earlier time that the secretary of state considers advisable, the secretary of state shall notify each county, city, village, township, and school district about the selection or impending selection of the uniform voting system. A governmental unit that is notified under this subsection shall not purchase or enter into a contract to purchase a voting system other than the uniform voting system after receipt of the notice.

(4) After selection of the uniform voting system, the secretary of state shall establish a schedule for acquisition and implementation of the uniform voting system throughout the state. The secretary of state may devise a schedule that institutes the uniform voting system over several election cycles. The secretary of state shall widely publicize the schedule and changes to the schedule. If, however, a jurisdiction has acquired a new voting system within 8 years before the jurisdiction receives notice from the secretary of state under subsection (3), that jurisdiction shall not be required to acquire and use the uniform voting system until the expiration of 10 years after the date of the original purchase of the equipment.

(5) If, after selection of the uniform voting system, the secretary of state determines that the uniform voting system no longer serves the welfare of the voters or has become out of date in regards to voting system technology, the secretary of state may repeat the process for selecting the uniform voting system authorized under this section.

(6) This section does not apply until money is appropriated for the purpose of selecting, acquiring, and implementing the uniform voting system. If federal money becomes available for the purposes described in this section, the secretary of state shall, and the

legislature intends to, take the steps necessary to qualify for and appropriate that money for the purposes described in this section.

(7) If an appropriation of money for the purposes described in this section is not signed into law before January 1, 2006, this section is repealed on January 1, 2006.

168.770 Voting machines authorized; contracts between governing bodies as to use.

Sec. 770. (1) Unless the secretary of state implements the uniform voting system in a precinct, at all elections held in this state, ballots or votes may be cast, registered, recorded, and counted by means of voting machines, as provided in this chapter.

(2) The governing body of a governmental unit in this state may contract with the governing body of another governmental unit in this state with regard to the use of voting machines owned by either of the contracting units.

168.770a Voting device; authorization of use by secretary of state; petition; rules as to election procedures.

Sec. 770a. Until the secretary of state implements the uniform voting system, the secretary of state may permit the use of any type of voting device for election purposes in any election upon petition for use of the device by the legislative body of the political subdivision desiring to use any new device. Permission granted by the secretary of state shall be valid for 1 election only. Local legislative body includes school boards. Upon authorizing the use of the device, the secretary of state shall prepare detailed rules as to election procedures when the device is used. The rules may include prescribing the counting of votes and the making of returns by persons other than precinct election inspectors. No rule shall be made which provides for reducing the secrecy of the ballot. In partisan general elections, candidates shall be listed under a party heading. Rules promulgated shall be consistent with the election law.

168.771 Voting machines; purchase.

Sec. 771. Until notified by the secretary of state under section 37, a county board of commissioners, the legislative body of an incorporated city or village, or the township board of a township in the state of Michigan may, by a majority vote, authorize, purchase, and order the use of a thoroughly tested or reliable voting machine in 1 or more voting precincts within the county, city, village, or township until otherwise ordered by the officers adopting the same.

168.773 Voting machines or uniform voting system; maintenance; custody.

Sec. 773. (1) A county board of commissioners, the legislative body of a city or village, or the township board of a township adopting a voting machine or implementing the uniform voting system shall, as soon as practicable, provide for each election district a voting machine or uniform voting system in complete working order. The county, city, township, or village clerk shall keep the voting machine or voting system in repair and shall have the custody of the machine or system. The clerk has custody of the furniture and equipment of the polling place when not in use at an election.

(2) If it is impracticable to supply each and every election district with a voting machine at any election following the adoption, as many may be supplied as it is practicable to procure, and the voting machines may be used in the election district or districts within the county, city, village, or township as the officers adopting them may determine. More than 1 voting machine may be provided and used in an election precinct.

168.794a Electronic voting system; authorization; acquisition; abandonment; use; accuracy test; applicability of subsections (1) and (2).

Sec. 794a. (1) Subject to this section, the board of commissioners of a county, the legislative body of a city or village, the township board of a township, or the school board of a school district, by a majority vote, may authorize, acquire by purchase, lease, or otherwise, adopt, experiment with, or abandon an electronic voting system approved for use in this state in an election, and may use the system in all or a part of the precincts within its boundaries, or in combination with other approved voting systems.

(2) A new electronic voting system shall not be used at a general election in a county, city, or township unless, in addition to the other requirements of this act, all of the following requirements are met:

(a) The county, city, or township purchases or otherwise acquires the electronic voting system 6 months or more before the next general election to be held in that county, city, or township.

(b) The county, city, or township uses the electronic voting system at a primary, special, or other local election held in the county, city, or township before the general election.

(3) The appropriate board of election commissioners shall provide for an accuracy test of an electronic voting system in the manner prescribed in rules promulgated by the secretary of state. The secretary of state shall prescribe procedures for preparing test decks and conducting accuracy tests for electronic voting systems in this state.

(4) Before an election held in a county, city, township, village, or school district, the secretary of state may randomly select and test for accuracy an electronic voting system to be used by the county, city, township, village, or school district in that election. The secretary of state shall use the test decks prepared by the secretary of state to conduct the random tests allowed under this subsection.

(5) A board of election commissioners shall not use in an election an electronic voting system that has failed the most recent accuracy test performed on that voting system under this act. An electronic voting system may be used after any necessary corrections are made and an accuracy test is passed on the system.

(6) Subsection (1) does not apply to a county, city, village, township, or school district after the county, city, village, township, or school district receives the secretary of state's notice under section 37. Subsection (2) shall apply to a county, city, village, township, or school district after it receives the secretary of state's notice under section 37 if, at the time of the notice, the county, city, village, township, or school district is using an electronic voting system that is the same type as the uniform voting system.

168.795 Electronic voting system; requirements; method for rendering electronic tabulating equipment inoperable.

Sec. 795. (1) An electronic voting system acquired or used under sections 794 to 799a shall meet all of the following requirements:

(a) Provide for voting in secrecy, except in the case of voters who receive assistance as provided by this act.

(b) Permit each elector to vote at an election for all persons and offices for whom and for which the elector is lawfully entitled to vote; to vote for as many persons for an office as the elector is entitled to vote for; and to vote for or against any question upon which the elector is entitled to vote. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject all choices recorded on the elector's ballot for

an office or a question if the number of choices exceeds the number that the elector is entitled to vote for on that office or question. Electronic tabulating equipment that can detect that the choices recorded on an elector's ballot for an office or a question exceeds the number that the elector is entitled to vote for on that office or question located at each polling place and shall be programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(c) Permit an elector, at a presidential election, by a single selection to vote for the candidates of a party for president, vice-president, and presidential electors.

(d) Permit an elector in a primary election to vote for the candidates in the party primary of the elector's choice. Except as otherwise provided in this subdivision, the electronic tabulating equipment shall reject each ballot on which votes are cast for candidates of more than 1 political party. Electronic tabulating equipment that can detect that the elector has voted for candidates of more than 1 political party shall be located at each polling place and programmed to reject a ballot containing that type of an error. If a choice on a ballot is rejected as provided in this subdivision, an elector shall be given the opportunity to have that ballot considered a spoiled ballot and to vote another ballot.

(e) Prevent an elector from voting for the same person more than once for the same office.

(f) Reject a ballot on which no valid vote is cast. Electronic tabulating equipment shall be programmed to reject a ballot on which no valid vote is cast.

(g) Be suitably designed for the purpose used; be durably constructed; and be designed to provide for safety, accuracy, and efficiency.

(h) Be designed to accommodate the needs of an elderly voter or a person with 1 or more disabilities.

(i) Record correctly and count accurately each vote properly cast.

(j) Provide an audit trail.

(k) Provide an acceptable method for an elector to vote for a person whose name does not appear on the ballot.

(*l*) Allow for accumulation of vote totals from the precincts in the jurisdiction. The accumulation software must meet specifications prescribed by the secretary of state and must be certified by the secretary of state as meeting these specifications.

(2) Electronic tabulating equipment that counts votes at the precinct before the close of the polls shall provide a method for rendering the equipment inoperable if vote totals are revealed before the close of the polls.

168.971 Election to fill vacancy; time; review team.

Sec. 971. (1) If the recall was successful, the officer with whom the recall petition was filed shall, within 5 days after receiving the certification, submit to the county election scheduling committee a proposed date for a special election to be held within 60 days for the filling of the vacancy. If any primary or election is to be held in that electoral district within 4 months after the certification and at a time as will permit preparation for the election by election officials as provided by law, the election to fill the vacancy shall be held concurrently with that primary or election. The same provisions made in section 964 for calling and conducting of the recall election govern in the calling and conducting of the election to fill the vacancy created, except as otherwise provided in this section.

(2) If a petition is filed under section 959, the officer with whom the petition is filed shall not submit a proposed date to the county election scheduling committee, but shall call the special election subject to the same time limitations set out in this section.

(3) If the governor appoints a review team under the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291, to perform the functions prescribed in that act relative to a city, township, or village and an elected official of the city, township, or village was the subject of a successful recall, the officer with whom the recall petition was filed does not have the authority to propose a date for a special election. If the review team described in this subsection is appointed after the officer submits a proposed special election date or the county election scheduling committee schedules the special election as required by subsection (1), but before the election is held, the officer's or county election scheduling committee's action becomes void when the review team is appointed. Within 5 days after the review team described in this subsection reports its findings to the governor as required by section 14 of the local government fiscal responsibility act, 1990 PA 72, MCL 141.1214, the review team shall submit to the county election scheduling committee a proposed date for the special election. A special election scheduled under this subsection is subject to all of the other provisions of subsection (1).

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5335 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 26, 2002.
Filed with Secretary of State March 27, 2002.

Compiler's note: House Bill No. 5335, referred to in enacting section 1, was filed with the Secretary of State April 9, 2002, and became P.A. 2002, No. 163, Imd. Eff. Apr. 9, 2002.

[No. 92]

(HB 5674)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 512, 524, 527, 535, 549b, 549e, 550a, 821, 821a, 822, 8143, 8144, 8146, 8147, 8148, 8152, and 8176 (MCL 600.512, 600.524, 600.527, 600.535, 600.549b, 600.549e, 600.550a, 600.821, 600.821a, 600.822, 600.8143, 600.8144, 600.8146, 600.8147, 600.8148, 600.8152, and 600.8176), sections 535, 550a, and 8147 as amended by 1990 PA 54, section 549e as added by 1980 PA 129, section 821 as amended by 1998 PA 298, section 821a as added by 1998 PA 100, section 822 as amended by 1998 PA 313, section 8152 as amended by 2000 PA 38, and section 8176 as amended by 1994 PA 138, and by adding section 810a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

600.512 Eleventh judicial circuit.

Sec. 512. The eleventh judicial circuit consists of the counties of Alger, Luce, and Schoolcraft and has 1 judge. Beginning April 1, 2003, the eleventh judicial circuit court consists of the counties of Alger, Luce, Mackinac, and schoolcraft and has 1 judge.

600.524 Twenty-third judicial circuit.

Sec. 524. The twenty-third judicial circuit consists of the counties of Iosco and Oscoda and has 1 judge. Beginning April 1, 2003, the twenty-third judicial circuit consists of the counties of Alcona, Arenac, Iosco, and Oscoda and has 2 judges. The additional judgeship in this circuit shall be filled by the incumbent circuit judge of the thirty-fourth circuit residing in Arenac county with a term ending January 1, 2009, who shall serve as a judge of the twenty-third circuit for the balance of the term to which he or she was elected or appointed. For purposes of the November 2008 general election only, the term of the candidate for circuit judge in this circuit who receives the highest number of votes shall be 8 years, and the term of the candidate receiving the second highest number of votes shall be 6 years.

600.527 Twenty-sixth judicial circuit.

Sec. 527. The twenty-sixth judicial circuit consists of the counties of Alpena, Alcona, Montmorency, and Presque Isle and has 2 judges. Beginning April 1, 2003, the twenty-sixth judicial circuit consists of the counties of Alpena and Montmorency. This circuit shall have 1 judge beginning on the earlier of the following dates:

(a) The date on which a vacancy occurs in the office of circuit judge for this judicial circuit.

(b) Twelve noon, January 1, 2005.

600.535 Thirty-fourth judicial circuit.

Sec. 535. The thirty-fourth judicial circuit consists of the counties of Arenac, Ogemaw, and Roscommon and has 2 judges. Beginning April 1, 2003, the thirty-fourth judicial circuit consists of the counties of Ogemaw and Roscommon and has 1 judge.

600.549b Fiftieth judicial circuit.

Sec. 549b. The fiftieth judicial circuit consists of the counties of Chippewa and Mackinac and has 1 judge. Beginning April 1, 2003, the fiftieth judicial circuit consists of the county of Chippewa and has 1 judge.

600.549e Fifty-third judicial circuit.

Sec. 549e. The fifty-third judicial circuit consists of the county of Cheboygan and has 1 judge. Beginning April 1, 2003, the fifty-third judicial circuit consists of the counties of Cheboygan and Presque Isle and has 1 judge.

600.550a New judicial circuit and 1 or more circuit judgeships; creation; approval by county; resolution; filing; notice to elections division; effect of approval; state's obligation; election; first term; approval of county board of commissioners not required.

Sec. 550a. (1) If a new judicial circuit is proposed by law, that new circuit shall not be created and any circuit judgeship proposed for the circuit shall not be authorized or filled by election unless each county in the proposed circuit, by resolution adopted by the county board of commissioners, approves the creation of the new circuit and each judgeship proposed for the circuit and unless the clerk of each county adopting that resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the sixteenth Tuesday preceding the August primary immediately following the effective date of the amendatory act permitting the creation of the new circuit. The state court administrator shall immediately notify the elections division of the department of state with respect to each new judicial circuit and circuit judgeship authorized pursuant to this subsection.

(2) By proposing a new judicial circuit and 1 or more circuit judgeships for the circuit, the legislature is not creating that circuit or any judgeship in the circuit. If a county, acting through its board of commissioners, approves the creation of a new circuit and 1 or more circuit judgeships proposed by law for that circuit, that approval constitutes an exercise of the county's option to provide a new activity or service or to increase the level of activity or service offered in the county beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the county of all expenses and capital improvements which may result from the creation of the new circuit and each judgeship. However, the exercise of the option does not affect the state's obligation to pay a portion of the circuit judge's or judges' salary as provided by law, or to appropriate and disburse funds to the county for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(3) Each circuit judgeship created pursuant to subsection (1) shall be filled by election pursuant to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The first term of each circuit judgeship shall be 6 years, unless the law permitting the creation of the new circuit and 1 or more judgeships provides for a term of a different length.

(4) The reformation of the eleventh, twenty-third, twenty-sixth, thirty-fourth, fiftieth, and fifty-third judicial circuits pursuant to the 2002 amendatory act that added this subsection does not require the approval of the county board of commissioners under this section or section 550.

600.810a Arenac, Kalkaska, and Crawford counties; power, authority, and title of probate judges.

Sec. 810a. The probate judges in the counties of Arenac, Kalkaska, and Crawford have the power, authority, and title of a district judge within their respective counties, in addition to the power, authority, and title of a probate judge.

600.821 Probate judges; practice of law; annual salary; county contribution and reimbursement; additional salary; increase in salary.

Sec. 821. (1) The following probate judges shall not engage in the practice of law other than as a judge and shall receive, subject to subsection (6), an annual salary provided in this section:

(a) A probate judge of a county that is not part of a proposed probate court district described in section 807.

(b) The probate judge in each probate court district in which a majority of the electors voting on the question in each county of probate court district has approved or approves creation of the district.

(c) A probate judge in a county having a population of 15,000 or more according to the 1990 federal decennial census, if the county is not part of a probate court district created pursuant to law.

(d) A probate judge described in section 810a.

(2) Each probate judge shall receive an annual salary determined as follows:

(a) A minimum annual salary of the difference between 85% of the salary of a justice of the supreme court and $45,724.00.

(b) An additional salary of $45,724.00 paid by the county or by the counties comprising a probate court district. If a probate judge receives a total additional salary of $45,724.00 from the county, or from the counties comprising a probate court district, and does not

receive less than or more than $45,724.00, including any cost-of-living allowance, the state shall reimburse the county or counties the amount that the county or counties have paid to the judge.

(3) Six thousand dollars of the minimum annual salary provided in subsection (2) shall be paid by the county, or by the counties comprising a probate court district, and the balance of that minimum annual salary shall be paid by the state as a grant to the county or the counties comprising the probate court district. The county, or the counties comprising the probate court district, shall in turn pay that amount to the probate judge. Beginning January 1, 1997, the state shall annually reimburse the county or counties $6,000.00 for each probate judge to offset the cost of the county or counties required by this section.

(4) The salary provided in this section is full compensation for all services performed by a probate judge, except as otherwise provided by law. In a probate court district, each county of the district shall contribute to the salary in the same proportion as the population of the county bears to the population of the district.

(5) An additional salary determined by the county board of commissioners may be increased during a term of office but shall not be decreased except to the extent of a general salary reduction in all other branches of government in the county. In a county where an additional salary is granted, it shall be paid at the same rate to all probate judges regularly holding court in the county.

(6) An increase in the amount of salary payable to a judge under subsection (1) caused by an increase in the salary payable to a justice of the supreme court resulting from the operation of 1968 PA 357, MCL 15.211 to 15.218, is not effective until February 1 of the year in which the increase in the salary of a justice of the supreme court becomes effective. If an increase in salary becomes effective on February 1 of a year in which an increase in the salary of a justice of the supreme court becomes effective, the increase is retroactive to January 1 of that year.

600.821a Probate judges' federal social security and medicare taxes; reimbursement to counties.

Sec. 821a. In addition to the reimbursement under section 821(2)(b) to a county or to counties for amounts paid for probate judges' salaries, the state shall reimburse the county or counties for amounts paid as the employer's share for probate judges' federal social security and medicare taxes.

600.822 Probate judge; annual salary based on population; payment; increase or decrease in salary; representing party in contested proceeding; additional salary; total annual salary; state salary standardization payment.

Sec. 822. (1) A probate judge not described in section 821 shall receive an annual salary of $20,000.00. Six thousand dollars of the minimum annual salary provided by this subsection shall be paid by the county and the balance of the minimum annual salary shall be paid by the state as a grant to the county. The county shall, in turn, pay that amount to the probate judge.

(2) The annual salary provided in subsection (1) may be increased but shall not be decreased during the term for which the probate judge has been elected or appointed. This salary is in full compensation for all services performed by the person as probate judge, except as otherwise provided by law. A probate judge whose annual salary is provided in subsection (1) shall not represent a party in a contested proceeding in the probate court of this state.

(3) In addition to the salary provided in subsection (1), a probate judge may receive from the county in which he or she regularly holds court an additional salary of not more than $43,000.00, as determined by the county board of commissioners. The additional salary may be increased during a term of office but shall not be decreased except to the extent of a general salary reduction in all other branches of government in the county.

(4) The total annual salary of a probate judge, including the salary provided in subsection (1) and any additional salary granted by the county under subsection (3), shall not exceed $63,000.00.

(5) From funds appropriated to the judiciary, the state shall pay to a county described in subsection (1) a state salary standardization payment of $5,750.00 for each probate judge and an additional payment of $6,000.00 for each probate judge to offset the portion of minimum annual salary paid by the county.

600.8143 Seventy-eighth district.

Sec. 8143. The seventy-eighth district consists of the counties of Newaygo and Lake, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the seventy-eighth district consists of the counties of Newaygo and Oceana, is a district of the first class, and has 1 judge.

600.8144 Seventy-ninth district.

Sec. 8144. The seventy-ninth district consists of the counties of Oceana and Mason, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the seventy-ninth district consists of the counties of Lake and Mason, is a district of the first class, and has 1 judge.

600.8146 Eighty-first district.

Sec. 8146. The eighty-first district consists of the counties of Iosco and Arenac, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-first district consists of the counties of Alcona, Arenac, Iosco, and Oscoda, is a district of the first class, and has 1 judge.

600.8147 Eighty-second district.

Sec. 8147. The eighty-second district consists of the counties of Alcona, Oscoda, and Ogemaw, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-second district consists of the county of Ogemaw, is a district of the first class, and has 1 judge.

600.8148 Eighty-third district.

Sec. 8148. The eighty-third district consists of the counties of Roscommon and Crawford, is a district of the first class, and has 1 judge. Beginning April 1, 2003, the eighty-third district consists of the county of Roscommon, is a district of the first class, and has 1 judge.

600.8152 Eighty-seventh district.

Sec. 8152. The eighty-seventh district consists of the counties of Kalkaska and Otsego, is a district of the first class, and has 1 judge. Effective April 1, 2003, the eighty-seventh district consists of the counties of Crawford, Kalkaska, and Otsego, is a district of the first class, and has 1 judge.

600.8176 Creation of new district and judgeship; conditions; notification of elections division; resolution; exercise of option; obligation of state; election and term of judgeship; approval of district control unit not required.

Sec. 8176. (1) If a new district is proposed by law, that new district shall not be created and any district judgeship proposed for the district shall not be authorized or filled by election unless each district control unit in the proposed district, by resolution adopted by the governing body of the district control unit, approves the creation of the new district and each judgeship proposed for the district and unless the clerk of each district control unit adopting that resolution files a copy of the resolution with the state court administrator not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election immediately preceding the effective date of the new district. The state court administrator shall immediately notify the elections division of the department of state with respect to each new judicial district and district judgeship authorized pursuant to this subsection.

(2) A resolution required under subsection (1) that is filed before the effective date of the amendatory act that authorized that new district is a valid approval for purposes of this section only if the filing occurs within the 2-year state legislative session during which the amendatory act was enacted. A resolution required under subsection (1) that is filed after the effective date of the amendatory act that authorized that new district is a valid approval for purposes of this section only if the filing occurs not later than 4 p.m. of the sixteenth Tuesday preceding the August primary for the election immediately preceding the effective date of the new district.

(3) By proposing a new district and 1 or more district judgeships for the district, the legislature is not creating that district or any judgeship in the district. If a district control unit, acting through its governing body, approves the creation of a new district and 1 or more district judgeships proposed by law for that district, that approval constitutes an exercise of the district control unit's option to provide a new activity or service or to increase the level of activity or service offered in the district control unit beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the district control unit of all expenses and capital improvements which may result from the creation of the new district and each judgeship. However, the exercise of the option does not affect the state's obligation to pay the same portion of each judge's salary which is paid by the state to other district judges as provided by law, or to appropriate and disburse funds to the district control unit for the necessary costs of state requirements established by a state law which becomes effective on or after December 23, 1978.

(4) Each district judgeship created pursuant to subsection (1) shall be filled by election pursuant to the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The first term of each district judgeship shall be 6 years, unless the law permitting the creation of the new district and 1 or more judgeships provides for a term of a different length.

(5) The reformation of the seventy-eighth, seventy-ninth, eighty-first, eighty-second, eighty-third, and eighty-seventh judicial districts pursuant to the 2002 amendatory act that added this subsection does not require the approval of the district control unit under this section or section 8175.

Repeal of § 600.9948.

Enacting section 1. Section 9948 of the revised judicature act of 1961, 1961 PA 236, MCL 600.9948, is repealed.

Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

[No. 93]

(HB 5732)

AN ACT to amend 1943 PA 240, entitled "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; and to prescribe penalties and provide remedies," by amending sections 1b, 1d, 5, 11, 13, 17j, 19, 20, 20d, 21, 24, 31, 33, 38, 46, 48, 49, and 52 (MCL 38.1b, 38.1d, 38.5, 38.11, 38.13, 38.17j, 38.19, 38.20, 38.20d, 38.21, 38.24, 38.31, 38.33, 38.38, 38.46, 38.48, 38.49, and 38.52), section 1b as amended by 1996 PA 33, sections 1d and 49 as added by 1995 PA 176, sections 11 and 13 as amended and section 52 as added by 1996 PA 487, sections 17j, 19, and 31 as amended by 1998 PA 205, section 20 as amended by 1996 PA 521, section 20d as amended by 1996 PA 532, section 38 as amended by 1996 PA 279, and section 48 as added by 1990 PA 110, and by adding sections 17n, 19g, and 19h.

The People of the State of Michigan enact:

38.1b Definitions; B, C.

Sec. 1b. (1) "Beneficiary" or "disability beneficiary" means a person other than a retirant who receives a retirement allowance, pension, or other benefit provided by this act.

(2) "Compensation" means the remuneration paid a member on account of the member's services rendered to this state. If a member's remuneration is not paid totally in money, the retirement board shall employ the maintenance-compensation schedules established from time to time by the civil service commission. Compensation does not include any of the following:

(a) Remuneration paid in lieu of accumulated sick leave.

(b) Remuneration for services rendered after October 1, 1981, payable at retirement or termination under voluntary or involuntary pay reduction plan B, in excess of the amount the member would have received had the member been compensated for those services at the rate of pay in effect at the time those services were performed.

(c) Payment for accrued annual leave at separation in excess of 240 hours.

(d) Remuneration received by an employee of the department formerly known as the department of mental health resulting from severance pay received because of the deinstitutionalization of the department formerly known as the department of mental health resident population.

(e) Remuneration received as a bonus by investment managers of the department of treasury under the treasury incentive bonus plan first approved by the civil service commission on February 11, 1988, pursuant to section 5 of article XI of the state constitution of 1963.

(f) Remuneration received as a bonus or merit payment by assistant attorneys general in the department of attorney general under the merit pay plan approved by the civil service commission on January 19, 1990, pursuant to section 5 of article XI of the state constitution of 1963.

(3) "Conservation officer" means an employee of the department of natural resources, or its predecessor or successor agency, who has sworn to the prescribed oath of office and who is designated as a peace officer under section 1606 of part 16 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1606, and section 1 of 1986 PA 109, MCL 300.21.

(4) "Credited service" means the sum of the prior service and membership service credited to a member's service account.

38.1d Definitions; E.

Sec. 1d. (1) Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means an individual retirement account described in section 408(a) of the internal revenue code, an individual retirement annuity described in section 408(b) of the internal revenue code, an annuity plan described in section 403(a) of the internal revenue code, a qualified trust described in section 401(a) of the internal revenue code, an annuity contract described in section 403(b) of the internal revenue code, or an eligible plan under section 457(b) of the internal revenue code that is maintained by a state, a political subdivision of a state, an agency or instrumentality of a state, or an agency or instrumentality of a political subdivision of a state, so long as amounts transferred into eligible retirement plans from this retirement system are separately accounted for by the plan provider that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse on or before December 31, 2001, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(2) Beginning January 1, 2002, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code.

(d) Except as otherwise provided in this subdivision, the portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities. If a portion of a distribution that is not included in federal gross income is paid to an individual retirement account or annuity described in section 408(a) or 408(b) of the internal revenue code or a qualified defined contribution plan described in section 401(a) or 403(a) of the internal revenue code, and the plan providers agree to separately account for amounts paid, including any portion of the distribution that is includable in gross income, then the portion of the distribution that is not includable in federal gross income is an eligible rollover distribution.

(3) "Employee" means a person who may become eligible for membership under this act, as provided in section 13, if the person's compensation is paid in whole or in part by this state.

(4) "Employer" or "state" means this state.

38.5 Retirement board; oath; quorum; conducting business at public meeting; notice of meeting; compensation and expenses.

Sec. 5. (a) Each member of the retirement board, created by this act, upon election or appointment, shall take an oath of office which shall be immediately filed in the office of

the secretary of state. A majority of the retirement board shall constitute a quorum for the transaction of business at a meeting of the board.

(b) The business which the retirement board may perform shall be conducted at a public meeting of the retirement board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(c) The members of the retirement board shall serve without compensation, but shall not suffer a loss because of absence from regular employment, and shall be reimbursed for all actual necessary expense incurred in performance of duties in accordance with the statutes of this state. Notwithstanding this section, the retired state employee member shall receive the per diem compensation established annually by the legislature for the performance of official duties by attendance at regularly scheduled meetings.

38.11 Employees' savings fund, employer's accumulation fund, annuity reserve fund, pension reserve fund, income fund, expense fund, and health insurance reserve fund; creation; health advance funding subaccount; description of funds as reference to accounting records of retirement system.

Sec. 11. (1) There is created the employees' savings fund, employer's accumulation fund, annuity reserve fund, pension reserve fund, income fund, expense fund, and health insurance reserve fund.

(2) The employees' savings fund is the fund in which shall be accumulated at regular interest the contributions to the retirement system deducted from the compensation of members. The retirement board shall provide for the maintenance of an individual account for each member that shows the amount of the member's contributions together with interest on those contributions. The accumulated contributions of a member returned to the member upon his or her withdrawal from service, or paid to the member's estate or designated beneficiary in the event of the member's death, as provided in this act, shall be paid from the employees' savings fund. Any accumulated contributions not claimed by a member or the member's legal representative as provided in this act within 5 years after the member's separation from state service shall be transferred from the employees' savings fund to the income fund. The accumulated contributions of a member, upon the member's retirement, shall be transferred from the employees' savings fund to the pension reserve fund.

(3) The employer's accumulation fund is the fund in which shall be accumulated the reserves derived from money provided by this state for the payment of all retirement allowances to be payable to retirants and beneficiaries as provided in this act. The amounts paid by this state shall be credited to the employer's accumulation fund. Upon the retirement of a member, or upon the member's death, if a beneficiary is entitled to a retirement allowance payable from funds of the retirement system, the difference between the reserve for the retirement allowance to be paid on account of the member's retirement or death and the member's accumulated contributions standing to his or her credit in the employees' savings fund at the time of his or her retirement or death shall be transferred from the employer's accumulation fund to the pension reserve fund. If, in any year, the pension reserve fund is insufficient to cover the reserves for retirement allowances and other benefits being paid from the fund, the amount or amounts of the insufficiency or insufficiencies shall be transferred from the employer's accumulation fund to the pension reserve fund.

(4) The annuity reserve fund is the fund from which shall be paid all annuities, or benefits in lieu of annuities, because of which reserves have been transferred from the employees' savings fund to the annuity reserve fund. Upon the adoption of this act, the balance in the annuity reserve fund shall be transferred to the pension reserve fund, and the annuities heretofore payable from the annuity reserve fund shall thereafter become payable from the pension reserve fund.

(5) The pension reserve fund is the fund from which shall be paid all retirement allowances and benefits in lieu of pensions, as provided in this act. For a disability retirant returned to active service with this state, his or her pension reserve, computed as of the date of return, shall be transferred from the pension reserve fund to the employees' savings fund and the employer's accumulation fund in the proportion that this reserve, as of the date of his or her retirement, was transferred to the pension reserve fund from the employees' savings fund and from the employer's accumulation fund. The amounts transferred to the employees' savings fund under this section shall be credited to the member's individual account in the fund.

(6) An income fund is created for the purpose of crediting regular interest on the amounts in the various other funds of the retirement system with the exception of the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. Transfers for special requirements shall be made only when the amount in the income fund exceeds the ordinary requirements of the fund as evidenced by a resolution of the retirement board recorded in its minutes. The retirement board shall annually allow regular interest for the preceding year to each of the funds enumerated in subsections (2), (3), (4), (5), and (8), and the amount allowed under this subsection shall be due and payable to each of these funds and shall be annually credited to the funds by the retirement board and paid from the income fund. However, interest on contributions from members within a calendar year shall begin on the first day of the next calendar year, and shall be credited at the end of the calendar year. Except as provided in this subsection, income, interest, and dividends derived from the deposits and investments authorized by this act shall be paid into the income fund. The retirement system shall determine the share of income, interest, and dividends attributable to the balance in the health advance funding subaccount created under subsection (9) and the share of income, interest, and dividends attributable to the health advance funding subaccount balance shall be paid into the health advance funding subaccount. The retirement board is authorized to accept gifts and bequests. Any funds that come into the possession of the retirement system as a gift or bequest, or any funds that may be transferred from the employees' savings fund by reason of lack of claimant, or because of a surplus in any fund created by this act, or any other money the disposition of which is not otherwise provided for in this act shall be credited to the income fund.

(7) The expense fund is the fund from which shall be paid the expenses of the administration of this act, exclusive of amounts payable as retirement allowances and other benefits provided for in this act. The legislature shall appropriate the funds necessary to defray and cover the expenses of administering this act.

(8) The health insurance reserve fund is the fund into which appropriations made by the legislature, subscriber co-payments, and payments by the retirement system under section 68 for health, dental, and vision insurance premiums are paid. Health, dental, and vision insurance premiums payable pursuant to sections 20d and 68 shall be paid from the health insurance reserve fund. The assets and any earnings on the assets contained in the health insurance reserve fund and the health advance funding subaccount described in subsection (9) are not to be treated as pension assets for any purpose.

(9) The health advance funding subaccount is the account to which amounts transferred pursuant to sections 20d, 38(6), and 52 are credited. Any amounts received in the health advance funding subaccount and accumulated earnings on those amounts shall not be expended until the actuarial accrued liability for health benefits under section 20d is at least 100% funded. The department may expend funds or transfer funds to another account to expend for health benefits under section 20d if the actuarial accrued liability for health benefits under section 20d is at least 100% funded. For each fiscal year after the fiscal year in which the actuarial accrued liability for health benefits under section 20d is at least 100% funded by the health advance funding subaccount, amounts received in the health advance funding subaccount and accumulated earnings on those amounts may be expended or credited to fund health benefits under section 20d as provided in section 38(3). Notwithstanding any other provision of this section, the department may transfer amounts from the health advance funding subaccount to the employer's accumulation fund created under this section if the department does both of the following:

(a) At least 45 days before the intended transfer, submits a request to the chairs of the senate and house appropriations committees and, at least 15 days before the intended transfer, obtains the approval of both the senate and house appropriations committees.

(b) Ensures that the request submitted to the senate and house appropriations committees contains an actuarial valuation prepared pursuant to section 38 that demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions does not exceed the actuarial present value of benefits.

(10) The description of the various funds in this section shall be interpreted to refer to the accounting records of the retirement system and not to the segregation of assets credited to the various funds of the retirement system.

38.13 Membership in retirement system.

Sec. 13. (1) Except as otherwise provided in this act, membership in the retirement system consists of state employees occupying permanent positions in the state civil service. All state employees except those specifically excluded by law and those who are members or eligible to be members of other statutory retirement systems in this state, shall become members of the retirement system. The employees may use service previously performed as an employee of this state in meeting the service requirements for the retirement allowances and death benefits provided by the retirement system. However, the prior service shall not be used in computing the amount of a retirement allowance to be paid by the retirement system unless the employee pays to the retirement system the amount the employee's contributions would have been had the employee become a member immediately upon employment by the state with interest compounded annually at the regular rate from a date 1 year after the date of employment by this state to the date of payment. A person who draws compensation as a state employee of a political subdivision of this state is eligible for the benefits provided by this act to the extent of the person's compensation paid by this state. An individual who meets the requirements of section 44a is a member of the retirement system.

(2) Elected or appointed state officials may elect not to become or continue as members of the retirement system by filing written notice with the retirement board. An appointed state official who is a member of a state board, commission, or council and who receives a per diem rate in his or her capacity as a member of the board, commission, or council is excluded from membership in the retirement system for the service rendered in his or her capacity as a member of the board, commission, or council. Service performed

by an elected or appointed official during the time the official elects not to participate shall not be used in meeting the service requirement or in computing the amount of retirement allowance to be paid by the retirement system. A member who elects not to participate shall be refunded all contributions made before the election.

(3) Membership in the retirement system does not include any of the following:

(a) A person who is a contributing member in the public school employees' retirement system provided for in the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408.

(b) A person who is a contributing member in the Michigan judges retirement system provided for in the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

(c) A person who comes within the Michigan state police retirement system provided for in the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648.

(d) An individual who is first employed and entered upon the payroll on or after March 31, 1997 for employment for which the individual would have been eligible for membership under this section before March 31, 1997. An individual described in this subdivision is eligible to be a qualified participant in Tier 2 subject to sections 50 to 69.

(e) Except as provided in section 19g, an individual who elects to terminate membership under section 50 and who, but for that election, would otherwise be eligible for membership in Tier 1 under this section.

(4) A person who is hired in state classified or unclassified service after June 30, 1974, who is first employed and entered upon the payroll before March 31, 1997, and who possesses a Michigan teaching certificate shall be a member of this retirement system. After June 30, 1974, but before March 31, 1997, a person who returns to state employment in the classified or unclassified service who previously was a contributing member of the Michigan public school employees' retirement system shall have the person's accumulated contributions and service transferred to this retirement system, or having withdrawn the contributions, may pay into the retirement system the amount withdrawn together with regular interest and have credit restored as provided for in section 16. On and after March 31, 1997, an individual described in this subsection who returns to state service shall make an irrevocable election to remain in Tier 1 or to become a qualified participant of Tier 2 in the manner prescribed in section 50.

(5) A person, not regularly employed by this state, who is employed through participation in 1 or more of the following programs, shall not be a member of the retirement system and shall not receive service credit for the employment:

(a) A program authorized, undertaken, and financed pursuant to the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839.

(b) A summer youth employment program established pursuant to the Michigan youth corps act, 1983 PA 69, MCL 409.221 to 409.229.

(c) A program established pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322.

(d) A program established pursuant to the Michigan opportunity and skills training program, first established under sections 12 to 23 of Act No. 259 of the Public Acts of 1983.

(e) A program established pursuant to the Michigan community service corps program, first established under sections 25 to 35 of Act No. 259 of the Public Acts of 1983.

(6) A person, not regularly employed by this state, who is employed to administer a program described in subsection (5) shall not be a member of the retirement system and shall not receive service credit for the employment.

(7) If a person described in subsection (5)(a) later becomes a member of this retirement system within 12 months after the date of termination as a participant in a transitional public employment program, service credit shall be given for employment which is excluded in subsection (5) for purposes of determining a retirement allowance upon the payment by the person's employer under subsection (5) from funds provided under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839, as funds permit, to the retirement system of the contributions, plus regular interest, the employer would have paid had the employment been rendered in a position covered by this act. During the person's employment in the transitional public employment program, the person's employer shall place in reserve a reasonable but not necessarily an actuarially determined amount equal to the contributions that the employer would have paid to the retirement system for those employees in the transitional public employment program as if they were members under this act, but only for that number of employees that the employer determined would move from the transitional public employment program into positions covered by this act. If the funds provided under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839, are insufficient, the remainder of the employer contributions shall be paid by the person's current employer.

(8) For purposes of section 19g, a former member shall be considered a member and shall be considered to have satisfied the requirements of section 19g(1)(c) and (2)(c) if the former member was employed by the department formerly known as the department of mental health on January 1, 1996 and went on layoff status before January 1, 1997.

38.17j Purchase of combined total of more than 10 years prohibited; purchase of service credit in separate increments; future purchases not barred; refund; actuarial cost.

Sec. 17j. (1) On and after June 23, 1987, a member who is otherwise entitled to purchase service credit under section 17g, 17h, 17i, 17k, 17*l*, 17m, or 17n shall not purchase a combined total of more than 10 years of service credit under those sections.

(2) On and after June 23, 1987, a member who under section 17c, 17g, 17h, 17i, 17k, 17*l*, 17m, 17n, or 18(2) is otherwise entitled to purchase service credit may purchase the service credit in separate increments equal to 1 or more full years, or a remaining fraction of a year, if any, or both. Partial purchase of service credit under this section does not bar future purchases otherwise in compliance with this section and the provisions of this act authorizing the purchase, but computation of the amount of payment due shall be made separately for each purchase.

(3) If a member who made payment under this section dies and a retirement allowance is not payable or if the member leaves service with this state before his or her retirement allowance becomes effective, the payment made by the member shall be refunded upon request to the member, to the person designated by the member in writing to the board, or if a person is not designated, then to the member's legal representative or estate.

(4) Actuarial cost shall be equal to the product of subdivisions (a), (b), and (c), as follows:

(a) A percentage, determined by the retirement board and the department, that when multiplied by a member's compensation, as determined under subdivision (b), results in the average actuarial present value of the additional benefits resulting from the crediting of 1 additional year of service. The percentage may vary because of age, credited service, or benefit coverage. An increase or decrease in the percentage under this subdivision shall not become effective before the expiration of 6 months or more after the retirement board notifies the members of the increase or decrease.

(b) A member's compensation. The member's compensation shall be the member's full-time or equated full-time compensation earned in the fiscal year immediately before the fiscal year in which the application to purchase and payment for the service are made. The compensation amount used shall not be less than the highest compensation previously earned by the member.

(c) The number of years, including any fraction of a year, of credited service a member elects to purchase up to the maximum allowed.

38.17n City employee; transfer or purchase of service credit.

Sec. 17n. (1) A member may transfer or purchase service credit earned when the member was an employee of a city with a population over 750,000 if all of the following apply:

(a) The member became a member on September 1, 1981.

(b) The member was employed by a city with a population over 750,000 on August 31, 1981.

(c) The pension system of the city with a population over 750,000, the city with a population over 750,000, or the member agrees to contribute the actuarial cost of the service credit transferred or purchased to the retirement system.

(2) Upon payment of the actuarial cost of the service credit purchased, the retirement system shall credit the member with the service.

38.19 Retirement upon written application to retirement board; retirement without reduction in retirement allowance; definitions; layoff status because agency or inpatient facility designated for closure; conditions; certification; application; funding additional costs; employees of state accident fund, Michigan biologic products institute, or liquor control commission.

Sec. 19. (1) A member who is 60 years of age or older and has 10 or more years of credited service or a member who is 60 years of age or older and has 5 or more years of credited service as provided in section 20(4) or (5) may retire upon written application to the retirement board, stating a date on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(2) A member who is 55 years of age or older, but less than 60 years of age, and has 15 or more years of credited service, may retire upon written application to the retirement board stating a date on which he or she desires to retire. Upon retirement he or she shall receive a retirement allowance computed according to section 20(1). Except as otherwise provided in this act, the retirement allowance of a member who has less than 30 years of credited service shall be reduced by an amount that is 0.5% of the retirement allowance multiplied by the number of months the person's age at retirement is under 60 years. The reduction of 1/2 of 1% for each month and fraction of a month from the member's retirement allowance effective date to the date of the member's sixtieth birthday provided for in this subsection does not apply to a member who retired before July 1, 1974 and before attainment of age 60, with 30 or more years of credited service. The retirement allowance of a retirant or beneficiary of a retirant who retired before that date shall be recalculated disregarding the reduction, and the person receiving the retirement allowance is eligible to receive an adjusted retirement allowance based on the recalculation beginning October 1, 1987, but is not eligible to receive the adjusted amount attributable to any month beginning before October 1, 1987. The recalculated retirement allowance provided by this

subsection shall be paid by January 1, 1988. The retirement allowance of a retirant who dies before January 1, 1988, and who has not nominated a retirement allowance beneficiary pursuant to section 31, shall not be recalculated pursuant to this subsection.

(3) Notwithstanding any other provision of this section, effective April 1, 1988, a member may retire with a retirement allowance computed according to section 20(1), without regard to the reduction in subsection (2), if all of the following apply:

(a) The member files a written application with the retirement board stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which the member desires to retire, and which is within the early retirement effective period.

(b) The member was employed by the state for the 6-month period immediately preceding the member's retirement allowance effective date. This subdivision does not apply to a member who had been restored to active service during that 6-month period pursuant to section 33.

(c) On the last day of the month immediately preceding the retirement allowance effective date stated in the application, the member's combined age and length of credited service is equal to or greater than 80 years and the member is 50 years of age or older.

(d) For purposes of this subsection, "early retirement effective period" means 1 of the following:

(*i*) Except as provided in subparagraph (*ii*), the period beginning on April 1, 1988 and ending on April 1, 1989.

(*ii*) For a member employed by a hospital or facility owned or operated by the department formerly known as the department of mental health that is in the process of being closed by the department formerly known as the department of mental health, the period beginning on April 1, 1988 and ending on October 1, 1989.

(4) As used in subsections (5) to (9):

(a) "Agency of the department" means 1 of the following:

(*i*) Southwest Michigan community living services.

(*ii*) Wayne community living services.

(b) "Department inpatient facility" means 1 of the following:

(*i*) A developmental disability center that is directly operated by the department formerly known as the department of mental health for purposes of providing inpatient care and treatment services to persons with developmental disabilities.

(*ii*) A psychiatric hospital that is directly operated by the department formerly known as the department of mental health for purposes of providing inpatient diagnostic and therapeutic services to persons who are mentally ill.

(5) Notwithstanding any other provision of this section, a member who is an employee of an agency of the department or a department inpatient facility and is on layoff status because the agency or inpatient facility has been designated by the state officer formerly known as the director of mental health for closure on or after October 1, 1989, may retire as provided in subsection (7) or (8), as applicable, with a retirement allowance computed according to section 20(1), without regard to the reduction in subsection (2), upon satisfaction of any 1 of the following conditions:

(a) The member is 51 years of age or older and has 25 or more years of credited service, the last 5 of which are as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(b) The member is at least 56 years of age and has 10 or more years of credited service, the last 5 of which are as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(c) The member has 25 or more years of credited service, regardless of age, as an employee of an agency of the department designated for closure or a department inpatient facility designated for closure.

(6) When a department inpatient facility or agency is designated for closure on or after October 1, 1989, the state officer formerly known as the director of mental health shall certify in writing to the state legislature and the retirement board, not less than 240 days before the designated official date of closure, which facility or agency is to be closed and the designated official date of closure.

(7) Except as provided in subsection (8), a member who is eligible to receive a retirement allowance under subsection (5) may retire effective on the date that an agency of the department or a department inpatient facility designated for closure as provided in subsection (5) actually closes, upon written application to the retirement board not less than 30 or more than 180 days before the designated official date of closure. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(8) A member who is on layoff status, is not working for the state, and becomes eligible to receive a retirement allowance under subsection (5) and who was an employee of an agency of the department or a department inpatient facility that has been designated for closure as provided in subsection (5) and that actually closes on or after October 1, 1989, may retire upon written application to the retirement board, stating a date upon which he or she wishes to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1).

(9) Any additional accrued actuarial cost and costs for health insurance resulting from the implementation of subsection (5) shall be funded from appropriations to the department formerly known as the department of mental health for this purpose.

(10) A member who is an employee of the state accident fund on the date of transfer to a permitted transferee as that term is defined by section 701a of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.701a, may retire if the member's age and his or her length of service is equal to or greater than 70 years on the date of transfer. The member may retire upon written application to the retirement board, stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1) without regard to the reduction required by subsection (2).

(11) A member who is an employee of the Michigan biologic products institute on the date the institute is conveyed pursuant to the Michigan biologic products institute transfer act, 1996 PA 522, MCL 333.26331 to 333.26340, may retire if the member's age and his or her length of service is equal to or greater than 70 years on the date of the conveyance. The member may retire upon written application to the retirement board, stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1) without regard to the reduction required by subsection (2).

(12) A member who is an employee of the liquor control commission created by section 209 of the Michigan liquor control code of 1998, 1998 PA 5, MCL 436.1209, whose employment is terminated due to the privatization of the distribution of spirits within this

state is effectuated pursuant to the resolution and order adopted by the liquor control commission on February 7, 1996, a plan adopted pursuant to statute or court order, or a plan adopted pursuant to both statute and order of the liquor control commission may retire if the member's age and his or her length of service is equal to or greater than 70 years on the date the privatization is effectuated. The member may retire under this subsection upon written application to the retirement board, stating a date, not less than 30 or more than 90 days after the execution and filing of the application, on which he or she desires to retire. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance computed according to section 20(1), without regard to the reduction required by subsection (2). The cost of benefits paid under this section shall be paid out of the revolving fund created under section 221 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1221.

38.19g Member meeting certain requirements on or before November 1, 2002; computation of retirement allowance; payment of accumulated sick leave or annual leave; extension of effective date; participant in Tier 2.

Sec. 19g. (1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On or before November 1, 2002, or on the effective date of his or her retirement, whichever is earlier, the member meets 1 or more of the following:

(*i*) The member's combined age and length of credited service is equal to or greater than 80 years.

(*ii*) The member is 60 years of age or older and has 10 or more years of credited service.

(b) The member is within the classified state civil service, is an employee of the judicial branch, or is an individual not described in subsection (2)(b).

(c) Except as provided in section 13(8), the member was employed by this state for the 6-month period ending on the effective date of his or her retirement or was an employee of the state judicial council on September 30, 1996 as described in section 44a. A member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(d) Except as may be provided otherwise in subsection (5), the member executes and files a written application with the retirement board, on or after April 1, 2002, but not later than April 30, 2002, stating a date on or after July 1, 2002, but not later than November 1, 2002, on which he or she desires to retire. A member may withdraw a written application on or before May 15, 2002 or 7 days after the rejection of an extension requested under subsection (5), whichever is later. A written application submitted by a member and not withdrawn on or before May 15, 2002 or 7 days after the rejection of an extension requested under subsection (5), whichever is later, is irrevocable.

(e) The member is not eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45 on or after July 1, 2002 through the effective date of the member's retirement under this section.

(f) The member is not a conservation officer as described in section 48.

(2) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On or before November 1, 2002, or on the effective date of his or her retirement, whichever is earlier, the member's combined age and length of credited service is equal to

or greater than 80 years or the member is 60 years of age or older and has 10 or more years of credited service.

(b) The member is an employee of the legislature, is an employee of the office of governor, or is an unclassified employee within the executive branch.

(c) Except as provided in section 13(8), the member was employed by this state or the legislature for the 6-month period ending on the effective date of his or her retirement. A member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(d) The member executes and files a written application with the retirement board, on or after April 1, 2002, but not later than April 30, 2002, stating a date on or after July 1, 2002, but not later than November 1, 2002, on which he or she desires to retire. A member may withdraw a written application on or before May 15, 2002. A written application submitted by a member and not withdrawn on or before May 15, 2002 is irrevocable. This subdivision is subject to subsection (5).

(e) The member is not eligible for a supplemental early retirement under section 46 as a covered employee defined in section 45 on or after July 1, 2002 through the effective date of the member's retirement under this section.

(f) The member is not a conservation officer as described in section 48.

(3) Any amount that a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments beginning on or after October 1, 2002. Payments received under this subsection may not be used to purchase service credit under this act. These payments for accumulated sick leave are to be paid from funds appropriated to the appointing authority and not from funds of the retirement system. These payments are not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1), are not exempt from taxation, are subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in this act.

(4) Any amount that a member retiring under this section is entitled to receive in a lump sum at retirement on account of accumulated annual leave shall be paid on or after October 1, 2002. These payments are not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1), are not exempt from taxation, are subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in this act.

(5) The director of a principal department may request that the effective date of retirement under subsection (1) of a member employed by that department be extended to a date not later than February 1, 2004. To make a request under this subsection, the director shall submit a written request and the written concurrence of the member to the office of the state employer and the state budget office on or before May 31, 2002. Upon receipt of the written request and concurrence, the office of the state employer and the state budget office may extend the effective date of retirement of a member otherwise eligible to retire under subsection (1) to a date not later than February 1, 2004. Upon written approval of the senate majority leader for a member who is an employee of the senate, the speaker of the house of representatives for a member who is an employee of the house of representatives, the senate majority leader and the speaker of the house of representatives for a member who is an employee of the office of the auditor general, director or chair of the legislative retirement system for a member who is an employee of the legislative retirement system, or the chair and alternate chair of the legislative council for a member who is an employee of an agency under the jurisdiction of the legislative

council, and upon written concurrence of the member, the effective date of retirement for that member under subsection (2) may be extended to a date not later than February 1, 2004. Upon written approval of the chief justice for a member who is an employee of the judicial branch, including, but not limited to, members described in section 44a, and upon written concurrence of the member, the effective date of retirement for that member under subsection (1) may be extended to a date not later than February 1, 2004. The individual or individuals who approve the extension of an effective date of retirement for a member who is an employee of the legislature, supreme court, or court of appeals shall submit written notification to the office of retirement services of all extensions approved on or before May 31, 2002.

(6) Upon his or her retirement as provided in this section, a member who did not make an election under section 50 to terminate membership in Tier 1 and become a qualified participant in Tier 2 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-3/4% of his or her final average compensation. Except for the calculation provided in this subsection, the member's retirement allowance is subject to section 20. The member's retirement allowance is not subject to reduction pursuant to section 19(2).

(7) Upon his or her retirement as provided in this section, a former member who made an election under section 50 to terminate membership in Tier 1 and become a qualified participant in Tier 2 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1/4% of his or her final average compensation. Except for the calculation provided in this subsection, the former member's retirement allowance is subject to section 20. The former member's retirement allowance is not subject to reduction pursuant to section 19(2).

(8) For purposes of this section, an individual who elected to terminate membership under section 50 and who, but for that election, would otherwise be eligible for membership in Tier 1 under section 13, shall be considered a member of Tier 1 for the limited purpose of receiving a retirement allowance calculated under this section and paid by the retirement system.

38.19h Payments not tax exempt and subject to certain operations of law.

Sec. 19h. Payments made after September 30, 1991, under sections 19b(2), 19c(2), 19d(2), 19e(2), and 19f(3) are not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1), are not exempt from taxation, are subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in this act.

38.20 Computation of retirement allowance; right to elect option; retirement before age 65; death of retirant; separation from service; department of mental health employee termination; recalculation of retirement allowance; payment of retirement allowance; eligibility of state accident fund or Michigan biologic products institute employees to health care benefits and certain rights, privileges, and benefits.

Sec. 20. (1) Upon his or her retirement, as provided for in section 19, 19a, 19b, 19c, or 19d, a member shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-1/2% of his or her final average compensation. The member's retirement allowance is subject to subsection (3). Upon his or her retirement, the member may elect an option provided for in section 31(1).

(2) Pursuant to rules promulgated by the retirement board, a member who retires before becoming 65 years of age may elect to have his or her regular retirement allowance equated on an actuarial basis to provide an increased retirement allowance payable up to his or her attainment of 65 years of age and a reduced retirement allowance payable after his or her attainment of 65 years of age. His or her increased retirement allowance payable up to age 65 shall approximately equal the sum of his or her reduced retirement allowance payable after age 65 and his or her estimated social security primary insurance amount. In addition, upon retirement the member may elect an option provided for in section 31(1).

(3) If a retirant dies before receiving payment of his or her retirement allowance in an aggregate amount equal to the retirant's accumulated contributions credited to the retirant in the employees' savings fund at the time of his or her retirement, the difference between his or her accumulated contributions and the amount of retirement allowance received by him or her shall be paid to the person or persons that he or she nominated by written designation executed and filed with the retirement board. If the person or persons do not survive the retirant, then the difference, if any, shall be paid to the retirant's legal representative or estate. Benefits shall not be paid under this subsection on account of the death of the retirant if he or she elected an option provided for in section 31(1).

(4) If a member has 10 or more years of credited service, or has 5 or more years of credited service as an elected officer or in a position in the executive branch or the legislative branch excepted or exempt from the classified state civil service as provided in section 5 of article XI of the state constitution of 1963, and is separated from the service of the state for a reason other than retirement or death, he or she shall remain a member during the period of absence from the state service for the exclusive purpose of receiving a retirement allowance provided for in this section. If a former employee of the state accident fund who had 5 or more years of service as an employee of the state accident fund returns to employment with the state before receiving a retirement allowance under this act, the employee shall be required to accumulate 10 or more years of credited service before receiving a retirement allowance under this act. If a former employee of the Michigan biologic products institute who is eligible to and has elected to purchase additional credited service pursuant to section 17*l*(2) returns to employment with the state before receiving a retirement allowance under this act, the employee shall be required to accumulate 10 or more years of credited service, without regard to the additional credited service purchased pursuant to section 17*l*(2) but including any credited service authorized under section 16, before receiving a retirement allowance under this act. If the member withdraws all or part of his or her accumulated contributions, he or she ceases to be a member. Upon becoming 60 years of age or older, the member may retire upon his or her written application to the retirement board as provided in section 19(1). If a member elects an option as provided under section 31(4), but dies before the effective date of his or her retirement, the option elected by the member shall be carried out, and the beneficiary of the member is entitled to all advantages due under that option.

(5) A person who is a member after January 1, 1981, who has at least 5 years of credited service, and whose employment with the department formerly known as the department of mental health is terminated by reason of reduction in force related to deinstitutionalization that may or may not result in facility closure, shall remain a member during the period of absence from the state service for the exclusive purpose of receiving a service retirement allowance as provided in this subsection. As used in this subsection, "deinstitutionalization" means planned reduction of state center or hospital beds through placement of individuals from the hospital or facility, or through limiting admissions to centers and hospitals, or both. If a member withdraws all or part of the member's

accumulated contributions, the member ceases to be a member. Upon becoming 60 years of age or older, the member may retire upon written application to the retirement board. The application shall specify a date on which the member desires to retire. Upon retirement, the member shall receive a retirement allowance equal to the number of years and fraction of a year of credited state service multiplied by 1-1/2% of the member's final average compensation. Upon retirement, the member may elect an option provided in section 31(1). If the member elects an option provided for in section 31(4), but dies before the effective date of retirement, the option elected by the member shall be carried out, and a beneficiary of the member is entitled to all advantages due under the option.

(6) A retirant or the beneficiary of a retirant who retired before July 1, 1974 shall have his or her retirement allowance recalculated based on the retirant's number of years and fraction of a year of credited service multiplied by 1.5% of his or her final average compensation. The retirant or beneficiary is eligible to receive the recalculated retirement allowance beginning October 1, 1987, but is not eligible to receive the adjusted amount attributable to any month beginning before October 1, 1987. The recalculated retirement allowance provided by this subsection shall be paid by January 1, 1988 and shall be the basis on which future adjustments to the allowance, including the supplement provided by section 20h, are calculated. The retirement allowance of a retirant who dies before January 1, 1988, and who did not nominate a retirement allowance beneficiary pursuant to section 31, shall not be recalculated pursuant to this subsection.

(7) Each retirement allowance payable under this act shall date from the first of the month following the month in which the applicant satisfies the age and service or other requirements for receiving the retirement allowance and terminates state service. A full month's retirement allowance is payable for the month in which a retirement allowance ceases.

(8) An employee of the state accident fund who has 5 or more but less than 10 years of credited service as of the effective date of the transfer authorized by section 701a of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.701a, and who is permitted to receive a retirement allowance under subsection (4) is eligible for health care benefits under section 20d on the date of his or her retirement to the same extent as a member with 10 years of credited service who vested on the same date.

(9) An employee of the Michigan biologic products institute who has 5 or more but less than 10 years of credited service as of the effective date of the conveyance authorized by the Michigan biologic products institute transfer act and who is permitted to receive a retirement allowance under subsection (4) is eligible for health care benefits under section 20d on the date of his or her retirement to the same extent as a member with 10 years of credited service who vested on the same date.

38.20d Hospitalization, medical, dental, and vision coverage insurance premium; computation and allocation of cost savings; payment by retirement board; "retirant" defined.

Sec. 20d. (1) On and after July 1, 1974, hospitalization and medical coverage insurance premium payable by any retirant or his or her beneficiary and his or her dependents under any group health plan authorized by the Michigan civil service commission and the department of management and budget shall be paid by the retirement board from the health insurance reserve fund created in section 11. The amount payable shall be in the same proportion of premium payable by the state of Michigan for the classified employees occupying positions in the state civil service. The hospitalization and medical insurance premium payable shall be paid from appropriations made for this purpose to the health insurance reserve fund sufficient to cover the premium payment needed to be made.

(2) Effective January 1, 1988, 90% of the premium payable by a retirant or the retirant's beneficiary and his or her dependents for dental coverage or vision coverage, or both, under any group plan authorized by the Michigan civil service commission and the department of management and budget shall be paid by the retirement board from the health insurance reserve fund created in section 11.

(3) The department of management and budget shall calculate for each fiscal year any cost savings that have accrued to this state as a result of the implementation of 1996 PA 487 over the costs that would have been incurred by this state to fund premiums payable pursuant to section 68 had 1996 PA 487 not been implemented. The total amount of the cost savings, if any, shall be allocated to the health advance funding subaccount created under section 11(9).

(4) On and after March 31, 1997, the retirement system shall also pay health insurance premiums described in this section in the manner prescribed in section 68.

(5) For purposes of this section, "retirant" includes a person who retires under section 306 or 410 of the Michigan military act, 1967 PA 150, MCL 32.706 and 32.810.

38.21 Duty disability retirement.

Sec. 21. (1) Except as may be provided otherwise in sections 33 and 34, a member who becomes totally incapacitated for duty because of a personal injury or disease shall be retired, if all of the following apply:

(a) The member, the member's personal representative or guardian, the member's department head, or the state personnel director files an application on behalf of the member with the retirement board no later than 1 year after termination of the member's employment.

(b) The retirement board finds that the member's personal injury or disease is the natural and proximate result of the member's performance of duty.

(c) A medical advisor conducts a medical examination of the member and certifies in writing that the member is mentally or physically totally incapacitated for further performance of duty, that the total incapacitation is probably permanent, and that the member should be retired.

(d) The retirement board concurs in the recommendation of the medical advisor.

(2) Upon appeal to the retirement board, the retirement board, for good cause, may accept an application for a disability retirement allowance not later than 2 years after termination of the member's state employment.

38.24 Non-duty disability retirement.

Sec. 24. (1) Except as may otherwise be provided in sections 33 and 34, a member who becomes totally incapacitated for duty because of a personal injury or disease that is not the natural and proximate result of the member's performance of duty may be retired if all of the following apply:

(a) The member, the member's personal representative or guardian, the member's department head, or the state personnel director files an application on behalf of the member with the retirement board no later than 1 year after termination of the member's state employment.

(b) A medical advisor conducts a medical examination of the member and certifies in writing that the member is mentally or physically totally incapacitated for further performance of duty, that the incapacitation is likely to be permanent, and that the member should be retired.

(c) The member has been a state employee for at least 10 years.

(2) Upon appeal to the retirement board, the retirement board, for good cause, may accept an application for a disability retirement allowance not later than 2 years after termination of the member's state employment.

38.31 Election of regular retirement allowance or reduced retirement allowance; payment options; designation of beneficiary; effect of beneficiary's death or divorce; request by nonduty disability retirant to change elections; death of member before effective date of retirement.

Sec. 31. (1) Except as provided in subsection (6), before the effective date of retirement, but not after the effective date of retirement, a member or deferred member who is eligible for retirement, as provided in this act, shall elect to receive his or her benefit in a retirement allowance payable throughout life, which shall be called a regular retirement allowance, or to receive the actuarial equivalent at that time of his or her regular retirement allowance in a reduced retirement allowance payable throughout the lives of the retirant and a retirement allowance beneficiary, pursuant to 1 of the following payment options:

(a) Option A. Upon the retirant's death, his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation duly executed and filed with the retirement board before the effective date of his or her retirement.

(b) Option B. Upon the retirant's death, 1/2 of his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation duly executed and filed with the retirement board before the effective date of his or her retirement.

(c) Option C. On and after January 1, 2000, upon the retirant's death, 3/4 of his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation duly executed and filed with the retirement board before the effective date of his or her retirement.

(2) Except as provided in subsections (3) and (8), the election of a payment option under subsection (1) shall not be changed on or after the effective date of the retirement allowance. A retirement allowance beneficiary designated under this section shall not be changed on or after the effective date of the retirement allowance, and shall be either a spouse, brother, sister, parent, child, including an adopted child, or grandchild of the person making the designation. Payment to a retirement allowance beneficiary shall begin on the first day of the month following the death of the retirant or member.

(3) If the retirement allowance beneficiary named under a payment option under subsection (1) predeceases the retirant, the retirant's benefit shall revert to the regular retirement allowance, effective with the first day of the month following the retirement allowance beneficiary's death. For a retirant whose effective date of retirement was on or before June 28, 1976, this subsection shall apply, but the regular retirement allowance is not payable for any month beginning before the later of the retirement allowance beneficiary's death or January 1, 1986. A retirant who on January 1, 1986 is receiving a reduced retirement allowance because the retirant designated a retirement allowance beneficiary and the retirement allowance beneficiary predeceased the retirant is eligible to receive the regular retirement allowance beginning January 1, 1986, but the regular retirement allowance is not payable for any month beginning before January 1, 1986.

(4) A member who continues in the employ of this state on and after the date he or she acquires 10 years of service credit or becomes eligible for deferred retirement as provided by section 20(4) or (5), whichever occurs first, may by written declaration duly executed and filed with the retirement board elect option A, provided for in subsection (1)(a), and nominate a retirement allowance beneficiary in the same manner as if the member were then retiring from service, notwithstanding that the member may not have attained 60 years of age. If the beneficiary's death or divorce from the member occurs before the effective date of the member's retirement, the member's election of option A and nomination of retirement allowance beneficiary shall be automatically revoked and the member may again elect option A and nominate a retirement allowance beneficiary at any time before the effective date of retirement. If a member who has made an election and nominated a retirement allowance beneficiary as provided in this subsection dies before the effective date of his or her retirement, then the retirement allowance beneficiary shall immediately receive the retirement allowance that he or she would have been entitled to receive under option A if the member had been regularly retired on the date of the member's death. Except as otherwise provided by subsection (5), if a member who has made an election under this subsection subsequently retires under this act, his or her election of option A shall take effect at the time of retirement. Subject to the requirements of subsection (5), the member, before the effective date of retirement, but not after the effective date of retirement, may revoke his or her previous election of option A and elect to receive his or her retirement allowance as a regular retirement allowance or under option B or C as provided for in subsection (1). A retirement allowance shall not be paid under this subsection on account of the death of a member if any benefits are paid under section 27 on account of his or her death. If a deferred member who has an option A election in effect dies before the effective date of his or her retirement, the retirement allowance payable under option A shall be paid to the retirement allowance beneficiary at the time the deceased deferred member otherwise would have been eligible to begin receiving benefits.

(5) If a member, deferred member, retiring member, or retiring deferred member is married at the effective date of the retirement allowance, an election under this section, other than an election of a payment option under subsection (1) naming the spouse as retirement allowance beneficiary, shall not be effective unless the election is signed by the spouse. However, this requirement may be waived by the retirement board if the signature of a spouse cannot be obtained because of extenuating circumstances. As used in this subsection, "spouse" means the person to whom the member, deferred member, retiring member, or retiring deferred member is married at the effective date of the retirement allowance.

(6) Until July 1, 1991, upon request in a form as determined by the retirement board, a nonduty disability retirant who retired under section 24 may change his or her election to receive a disability retirement allowance computed as a regular retirement allowance and elect to receive the actuarial equivalent at the time of the election pursuant to this subsection of his or her disability retirement allowance in a reduced retirement allowance payable to the retirant and the retirant's spouse pursuant to the provisions of a payment option as provided in subsection (1), if the disability retirement allowance effective date was before November 12, 1985 and the retirant had 25 or more years of credited service on the disability retirement allowance effective date. The nonduty disability retirant shall begin to receive the reduced retirement allowance under this subsection effective the first day of the month following the month in which the retirant makes the election pursuant to this subsection. As used in this subsection, "spouse" means the person to whom the nonduty disability retirant was married on the effective date of his or her disability retirement allowance and on the date the retirant makes the election pursuant to this subsection.

(7) If a member who continues in the employ of this state on and after the date he or she acquires 10 years of service credit, or on and after the date he or she becomes eligible for deferred retirement as provided by section 20(4) or (5), whichever occurs first, and who does not have an election of option A in force as provided in subsection (4), dies before the effective date of retirement and leaves a surviving spouse, the spouse shall receive a retirement allowance computed in the same manner as if the member had retired effective the day before the date of his or her death, elected option A, and nominated the spouse as retirement allowance beneficiary. When the retirement allowance beneficiary dies, his or her retirement allowance shall terminate. If the aggregate amount of retirement allowance payments received by the beneficiary is less than the accumulated contributions credited to the member's account in the employees' savings fund at the time of the member's death, the difference between the accumulated contributions and the aggregate amount of retirement allowance payments received by the beneficiary shall be transferred from the employer's accumulation fund or pension reserve fund to the employees' savings fund and paid pursuant to section 29. A retirement allowance shall not be paid under this subsection on account of the death of a member if benefits are paid under section 27 on account of his or her death. If the other requirements of this subsection are met but a surviving spouse does not exist, each of the deceased member's surviving children less than 18 years of age shall receive an allowance of an equal share of the retirement allowance that would have been paid to the spouse if living at the time of the deceased member's death. Payments under this subsection shall cease upon the surviving child's marriage, adoption, or becoming 18 years of age, whichever occurs first.

(8) If a retirant receiving a reduced retirement allowance under a payment option under subsection (1) is divorced from the spouse who had been designated as the retirant's retirement allowance beneficiary under the option, the election of the payment option shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in the public employee retirement benefit protection act and dated after June 27, 1991 provides that the election of the payment option under subsection (1) is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a payment option under subsection (1) is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a regular retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act. The retirement allowance shall revert to a regular retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

38.33 Disability retirant under age 60; medical examination required; reduction of retirement allowance on account of gainful employment.

Sec. 33. (a) The retirement board may, and upon the retirant's application shall, require any disability retirant who has not attained age 60 years to undergo a medical examination. The retirement board shall not require a disability retirant to undergo more

than 1 medical examination in any calendar year. The examination is to be made by or under the direction of the medical advisor at the retirant's place of residence or other place mutually agreed upon. Should any disability retirant who has not attained age 60 years refuse to submit to the medical examination, his or her disability retirement allowance may be discontinued until his or her withdrawal of the refusal. If the refusal continues for 1 year, all rights in and to his or her disability retirement allowance may be revoked by the retirement board. If upon the medical examination of a disability retirant, the medical advisor reports and his or her report is concurred in by the retirement board, that the disability retirant is physically able and capable of resuming employment, he or she shall be restored to active service with the state and his or her disability retirement allowance shall cease.

(b) If the secretary reports and certifies to the retirement board that a disability beneficiary is engaged in a gainful occupation paying more than the difference between his or her disability retirement allowance and his or her final compensation, and if the retirement board concurs in the report, then the amount of his or her retirement allowance shall be reduced to an amount which together with the amount earned by him or her shall equal his or her final compensation. Should the earnings of the disability retirant be later changed, the amount of his or her retirement allowance shall be further modified in like manner.

38.38 Annual level percent of payroll contribution rate; determination; basis; report; computation; amortization of unfunded actuarial accrued liability; annual appropriation to retirement system; transfer of funds; certification; difference between actual state contributions and product of computation rates times aggregate compensations paid; submitting difference between estimated and actual aggregate compensation and estimated and actual contribution rate to legislature for appropriation; interest; deposit to health advance funding subaccount.

Sec. 38. (1) The annual level percent of payroll contribution rate to finance the benefits provided under this act shall be determined by actuarial valuation pursuant to subsections (2) and (3), upon the basis of the risk assumptions adopted by the retirement board with approval of the department of management and budget, and in consultation with the investment counsel and the actuary. An annual actuarial valuation shall be made of the retirement system in order to determine the actuarial condition of the retirement system and the required contribution to the retirement system. The actuary shall report to the legislature by April 15 of each year on the actuarial condition of the retirement system as of the end of the previous fiscal year and on the projections of state contributions for the next fiscal year. The actuary shall certify in the report that the techniques and methodologies used are generally accepted within the actuarial profession and that the assumptions and cost estimates used fall within the range of reasonable and prudent assumptions and cost estimates. An annual actuarial gain-loss experience study of the retirement system shall be made in order to determine the financial effect of variations of actual retirement system experience from projected experience.

(2) The contribution rate for monthly benefits payable in the event of the death of a member before retirement or the disability of a member shall be computed using a terminal funding method of actuarial valuation.

(3) Except as otherwise provided in this subsection, the contribution rate for benefits other than those provided for in subsection (2) shall be computed using an individual projected benefit entry age normal cost method of valuation. For the 1995-96 state fiscal

year and for each subsequent fiscal year in which the actuarial accrued liability for health benefits is less than 100% funded, the contribution rate for benefits provided under section 20d shall be computed using a cash disbursement method. Beginning in the fiscal year after the fiscal year in which the actuarial accrued liability for health benefits under section 20d is at least 100% funded by the health advance funding subaccount created under section 11(9), and continuing for each subsequent fiscal year, the contribution rate for health benefits provided under section 20d shall be computed using an individual projected benefit entry age normal cost method of valuation. The contribution rate for service that may be rendered in the current year, the normal cost contribution rate, shall be equal to the aggregate amount of individual entry age normal costs divided by 1% of the aggregate amount of active members' valuation compensation. The unfunded actuarial accrued liability shall be equal to the actuarial present value of benefits reduced by the actuarial present value of future normal cost contributions and the actuarial value of assets on the valuation date. The unfunded actuarial accrued liability shall be amortized in accordance with generally accepted governmental accounting standards over a period equal to or less than 40 years.

(4) The legislature annually shall appropriate to the retirement system the amount determined pursuant to subsections (2) and (3). The state treasurer shall transfer monthly to the retirement system an amount equal to the product of the contribution rates determined in subsections (2) and (3) times the aggregate amount of active member compensation paid during that month. Not later than 60 days after the termination of each state fiscal year, the executive secretary of the retirement board shall certify to the director of the department of management and budget the actual aggregate compensations paid to active members during the preceding state fiscal year. Upon receipt of that certification, the director of the department of management and budget shall compute the difference, if any, between actual state contributions received during the preceding state fiscal year and the product of the contribution rates determined in subsections (2) and (3) times the aggregate compensations paid to active members during the preceding state fiscal year. Except as otherwise provided in subsection (5), the difference, if any, shall be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year. This subsection does not apply for those fiscal years in which a deposit occurs pursuant to subsection (6).

(5) For differences occurring in fiscal years beginning on or after October 1, 1991, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual contribution rate described in subsection (4), if any, may be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be submitted in the executive budget to the legislature for appropriation in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest shall be included for each year that a portion of the remaining difference is carried forward. The interest rate shall equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made. This subsection does not apply for those fiscal years in which a deposit occurs pursuant to subsection (6).

(6) For each fiscal year that begins on or after October 1, 2001, if the actuarial valuation prepared pursuant to this section for each fiscal year demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions exceeds the actuarial present value of benefits, the annual level percent of payroll contribution rate as determined

pursuant to subsections (1), (2), and (3) may be deposited into the health advance funding subaccount created under section 11(9).

(7) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund as described in section 6 of the public employee retirement benefit protection act, the benefits that are required to be paid from that fund shall be paid from a portion of the employer contributions described in this section or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that shall be allocated to that fund and deposit that amount in that fund before it deposits any remaining employer contributions or other eligible funds in the pension fund.

38.46 Retirement or separation from employment of supplemental member with supplemental early retirement allowance; conditions; determination of eligibility.

Sec. 46. (1) A supplemental member may retire with a supplemental early retirement allowance provided in section 47 upon satisfaction of each of the following conditions:

(a) He or she is age 51 years or older but less than age 62 years.

(b) He or she has 25 or more years of covered service.

(c) His or her last 3 years of credited service are covered service.

(d) He or she files a written request for retirement with the retirement board stating the date that he or she wishes to be retired.

(2) A supplemental member may be separated from employment in a covered position the first day of the calendar month following the month in which he or she attains age 56 years. A supplemental member separated under this subsection may retire with a supplemental early retirement allowance provided in section 47 if he or she satisfies each of the following conditions:

(a) He or she has not attained age 62 years.

(b) He or she has 10 or more years of covered service.

(c) His or her last 3 years of credited service are covered service.

(d) He or she files a written request for retirement with the retirement board stating the date that he or she wishes to be retired.

(3) The state personnel director shall determine all questions on eligibility for supplemental early retirement benefits within the meaning of sections 45 to 47.

38.48 Conservation officers.

Sec. 48. (1) A member who is a conservation officer may retire under this section if all of the following requirements are met:

(a) The member is a conservation officer on April 1, 1991.

(b) The member has 25 or more years of credited service, of which 20 years of credited service are as a conservation officer and of which the last 2 years of credited service are as a conservation officer.

(2) A member who is a conservation officer may retire under this section if the member has 25 or more years of credited service, of which 23 years of credited service are as a conservation officer and of which the last 2 years of credited service are as a conservation officer.

(3) A member may retire under subsection (1) or (2) upon written application to the retirement board stating a date upon which he or she desires to retire. Beginning on the

retirement allowance effective date, he or she shall receive a retirement allowance equal to 60% of the member's annual compensation for the member's most highly compensated 24 consecutive months of service as a conservation officer. The formula for calculating a member's retirement allowance under this subsection shall never exceed the formula for calculating a retirement allowance under section 24 of the state police retirement act of 1986, 1986 PA 182, MCL 38.1624.

(4) A member who is a conservation officer may retire under this section if all of the following requirements are met:

(a) The member is a conservation officer on April 1, 1991.

(b) The member is 50 years of age or older.

(c) The member has 10 years of credited service as a conservation officer and the last 2 years of credited service are as a conservation officer.

(5) A member may retire under subsection (4) upon written application to the retirement board, on or after April 1, 1991, but not later than April 1, 1992, stating a date on which he or she desires to retire. The retirement allowance effective date shall be on or after May 1, 1991 but not later than July 1, 1992. Beginning on the retirement allowance effective date, he or she shall receive a retirement allowance equal to 2% of the member's annual compensation for the member's most highly compensated 24 consecutive months of service as a conservation officer times the number of years, including any fraction of a year, of service credited to the member under this act. However, a retirement allowance payable under this subsection shall not exceed 60% of the member's annual compensation for the member's most highly compensated 24 consecutive months of service as a conservation officer.

(6) Before the effective date of the retirement allowance, a member who is a conservation officer and who retires under this section shall elect to receive his or her retirement allowance under a form of payment as provided in section 31(1).

(7) Pursuant to rules promulgated by the retirement board, a member who retires under this section before becoming 65 years old may elect to have his or her regular retirement allowance equated on an actuarial basis to provide an increased retirement allowance payable to age 65 and a reduced retirement allowance payable after becoming 65 years old. The retirant's increased retirement allowance payable to age 65 shall approximately equal the sum of his or her reduced retirement allowance payable after age 65 and his or her estimated social security primary insurance amount.

(8) If a member who retires under this section dies before receiving payment of his or her retirement allowance in an aggregate amount equal to the accumulated contributions standing to the retirant's account in the employees' savings fund at the time of his or her retirement, the difference between his or her accumulated contributions and the amount of the retirement allowance received by him or her shall be paid to the person or persons that the retirant has nominated by written designation duly executed and filed with the retirement board, or, if there is no such designated person or persons surviving, then to the retirant's legal representative or estate.

(9) The director of the department of natural resources, or his or her designee, shall certify to the retirement board that a member who applies to retire under this section is a conservation officer.

(10) This section does not prohibit a member who is a conservation officer and who does not meet the requirements of this section from qualifying for a retirement allowance under any other provision of this act.

38.49 Administration of retirement system as qualified pension plan under internal revenue code; requirements and benefit limitations.

Sec. 49. (1) This section is enacted pursuant to section 401(a) of the internal revenue code that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code and that the trust be an exempt organization under section 501 of the internal revenue code. The department shall administer the retirement system to fulfill this intent.

(2) Except as otherwise provided in this section, employer-financed benefits provided by the retirement system under this act shall not exceed the lesser of $90,000.00 or 100% of the member's average compensation for high 3 years as described in section 415(b)(3) of the internal revenue code for retirement occurring at age 62 or older.

(3) The limitation on employer financed benefits provided by the retirement system under subsection (2) applies unless application of subsections (4) and (5) produces a higher limitation, in which case the higher limitation applies.

(4) If a member retires before age 62, the amount of $90,000.00 in subsection (2) is actuarially reduced to reflect payment before age 62. The retirement system shall use an interest rate of 5% per year compounded annually to calculate the actuarial reduction in this subsection. If this subsection produces a limitation of less than $75,000.00 at age 55, the limitation at age 55 is $75,000.00 and the limitations for ages under age 55 shall be calculated from a limitation of $75,000.00 at age 55.

(5) Section 415(d) of the internal revenue code requires the commissioner of internal revenue to adjust the $90,000.00 limitation in subsection (2) to reflect cost of living increases, beginning with calendar year 1988. This subsection shall be administered using the limitations applicable to each calendar year as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code. The retirement system shall adjust the benefits subject to the limitation each year to conform with the adjusted limitation.

(6) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, vested former members, retirants, and retirement allowance beneficiaries before satisfaction of all retirement system liabilities.

(7) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(8) The required beginning date for retirement allowances and other distributions shall not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires.

(9) If the retirement system is terminated, the interest of the members, vested former members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code and related internal revenue service regulations applicable to governmental plans.

(10) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993.

(11) For purposes of determining actuarial equivalent retirement allowances under sections 31(1)(a) and (b) and 20(2), the actuarially assumed interest rate shall be 8% with utilization of the 1983 group annuity and mortality table.

(12) Notwithstanding any other provision of this section, the retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code and revenue service regulations under that section that are applicable to governmental plans. If there is a conflict between this section and another section of this or any other act of this state, this section prevails.

(13) Notwithstanding any other provision of this act, the compensation of a member of the retirement system shall be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, as adjusted by the commissioner of internal revenue. This subsection applies to any person who first becomes a member of the retirement system on or after October 1, 1996.

(14) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code. This subsection applies to all qualified military service on or after December 12, 1994.

38.52 Calculation of accrued cost savings for each fiscal year.

Sec. 52. After consulting the retirement system's actuary, the department of management and budget shall calculate for each fiscal year any cost savings that have accrued to this state as a result of the implementation of 1996 PA 487 over the costs that would have been incurred by this state to fund this retirement system had 1996 PA 487 not been implemented. For each fiscal year in which a deposit under section 38(6) does not occur, the department may deposit all or part of the cost savings calculated pursuant to this section into the health advance funding subaccount created under section 11(9) by reducing the normal cost and unfunded actuarial accrued liability contribution rates as calculated pursuant to section 38, and increasing the contribution rate for benefits provided under section 20d by the same amount. However, the normal cost and unfunded accrued actuarial liability rates shall not be reduced to an amount less than zero.

Provisions as curative; intent of legislature.

Enacting section 1. The provisions of section 19h of the state employees' retirement act, 1943 PA 240, as added by this amendatory act, are curative and intended to correct any misinterpretation of legislative intent in the Michigan court of appeals decisions in Stone v. State of Michigan, Department of Treasury, docket no. 217485, and in Liken v. State of Michigan, Department of Treasury, docket no. 222588. This legislation expresses the original intent of the legislature that payments under sections 19b(2), 19c(2), 19d(2), 19e(2), and 19f(3) of the state employees' retirement act, 1943 PA 240, MCL 38.19b, 38.19c, 38.19d, 38.19e, and 38.19f were not made by the retirement system and were not pensions, annuities, retirement allowances, optional benefits, or any other rights described in section 40(1) of the state employees' retirement act, 1943 PA 240, MCL 38.40, are not exempt from taxation, are subject to executions, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law, and may be assignable as provided in the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5109 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

Compiler's note: House Bill No. 5109, referred to in enacting section 2, was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 99, Imd. Eff. Mar. 27, 2002.

[No. 94]

(HB 5110)

AN ACT to amend 1980 PA 300, entitled "An act to provide a retirement system for the public school employees of this state; to create certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 4, 34, 36, 41, 43a, 46, 85, and 108 (MCL 38.1304, 38.1334, 38.1336, 38.1341, 38.1343a, 38.1346, 38.1385, and 38.1408), sections 4, 34, 36, and 41 as amended by 1997 PA 143, section 43a as amended by 1990 PA 298, section 46 as amended by 1991 PA 47, and sections 85 and 108 as amended by 1998 PA 213.

The People of the State of Michigan enact:

38.1304 Definitions; C to M.

Sec. 4. (1) "Compound interest" means interest compounded annually on July 1 on the contributions on account as of the previous July 1 and computed at the rate of investment return determined under section 104a(1) for the last completed state fiscal year.

(2) "Contributory service" means credited service other than noncontributory service.

(3) "Deferred member" means a member who has ceased to be a public school employee and has satisfied the requirements of section 82 for a deferred vested service retirement allowance.

(4) "Department" means the department of management and budget.

(5) "Designated date" means September 30, 1997.

(6) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by the distributee.

(7) "Distributee" includes a member or deferred member. Distributee also includes the member's or deferred member's surviving spouse or the member's or deferred member's spouse or former spouse under an eligible domestic relations order, with regard to the interest of the spouse or former spouse.

(8) Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means an individual retirement account described in section 408(a) of the internal revenue code, an individual retirement annuity described in section 408(b) of the internal revenue code, an annuity plan described in section 403(a) of the internal revenue code, or a qualified trust described in section 401(a) of the internal revenue

code, an annuity contract described in section 403(b) of the internal revenue code, or an eligible plan under section 457(b) of the internal revenue code which is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such eligible plan under section 457(b) of the internal revenue code from this retirement system, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(9) Beginning January 1, 2002, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code.

(d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities, except to the extent that the portion of a distribution that is not includable in federal gross income is paid to either of the following:

(*i*) An individual retirement account or annuity described in section 408(a) or (b) of the internal revenue code.

(*ii*) A qualified defined contribution plan as described in section 401(a) or 403(a) of the internal revenue code that agrees to separately account for amounts transferred, including separately accounting for the portion of the distribution that is includable in gross income and the portion of the distribution which is not includable in gross income.

(10) "Employee organization professional services leave" or "professional services leave" means a leave of absence that is renewed annually by the reporting unit so that a member may accept a position with a public school employee organization to which he or she belongs and which represents employees of a reporting unit in employment matters. The member shall be included in membership of the retirement system during a professional services leave if all of the conditions of section 71(5) and (6) are satisfied.

(11) "Employee organization professional services released time" or "professional services released time" means a portion of the school fiscal year during which a member is released by the reporting unit from his or her regularly assigned duties to engage in employment matters for a public school employee organization to which he or she belongs. The member's compensation received or service rendered, or both, as applicable, by a member while on professional services released time shall be reportable to the retirement system if all of the conditions of section 71(5) and (6) are satisfied.

(12) "Final average compensation" means the aggregate amount of a member's compensation earned within the averaging period in which the aggregate amount of compensation was highest divided by the member's number of years, including any fraction of a year, of credited service during the averaging period. The averaging period shall be 36 consecutive calendar months if the member contributes to the member investment plan; otherwise, the averaging period shall be 60 consecutive calendar months. If the member has less than 1 year of credited service in the averaging period, the number of consecutive calendar months in the averaging period shall be increased to the lowest number of consecutive calendar months that contains 1 year of credited service.

(13) "Health benefits" means hospital, medical-surgical, and sick care benefits and dental, vision, and hearing benefits for retirants, retirement allowance beneficiaries, and health insurance dependents provided pursuant to section 91.

(14) "Internal revenue code" means the United States internal revenue code of 1986.

(15) "Member investment plan" means the program of member contributions described in section 43a.

38.1334 Reserve for health benefits; payments; health advance; funding subaccount; transfer to reserve for employer contributions; conditions.

Sec. 34. (1) The reserve for health benefits is the account to which payments of reporting units for health benefits are credited. Benefits payable pursuant to section 91 shall be paid from the reserve for health benefits. The assets and any earnings on the assets contained in the reserve for health benefits and the health advance funding subaccount are not to be treated as pension assets for any purpose.

(2) The health advance funding subaccount is the account to which amounts transferred pursuant to section 41 are credited. Except as otherwise provided in this section, any amounts received in the health advance funding subaccount and accumulated earnings on those amounts shall not be expended until the actuarial accrued liability for health benefits under section 91 is at least 100% funded. The department may expend funds or transfer funds to another account to expend for health benefits under section 91 if the actuarial accrued liability for health benefits under section 91 is at least 100% funded. For each fiscal year that begins after the first fiscal year in which the actuarial accrued liability for health benefits under section 91 is at least 100% funded by the health advance funding subaccount, the amounts may be expended or credited to fund health benefits provided under section 91 as provided in section 41(2).

(3) Notwithstanding any other provision of this section, the department may transfer amounts from the health advance funding subaccount to the reserve for employer contributions established in section 30 if the department does both of the following:

(a) At least 45 days before the intended transfer, submits a request to the chairs of the senate and house appropriations committees and, at least 15 days before the intended transfer, obtains the approval of both the senate and house appropriations committees.

(b) Ensures that the request submitted to the senate and house appropriations committees contains an actuarial valuation prepared pursuant to section 41 that demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions does not exceed the actuarial present value of benefits.

38.1336 Reserve for undistributed investment income; pension stabilization subaccount.

Sec. 36. (1) Except as otherwise provided in this section, the reserve for undistributed investment income is the account to which all income from the investment of assets, all gifts and bequests received by the retirement system, and all other money received by the retirement system the disposition of which is not specifically provided for is credited. The retirement board shall determine the income, interest, and dividends attributable to the health advance funding subaccount created by section 34(2). The income, interest, and dividends attributable to the health advance funding subaccount shall be credited to the health advance funding subaccount. In each fiscal year, the retirement board shall transfer from the reserve for undistributed investment income all amounts necessary to credit the

interest required under this act to the reserve for employee contributions, the reserve for employer contributions, the reserve for member investment plan, the reserve for retired benefit payments, and the reserve for health benefits, to fund the reserve for administrative expenses, and any supplemental payments required pursuant to section 104a.

(2) The pension stabilization subaccount is the account to which the amounts transferred pursuant to subsection (3) to the reserve for undistributed investment income are credited. Except as otherwise provided in this subsection, no amounts shall be transferred from the stabilization subaccount to any other reserve. The director of the department may transfer part or all of the pension stabilization subaccount to the reserve for employer contributions. After the department has transferred the entire balance of the pension stabilization subaccount to the reserve for employer contributions created by section 30, the pension stabilization subaccount created by this subsection shall be closed and subsection (3) shall no longer apply.

(3) Beginning on the designated date, if the actuarial valuation prepared pursuant to sections 41 and 41a demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions exceeds the actuarial present value of benefits, an amount equal to the excess shall be credited to the pension stabilization subaccount pursuant to subsection (2) and shall be debited against the reserve for employer contributions.

38.1341 Determining annual level percentage of payroll contribution rate; computation; certification of estimated aggregate compensations; computation and certification of sum due and payable; payment; certification of actual aggregate compensations; adjustment; evidence of correctness; audit; duties of reporting unit; submission of difference occurring in certain fiscal years; interest; rate; reassignment of assets; rate of investment return; basis of asset valuation; use of salary increase assumption; deposit to health advance funding subaccount; allocations from employer contributions.

Sec. 41. (1) The annual level percentage of payroll contribution rate to finance benefits being provided and to be provided by the retirement system shall be determined by actuarial valuation pursuant to subsection (2) upon the basis of the risk assumptions that the retirement board and the department adopt after consultation with the state treasurer and an actuary. An annual actuarial valuation shall be made of the retirement system in order to determine the actuarial condition of the retirement system and the required contribution to the retirement system. An annual actuarial gain-loss experience study of the retirement system shall be made in order to determine the financial effect of variations of actual retirement system experience from projected experience.

(2) The contribution rate for benefits payable in the event of the death of a member before retirement or the disability of a member shall be computed using a terminal funding method of valuation. Except as otherwise provided in this subsection, the contribution rate for other benefits shall be computed using an individual projected benefit entry age normal cost method of valuation. Except as otherwise provided in this section, for the 1995-96 state fiscal year and for each subsequent fiscal year, the contribution rate for health benefits provided under section 91 shall be computed using a cash disbursement method. For each fiscal year after the fiscal year in which the actuarial accrued liability for health benefits under section 91 is at least 100% funded by the health advance funding subaccount created under section 34(2), the contribution rate for health benefits provided under section 91 shall be computed using an individual projected benefit

entry age normal cost method of valuation. The contribution rate for service likely to be rendered in the current year, the normal cost contribution rate, shall be equal to the aggregate amount of individual projected benefit entry age normal costs divided by 1% of the aggregate amount of active members' valuation compensation. The contribution rate for unfunded service rendered before the valuation date, the unfunded actuarial accrued liability contribution rate, shall be the aggregate amount of unfunded actuarial accrued liabilities divided by 1% of the actuarial present value over a period not to exceed 50 years of projected valuation compensation, where unfunded actuarial accrued liabilities are equal to the actuarial present value of benefits, reduced by the actuarial present value of future normal cost contributions and the actuarial value of assets on the valuation date.

(3) Before November 1 of each year, the executive secretary of the retirement board shall certify to the director of the department the aggregate compensation estimated to be paid public school employees for the current state fiscal year.

(4) On the basis of the estimate under subsection (3), the annual actuarial valuation, and any adjustment required under subsection (6), the director of the department shall compute the sum due and payable to the retirement system and shall certify this amount to the reporting units.

(5) The reporting units shall make payment of the amount certified under subsection (4) to the director of the department in 12 equal monthly installments.

(6) Not later than 90 days after termination of each state fiscal year, the executive secretary of the retirement board shall certify to the director of the department and each reporting unit the actual aggregate compensation paid to public school employees during the preceding state fiscal year. Upon receipt of that certification, the director of the department shall compute any adjustment required to the amount due to a difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate. The difference, if any, shall be paid as provided in subsection (9). This subsection does not apply in a fiscal year in which a deposit occurs pursuant to subsection (14).

(7) The director of the department may require evidence of correctness and may conduct an audit of the aggregate compensation that the director of the department considers necessary to establish its correctness.

(8) A reporting unit shall forward employee and employer social security contributions and reports as required by the federal old-age, survivors, disability, and hospital insurance provisions of title II of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 401 to 405, 406 to 418, 420 to 423, 424a to 426-1, and 427 to 433.

(9) For an employer of an employee of a local public school district or an intermediate school district, for differences occurring in fiscal years beginning on or after October 1, 1993, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6), if any, shall be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. For an employer of other public school employees, for differences occurring in fiscal years beginning on or after October 1, 1991, a minimum of 20% of the difference between the estimated and the actual aggregate compensation and the estimated and the actual actuarial employer contribution rate described in subsection (6), if any, shall be paid by that employer in the next succeeding state fiscal year and a minimum of 25% of the remaining difference shall be paid by that employer in each of the following 4 state fiscal years, or until 100% of the remaining difference is submitted, whichever first occurs. In addition, interest shall be included for

each year that a portion of the remaining difference is carried forward. The interest rate shall equal the actuarially assumed rate of investment return for the state fiscal year in which payment is made. This subsection does not apply in a fiscal year in which a deposit occurs pursuant to subsection (14).

(10) Beginning on the designated date, all assets held by the retirement system shall be reassigned their fair market value, as determined by the state treasurer, as of the designated date, and in calculating any unfunded actuarial accrued liabilities, any market gains or losses incurred before the designated date shall not be considered by the retirement system's actuaries.

(11) Beginning on the designated date, the actuary used by the retirement board shall assume a rate of return on investments of 8.00% per annum, as of the designated date, which rate may only be changed with the approval of the retirement board and the director of the department.

(12) Beginning on the designated date, the value of assets used shall be based on a method that spreads over a 5-year period the difference between actual and expected return occurring in each year after the designated date and such methodology may only be changed with the approval of the retirement board and the director of the department.

(13) Beginning on the designated date, the actuary used by the retirement board shall use a salary increase assumption that projects annual salary increases of 4%. In addition to the 4%, the retirement board shall use an additional percentage based upon an age-related scale to reflect merit, longevity, and promotional salary increase. The actuary shall use this assumption until a change in the assumption is approved in writing by the retirement board and the director of the department.

(14) For fiscal years that begin on or after October 1, 2001, if the actuarial valuation prepared pursuant to this section demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions exceeds the actuarial present value of benefits, the amount based on the annual level percent of payroll contribution rate pursuant to subsections (1) and (2) may be deposited into the health advance funding subaccount created by section 34.

(15) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund as described in section 6 of the public employee retirement benefit protection act, the benefits that are required to be paid from that fund shall be paid from a portion of the employer contributions described in this section or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that shall be allocated to that fund and deposit that amount in that fund before it deposits any remaining employer contributions or other eligible funds in the pension fund.

38.1343a Contributions of member to member investment plan; deduction and remittance as employer contributions; benefits; amount of contribution; election to make contributions; method and timing of payment; deposit of contributions; applicability of subsection (8); applicability of §§ 38.1343a, 38.1343b, and 38.1343c.

Sec. 43a. (1) The contributions of a member who contributes to the member investment plan shall be deducted by the employer and remitted as employer contributions to the retirement system pursuant to section 42. A member who contributes to the member investment plan is entitled to the benefits provided in sections 43b and 43c.

(2) Until December 31, 1989, a member who first became a member on or before December 31, 1989, and who elected or elects on or before December 31, 1989 to contribute to the member investment plan shall contribute 4% of the member's compensation to the member investment plan and beginning January 1, 1990 shall contribute 3.9% of the member's compensation to the member investment plan.

(3) On or before January 1, 1993, a member who first became a member on or before December 31, 1989, except as otherwise provided in subsection (4), and who did not elect to make contributions to the member investment plan, may irrevocably elect to make the contributions described in subsection (2). In addition to making the contributions required under subsection (2), a member who elects to make contributions to the member investment plan under this subsection shall make a contribution of 4% of the compensation received on or after January 1, 1987 to December 31, 1989, and 3.9% of the compensation received on or after January 1, 1990 to the date of the election, plus an amount equal to the compound interest that would have accumulated on those contributions as described in section 33, plus an amount equal to the net actuarial cost of the additional benefits attributable to service credited before January 1, 1987, as determined by the retirement board. The method and timing of payment by a member under this subsection shall be determined by the retirement board. The contributions made under this subsection shall be deposited into the reserve for employee contributions.

(4) Except as otherwise provided in subsection (8), a member who first became a member on or before December 31, 1986 but did not perform membership service between December 31, 1986 and January 1, 1990, and who returns to membership service on or after January 1, 1990 shall make the contributions described in subsection (7).

(5) Except as otherwise provided in subsection (8), a member who first became a member on or after January 1, 1990 shall make the contributions described in subsection (7).

(6) A member who first became a member on or after January 1, 1987 but before January 1, 1990 shall have 30 days from his or her first date of employment to irrevocably elect to make the contributions described in subsection (2).

(7) Except as otherwise provided in subsection (8), a member who first became a member on or after January 1, 1990 shall contribute the following amounts to the member investment plan:

Member's annual school fiscal year earned compensation	Amount payable to the member investment plan
Not over $5,000.00	3% of member's compensation
Over $5,000.00 but not over $15,000.00	$150.00, plus 3.6% of the excess over $5,000.00
Over $15,000.00	$510.00, plus 4.3% of the excess over $15,000.00

(8) This section and sections 43b and 43c shall not apply until the department receives notification from the United States internal revenue service that contributions under this section picked up by the employer pursuant to section 42 shall not be included as gross income of the member until they are distributed or made available to the member, retirant, retirement allowance beneficiary, or refund beneficiary.

38.1346 Benefits; exemption from taxation; offset of retirement benefits or refunds; forfeiture of service credit.

Sec. 46. (1) A retirement allowance, an optional benefit, or any other benefit accrued or accruing to a person under this act, the reserves created by this act, and the money,

investments, or income of those reserves are exempt from state, county, municipal, or other local tax and subject to the public employee retirement benefit protection act.

(2) The retirement system may offset retirement benefits or refunds payable under this act against amounts owed to the retirement system by a member, retirant, retirement allowance beneficiary, or refund beneficiary.

(3) If the retirement system is required by the federal government pursuant to a court order to transmit a part of a member's contributions standing to the member's credit in the reserve for employee contributions to a federal agency, the service credit that is covered by the payment shall be forfeited in the same manner as if the employee had requested and been paid a refund of the member's most recent contributions.

38.1385 Payment options; election; change of option or beneficiary; payment to beneficiary; reversion of benefit to straight retirement allowance; term of payment; beneficiary predeceasing retirant who returns to service; effect of election of retirant's divorce from spouse designated as beneficiary; payment of difference between accumulated contributions and aggregate amount of retirement allowance payments.

Sec. 85. (1) A retiring member or retiring deferred member who meets the requirements of section 81 or 81a or a member whom the retirement board finds to be totally and permanently disabled and eligible to receive a retirement allowance under section 86 or 87 shall elect to receive his or her retirement allowance under 1 of the payment options provided in this subsection. The election shall be in writing and filed with the retirement board at least 15 days before the effective date of the retirement allowance except as provided for a disability retirant under section 86 or 87. The amount of retirement allowance under subdivision (b), (c), or (d) shall be the actuarial equivalent of the amount of retirement allowance under subdivision (a). The options are as follows:

(a) A retirant shall be paid a straight retirement allowance for life computed pursuant to section 84. An additional retirement allowance payment shall not be made upon the retirant's death.

(b) A retirant shall be paid a reduced retirement allowance for life with the provision that upon the retirant's death, payment of the reduced retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member or deferred member designates in a writing filed with the retirement board at the time of election of this option. A member or deferred member may elect this option and designate a retirement allowance beneficiary under the conditions set forth in section 82(2) or 89(3).

(c) A retirant shall be paid a reduced retirement allowance for life with the provision that upon the retirant's death, payment of 1/2 of the reduced retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member designated in a writing filed with the retirement board at the time of election of the option.

(d) On and after January 1, 2000, a retirant shall be paid a reduced retirement allowance for life with the provision that upon the retirant's death, payment of 75% of the reduced retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member designated in a writing filed with the retirement board at the time of election of the option.

(2) In addition to the election under subsection (1), a retirant, other than a disability retirant who is 60 years of age or less, may elect to coordinate his or her retirement allowance with an estimated primary social security benefit. The retirant shall be paid an

increased retirement allowance until 62 years of age and a reduced retirement allowance after 62 years of age. The increased retirement allowance paid until 62 years of age shall approximate the sum of the reduced retirement allowance payable after 62 years of age and the retirant's estimated social security primary insurance amount. The estimated social security primary insurance amount shall be determined by the retirement system. The election under this subsection shall be made at the same time and in the same manner as required under subsection (1).

(3) Except as otherwise provided in this section, the election of a payment option in subsections (1) and (2) shall not be changed on or after the effective date of the retirement allowance. Except as provided in subsection (5), the retirement allowance beneficiary selected under subsection (1)(b), (c), or (d) shall not be changed on or after the effective date of the retirement allowance and shall be either a spouse, brother, sister, parent, or child, including an adopted child, of the member, deferred member, retiring member, or retiring deferred member entitled to make the election under this act. Another retirement allowance beneficiary shall not be selected. If a member, deferred member, retiring member, or retiring deferred member is married at the retirement allowance effective date, an election under subsection (1), other than an election under subsection (1)(b), (c), or (d) naming the spouse as retirement allowance beneficiary, shall not be effective unless the election is signed by the spouse, except that this requirement may be waived by the board if the signature of a spouse cannot be obtained because of extenuating circumstances. For purposes of this subsection, "spouse" means the person to whom the member, deferred member, retiring member, or retiring deferred member is married at the retirement allowance effective date. Payment to a retirement allowance beneficiary shall start the first day of the month following the retirant's death.

(4) If the retirement allowance beneficiary selected under subsection (1)(b), (c), or (d) predeceases the retirant, the retirant's benefit shall revert to a straight retirement allowance including post-retirement adjustments, if any, shall be effective the first of the month following the death, and shall be paid during the remainder of the retirant's life. This subsection applies to a retirant whose effective date of retirement is after June 28, 1976, but the straight retirement allowance shall not be payable for any month beginning before the later of the retirement allowance beneficiary's death or October 31, 1980. This subsection also applies to a retirant whose effective date of retirement was on or before June 28, 1976, but the straight retirement allowance shall not be payable for any month beginning before the later of the retirement allowance beneficiary's death or January 1, 1986. A retirant who on January 1, 1986 is receiving a reduced retirement allowance because the retirant designated a retirement allowance beneficiary and the retirement allowance beneficiary predeceased the retirant is eligible to receive the straight retirement allowance beginning January 1, 1986, but the straight retirement allowance shall not be payable for any month beginning before January 1, 1986.

(5) A retirant who returns to service pursuant to section 61 and whose retirement allowance beneficiary selected under subsection (1)(b), (c), or (d) predeceases the member before he or she again becomes a retirant may again choose a retirement allowance beneficiary pursuant to subsection (1)(b), (c), or (d).

(6) If a retirant receiving a reduced retirement allowance under subsection (1)(b), (c), or (d) is divorced from the spouse who had been designated as the retirant's retirement allowance beneficiary under subsection (1)(b), (c), or (d), the election of a reduced retirement allowance payment option shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in the public employee retirement benefit protection act and dated after June 27, 1991 provides that the election of a reduced

retirement allowance payment option under subsection (1)(b), (c), or (d) is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement allowance payment option under subsection (1)(b), (c), or (d) is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a straight retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act. The retirement allowance shall revert to a straight retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(7) If the retirement allowance payments terminate before an aggregate amount equal to the retirant's accumulated contributions has been paid, the difference between the retirant's accumulated contributions and the aggregate amount of retirement allowance payments made shall be paid to the person designated in a writing filed with the retirement board on a form provided by the retirement board. If the designated person does not survive the retirant or retirement allowance beneficiary, the difference shall be paid to the deceased recipient's estate or to the legal representative of the deceased recipient.

38.1408 Administration of retirement system as qualified pension plan created in trust under internal revenue code; requirements and benefit limitations; qualified military service.

Sec. 108. (1) This section is enacted pursuant to federal law that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code and that the trust be an exempt organization under section 501 of the internal revenue code. The department shall administer the retirement system to fulfill this intent.

(2) Except as otherwise provided in this section, employer-financed benefits provided by the retirement system under this act shall not exceed $10,000.00 per year for a retirant who has 15 or more years of credited service at retirement.

(3) Employer-financed benefits provided by the retirement system under this act shall not exceed the limitation under subsection (2) unless application of this subsection results in a higher limitation. The higher limitation of this subsection applies to employer-financed benefits provided by the retirement system and, for purposes of section 415(b) of the internal revenue code, applies to aggregated benefits received from all qualified pension plans administered by the department of management and budget, office of retirement systems. Employer-financed benefits provided by the retirement system shall not exceed the lesser of the following:

(a) One of the following amounts that is applicable to the member:

(*i*) If a member retires at age 62 or older, $90,000.00 or the adjusted amount described in subsection (4) per year.

(*ii*) If a member retires at or after age 55 but before age 62, the actuarially reduced amount of the limitation prescribed in subparagraph (*i*) per year. The retirement system shall use an interest rate of 5% per year compounded annually to calculate the actuarial reduction in this subparagraph. However, the limitation in this subparagraph shall not be actuarially reduced below $75,000.00.

(*iii*) If a member retires before age 55, the actuarially reduced amount of the limitation prescribed in subparagraph (*ii*) per year. The retirement system shall use an interest rate of 5% per year compounded annually to calculate the actuarial reduction in this subparagraph.

(b) 100% of the member's average compensation for high 3 years as described in section 415(b)(3) of the internal revenue code.

(4) Section 415(d) of the internal revenue code requires the secretary of the treasury or his or her delegate to annually adjust the $10,000.00 limitation described in subsection (2) and the $90,000.00 limitation described in subsection (3)(a)(*i*) for increases in cost of living, beginning in 1988. This section shall be administered using the limitations applicable to each calendar year as adjusted by the secretary of the treasury or his or her delegate under section 415(d) of the internal revenue code. The retirement system shall adjust the benefits subject to the limitation each year to conform with the adjusted limitation.

(5) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, deferred members, retirants, and retirement allowance beneficiaries.

(6) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(7) The required beginning date for retirement allowances and other distributions shall not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires.

(8) If the retirement system is terminated, the interest of the members, deferred members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code and the related internal revenue service regulations applicable to governmental plans.

(9) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993.

(10) For purposes of determining actuarial equivalent retirement allowances under sections 45 and 85(1)(b), (1)(c), (1)(d), and (2), the actuarially assumed interest rate shall be 8% with utilization of the 1983 group annuity and mortality table.

(11) Notwithstanding any other provision of this section, the retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code and revenue service regulations under that section that are applicable to governmental plans. If there is a conflict between this section and another section of this or any other act of this state, this section prevails.

(12) Notwithstanding any other provision of this act, the compensation of a member of the retirement system shall be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, as adjusted by the commissioner of internal revenue. This subsection applies to any person who first becomes a member of the retirement system on or after October 1, 1996.

(13) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code. This subsection applies to all qualified military service on or after December 12, 1994.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5108 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

Compiler's note: House Bill No. 5108, referred to in enacting section 1, was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 100, Imd. Eff. Mar. 27, 2002.

[No. 95]

(HB 5112)

AN ACT to amend 1992 PA 234, entitled "An act to establish a judges retirement system; to provide for the administration and maintenance of the retirement system; to create a retirement board; to prescribe the powers and duties of the retirement board; to establish certain reserves for the retirement system; to establish certain funds; to prescribe the powers and duties of certain state departments and certain state and local officials and employees; to prescribe penalties and provide remedies; and to repeal certain acts and parts of acts," by amending the title and sections 105, 213, 214, 216, 217, 304, 305, 308, 401a, 405, 506, 508, 604, 714, and 720 (MCL 38.2105, 38.2213, 38.2214, 38.2216, 38.2217, 38.2304, 38.2305, 38.2308, 38.2401a, 38.2405, 38.2506, 38.2508, 38.2604, 38.2664, and 38.2670), sections 105 and 604 as amended by 1995 PA 193, section 214 as amended and section 720 as added by 1996 PA 523, section 217 as amended by 1998 PA 99, and sections 401a, 506, 508, and 714 as amended by 1999 PA 215.

The People of the State of Michigan enact:

TITLE

An act to establish a judges retirement system; to provide for the administration and maintenance of the retirement system; to create a retirement board; to prescribe the powers and duties of the retirement board; to establish certain reserves for the retirement system; to establish certain funds; to prescribe the powers and duties of certain state departments and certain state and local officials and employees; to provide for certain disqualifications; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

38.2105 Definitions; E, F.

Sec. 105. (1) Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means an individual retirement account described in section 408(a) of the internal revenue code, an individual retirement annuity described in section 408(b) of the internal revenue code, an annuity plan described in section 403(a) of the internal revenue code, a qualified trust described in section 401(a) of the internal revenue code, an annuity contract described in section 403(b) of the internal revenue code, or an eligible plan under section 457(b) of the internal revenue code that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and that separately accounts for amounts transferred into such eligible plan under section 457(b) of the internal revenue code from this retirement system, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse on or before December 31, 2001, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(2) Beginning January 1, 2002, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code.

(d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities, except to the extent that such portion is paid to either of the following:

(*i*) An individual retirement account or annuity described in section 408(a) or (b) of the internal revenue code.

(*ii*) A qualified defined contribution plan described in section 401(a) or 403(a) of the internal revenue code that agrees to separately account for amounts so transferred, including separately accounting for the portion of the distribution that is includable in gross income and the portion of such distribution that is not includable in gross income.

(3) "Executive secretary" means the executive secretary of the retirement system as provided in section 205.

(4) Except as otherwise provided in this subsection, "final compensation" means the annual rate of compensation for the calendar year of retirement. For a member who retires on January 1, final compensation means the annual rate of compensation for the calendar year immediately preceding the date of retirement. Final compensation does not include an amount that exceeds the maximum salary set forth for that particular member or vested former member in the revised judicature act, if applicable. For a member who is a judge and who performs judicial duties for a limited period or a specific assignment as authorized by the supreme court pursuant to section 23 of article VI of the state constitution of 1963, final compensation means the annual rate of compensation the member was being paid at the termination of his or her tenure in office as an elected judge.

(5) "Former elected official" means a member who held a state elective office before membership in this retirement system, the former judges retirement system, or the former probate judges retirement system.

(6) "Former judges retirement system" means the state of Michigan judges' retirement system created by former 1951 PA 198.

(7) "Former probate judges retirement system" means the state of Michigan probate judges retirement system created by former 1954 PA 165.

38.2213 Reserve for investment income.

Sec. 213. (1) The reserve for investment income is created. The state treasurer shall credit to the reserve for investment income all interest, dividends, and other income from the investment of retirement system assets except for those of the reserve for health benefits created under section 214. The retirement system shall credit to the reserve for investment income all gifts and bequests to the retirement system; all forfeited contributions received pursuant to section 210; a surplus in any reserve created by this act except for those of the reserve for health benefits created under section 214; and all other money for which there is no specific disposition provided.

(2) Except as otherwise provided in this subsection, the retirement system shall annually credit interest on the preceding year balances in the reserve for member contributions, reserve for employer contributions, and the reserve for retirement benefits. However, the retirement system shall begin to calculate interest on member contributions made within a calendar year on the first day of the calendar year following the contribution and shall credit the interest on member contributions at the end of the calendar year. The retirement system shall charge the reserve for investment income the interest credited to the reserves under this subsection.

(3) The retirement system shall pay the expenses for the administration of the retirement system, exclusive of amounts payable as retirement allowances and other benefits provided in this act, from the reserve for investment income.

38.2214 Reserve for health benefits.

Sec. 214. The reserve for health benefits is created. The retirement system shall deposit into the reserve for health benefits the member contributions for health benefits required by section 305(1)(a), amounts transferred pursuant to section 217(1), and accumulated earnings on these amounts and contributions. The retirement system shall disburse from the reserve for health benefits the premiums for hospital and medical-surgical and sick care benefits as required by sections 509 and 719.

38.2216 Compliance with reciprocal retirement act.

Sec. 216. The retirement system shall comply with the reciprocal retirement act, 1961 PA 88, MCL 38.1101 to 38.1106, if a resolution electing to come under the provisions of the reciprocal retirement act, 1961 PA 88, MCL 38.1101 to 38.1106, is in effect.

38.2217 Court fee fund; applicability of section.

Sec. 217. (1) A court fee fund is created in the state treasury. The state treasurer shall deposit into the court fee fund all money received from the executive secretary pursuant to section 304(4). The state treasurer shall, if funds remain in the court fee fund after the transfer described in subsection (3), transmit a portion of the money in the court fee fund, not exceeding $2,200,000.00 in any fiscal year, to the court equity fund created by section 151b of the revised judicature act of 1961, 1961 PA 236, MCL 600.151b. If the court fee fund exceeds $2,200,000.00 in any fiscal year and $2,200,000.00 is transmitted to the court equity

fund, an amount may be appropriated from the court fee fund for operational expenses of trial courts. Operational expenses may include the payment of salaries of trial court judges other than judges of the district court. Any money remaining in the court fee fund at the end of the fiscal year shall remain in the court fee fund and shall not revert to the general fund.

(2) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund described in section 6 of the public employee retirement benefit preservation act, the benefits that are required to be paid from that fund shall, to the extent permitted by applicable law, be paid from a portion of the money in the court fee fund and any earnings on those amounts or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that shall be allocated to that fund and deposit that amount in that fund.

(3) The state treasurer shall, if funds remain in the court fee fund after the transfer described in subsection (2), transmit a portion of the money in the court fee fund and any earnings on those amounts to the reserve for health benefits created by section 214 to pay expected health care costs for the subsequent fiscal year that are not covered as a result of employee contributions under sections 305(1) and 714(6), and to pay, in an amount not to exceed $100,000.00 in each fiscal year, any health care costs not paid from the reserve for health benefits since fiscal year 1996-1997.

(4) This section applies unless the department receives notification from the United States internal revenue service that this section will cause the retirement system to be disqualified for tax purposes under the internal revenue code.

38.2304 Deposit of court fees, late fees, and interest payments.

Sec. 304. (1) Except as provided in subsection (4), the retirement system shall transmit all court fees received by the executive secretary and all late fees and interest payments received under this section to the state treasurer for deposit in the reserve for employer contributions where these assets and earnings on these assets shall be treated as pension assets.

(2) The retirement board may periodically establish a late fee and interest rate for all court fees that are not submitted to the executive secretary as prescribed in subsection (3). The retirement board shall establish a late fee of $50.00 or more and an interest rate of 12% or more per year for a late transmittal of court fees.

(3) If the county treasurer, clerk of the circuit court, or clerk of the district court fails to transmit to the executive secretary all court fees by the twentieth day of the month following the month in which they are collected under the revised judicature act, the retirement system shall assess a late fee for each late transmittal and an interest payment for each day the transmittal is late. Upon written notice from the executive secretary to the director of the supreme court finance office, the state treasurer shall withhold payment of the amount due under this section for late court fees, late fees, and interest payments from the salary standardization payment payable to a county or district control unit that fails to make timely court fee transmittals as required by this section.

(4) When the retirement system determines that the amount of court fees deposited into the reserve for employer contributions under subsection (1) equals the amount needed in addition to other publicly financed contributions to sustain the required level of publicly financed contributions, based upon the most recent actuarial valuation available at the beginning of the applicable fiscal year, the executive secretary shall transmit to the state treasurer the remainder of the court fees received during the fiscal year for deposit into the court fee fund created by section 217 where these assets and any earnings on

these assets shall not be treated as pension assets for any purpose. This subsection applies unless the department receives notification from the United States internal revenue service that this subsection will cause the retirement system to be disqualified for tax purposes under the internal revenue code.

38.2305 Contributions; plan member classification; manner of payment; withholding payment to county or district control unit for contributions not received within 60 days.

Sec. 305. (1) Each member, upon taking office and so long as he or she remains in office, shall make contributions to the retirement system according to the applicable plan member classification as follows:

(a) A plan 1 member or a plan 2 member shall contribute 5% of the member's compensation. From this contribution, the retirement system shall deposit an amount equal to 2.0% of the member's compensation into the reserve for health benefits for hospital and medical-surgical and sick care benefits as provided in section 509.

(b) A plan 3a member, a plan 3b member, or a plan 5 member shall contribute 3.5% of the member's compensation.

(c) A plan 3c member, a plan 4 member, a plan 6 member, or a plan 7 member shall contribute 7% of the member's compensation. However, a plan 6 member shall not contribute more than $980.00 annually.

(2) The retirement board shall determine the manner in which member contributions are paid. Except as otherwise provided in this section, the retirement system shall credit member contributions when received to the reserve for member contributions.

(3) Upon written notice from the executive secretary to the state court administrator, the state treasurer shall withhold payment of the amount due from the salary standardization payment payable to a county or district control unit for member contributions that are not received by the retirement system within 60 days after the due date.

38.2308 Offsetting benefits against amounts owed; forfeiture of service credit for transfer to federal agency; rights subject to public employee retirement benefit protection act.

Sec. 308. (1) The retirement system may offset retirement benefits or refunds payable under this act against amounts owed to the retirement system by a member, vested former member, retirant, retirement allowance beneficiary, or refund beneficiary.

(2) If the retirement system is required by the federal government pursuant to a court order to transmit a part of a member's accumulated contributions to a federal agency, the service credit that is covered by the payment shall be forfeited in the same manner as if the employee had requested and been paid a refund of the member's most recent contributions.

(3) The right of a person to a retirement allowance, to the return of accumulated contributions, to an optional benefit, to any other right accrued or accruing to a member or beneficiary under this act, and to the money belonging to the retirement system is subject to the public employee retirement benefit protection act.

38.2401a Exclusion from Tier 1; eligibility as qualified participant in Tier 2.

Sec. 401a. (1) Notwithstanding section 401, an individual described in this subsection is not a member of the Tier 1 retirement plan:

(a) An individual who first becomes a judge or state official on or after March 31, 1997.

(b) An individual who elects to terminate membership under section 701 or 701a and who, but for that election, would otherwise be eligible for membership in Tier 1 pursuant to section 401.

(2) An individual who first becomes a judge or state official on or after March 31, 1997 is eligible to be a qualified participant in Tier 2 subject to article VII.

38.2405 Accumulated contributions; payment to person ceasing to be member; payment to refund beneficiary before retirement allowance is payable; payment to refund beneficiary if retirant and option A beneficiary, option B beneficiary, or spouse dies; nomination of refund beneficiary.

Sec. 405. (1) Except as otherwise provided in this act, if a person ceases to be a member before satisfying the age and service requirements for a retirement allowance under section 501 or 501b, the retirement system shall pay to the person his or her accumulated contributions upon request.

(2) If a member dies and a retirement allowance is not or will not become payable on account of the member's death, the retirement system shall pay the deceased member's accumulated contributions at the time of death to the refund beneficiary. If a refund beneficiary is not nominated or the refund beneficiary fails to survive the deceased member, the retirement system shall pay the deceased member's accumulated contributions to the deceased member's estate or legal representative.

(3) If a retirant and his or her option A beneficiary, option B beneficiary, or spouse, if applicable, dies before an aggregate amount of retirement allowance equal to the deceased retirant's accumulated contributions at the time of retirement has been paid, the retirement system shall pay the difference between the deceased retirant's accumulated contributions and the aggregate amount of retirement allowance paid to the deceased retirant's refund beneficiary. If a refund beneficiary is not nominated or the refund beneficiary fails to survive the retirant and his or her option A beneficiary, option B beneficiary, or spouse, the retirement system shall pay the difference to the estate or legal representative of the last to die of the retirant or his or her option A beneficiary, option B beneficiary, or spouse.

(4) A judge or state official who becomes a member under section 401(1)(a) may nominate a refund beneficiary in the membership form under section 401 or a member, vested former member, or retirant may nominate a refund beneficiary in a nominating form furnished by the retirement system. A member, vested former member, or retirant shall file the nominating form with the retirement system, which form is not valid until received by the retirement system. The member or retirant may nominate a different refund beneficiary by delivering a new nominating form to the retirement system. The retirement system shall disregard the nomination of a refund beneficiary in the membership form and all nominating forms previously filed by a member or retirant upon receipt of a more recent nominating form under this subsection.

38.2506 Election of straight life retirement allowance or optional retirement allowance.

Sec. 506. (1) Upon application for retirement under this act, a member or vested former member who meets the requirements of section 501 may elect to receive a retirement allowance as a straight life retirement allowance or as an optional retirement allowance under 1 of the payment options provided in this section. The member or vested former member shall file a written election with the retirement system before the effective date of the retirement allowance. If a member or vested former member fails to

file a written election under this subsection, the member or vested former member is considered to have elected the straight life retirement allowance under section 503. The member or vested former member shall designate in the written election a retirement allowance beneficiary that shall be either the spouse, brother, sister, parent, or child, including an adopted child, of the member or vested former member. The amount of retirement allowance under options A and B are the actuarial equivalent of the amount of the straight life retirement allowance calculated under section 503. The options are as follows:

(a) Option A. The retirement system shall pay an optional retirement allowance to the retirant for life with the provision that upon the retirant's death, payment of the optional retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member or vested former member designated in writing and filed with the retirement system at the time of election of the option.

(b) Option B. The retirement system shall pay an optional retirement allowance for life to the retirant with the provision that upon the retirant's death, payment of 1/2 of the optional retirement allowance is continued throughout the lifetime of the retirement allowance beneficiary whom the member or vested former member designated in writing and filed with the retirement system at the time of election of the option.

(2) Except as otherwise provided in this section, a retirant shall not change the election of a payment option or the designation of a retirement allowance beneficiary under subsection (1) after the retirement allowance effective date. If a retirant who elected a payment option under subsection (1)(a) or (b) dies, the retirement system shall pay the optional retirement allowance to the option A beneficiary or option B beneficiary effective the first day of the month following the retirant's death. If the option A or option B beneficiary designated under this section is the surviving spouse of the deceased retirant, the surviving spouse may elect to receive a retirement allowance as provided in section 508 in lieu of the survivor portion of the optional form of payment elected by the retirant under this section.

(3) If the option A beneficiary or option B beneficiary predeceases the retirant, the retirant's benefit reverts to a straight life retirement allowance and the retirement system shall begin payment of the straight life retirement allowance to the retirant effective the first day of the month following the option A or option B beneficiary's death.

(4) The retirement system shall provide each member or vested former member who applies for retirement a written explanation of the optional forms of payment under this section before the member or vested former member retires.

(5) If a retirant receiving an optional retirement allowance under this section is divorced from the spouse who had been designated the option A or option B beneficiary, the retirement system shall consider the election of the optional form of payment option under this section void if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in the public employee retirement benefit protection act and dated after June 27, 1991 provides that the election of the optional form of payment option under this section is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of an optional form of payment under this section is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a straight life retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act. The retirement allowance shall revert to a straight life retirement allowance under this subsection

effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(6) A member who continues active employment on or after the date he or she acquires 8 years of credited service or who becomes eligible for a retirement allowance as a vested former member under section 501, whichever occurs first, may file a written election with the retirement system to elect option A as provided in subsection (1)(a). The member or vested former member shall nominate a retirement allowance beneficiary in the written election in the same manner as if the member or vested former member were then retiring from service. If the beneficiary's death or divorce from the member or vested former member occurs before the effective date of the member's or vested former member's retirement, the member's or vested former member's election of option A and nomination of retirement allowance beneficiary is automatically revoked and the member or vested former member may again elect option A and nominate a retirement allowance beneficiary at any time before the effective date of retirement. If a member or vested former member who has made an election and nominated a retirement allowance beneficiary as provided in this subsection dies before the effective date of his or her retirement, then the retirement allowance beneficiary shall receive the retirement allowance that he or she would have been entitled to receive under option A if the member or vested former member had been retired on the date of the member's or vested former member's death. Except as otherwise provided by subsection (7), if a member or vested former member who has made an election under this subsection subsequently retires under this act, his or her election of option A takes effect at the time of retirement. The member or vested former member, before the effective date of retirement, but not after the effective date of retirement, may revoke his or her previous election of option A and elect to receive his or her retirement allowance as a straight life retirement allowance or under option B as provided for in subsection (1). This subsection does not apply on and after the date the settlement agreement in the case of Michigan judges assn v Treasurer of the State of Michigan, case no. 98-DT-72771-CV (Ed Mi), becomes of no further force or effect, is rendered null and void, or is otherwise terminated.

(7) If a member, vested former member, retiring member, or retiring vested former member is married on the effective date of the retirement allowance, an election under this section, other than an election of a payment option under subsection (1) naming the spouse as retirement allowance beneficiary, shall not be effective unless the election is signed by the spouse. However, this requirement may be waived by the retirement board if the signature of a spouse cannot be obtained because of extenuating circumstances. As used in this subsection, "spouse" means the person to whom the member, vested former member, retiring member, or retiring vested former member is married on the effective date of the retirement allowance.

38.2508 Death of member with 8 or more years of credited service or of vested former member before retirement; payment of retirement allowance.

Sec. 508. (1) If a member who has 8 or more years of credited service dies while in office or if a vested former member dies before retirement, the retirement system shall pay the following retirement allowance as applicable:

(a) If a member with 8 or more years of credited service dies while in office, or if a vested former member dies before retirement, and the member has an election of option A

in force as provided in section 506(6), then the retirement allowance beneficiary shall receive the retirement allowance that he or she would have been entitled to receive under option A if the member or vested former member had been retired on the date of the member's or vested former member's death.

(b) If a member with 8 or more years of credited service dies while in office, or if a vested former member dies before retirement, and the member or vested former member does not have an election of option A in force as provided in section 506(6), and leaves a surviving spouse, the spouse shall receive a retirement allowance computed in the same manner as if the member had retired effective the day before the date of his or her death, elected option A, and nominated the spouse as retirement allowance beneficiary.

(2) If the deceased vested former member had met the service requirements of section 501(1)(d), the surviving spouse may elect to receive a permanently reduced retirement allowance equal to the amount the deceased vested former member would have received as reduced by section 501(1)(d).

(3) If a retirant dies, the retirement system shall pay the following retirement allowance as applicable:

(a) If the retirant elected a straight life retirement allowance under section 506, the surviving spouse shall receive 1/2 the amount of the retirement allowance computed under section 503, based upon the deceased member's final compensation and credited service.

(b) If the retirant elected an optional retirement allowance under section 506, the retirement allowance beneficiary shall receive a retirement allowance as provided under section 506(1)(a) or (b).

(4) If the deceased member, vested former member, or retirant does not leave a surviving spouse or if the surviving spouse dies after the member's, vested former member's, or retirant's death, the retirement system shall pay to each of the member's, vested former member's, or retirant's unmarried children under the age of 19 years a retirement allowance equal to an equal share of the amount of the retirement allowance payable to a surviving spouse under subsection (1)(b) or subsection (3)(a).

(5) The retirement system shall begin payment of a retirement allowance under this section to a surviving beneficiary of a deceased member or retirant under this section on the first day of the month following the month in which the member or retirant dies. The retirement system shall begin payment of a retirement allowance to a surviving beneficiary of a deceased vested former member on the first day of the month following the month in which the vested former member otherwise would have been eligible to begin receiving benefits under section 501. The retirement system shall terminate payment of a retirement allowance to a surviving beneficiary upon the surviving beneficiary's death.

(6) The retirement system shall begin payment of a retirement allowance to a child of a deceased member or retirant under this section on the first day of the month following the month in which the member or retirant dies without a surviving spouse or the first day of the month following the month in which the surviving spouse dies, whichever is later. The retirement system shall begin payment of a retirement allowance to a child of a deceased vested former member under this section on the first day of the month following the month in which the vested former member dies, the first day of the month following the month in which the vested former member could have retired under section 501 if there is no surviving spouse, or the first day of the month following the month in which the surviving spouse of the vested former member dies, whichever is later. The retirement system shall terminate payment of a retirement allowance to a child upon his or her adoption, marriage, becoming 19 years old, or death, whichever occurs first.

However, the retirement system shall continue payment of a retirement allowance to a child who is attending school full-time during the period of full-time school attendance, but in no case beyond the child becoming 25 years old. Upon termination of a child's retirement allowance under this subsection, the retirement system shall divide that portion of the retirement allowance into equal shares and add it to the retirement allowance being paid to the remaining eligible children, if any, effective the first day of the month following termination of payment to the ineligible child.

(7) The retirement system shall not pay a retirement allowance under this section if an optional retirement allowance is being paid or will become payable to an option A beneficiary or option B beneficiary under section 506 or if a refund of accumulated contributions is paid under section 405.

(8) The surviving spouse of a deceased member may elect a refund of accumulated contributions in lieu of a retirement allowance under this section. The surviving spouse of a deceased retirant may elect to be paid a retirement allowance under this section in lieu of the survivor portion of the optional form of payment elected by the retirant under section 506.

38.2604 Intent of act; employer-financed benefits; limitations; use of assets; returning post tax member contributions; beginning date of distributions; termination of retirement system; election to roll-over to retirement plan; interest rate; compliance with section 415 of internal revenue code and regulations; qualified military service.

Sec. 604. (1) This section is enacted pursuant to section 401(a) of the internal revenue code that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code and that the trust be an exempt organization under section 501 of the internal revenue code. The department shall administer the retirement system to fulfill this intent.

(2) Except as otherwise provided in this section, employer-financed benefits provided by the retirement system under this act shall not exceed the lesser of $90,000.00 or 100% of the member's average compensation for high 3 years as described in section 415(b)(3) of the internal revenue code for retirement occurring at age 62 or older.

(3) The limitation on employer financed benefits provided by the retirement system under subsection (2) applies unless application of subsections (4) and (5) produces a higher limitation, in which case the higher limitation applies.

(4) If a member retires before age 62, the amount of $90,000.00 in subsection (2) is actuarially reduced to reflect payment before age 62. The retirement system shall use an interest rate of 5% per year compounded annually to calculate the actuarial reduction in this subsection. If this subsection produces a limitation of less than $75,000.00 at age 55, the limitation at age 55 is $75,000.00 and the limitations for ages under age 55 shall be calculated from a limitation of $75,000.00 at age 55.

(5) Section 415(d) of the internal revenue code requires the commissioner of internal revenue to adjust the $90,000.00 limitation in subsection (2) to reflect cost of living increases, beginning with calendar year 1988. This subsection shall be administered using the limitations applicable to each calendar year as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code. The retirement system shall adjust the benefits subject to the limitation each year to conform with the adjusted limitation.

(6) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, vested former members, retirants, and retirement allowance beneficiaries before satisfaction of all retirement system liabilities.

(7) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(8) The required beginning date for retirement allowances and other distributions shall not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires.

(9) If the retirement system is terminated, the interest of the members, vested former members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code and related internal revenue service regulations applicable to governmental plans.

(10) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993.

(11) For purposes of determining actuarial equivalent retirement allowances under sections 506(1)(a) and (b) and 602, the actuarially assumed interest rate shall be 8% with utilization of the 1983 group annuity and mortality table.

(12) Notwithstanding any other provision of this section, the retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code and revenue service regulations under that section that are applicable to governmental plans. If there is a conflict between this section and another section of this or any other act of this state, this section prevails.

(13) Notwithstanding any other provision of this act, the compensation of a member of the retirement system shall be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, as adjusted by the commissioner of internal revenue. This subsection applies to any person who first becomes a member of the retirement system on or after October 1, 1996.

(14) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code. This subsection applies to all qualified military service on or after December 12, 1994.

38.2664 Contributions by employer and participant.

Sec. 714. (1) This section is subject to the vesting requirements of section 715.

(2) A qualified participant's employer shall contribute to the qualified participant's account in Tier 2 an amount equal to 4% of the qualified participant's salary.

(3) A qualified participant may periodically elect to contribute up to 3% of his or her salary to his or her Tier 2 account. The qualified participant's employer shall make an additional contribution to the qualified participant's Tier 2 account in an amount equal to the contribution made by the qualified participant under this subsection.

(4) A qualified participant may make contributions in addition to contributions made under subsection (3) to his or her Tier 2 account as permitted by the state treasurer and the internal revenue code. The qualified participant's employer shall not match contributions made by the qualified participant under this subsection.

(5) A qualified participant who makes a written election under section 701a may elect to contribute up to 6% of his or her salary to his or her Tier 2 account. In lieu of employer contributions under subsection (3), the qualified participant's employer shall make an additional contribution to the qualified participant's Tier 2 account in an amount equal to the contribution made by the qualified participant under this subsection. This subsection applies for a period as determined by the department that equals the time in which a Tier 1 member was not able to make contributions to the Tier 2 plan because of the temporary restraining order issued in the case of Michigan judges assn v Treasurer of the State of Michigan, case no. 98-DT-72771-CV (Ed Mi).

(6) Beginning January 1, 2002, each qualified participant who is a plan 1 member or a plan 2 member, upon taking office and so long as he or she remains in office, shall contribute 2.0% of the qualified participant's compensation to the retirement system. The retirement system shall deposit the contribution under this subsection into the reserve for health benefits for hospital and medical-surgical and sick care benefits as provided in section 719.

38.2670 Distributions; exemption from tax; right of setoff to recover overpayments; satisfaction of claims arising from embezzlement or fraud; correction of errors.

Sec. 720. (1) Distributions from employer contributions made pursuant to section 714(2) and (3) and earnings on those employer contributions, and distributions from employee contributions made pursuant to section 714(3) and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax.

(2) The state treasurer has the right of setoff to recover overpayments made under this act and to satisfy any claims arising from embezzlement or fraud committed by a qualified participant, former qualified participant, refund beneficiary, or other person who has a claim to a distribution or any other benefit from Tier 2.

(3) The state treasurer shall correct errors in the records and actions in Tier 2 under this act, and shall seek to recover overpayments and shall make up underpayments.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5108 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

Compiler's note: House Bill No. 5108, referred to in enacting section 1, was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 100, Imd. Eff. Mar. 27, 2002.

[No. 96]

(HB 5113)

AN ACT to amend 1986 PA 182, entitled "An act to provide for the Michigan department of state police retirement system; to create certain reserves and certain funds for this retirement system; to provide for the creation of a retirement board within the department of management and budget; to prescribe the powers and duties of the retirement board; to prescribe the powers and duties of the department of state police, the department of management and budget, and certain state officers; and to repeal certain acts and parts of acts," by amending section 43 (MCL 38.1643), as amended by 1991 PA 53.

The People of the State of Michigan enact:

38.1643 Right of member, retirant, or beneficiary to retirement allowance or other benefit.

Sec. 43. The right of a member, retirant, or beneficiary to a retirement allowance, deferred retirement allowance, accumulated contributions, or other benefit under this act is subject to the public employee retirement benefit protection act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5108 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

Compiler's note: House Bill No. 5108, referred to in enacting section 1, was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 100, Imd. Eff. Mar. 27, 2002.

[No. 97]

(HB 5114)

AN ACT to amend 1957 PA 261, entitled "An act for the creation, maintenance, and administration of a legislative members' and presiding officers' retirement system within the legislature; to provide retirement allowances to the participants of the retirement system, and survivors' allowances and other benefits to their beneficiaries upon death; to exempt those allowances and benefits from certain taxes and legal processes; to authorize and make appropriations for the retirement system; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; and to prescribe penalties and provide remedies," by amending the title and sections 8a, 9, 13a, 14, 20, 22a, 22c, 23, 23d, 26, 30, 57, 59a, 61, 62, 63, and 80 (MCL 38.1008a, 38.1009, 38.1013a, 38.1014, 38.1020, 38.1022a, 38.1022c, 38.1023, 38.1023d, 38.1026, 38.1030, 38.1057, 38.1059a, 38.1061, 38.1062, 38.1063, and 38.1080), the title as amended and sections 61, 63, and 80 as added by 1996 PA 486, sections 8a and 59a as added by 1995 PA 175, sections 9, 22c, 23, 23d, and 26 as amended by 1998 PA 501, section 13a as amended by 1998 PA 78, sections 14 and 20 as amended by 1981 PA 123, sections 22a and 30 as amended by 1994 PA 359, section 57 as amended by 1995 PA 258, and section 62 as amended by 1998 PA 305.

The People of the State of Michigan enact:

TITLE

An act for the creation, maintenance, and administration of a legislative members' and presiding officers' retirement system within the legislature; to provide retirement allowances to the participants of the retirement system, and survivors' allowances and other benefits to their beneficiaries upon death; to exempt those allowances and benefits from certain taxes and legal processes; to establish certain funds in connection with the retirement system; to authorize and make appropriations for the retirement system; to prescribe the powers and duties of certain state departments, agencies, officials, and employees; and to prescribe penalties and provide remedies.

38.1008a "Eligible retirement plan," "eligible rollover distribution," and "internal revenue code" defined.

Sec. 8a. (1) Beginning January 1, 2002, except as otherwise provided in this subsection, "eligible retirement plan" means an individual retirement account described in section 408(a) of the internal revenue code, an individual retirement annuity described in section 408(b) of the internal revenue code, an annuity plan described in section 403(a) of the internal revenue code, or a qualified trust described in section 401(a) of the internal revenue code, an annuity contract described in section 403(b) of the internal revenue code, or an eligible plan under section 457(b) of the internal revenue code that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into the eligible plan under section 457(b) of the internal revenue code from this retirement system, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse on or before December 31, 2001, an eligible retirement plan means an individual retirement account or an individual retirement annuity described above.

(2) Beginning January 1, 2002, "eligible rollover distribution" means a distribution of all or any portion of the balance to the credit of the distributee. Eligible rollover distribution does not include any of the following:

(a) A distribution made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary.

(b) A distribution for a specified period of 10 years or more.

(c) A distribution to the extent that the distribution is required under section 401(a)(9) of the internal revenue code.

(d) The portion of any distribution that is not includable in federal gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities, except to the extent that the portion of the distribution that is not includable in federal gross income is paid to either of the following:

(*i*) An individual retirement account or annuity described in section 408(a) or (b) of the internal revenue code.

(*ii*) A qualified defined contribution plan as described in section 401(a) or 403(a) of the internal revenue code that agrees to separately account for amounts so transferred, including separately accounting for the portion of the distribution which is includable in gross income and the portion of such distribution which is not so includable.

(3) "Internal revenue code" means the United States internal revenue code of 1986.

38.1009 "Salary" defined.

Sec. 9. (1) "Salary" means the compensation, common to all legislators, exclusive of travel allowance, paid by the state for 1 year of service as a legislator. A member shall contribute to the retirement system based on the percentage applied to that salary.

(2) For purposes of section 23, salary also includes an additional 2% through December 30, 1986, and 4% beginning December 31, 1986, compounded annually and added for each year or portion of a year that expires after the member terminates service and before the member retires, of the member's greatest salary determined pursuant to subsection (1) received in 1 calendar year. This subsection only applies to a member who first becomes a member on or before January 1, 1995, and whose service terminates on or after December 1, 1978.

(3) For purposes of section 23, for a member who left service before December 1, 1978, salary also includes an additional 2% for each year beginning January 1, 1979 through December 30, 1986 and 4% beginning December 31, 1986, compounded annually and added for each year or portion of a year that expires after the member terminates service and before the member retires, of the member's greatest salary determined pursuant to subsection (1) received in 1 calendar year.

(4) For purposes of section 23, salary also includes an amount equal to the greatest amount of additional compensation received in 1 calendar year as a result of being in a leadership position, divided by 5, and then multiplied by the number of years or portion of a year, not to exceed 8, in which the member was in a leadership position and received additional compensation. Before a member who first becomes a member on or before January 1, 1995, may have the additional compensation included in salary under this subsection, the member shall pay to the retirement system a sum equal to 9% of the total additional compensation received. Before a member who first becomes a member after January 1, 1995, may have the additional compensation included in salary under this subsection, the member shall pay to the retirement system a sum equal to 7% of the total additional compensation received.

38.1013a "Survivor," "eligible child," and "surviving spouse" defined.

Sec. 13a. (1) "Survivor" means the eligible surviving spouse or eligible child or children of a member, deferred vested member, or retirant.

(2) "Eligible child" means an unmarried child of a member, deferred vested member, or retirant who is:

(a) Under 18 years of age.

(b) Over 18 years of age with a mental or physical disability that precludes engaging in any gainful occupation.

(c) Over 18 years of age and regularly attending high school or an accredited institution of higher learning until becoming 25 years of age or no longer regularly attending school, whichever first occurs.

(3) "Surviving spouse" means the person to whom a member, deferred vested member, or retirant is legally married at the time of his or her death.

38.1014 "Refund beneficiary" defined.

Sec. 14. "Refund beneficiary" means the 1 or more persons named by a member, deferred vested member, or retirant in writing and filed in the office of the retirement system to receive any refund of a member, deferred vested member, or retirant's contributions upon his or her death if a survivor's retirement allowance is not payable

under this act. In the absence of a valid beneficiary designation, refund payment shall be made to the executor or personal representative of the deceased for the benefit of the estate.

38.1020 Members' retirement fund; creation; purpose; computing retirement reserves for retirement allowances; financing; state's appropriations for current service, accrued service, and retirement allowances; allocation of employer contributions.

Sec. 20. (1) The members' retirement fund is created. The fund shall accumulate reserves for the payment of retirement allowances to retired members and deferred vested members as provided in this act. Upon the basis of mortality and other experience tables, and the prescribed rate of interest, as the board shall adopt, the actuary shall compute annually the amount of retirement reserves for retirement allowances being paid to retirants and covering service rendered and to be rendered by members. It is the intention of this act that the retirement reserves shall be financed by other revenues to the fund and that annual appropriations shall be determined pursuant to subsections (2), (3), and (4).

(2) The state's appropriation for current service shall be an amount that, if paid annually during the future service of members, will be sufficient to provide the reserves at the time of the members' retirement, after allowing for the net contributions to the members' savings fund to be made by the members, for the future service portions of the retirement allowances to which the members might become entitled.

(3) The state's appropriation for members' accrued service shall be an amount that if paid annually over a period of years determined by the board, but not to exceed 50 years, will amortize at the prescribed rate of interest the unfunded reserves for the accrued service portions of the retirement allowances to which the members may become entitled.

(4) The state's appropriation for retirement allowances being paid from the members' retirement fund shall be an amount that if paid annually over a period of years determined by the board, but not to exceed 50 years, will amortize at the prescribed rate of interest the unfunded reserves for the retirement allowances.

(5) Notwithstanding any other provision of this act, if the retirement board establishes an arrangement and fund as described in section 6 of the public employee retirement benefit preservation act, the benefits that are required to be paid from that fund shall be paid from a portion of the employer contributions described in this section or other eligible funds. The retirement board shall determine the amount of the employer contributions or other eligible funds that shall be allocated to that fund and deposit that amount in that fund before it deposits any remaining employer contributions or other eligible funds in the pension fund.

38.1022a Income fund; creation; purpose; interest, dividends, and other income; expenses.

Sec. 22a. (1) An income fund is created in the retirement system. The retirement system shall credit to the income fund all interest, dividends, and other income from the investment of retirement system assets and all other money for which there is no specific disposition provided in this act.

(2) The retirement board annually shall credit regular interest on the preceding year balances in the members' retirement fund, members' savings fund, survivors' retirement fund, grants and insurance revolving fund, and the health insurance fund. The retirement

board shall charge to the income fund the interest credited to the funds under this subsection.

(3) The retirement system shall pay the expenses for the administration of the retirement system, exclusive of amounts payable as retirement allowances and other benefits provided in this act, from the income fund.

38.1022c Health insurance fund; creation; disposition; disbursement; contributions; payroll deductions; nonrefundable.

Sec. 22c. (1) The health insurance fund is created in the retirement system. The retirement system shall deposit into the health insurance fund the member contributions for health benefits required by this section, subscriber co-payments, payments under section 79, regular interest from the income fund, and state appropriations. The retirement system shall disburse from the health insurance fund the premiums or portion of the premiums for dental, hospital, and medical coverage insurance as required by sections 50b and 79.

(2) Except as otherwise provided in this subsection, a member shall make contributions to the health insurance fund of 1% of each payment of salary received that is attributable to service performed on and after January 1, 1995. Beginning on the effective date of section 36a, a member who first became a member of Tier 1 on or before January 1, 1995 shall make contributions to the health insurance fund of 9% of each payment of salary received by the member for service as a member. Beginning on the effective date of section 36a, a member who first became a member of Tier 1 after January 1, 1995 shall make contributions to the health insurance fund of 7% of each payment of salary received by the member for service as a member. The increased contributions required under this subsection by the amendatory act that added section 36a will continue unless suspended by the board under section 36a. The contributions shall be made by payroll deductions and each member is considered to consent to the deductions as a condition of membership in the retirement system.

(3) Except as otherwise provided by this act, membership contributions to the health insurance fund are not refundable.

38.1023 Requirements for entitlement to retirement allowance; right to allowance; amount; recalculation of retirement allowance; election to defer receipt of retirement allowance; computation of retirement allowance; longevity allowance.

Sec. 23. (1) A member or deferred vested member who meets the following requirements shall be entitled to a retirement allowance:

(a) The member or deferred vested member qualifies under 1 of the following:

(*i*) Has not less than 8 years of service.

(*ii*) Has not less than 6 years of service, and has been elected, qualified, and seated not less than 4 times for full or partial terms if a member of the house or not less than 2 times if a member of the senate elected after November 7, 1966, or has not less than 6 years of service and has been elected, qualified, and seated not less than 2 times for full or partial terms as a member of the house and not less than 1 time as a member of the senate elected after November 7, 1966.

(*iii*) Effective January 1, 1987, has not less than 5 years of service and has been elected, qualified, and seated for a full or partial term not less than 3 times if a member of the house or not less than 2 times if a member of the senate, or not less than 1 time as a member of the house and not less than 1 time as a member of the senate.

(b) The member or deferred vested member has attained 55 years of age.

(c) The member or deferred vested member has filed with the board a written application for a retirement allowance that states the years of service, the highest salary received during the member's or deferred vested member's service before application, and the date the member or deferred vested member desires to be retired, which date shall be not more than 90 days after the execution and filing of the application.

(2) A member shall not be entitled to receive a retirement allowance provided for in this section or section 23d while serving as a legislator or lieutenant governor. Each person receiving benefits under this act consents and agrees as a condition of receiving the benefits that benefits of any nature shall not be paid while the person is a legislator or lieutenant governor.

(3) A deferred vested member who left service after December 31, 1974, and before January 1, 1979, and who becomes a retirant shall be entitled to an annual retirement allowance of 30% of the salary stated in the application for the first 8 years of service plus 3.75% for each of the next 8 years of service. A fraction of a year of service in excess of 8 years shall be prorated. If the retirant has less than 8 years of service but qualifies by the election method, the retirement allowance shall be that proportion of 30% that his or her years of service and fraction of a year of service bears to 8 years. Years of service listed in the application need not be consecutive but shall have been rendered before payment of the retirement allowance. Except as provided in section 23c, a retirement allowance shall not exceed 60% of the salary stated in the application.

(4) A member who retired after December 31, 1978 and before January 1, 1987, or a deferred vested member who left service after December 31, 1978 and before January 1, 1987, and becomes a retirant, shall be entitled to an annual retirement allowance of 32% of the salary stated in his or her application for the first 8 years of service plus 4% for each of the next 8 years of service. A fraction of a year of service in excess of 8 years shall be prorated. If the member or deferred vested member has less than 8 years of service but qualifies by the election method, the retirement allowance shall be that proportion of 32% that his or her years of service and fraction of a year of service bears to 8 years. Years of service listed in the application need not be consecutive, but shall have been rendered before payment of the retirement allowance. Except as provided in section 23c, a retirement allowance shall not exceed 64% of the salary stated in the application.

(5) A member who first becomes a member on or before January 1, 1995 and who retires after December 31, 1986, or a deferred vested member who first becomes a member on or before January 1, 1995, who leaves service after December 31, 1986, and who becomes a retirant, shall be entitled to an annual retirement allowance of 20% of the salary stated in his or her application for the first 5 years of service plus 4% for each of the next 11 years of service. A fraction of a year of service in excess of 5 years shall be prorated. Years of service listed in the application need not be consecutive, but shall have been rendered before payment of the retirement allowance. Except as provided in this subsection and section 23c, a retirement allowance shall not exceed 64% of the salary stated in the application. Effective January 1, 1987, however, a member who first becomes a member on or before January 1, 1995 and who has 16 or more years of service shall also be entitled to a longevity allowance of 1.0% of the member's salary for each year of service beyond 16 years but, except as otherwise provided in this subsection, not to exceed 20 years. Except as provided in this subsection and section 23c, the retirement allowance of a member entitled to a longevity allowance under this subsection shall not exceed 68% of the salary stated in the application. Beginning January 1, 1989, a member who first becomes a member on or before January 1, 1995, who has 20 or more years of service, and who meets the age and service requirements or service requirements to be eligible to

receive a retirement allowance under this act shall be entitled to a longevity allowance of 1.0% of the member's salary for each year of service beyond 20 years.

(6) A member who first becomes a member on or after January 2, 1995 and who becomes a retirant under this act is entitled to an annual retirement allowance equal to the product of the following:

(a) The salary stated in his or her application.

(b) Years and fraction of a year of service.

(c) Three percent.

(7) A retirant who elects to purchase military service credit pursuant to section 11(2) shall have his or her retirement allowance recalculated to include the military service credit purchased pursuant to that section. The first payment of the recalculated retirement allowance shall be made effective with the first check after the recalculation is made.

(8) The retirement allowance of a retirant who, on January 1, 1987, satisfied the conditions required by section 9(3) shall have his or her retirement allowance recalculated to reflect the increase in salary for those years permitted by section 9(3) before the member became a retirant.

(9) Within 30 days after becoming 55 years of age, a deferred vested member may elect to defer receipt of the retirement allowance to which the member is entitled under this act to a date certain, not to exceed 70-1/2 years of age. Except as otherwise provided in this subsection, at the date the member designates to begin receipt of his or her retirement allowance, the member's retirement allowance shall be actuarially recomputed to reflect the member's age and life expectancy at initial receipt of the deferred retirement allowance. Upon request of the deferred vested member who elects to begin receiving his or her retirement allowance, the retirement board may pay to the member a lump sum payment of an amount equal to the sum of the retirement allowance that was deferred pursuant to this subsection. The retirement board shall not actuarially recompute the member's retirement allowance upon payment of a lump sum under this subsection. If a deferred vested member has elected to defer receipt of his or her retirement allowance under section 23(9)(a) and subsequently dies before retirement, 100% of his or her deferred benefit shall be paid in accordance with a beneficiary designation that the member shall have filed with the board.

(10) Notwithstanding subsection (1), a member or deferred vested member may retire with a retirement allowance computed according to the applicable provisions of this section if all of the following apply:

(a) The member or deferred vested member files a written application with the retirement board stating a date, not less than 30 nor more than 90 days after the execution and filing of the application, on which the member or deferred vested member desires to retire.

(b) On the last day of the month immediately preceding the retirement allowance effective date stated in the application, the member's or deferred vested member's combined age and length of credited service is equal to or greater than 70 years and the member or deferred vested member is 50 years of age or older.

(11) A member who retires before January 1, 1987 or a deferred vested member who leaves service before January 1, 1987 and becomes a retirant shall, in addition to the retirement allowance calculated under subsection (3) or (4), be entitled to a longevity allowance if the retirant or deferred vested member has more than 16 years of service. The longevity allowance is 1.0% of the former member's salary stated in the application for each year of service beyond 16 years but, except as otherwise provided in this

subsection, not to exceed 20. A member who retires before January 1, 1987 or a deferred vested member who leaves service before January 1, 1987 and becomes a retirant shall, in addition to the retirement allowance calculated under subsection (3) or (4), be entitled to a longevity allowance of 1.0% of the former member's salary stated in the application for each year of service beyond 20 years that was served after the member met the age and service requirements or service requirements to be eligible to receive a retirement allowance under this act. The retirement allowance of a retirant who satisfies the conditions under this subsection shall have his or her retirement allowance recalculated to reflect the longevity allowance for those years permitted by this subsection effective January 1, 1987 or the date of retirement, whichever is later. The application of the longevity allowance to the retirant's retirement allowance under this subsection shall be applied before the provisions of section 23c are applied to that retirement allowance. Except as provided in this subsection and section 23c, a retirement allowance shall not exceed 68% of the salary stated in the application.

38.1023d Disabled member; retirement allowance; annual examination.

Sec. 23d. (1) A member who meets the service requirements of section 23(1)(a) but not the age requirements of section 23(1)(b), a member who does not meet the requirements of section 23(10)(b), or a deferred vested member may receive a retirement allowance if the board has received a certification by not less than 2 licensed physicians appointed by the board stating that the member or deferred vested member is disabled from engaging in any substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death, or can be expected to last for a continuous period of 12 months or more.

(2) A member or deferred vested member who is determined eligible to receive a retirement allowance under subsection (1) shall receive the retirement allowance applicable to that member or deferred vested member provided for in section 23(4), (5), or (6).

(3) A member who is currently receiving compensation as a legislator or lieutenant governor shall not receive a retirement allowance under this section.

(4) The board may provide for the examination by 1 or more licensed physicians designated by the board at least once a year of a person who is receiving a retirement allowance under this section during the continuance of the disability. The board shall not provide for an examination after the member attains 55 years of age.

38.1026 Retirement system; board of trustees; membership; eligibility and terms; oath of office.

Sec. 26. (1) Beginning January 1, 1999, the retirement system shall be administered by a board of trustees, consisting of 11 persons as follows:

(a) Two members of the house of representatives appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed in the same manner as members of standing committees of the senate are appointed.

(c) Two retirants appointed by the speaker of the house of representatives and 2 retirants appointed by the senate majority leader.

(d) One deferred vested member appointed by the speaker of the house of representatives and 1 deferred vested member appointed by the senate majority leader. If a deferred vested member serving on the board becomes a retirant during his or her term of office, he or she shall be entitled to serve the remainder of his or her term of office.

(e) One participant of Tier 2 who was a former member of Tier 1 appointed in 1999 by the senate majority leader and beginning in 2001 appointed alternately by the speaker of the house of representatives and the senate majority leader. However, if there is no participant of Tier 2 who meets the former member requirement of this subdivision, then 1 additional deferred vested member appointed in the manner prescribed in this subdivision.

(2) Only members of the retirement system are eligible to serve as members on the board of trustees except for the retirants and Tier 2 participant authorized under subsection (1). Board members appointed under subsection (1)(a) and (b) are appointed for 2-year terms. Board members appointed under subsection (1)(c) are appointed for 4-year terms. Board members appointed for terms beginning in 1999 under subsection (1)(d) are appointed for 2-year terms. Board members appointed for terms beginning in 2001 under subsection (1)(d) are appointed for 4-year terms. A board member appointed for a term beginning in 1999 under subsection (1)(e) is appointed for a 2-year term. Beginning in 2001, a board member appointed under subsection (1)(e) is appointed for a 4-year term. For terms beginning on or after January 1, 1999, board members appointed under subsection (1)(c), (d), or (e) shall not serve as a board member under those subdivisions for a combined total of more than 8 years.

(3) Each person, whether appointed as a trustee or becoming a trustee ex officio, shall take an oath of office before the secretary of state, clerk of the house, or secretary of the senate, and, upon taking the oath, qualifies as a trustee. The oath of office shall be as prescribed under section 1 of article XI of the state constitution of 1963.

38.1030 Board of trustees; quorum, proxy.

Sec. 30. Each trustee is entitled to 1 vote on any action of the board and at least 6 concurring votes are necessary for any action by the board at a meeting. A decision or action shall not become effective, unless presented and so approved by the action of the board. A trustee shall not vote by proxy, but shall be present at the meeting in order to have his or her vote recorded.

38.1057 Retirement allowances, benefits, and credits not subject to taxation and public employee retirement benefit protection act.

Sec. 57. (1) All retirement allowances and other benefits payable under this act and all accumulated credits of members, deferred vested members, and retirants in this retirement system are not subject to taxation by this state or any political subdivisions of this state.

(2) All retirement allowances and other benefits payable under this act and all accumulated contributions of members, deferred vested members, and retirants in this retirement system are subject to the public employee retirement benefit protection act.

38.1059a Retirement system as qualified pension plan; administrative requirements and benefit limitations; qualified military service.

Sec. 59a. (1) This section is enacted pursuant to section 401(a) of the internal revenue code that imposes certain administrative requirements and benefit limitations for qualified governmental plans. This state intends that the retirement system be a qualified pension plan created in trust under section 401 of the internal revenue code and that the trust be an exempt organization under section 501 of the internal revenue code. The board of trustees shall administer the retirement system to fulfill this intent.

(2) Except as otherwise provided in this section, employer-financed benefits provided by the retirement system under this act shall not exceed the lesser of $90,000.00 or 100% of

the member's average compensation for high 3 years as described in section 415(b)(3) of the internal revenue code for retirement occurring at age 62 or older.

(3) The limitation on employer financed benefits provided by the retirement system under subsection (2) applies unless application of subsections (4) and (5) produces a higher limitation, in which case the higher limitation applies.

(4) If a member retires before age 62, the amount of $90,000.00 in subsection (2) is actuarially reduced to reflect payment before age 62. The retirement system shall use an interest rate of 5% per year compounded annually to calculate the actuarial reduction in this subsection. If this subsection produces a limitation of less than $75,000.00 at age 55, the limitation at age 55 is $75,000.00 and the limitations for ages under age 55 shall be calculated from a limitation of $75,000.00 at age 55.

(5) Section 415(d) of the internal revenue code requires the commissioner of internal revenue to adjust the $90,000.00 limitation in subsection (2) to reflect cost of living increases, beginning with calendar year 1988. This subsection shall be administered using the limitations applicable to each calendar year as adjusted by the commissioner of internal revenue under section 415(d) of the internal revenue code. The retirement system shall adjust the benefits subject to the limitation each year to conform with the adjusted limitation.

(6) The assets of the retirement system shall be held in trust and invested for the sole purpose of meeting the legitimate obligations of the retirement system and shall not be used for any other purpose. The assets shall not be used for or diverted to a purpose other than for the exclusive benefit of the members, vested former members, retirants, and retirement allowance beneficiaries before satisfaction of all retirement system liabilities.

(7) The retirement system shall return post-tax member contributions made by a member and received by the retirement system to a member upon retirement, pursuant to internal revenue service regulations and approved internal revenue service exclusion ratio tables.

(8) The required beginning date for retirement allowances and other distributions shall not be later than April 1 of the calendar year following the calendar year in which the employee attains age 70-1/2 or April 1 of the calendar year following the calendar year in which the employee retires.

(9) If the retirement system is terminated, the interest of the members, deferred vested members, retirants, and retirement allowance beneficiaries in the retirement system is nonforfeitable to the extent funded as described in section 411(d)(3) of the internal revenue code and related internal revenue service regulations applicable to governmental plans.

(10) Notwithstanding any other provision of this act to the contrary that would limit a distributee's election under this act, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. This subsection applies to distributions made on or after January 1, 1993.

(11) For purposes of determining actuarial equivalent retirement allowances under this act, the actuarially assumed interest rate shall be 7% with utilization of the 1971 group annuity and mortality table.

(12) Notwithstanding any other provision of this section, the retirement system shall be administered in compliance with the provisions of section 415 of the internal revenue code and revenue service regulations under this section that are applicable to governmental

plans. If there is a conflict between this section and another section of this or any other act of this state, this section prevails.

(13) Notwithstanding any other provision of this act, the compensation of a member of the retirement system shall be taken into account for any year under the retirement system only to the extent that it does not exceed the compensation limit established in section 401(a)(17) of the internal revenue code, as adjusted by the commissioner of internal revenue. This subsection applies to any person who first becomes a member of the retirement system on or after October 1, 1996.

(14) Notwithstanding any other provision of this act, contributions, benefits, and service credit with respect to qualified military service will be provided under the retirement system in accordance with section 414(u) of the internal revenue code. This subsection applies to all qualified military service on or after December 12, 1994.

38.1061 Election to terminate membership in Tier 1 and become qualified participant in Tier 2; election by deferred vested member or former nonvested member; election as irrevocable; rights and duties; method of election; signature of spouse; waiver; election subject to eligible domestic relations order; notice of disqualification for tax purposes.

Sec. 61. (1) The retirement system shall provide an opportunity for each member who is a member on March 30, 1997, to elect in writing to terminate membership in Tier 1 and elect to become a qualified participant in Tier 2. An election made by a member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from members during the period beginning on January 2, 1998 and ending on April 30, 1998. A member who does not make a written election or who does not file the election during the period specified in this subsection continues to be a member of Tier 1. A member who makes and files a written election under this subsection elects to do all of the following:

(a) Cease to be a member of Tier 1 effective 12 midnight May 31, 1998.

(b) Become a qualified participant in Tier 2 effective 12:01 a.m., June 1, 1998.

(c) Except as otherwise provided in this subdivision, waive all of his or her rights to a pension, an annuity, a retirement allowance, an insurance benefit, or any other benefit under this act effective 12 midnight May 31, 1998. This subdivision does not affect a person's right to health benefits provided under this act pursuant to section 79.

(2) If an individual who was a deferred vested member on March 30, 1997, or an individual who was a former nonvested member on March 30, 1997 becomes a legislator or lieutenant governor and is again eligible for membership in Tier 1, the individual shall elect in writing to remain a member of Tier 1 or to terminate membership in Tier 1 and become a qualified participant in Tier 2. An election made by a deferred vested member or a former nonvested member under this subsection is irrevocable. The retirement system shall accept written elections under this subsection from a deferred vested member or a former nonvested member during the period beginning on the date of the individual's eligibility for membership and ending upon the expiration of 60 days after the date of that eligibility. A deferred vested member or former nonvested member who makes and files a written election to remain a member of Tier 1 retains all rights and is subject to all conditions as a member of Tier 1 under this act. A deferred vested member or former nonvested member who does not make a written election or who does not file the election during the period specified in this subsection continues to be a member of

Tier 1. A deferred vested member or former nonvested member who makes and files a written election to terminate membership in Tier 1 elects to do all of the following:

(a) Cease to be a member of Tier 1 effective 12 midnight on the last day of the payroll period that includes the date of the election.

(b) Become a qualified participant in Tier 2 effective 12:01 a.m. on the first day of the payroll period immediately following the date of the election.

(c) Except as otherwise provided in this subdivision, waive all of his or her rights to a pension, an annuity, a retirement allowance, an insurance benefit, or any other benefit under Tier 1 effective 12 midnight on the last day of the payroll period that includes the date of the election. This subdivision does not affect an individual's right to health benefits provided under this act pursuant to section 79.

(3) After consultation with the retirement system's actuary, the retirement board shall determine the method by which a member, deferred vested member, or former nonvested member shall make a written election under this section. If the member, deferred vested member, or former nonvested member is married at the time of the election, the election is not effective unless the election is signed by the individual's spouse. However, the retirement board may waive this requirement if the spouse's signature cannot be obtained because of extenuating circumstances.

(4) An election under this section is subject to the eligible domestic relations order act, 1991 PA 46, MCL 38.1701 to 38.1711.

(5) If the board receives notification from the United States internal revenue service that this section or any portion of this section will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

38.1062 Election to terminate membership in retirement system under § 38.1061(1) and (2); transfer of lump sum amount; recomputation; calculation; basis; utilization of actuarial valuation report; notification of disqualification for tax purposes.

Sec. 62. (1) For a member who elects to terminate membership in Tier 1 under section 61(1), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under this act to the qualified participant's account in Tier 2 on or before September 30, 1998. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The member's accumulated contributions and applicable interest, if any, from the member's savings fund as of 12 midnight May 31, 1998.

(b) For a member who is vested under section 23(1)(a) as of 12 midnight on May 31, 1998, the excess, if any, of the actuarial present value of the member's accumulated benefit obligation, over the amount specified in subdivision (a), from the member's retirement fund. Except as provided in subsection (5), for the purposes of this subsection, the present value of the member's accumulated benefit obligation is based upon the member's estimated credited service and estimated final salary as of 12 midnight on May 31, 1998. The actuarial present value shall be computed as of 12 midnight May 31, 1998 and shall be based on the following:

(*i*) Eight percent effective annual interest, compounded annually.

(*ii*) A 50% male and 50% female gender neutral blend of the mortality tables used to project retirant longevity in the most recent actuarial valuation report.

(*iii*) A benefit commencement age, based upon the member's estimated credited service as of 12 midnight May 31, 1998. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of 12 midnight May 31, 1998:

(A) Age 55.

(B) The member's age, if the member is at least 50 years old and the sum of his or her age and estimated credited service equals or exceeds 70.

(c) Interest on any amounts determined in subdivisions (a) and (b), from June 1, 1998 to the date of the transfer, based upon 8% annual interest, compounded annually.

(2) For each member who elects to terminate membership in the retirement system under section 61(1), the retirement system shall recompute the amount transferred under subsection (1) not later than November 30, 1998 based upon the member's actual credited service and actual final salary as of 12 midnight May 31, 1998. If the recomputed amount differs from the amount transferred under subsection (1) by $10.00 or more, not later than December 15, 1998, the retirement system shall do all of the following:

(a) Direct the state treasurer to transfer from the members' retirement fund to the qualified participant's account in Tier 2 the excess, if any, of the recomputed amount over the previously transferred amount together with interest from 12 midnight May 31, 1998 to the date of the transfer under this subsection, based upon 8% effective annual interest, compounded annually.

(b) Direct the state treasurer to transfer from the qualified participant's account in Tier 2 to the members' retirement fund the excess, if any, of the previously transferred amount over the recomputed amount, together with interest, from the date of the transfer made under subsection (1), based upon 8% effective annual interest, compounded annually.

(3) For a deferred vested member who elects to terminate membership in this retirement system under section 61(2), the retirement system shall direct the state treasurer to transfer a lump sum amount from the appropriate fund created under this act to the qualified participant's account in Tier 2 on or before the expiration of 60 days after the date of the individual's termination of employment. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The deferred vested member's accumulated contributions and applicable interest, if any, from the members' savings fund as of 12 midnight on the last day of the payroll period that includes the date of the election.

(b) The excess, if any, of the actuarial present value of the deferred vested member's accumulated benefit obligation, over the amount specified in subdivision (a), from the members' retirement fund. Except as provided in subsection (5), for the purposes of this subsection, the present value of the deferred vested member's accumulated benefit obligation is based upon the deferred vested member's estimated credited service and estimated final salary as of 12 midnight on the last day of the payroll period that includes the date of the election. The actuarial present value shall be computed as of 12 midnight on that date and shall be based on the following:

(*i*) Eight percent effective annual interest, compounded annually.

(*ii*) A 50% male and 50% female gender neutral blend of the mortality tables used to project retirant longevity in the most recent annual actuarial valuation report.

(*iii*) A benefit commencement age, based upon the member's estimated credited service as of 12 midnight on the last day of the payroll period that includes the date of the election. The benefit commencement age shall be the younger of the following, but shall not be younger than the member's age as of 12 midnight on the last day of the payroll period that includes the date of the election:

(A) Age 55.

(B) The deferred member's age, if the deferred member is at least 50 years old and the sum of his or her age and estimated credited service equals or exceeds 70.

(c) Interest on any amounts determined in subdivisions (a) and (b), from the first day of the payroll period immediately following the date of the election to the date of the transfer, based upon 8% effective annual interest, compounded annually.

(4) For each deferred vested member who elects to terminate membership in Tier 1 under section 61(2), the retirement system shall recompute the amount transferred under subsection (3) not later than the expiration of 90 days after the transfer occurs under subsection (3) based upon the deferred vested member's actual credited service and actual final salary as of 12 midnight on the last day of the payroll period that includes the date of the election. If the recomputed amount differs from the amount transferred under subsection (3) by $10.00 or more, the retirement system shall do all of the following:

(a) Direct the state treasurer to transfer from the members' retirement fund to the qualified participant's account in Tier 2 the excess, if any, of the recomputed amount over the previously transferred amount together with interest from 12 midnight on the last day of the payroll period that includes the date of the election to the date of the transfer under this subsection, based upon 8% effective annual interest, compounded annually.

(b) Direct the state treasurer to transfer from the qualified participant's account in Tier 2 to the members' retirement fund the excess, if any, of the previously transferred amount over the recomputed amount, together with interest, from the date of the transfer made under subsection (3), based upon 8% effective annual interest, compounded annually.

(5) For the purposes of subsections (1) to (4), the calculation of estimated and actual present value of the member's or deferred vested member's accumulated benefit obligation shall be based upon methods adopted by the retirement system's actuary in consultation with the retirement board. The retirement system shall utilize the same actuarial valuation report used to calculate the amount transferred under subsection (1) or (3) when making the recomputation required under subsection (2) or (4). Estimated and actual final salary shall be determined as provided in section 9 as of 12 midnight on the date the member or deferred member ceases to be a member of Tier 1 under section 61.

(6) For a former nonvested member who elects to terminate membership in Tier 1 under section 61(2) and who has accumulated contributions standing to his or her credit in the members' savings fund, the retirement system shall direct the state treasurer to transfer a lump sum amount from the members' savings fund to the qualified participant's account in Tier 2 on or before the expiration of 60 days after the date of the individual's election to terminate membership. The retirement system shall calculate the amount to be transferred, which shall be equal to the sum of the following:

(a) The former nonvested member's accumulated contributions and applicable interest, if any, from the members' savings fund as of 12 midnight on the last day of the payroll period that includes the date of the election.

(b) Interest on any amounts determined in subdivision (a), from the first day of the payroll period immediately following the date of the election to the date of the transfer, based upon 8% effective annual interest, compounded annually.

(7) If the board receives notification from the United States internal revenue service that this section or any portion of this section will cause the retirement system to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

38.1063 Calculation of accrued cost savings; submission of total amount in executive budget to legislature; appropriation; expenditure.

Sec. 63. After consulting the retirement system's actuary, the board shall calculate for each fiscal year any cost savings that have accrued to this state as a result of the implementation of the amendatory act that added this section over the costs that would have been incurred by this state to fund this retirement system had the amendatory act that added this section not been implemented. The total amount of the cost savings shall be submitted in the executive budget to the legislature for appropriation in the next succeeding state fiscal year to the health insurance fund created by section 22c. Any amount appropriated pursuant to this section and accumulated earnings on those amounts shall not be expended until the actuarial accrued liability for health benefits under section 50b is 100% funded.

38.1080 Distributions; exemption from tax; subject to public employee retirement benefit protection act; right of setoff to recover overpayment and satisfy claims; correction of errors in records and actions.

Sec. 80. (1) Distributions from employer contributions made pursuant to section 74(2) and (3) and earnings on those employer contributions, and distributions from employee contributions made pursuant to section 74(3) and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax and are subject to the public employee retirement benefit protection act.

(2) The state treasurer has the right of setoff to recover overpayments made under this act and to satisfy any claims arising from embezzlement or fraud committed by a qualified participant, former qualified participant, refund beneficiary, or other person who has a claim to a distribution or any other benefit from Tier 2.

(3) The state treasurer shall correct errors in the records and actions in Tier 2 under this act, and shall seek to recover overpayments and shall make up underpayments.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5108 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

Compiler's note: House Bill No. 5108, referred to in enacting section 1, was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 100, Imd. Eff. Mar. 27, 2002.

[No. 98]

(HB 5111)

AN ACT to amend 1937 PA 345, entitled "An act to provide for the establishment, maintenance, and administration of a system of pensions and retirements for the benefit of the personnel of fire and police departments employed by cities, villages, or municipalities having full paid members in the departments, and for the spouses and children of the

members; to provide for the creation of a board of trustees to manage and operate the system; to authorize appropriations and deductions from salaries; to prescribe penalties and provide remedies; and to repeal all acts and parts of acts inconsistent therewith," by amending sections 6 and 9 (MCL 38.556 and 38.559), as amended by 1991 PA 54.

The People of the State of Michigan enact:

38.556 Age and service retirement benefits.

Sec. 6. (1) Age and service retirement benefits payable under this act are as follows:

(a) A member who is 55 years of age or older and who has 25 or more years of service as a police officer or fire fighter in the employ of the municipality affected by this act may retire from service upon written application to the retirement board stating a date, not less than 30 days or more than 90 days after the execution and filing of the application, on which the member desires to be retired. The retirement board shall grant the benefits to which the member is entitled under this act, unless the member continues employment. If the member continues employment, the member's pension shall be deferred with service years of credit until actual retirement. Upon the approval of the legislative body or the electors of a municipality under this act, a member under 50 years of age who has 25 or more years of service, or without the necessity for approval, a member 50 years of age or more who has 25 or more years of service, may leave service and receive the full retirement benefits payable throughout the member's life as provided in subdivision (e).

(b) A member who is 60 years of age or older shall be retired by the retirement board upon the written application of the legislative body, or board or official provided in the charter of the municipality as head of the department in which the member is employed. Upon retirement, the retirement board shall grant the benefits to which the member is entitled under this act, unless the member continues employment. If the member continues employment, the member's pension shall be deferred with service years of credit until actual retirement.

(c) A member who is 65 years of age shall be retired by the retirement board on the first day of the month following attainment of 65 years of age.

(d) A member who has 10 or more years of service shall have vested retirement benefits that are not subject to forfeiture on account of disciplinary action, charges, or complaints. If the member leaves employment before the date the member would have first become eligible to retire as provided in subdivision (a) for any reason except the member's retirement or death, the member is entitled to a pension that shall begin the first day of the calendar month immediately after the month in which the member's written application for the pension is filed with the retirement board that is on or after the date the member would have been eligible to retire had the member continued in employment. The retirement board shall grant the member the benefits to which the member is entitled under this act, unless the member resumes service. If the member resumes service, the member's pension shall be further deferred with service years of credit until the member actually retires.

(e) Upon retirement from service as provided in this subsection, a member shall receive a regular retirement pension payable throughout the member's life of 2% of the member's average final compensation multiplied by the first 25 years of service credited to the member, plus 1% of the member's average final compensation multiplied by the number of years, and fraction of a year, of service rendered by the member in excess of 25 years. A municipality under this act, upon approval of the legislative body or the electors of the municipality, may increase the percentage of the payment from 2% up to a maximum of 2.5%. If an increase is approved, the increase shall not be reduced for

members under the system at the time of the increase. The legislative body may also increase the percentage of employee contributions. If a retired member dies before the total of regular pension payments received by the member equals the total of the member's contributions made to the retirement system, the difference between the member's total contributions and the total of the member's regular retirement pension payments received shall be paid in a single sum to the person or persons the member nominates by written designation duly executed and filed with the retirement board. If there is not a person or persons surviving the retired member, the difference, if any, shall be paid to the retired member's legal representative or estate.

(f) As used in this section, "average final compensation" means the average of the highest annual compensation received by a member during a period of 5 consecutive years of service contained within the member's 10 years of service immediately preceding the member's retirement or leaving service. However, if so provided in a collective bargaining agreement entered into between a municipality under this act and the appropriate recognized bargaining agent, average final compensation may mean the average of the 3 years of highest annual compensation received by a member during the member's 10 years of service immediately preceding the member's retirement or leaving service. If the member has less than 5 years of service, average final compensation means the annual average compensation received by the member during his or her total years of service.

(g) A member shall be given service credit for time spent in the military, naval, marine, or other armed service of the United States government during time of war, or other national emergency recognized by the board, if the member was employed by the municipality at the time of entry into the armed service, and is or was reemployed by the municipality as a police officer or fire fighter within 6 months after the date of termination of his or her required enlistment or assignment in the armed service. A municipality by a 3/5 vote of its governing body or by a majority vote of the qualified electors may provide service credit for not more than 6 years of active military service to the United States government to a member who is employed subsequent to this military service upon payment to the retirement system of 5% of the member's full-time or equated full-time compensation for the fiscal year in which payment is made multiplied by the years of service that the member elects to purchase up to the maximum. Service is not creditable if it is or would be creditable under any other federal, state, or local publicly supported retirement system. However, this restriction does not apply to those persons who have or will have acquired retirement eligibility under the federal government for service in the reserve. A member shall be given service credit for the time the member is absent from active service without full pay on account of sickness or injury. If the absence from active service is due to nonservice connected sickness or injury, not more than 60 days of the absence shall be credited as service in any 1 calendar year, as determined by the retirement board.

(h) Before the effective date of the member's retirement as provided in this subsection, but not after the effective date of the member's retirement, a member may elect to receive his or her benefit in a pension payable throughout the member's life, called a regular retirement pension, or the member may elect to receive the actuarial equivalent, computed as of the effective date of retirement, of the member's regular retirement pension in a reduced retirement pension payable throughout the member's life, and nominate a survivor beneficiary, under an option provided in this subdivision. Upon the death of a retirant who retires on or after July 1, 1975, and who is receiving a regular retirement pension, his or her spouse, if living, shall receive a pension equal to 60% of the regular retirement pension the deceased retirant was receiving. Benefits shall not be paid under this subdivision on account of the death of a retirant if the member elected to

receive his or her pension under an option provided in this subdivision. As used in this subsection, "spouse" means the person to whom the retirant was legally married on both the effective date of retirement and the date of death. Except as otherwise provided in this act, if a member fails to elect an option before the effective date of retirement, then the pension shall be paid as a regular retirement pension. A member may elect 1 of the following options:

(*i*) Option I. Upon the death of a retired member, his or her reduced retirement pension shall be continued throughout the life of and paid to the person, having an insurable interest in the retired member's life, that the member nominated by written designation executed and filed with the retirement board before the effective date of the member's retirement.

(*ii*) Option II. Upon the death of a retired member, 1/2 of his or her reduced retirement pension shall be continued throughout the life of and paid to the person, having an insurable interest in the retired member's life, that the member nominated by written designation executed and filed with the retirement board before the effective date of the member's retirement.

(i) If a member continues in service on or after the date of acquiring 20 years of service credit, does not have an option I election provided for in subdivision (j) in force, and dies while in service of the municipality before the effective date of the member's retirement, leaving a surviving spouse, the spouse shall receive a pension computed in the same manner as if the member had retired effective the day preceding the date of the member's death, elected option I provided for in subdivision (h), and nominated the spouse as survivor beneficiary. Upon the death of the spouse the pension shall terminate. A pension shall not be paid under this subdivision on account of the death of a member if benefits are paid under subsection (2) on account of the member's death.

(j) A member who continues in service on or after the date of acquiring 25 years of service credit may, at any time before the effective date of the member's retirement, by written declaration executed and filed with the board in the manner and form prescribed by the board, elect option I provided for in subdivision (h) and nominate a survivor beneficiary whom the board finds to be dependent upon the member for at least 50% of the beneficiary's support. If a member who has an option I election provided for in this subdivision in force dies while in service before the effective date of the member's retirement, the member's survivor beneficiary shall immediately receive the same pension that the survivor beneficiary would have been entitled to receive under option I if the member had retired pursuant to this act effective the day preceding the date of the member's death, notwithstanding that the member may not have attained 55 years of age. If a member who has an option I election provided for in this subdivision in force subsequently retires pursuant to this act, the member, within 90 days immediately preceding the effective date of the member's retirement, but not after the effective date of the member's retirement, may elect an option provided for in subdivision (h). The option election is effective as of the effective date of the member's retirement. A pension shall not be paid under this subdivision on account of the death of a member if benefits are paid under subsection (2) on account of the member's death.

(k) If a retirant receiving a reduced retirement pension under subdivision (h)(*i*) or (*ii*) is divorced from the spouse who had been named the retirant's survivor beneficiary under subdivision (h)(*i*) or (*ii*), the election of a reduced retirement pension payment option shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, described in section 9 and dated after the effective date of the amendatory act that added this subdivision provides that the election of a reduced retirement pension payment option

under subdivision (h)(*i*) or (*ii*) is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement pension payment option under subdivision (h)(*i*) or (*ii*) is considered void by the retirement system under this subsection, the retirant's retirement pension shall revert to a regular retirement pension, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act. The retirement pension shall revert to a regular retirement pension under this subdivision effective the first day of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subdivision does not supersede a judgment of divorce or award or order of the court in effect on the effective date of the amendatory act that added this subdivision. This subdivision does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(2) Disability and service connected death benefits payable under this act are as follows:

(a) To a surviving spouse, a duty death pension of the same amount each week as that which has been paid the surviving spouse under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to become due and payable on the termination of the payments to the surviving spouse by a municipality under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and to continue for the surviving spouse's life or until his or her remarriage.

(b) If death results to a member in the line of duty, and the member leaves surviving children, the children shall be paid a pension of the same amount as that which has been paid to them as a weekly benefit under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to become due and payable upon termination of the payments under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and to continue to each surviving child until he or she attains 18 years of age, or until his or her marriage or death before attaining 18 years of age.

(c) If death results to a member in the line of duty and the member leaves other surviving dependents, the dependents shall receive a pension of the same amount as that which has been paid to them as a weekly benefit under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to become due and payable upon termination of the payments under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and to continue until the time the retirement board determines that the need for a pension no longer exists.

(d) Upon the application of a member or the member's department head, a member who becomes totally incapacitated for duty by reason of a personal injury or disease occurring as the natural and proximate result of causes arising out of and in the course of the member's employment by the municipality shall be retired by the retirement board. The member shall be given a medical examination by a medical committee consisting of a physician named by the retirement board, a physician named by the member claiming benefits, and a third physician designated by the first 2 physicians named. The medical committee, if determined by a majority opinion, shall certify in writing that the member is mentally or physically incapacitated for the further performance of duty as a police officer or fire fighter in the service of the municipality; that the incapacity is likely to be permanent; and that the member should be retired. Upon retirement for disability as provided in this subdivision, a member who has not attained 55 years of age shall receive a disability retirement pension of 50% of the member's average final compensation, which

shall be determined according to subsection (1)(f), and shall be payable until the member becomes 55 years of age. Upon becoming 55 years of age, the disabled member shall receive a disability retirement pension computed according to subsection (1)(e). In computing the disability retirement pension, the member shall be given service credit for the period of receipt of a disability retirement pension before attainment of 55 years of age. If a member retired after attaining 55 years of age on account of disability, as provided in this subdivision, the member shall receive a disability retirement pension computed according to subsection (1)(e), notwithstanding that the member may not have 25 years of service credit. The disability retirement pension provided for in this subdivision is subject to subdivisions (f) and (g).

(e) Upon the application of a member or the member's department head, a member in service who has 5 or more years of service credit and who becomes totally and permanently incapacitated for duty by reason of a personal injury or disease occurring as the result of causes arising outside the course of the member's employment by the municipality may be retired by the retirement board. The member shall be given a medical examination by a medical committee consisting of a physician named by the retirement board, a physician named by the member claiming benefits, and a third physician designated by the first 2 physicians named. The medical committee, if determined by a majority opinion, shall certify in writing that the member is mentally or physically incapacitated for the further performance of duty as a police officer or fire fighter in the service of the municipality, that the incapacity is likely to be permanent, and that the member should be retired. Upon retirement for disability, as provided in this subdivision, a member who has not attained 55 years of age shall receive a disability retirement pension until the member becomes 55 years of age, recovers, or dies, whichever occurs first, of 1.5% of the member's average final compensation multiplied by the number of years of service credited to the member. Upon becoming 55 years of age, the member's disability retirement pension shall be increased to 2% of the member's average final compensation multiplied by the number of years of service credited to the member at the time of his or her retirement. Upon retirement for disability as provided in this subdivision, a member who is 55 years of age or older shall receive a disability retirement pension computed according to subsection (1)(e). This subdivision is subject to subdivisions (f) and (g).

(f) At least once each year during the first 5 years after the retirement of a member with a disability retirement pension and at least once in every 3-year period after disability retirement, the retirement board may, and upon the retired member's application shall, require a retired member who has not attained 55 years of age to undergo a medical examination. The medical examination shall be given by or under the direction of a physician, designated by the retirement board, at the place of residence of the retired member or other place mutually agreed upon. If a retired member who has not attained 55 years of age refuses to submit to the medical examination in the period, the member's disability retirement pension may be discontinued by the retirement board. If the member's refusal continues for 1 year, all the member's rights to his or her disability retirement pension may be revoked by the retirement board. If upon a medical examination of the retired member the physician reports to the retirement board that the retired member is physically capable of resuming employment in the classification held by the member at the time of retirement, the member shall be restored to active service in the employ of the municipality and payment of the disability retirement pension shall cease if the report of the physician is concurred in by the retirement board. A retired member restored to active service shall again become a member of the retirement system from the date of return to service. The member shall contribute to the retirement system

after restoration to active service in the same manner as before the member's disability retirement. Service credited to the member at the time of disability retirement shall be restored to full effect. The member shall be given service credit for the period the member was receiving a duty disability retirement pension provided for in subdivision (d), but shall not be given service credit for the period the member was receiving a nonduty disability retirement pension provided for in subdivision (e). Amounts paid under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, to a retired member shall be offset against and payable in place of benefits provided under this act. If the benefits under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, are less than the benefits payable under this act, the amount to be paid out of the funds of the retirement system shall be the difference between the benefits provided under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, and the benefits provided in this act. Upon the termination of benefits under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, the benefits shall be paid pursuant to this act.

(g) Within 60 days before a member becomes 55 years of age, or before retirement from service if retirement occurs after the member becomes 55 years of age, a disabled member who is retired as provided in subdivision (d) or (e) may elect to continue to receive a disability retirement pension as a benefit terminating at death, to be known as a regular disability pension, or may elect to receive the actuarial equivalent, at that time, of a regular disability pension in a reduced disability pension payable throughout life pursuant to an option provided in subsection (1)(h). If a disabled member fails to elect an option, as provided in this subdivision, before becoming 55 years of age or before retirement, the member's retirement pension shall be paid to the member as a regular disability pension terminating at death. If a disabled member who has not elected an option provided in subsection (1)(h) dies before the total of the member's regular disability pension payments received equals or exceeds the total of the member's contributions made to the retirement system, the remainder, if any, shall be paid in a single sum to the person or persons nominated by the member by written designation duly executed and filed with the board. If there is not a designated person or persons surviving, then the remainder, if any, shall be paid to the retired member's legal representative or estate.

38.559 Contributions of member; rate; deduction from salary; appropriations to maintain actuarially determined reserves; payment of deductions and appropriations into retirement system; prorating pensions and other benefits; expenses; pensions as obligations of retirement system.

Sec. 9. (1) The contributions of a member to the retirement system shall be 5% of the salary paid to the member by the municipality. The officer responsible for making up the payroll shall cause the contributions provided for in this subsection to be deducted from the salary of each member on each payroll for each payroll period so long as he or she remains an active member in the employ of the municipality. The amounts deducted shall be paid into the funds of the retirement system. The members' contributions provided for in this act shall be made notwithstanding that the minimum salary provided for by law is changed by the members' contributions. Every member shall be considered to consent and to agree to the deductions made and provided for in this act and shall receipt for his or her full salary and payment of his or her salary less the deduction, which is a full and complete discharge and acquittance of all claims and demands for the services rendered by the member during the period covered by the payment, except as to benefits provided by this retirement system.

(2) For the purpose of creating and maintaining a fund for the payment of the pensions and other benefits payable as provided in this act, the municipality, subject to the provisions of this act, shall appropriate, at the end of such regular intervals as may be adopted, quarterly, semiannually, or annually, an amount sufficient to maintain actuarially determined reserves covering pensions payable or that might be payable on account of service performed and to be performed by active members, and pensions being paid to retired members and beneficiaries. The appropriations to be made by the municipality in any fiscal year shall be sufficient to pay all pensions due and payable in that fiscal year to all retired members and beneficiaries. The amount of the appropriation in a fiscal year shall not be less than 10% of the aggregate pay received during that fiscal year by members of the retirement system unless, by actuarial determination, it is satisfactorily established that a lesser percentage is needed. All deductions and appropriations shall be payable to the treasurer of the municipality and he or she shall pay the deductions and appropriations into the retirement system. Except in municipalities that are subject to the 15 mill tax limitation as provided by section 6 of article IX of the state constitution of 1963, the amount required by taxation to meet the appropriations to be made by municipalities under this act shall be in addition to any tax limitation imposed upon tax rates in those municipalities by charter provisions or by state law subject to section 25 of article IX of the state constitution of 1963.

(3) If, at the beginning or during any fiscal year, it has been satisfactorily determined by the retirement board that the accumulated funds of the retirement system plus the municipality's contribution of 10% of the aggregate pay received during that fiscal year by members of the retirement system plus members' contributions of 5% of payroll, are insufficient to pay all pensions and other benefits due and payable in that year out of funds of the retirement system, then all pensions and other benefits payable shall be prorated for the remainder of the fiscal year by the retirement board.

(4) Any clerical, legal, actuarial, or medical expenses required by the retirement board, or any other necessary expense for the operation of the retirement system, shall be provided for by the municipality or shall be paid from the investment income of the retirement system, as determined by the governing body of the municipality. The retirement board shall submit expenses periodically to the governing body of the municipality. If use of investment income to pay these expenses causes an actuarial insufficiency in the assets of the retirement system used to pay pensions, the insufficiency shall be made up by the municipality.

(5) All pensions allowed and payable to retired members and beneficiaries under this act shall become obligations of and be payable from the funds of the retirement system.

(6) The right of a person to a pension, to the return of member contributions, to any optional benefits, or any other right accrued or accruing to a member or beneficiary under this act and the money belonging to the retirement system is subject to the public employee retirement benefit protection act.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5108 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

Compiler's note: House Bill No. 5108, referred to in enacting section 1, was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 100, Imd. Eff. Mar. 27, 2002.

[No. 99]

(HB 5109)

AN ACT to amend 1943 PA 240, entitled "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; and to prescribe penalties and provide remedies," by amending the title and sections 31, 40, and 69 (MCL 38.31, 38.40, and 38.69), the title as amended and section 69 as added by 1996 PA 487, section 31 as amended by 1998 PA 205, and section 40 as amended by 1991 PA 48, and by adding section 68a.

The People of the State of Michigan enact:

TITLE

An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; to prescribe and make appropriations for the retirement system; and to prescribe penalties and provide remedies.

38.31 Election of regular retirement allowance or reduced retirement allowance; payment options; designation of beneficiary; effect of beneficiary's death or divorce; request by nonduty disability retirant to change elections; death of member before effective date of retirement.

Sec. 31. (1) Except as provided in subsection (6), before the effective date of retirement, but not after the effective date of retirement, a member or deferred member who is eligible for retirement, as provided in this act, shall elect to receive his or her benefit in a retirement allowance payable throughout life, which shall be called a regular retirement allowance, or to receive the actuarial equivalent at that time of his or her regular retirement allowance in a reduced retirement allowance payable throughout the lives of the retirant and a retirement allowance beneficiary, pursuant to 1 of the following payment options:

(a) Option A. Upon the retirant's death, his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation executed and filed with the retirement board before the effective date of his or her retirement.

(b) Option B. Upon the retirant's death, 1/2 of his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation executed and filed with the retirement board before the effective date of his or her retirement.

(c) Option C. On and after January 1, 2000, upon the retirant's death, 3/4 of his or her reduced retirement allowance shall be continued throughout the life of and paid to the retirement allowance beneficiary whom the member nominated by written designation executed and filed with the retirement board before the effective date of his or her retirement.

(2) Except as provided in subsections (3) and (8), the election of a payment option under subsection (1) shall not be changed on or after the effective date of the retirement allowance. A retirement allowance beneficiary designated under this section shall not be changed on or after the effective date of the retirement allowance, and shall be either a spouse, brother, sister, parent, child, including an adopted child, or grandchild of the person making the designation. Payment to a retirement allowance beneficiary shall begin on the first day of the month following the death of the retirant or member.

(3) If the retirement allowance beneficiary named under a payment option under subsection (1) predeceases the retirant, the retirant's benefit shall revert to the regular retirement allowance, effective with the first day of the month following the retirement allowance beneficiary's death. For a retirant whose effective date of retirement was on or before June 28, 1976, this subsection shall apply, but the regular retirement allowance is not payable for any month beginning before the later of the retirement allowance beneficiary's death or January 1, 1986. A retirant who on January 1, 1986 is receiving a reduced retirement allowance because the retirant designated a retirement allowance beneficiary and the retirement allowance beneficiary predeceased the retirant is eligible to receive the regular retirement allowance beginning January 1, 1986, but the regular retirement allowance is not payable for any month beginning before January 1, 1986.

(4) A member who continues in the employ of this state on and after the date he or she acquires 10 years of service credit or becomes eligible for deferred retirement as provided by section 20(4) or (5), whichever occurs first, may by written declaration executed and filed with the retirement board elect option A, provided for in subsection (1)(a), and nominate a retirement allowance beneficiary in the same manner as if the member were then retiring from service, notwithstanding that the member may not have attained 60 years of age. If the beneficiary's death or divorce from the member occurs before the effective date of the member's retirement, the member's election of option A and nomination of retirement allowance beneficiary shall be automatically revoked and the member may again elect option A and nominate a retirement allowance beneficiary at any time before the effective date of retirement. If a member who has made an election and nominated a retirement allowance beneficiary as provided in this subsection dies before the effective date of his or her retirement, then the retirement allowance beneficiary shall immediately receive the retirement allowance that he or she would have been entitled to receive under option A if the member had been regularly retired on the date of the member's death. Except as otherwise provided by subsection (5), if a member who has made an election under this subsection subsequently retires under this act, his or her election of option A shall take effect at the time of retirement. Subject to the requirements of subsection (5), the member, before the effective date of retirement, but not after the effective date of retirement, may revoke his or her previous election of option A and elect to receive his or her retirement allowance as a regular retirement allowance or under option B or C as provided for in subsection (1). A retirement allowance shall not be paid under this subsection on account of the death of a member if any benefits are paid under section 27 on account of his or her death. If a deferred member who has an option A election in effect dies before the effective date of his or her retirement, the retirement allowance payable under option A shall be paid to the retirement allowance beneficiary at the time the deceased deferred member otherwise would have been eligible to begin receiving benefits.

(5) If a member, deferred member, retiring member, or retiring deferred member is married at the effective date of the retirement allowance, an election under this section, other than an election of a payment option under subsection (1) naming the spouse as retirement allowance beneficiary, shall not be effective unless the election is signed by the spouse. However, this requirement may be waived by the retirement board if the signature of a spouse cannot be obtained because of extenuating circumstances. As used in this subsection, "spouse" means the person to whom the member, deferred member, retiring member, or retiring deferred member is married at the effective date of the retirement allowance.

(6) Until July 1, 1991, upon request in a form as determined by the retirement board, a nonduty disability retirant who retired under section 24 may change his or her election to receive a disability retirement allowance computed as a regular retirement allowance and elect to receive the actuarial equivalent at the time of the election pursuant to this subsection of his or her disability retirement allowance in a reduced retirement allowance payable to the retirant and the retirant's spouse pursuant to the provisions of a payment option as provided in subsection (1), if the disability retirement allowance effective date was before November 12, 1985 and the retirant had 25 or more years of credited service on the disability retirement allowance effective date. The nonduty disability retirant shall begin to receive the reduced retirement allowance under this subsection effective the first day of the month following the month in which the retirant makes the election pursuant to this subsection. As used in this subsection, "spouse" means the person to whom the nonduty disability retirant was married on the effective date of his or her disability retirement allowance and on the date the retirant makes the election pursuant to this subsection.

(7) If a member who continues in the employ of this state on and after the date he or she acquires 10 years of service credit, or on and after the date he or she becomes eligible for deferred retirement as provided by section 20(4) or (5), whichever occurs first, and who does not have an election of option A in force as provided in subsection (4), dies before the effective date of retirement and leaves a surviving spouse, the spouse shall receive a retirement allowance computed in the same manner as if the member had retired effective the day before the date of his or her death, elected option A, and nominated the spouse as retirement allowance beneficiary. When the retirement allowance beneficiary dies, his or her retirement allowance shall terminate. If the aggregate amount of retirement allowance payments received by the beneficiary is less than the accumulated contributions credited to the member's account in the employees' savings fund at the time of the member's death, the difference between the accumulated contributions and the aggregate amount of retirement allowance payments received by the beneficiary shall be transferred from the employer's accumulation fund or pension reserve fund to the employees' savings fund and paid pursuant to section 29. A retirement allowance shall not be paid under this subsection on account of the death of a member if benefits are paid under section 27 on account of his or her death. If the other requirements of this subsection are met but a surviving spouse does not exist, each of the deceased member's surviving children less than 18 years of age shall receive an allowance of an equal share of the retirement allowance that would have been paid to the spouse if living at the time of the deceased member's death. Payments under this subsection shall cease upon the surviving child's marriage, adoption, or becoming 18 years of age, whichever occurs first.

(8) If a retirant receiving a reduced retirement allowance under a payment option under subsection (1) is divorced from the spouse who had been designated as the retirant's retirement allowance beneficiary under the option, the election of the payment option shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the

court, described in the public employee retirement benefit protection act and dated after June 27, 1991 provides that the election of the payment option under subsection (1) is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a payment option under subsection (1) is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a regular retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court as described in the public employee retirement benefit protection act. The retirement allowance shall revert to a regular retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on June 27, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

38.40 Allowances, benefits, and other rights; exemption from taxation; subject to public employee retirement benefit protection law.

Sec. 40. The right of a person to a pension, an annuity, a retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this act, the various funds created by this act, and all money and investments and income of the funds, are exempt from any state, county, municipal, or other local tax. The right of a person to a pension, an annuity, a retirement allowance, any optional benefit, any other right accrued or accruing to any person under the provisions of this act, the various funds created by this act, and all money and investments and income of the funds is subject to the public employee retirement benefit protection act.

38.68a Appropriation amount; purpose; work project; estimated completion date.

Sec. 68a. In addition to the amount appropriated in part 1 of 2001 PA 83 for retirement services, there is appropriated for the fiscal year ending September 30, 2002, $2,100,000.00 in pension trust funds to the department of management and budget, retirement services, for administration of the changes created by House Bill No. 5732 of the 91st Legislature. The unexpended portion of this appropriation is considered a work project appropriation. The project will be accomplished by the use of department personnel and contracting with private consultants with an estimated completion date of September 30, 2003.

38.69 Exemptions from taxation; subject to public employee retirement benefit protection law; right of setoff to recover overpayments; satisfaction of claims arising from embezzlement or fraud; correction of errors in records and actions.

Sec. 69. (1) Distributions from employer contributions made pursuant to section 63(2) and (3) and earnings on those employer contributions, and distributions from employee contributions made pursuant to section 63(3) and earnings on those employee contributions, are exempt from any state, county, municipal, or other local tax. Distributions from employer contributions made pursuant to section 63(2) and (3) and earnings on those employer contributions and distributions from employee contributions made pursuant to section 63(3) and earnings on those employee contributions are subject to the public employee retirement benefit protection act.

(2) The state treasurer has the right of setoff to recover overpayments made under this act and to satisfy any claims arising from embezzlement or fraud committed by a qualified participant, former qualified participant, refund beneficiary, or other person who has a claim to a distribution or any other benefit from Tier 2.

(3) The state treasurer shall correct errors in the records and actions in Tier 2 under this act, and shall seek to recover overpayments and shall make up underpayments.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 5108.

(b) House Bill No. 5732.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

Compiler's note: House Bill No. 5108, referred to in enacting section 1, was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 100, Imd. Eff. Mar. 27, 2002.

House Bill No. 5732, also referred to in enacting section 1, was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 93, Imd. Eff. Mar. 27, 2002.

[No. 100]

(HB 5108)

AN ACT to protect certain rights that public employees have in retirement benefits under certain circumstances; to provide for the establishment of certain funds and arrangements; and to prescribe the powers and duties of certain retirement systems, state departments, courts, public officials, and public employees.

The People of the State of Michigan enact:

38.1681 Short title.

Sec. 1. This act shall be known and may be cited as the "public employee retirement benefit protection act".

38.1682 Definitions.

Sec. 2. As used in this act:

(a) "Department" means the department of management and budget.

(b) "Employer contributions" means the amount transferred by an employer to a participating unit retirement system on behalf of members of the retirement system to pay for the actuarial accrued liabilities of the retirement system.

(c) "Member" means a member, vested former member, deferred member, beneficiary, designated beneficiary, or refund beneficiary of a retirement system.

(d) "Participating unit" means a retirement system that elects to come under the provisions of section 6.

(e) "Retirant" means a person who has retired with a retirement benefit payable from a retirement system.

(f) "Retirement benefit" means an annuity, a retirement allowance, an optional benefit, a postretirement benefit, a benefit received from a defined contribution plan, defined benefit plan, deferred compensation plan, disability plan, life insurance plan, all money, investments and income of the various funds created under a public employee retirement system, and any other right accruing to a member under a retirement system.

(g) "Retirement system" means a public employee retirement system established by this state or a political subdivision of this state.

(h) "State unit" means a retirement system established under the state employees' retirement act, 1943 PA 204, MCL 38.1 to 38.69, the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1467, the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648, and the Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080.

38.1683 Rights not subject to process of law or assignment.

Sec. 3. The right of a member or retirant of a retirement system to a retirement benefit shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law and shall be unassignable.

38.1684 Rights subject to forfeiture and domestic relations orders.

Sec. 4. (1) The right of a member or retirant to a retirement benefit described in section 3 is subject to forfeiture under the public employee retirement benefits forfeiture act, 1994 PA 350, MCL 38.2701 to 38.2705.

(2) The right of a member or retirant to a retirement benefit described in section 3 is subject to an award by a court under section 18 of 1846 RS 84, MCL 552.18, an eligible domestic relations order under the eligible domestic relations order act, 1991 PA 46, MCL 38.1701 to 38.1711, and to any other domestic relations order of a court pertaining to alimony or child support.

38.1685 Award or order requiring withholding payments; limitations.

Sec. 5. If an award or order described in section 4 requires a retirement system to withhold payment of a retirement benefit or requires the retirement system to make payment or requires the individual to request that the retirement system make payment of a retirement benefit for the purposes of meeting the member's or retirant's obligations to a spouse, former spouse, or child, the withholding or payment provisions of the award or order are effective only against amounts that become payable to the member or retirant, unless otherwise provided in an eligible domestic relations order under the eligible domestic relations order act, 1991 PA 46, MCL 38.1701 to 38.1711. The 1imitations contained in this section do not apply to the accumulated contributions of a person who terminates employment before acquiring a vested member status.

38.1686 Benefit payments; establishment of arrangement and fund.

Sec. 6. (1) A retirement system may elect by a majority vote of its governing body to establish and administer an arrangement and fund to pay accrued benefits of its members to its members to the extent that the accrued benefits paid out of the fund would not otherwise be payable under limitations in section 415 of the internal revenue code. An arrangement and fund established under this section shall be kept separate from the pension assets of participating units.

(2) If an arrangement and fund is established by a retirement system under subsection (1), the arrangement and fund shall be established and administered in accordance with section 415(m) of the internal revenue code. The governing board of the participating unit or the department on behalf of a state unit may establish and adopt policies and procedures for the arrangement and fund.

(3) If an arrangement and fund is established under subsection (1), the benefits that are paid from the fund shall be paid out of employer contributions or other eligible assets. The governing board shall determine the amount of the employer contribution that shall be allocated to the arrangement and fund. Employer contributions and other eligible assets that are contributed to the arrangement and fund shall be deposited in the arrangement and fund before deposits are made to the pension system of the participating unit.

(4) Nothing in this section is intended to limit the amount of employer contributions that are contributed to a retirement fund of a participating unit for the accrued benefits that are allowed to be paid under section 415 of the internal revenue code.

38.1687 Retirement system and benefits subject to §§ 800.401 to 800.406.

Sec. 7. The retirement system and retirement benefits shall be subject to claims made under the state correctional facility reimbursement act, 1935 PA 253, MCL 800.401 to 800.406.

38.1688 Loan eligibility; correcting records and recovering overpayments.

Sec. 8. (1) This act is not intended to prohibit a member or retirant from receiving a loan from the retirement system if the retirement system concludes that the member or retirant is otherwise eligible for a loan.

(2) Nothing in this act shall prevent a retirement system administrator from correcting records and seeking to recover overpayments that the retirement system made to a retirant or member.

38.1689 Notification of disqualification from U.S. internal revenue service.

Sec. 9. If the department receives notification from the United States internal revenue service that this act or any portion of this act will cause any state unit to be disqualified for tax purposes under the internal revenue code, then the portion that will cause the disqualification does not apply.

Conditional effective date.

Enacting section 1. This act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 5109.

(b) House Bill No. 5110.

(c) House Bill No. 5111.

(d) House Bill No. 5112.

(e) House Bill No. 5113.

(f) House Bill No. 5114.

(g) House Bill No. 5732.

This act is ordered to take immediate effect.

Approved March 27, 2002.

Filed with Secretary of State March 27, 2002.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 5109 was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 99, Imd. Eff. Mar. 27, 2002.

House Bill No. 5110 was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 94, Imd. Eff. Mar. 27, 2002.

House Bill No. 5111 was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 98, Imd. Eff. Mar. 27, 2002.

House Bill No. 5112 was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 95, Imd. Eff. Mar. 27, 2002.

House Bill No. 5113 was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 96, Imd. Eff. Mar. 27, 2002.

House Bill No. 5114 was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 97, Imd. Eff. Mar. 27, 2002.

House Bill No. 5732 was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 93, Imd. Eff. Mar. 27, 2002.

[No. 101]

(HB 5125)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding section 360a.

The People of the State of Michigan enact:

750.360a Electronic or magnetic theft detection; shielding merchandise prohibited; violation as crime.

Sec. 360a. (1) A person shall not do any of the following:

(a) Possess a laminated or coated bag or device that is intended to shield merchandise from detection by an electronic or magnetic theft detection device with the intent to commit or attempt to commit larceny.

(b) Manufacture, sell, offer for sale, or distribute, or attempt to manufacture, sell, offer for sale, or distribute, a laminated or coated bag or device that is intended to shield merchandise from detection by an electronic or magnetic theft detection device knowing or reasonably believing that the bag or device will be used to commit or attempt to commit larceny.

(c) Possess a tool or device designed to allow the deactivation or removal of a theft detection device from any merchandise with the intent to use the tool or device to deactivate a theft detection device on, or to remove a theft detection device from, any merchandise without the permission of the merchant or person owning or lawfully holding that merchandise with the intent to commit or attempt to commit larceny.

(d) Manufacture, sell, offer for sale, or distribute a tool or device designed to allow the deactivation or removal of a theft detection device from any merchandise without the permission of the merchant or person owning or lawfully holding that merchandise knowing or reasonably believing that the tool or device will be used to commit or attempt to commit larceny.

(e) Deactivate a theft detection device or remove a theft detection device from any merchandise in a retail establishment prior to purchasing the merchandise with the intent to commit or attempt to commit a larceny.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) Except as provided in subdivision (b), a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(b) If the person has a prior conviction for violating subsection (1), a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2002.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

[No. 102]

(HB 5126)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16r of chapter XVII (MCL 777.16r), as amended by 2000 PA 279.

The People of the State of Michigan enact:

CHAPTER XVII

777.16r §§ 750.356 to 750.374; felonies to which chapter applicable.

Sec. 16r. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.356(2)	Property	D	Larceny involving $20,000 or more or with prior convictions	10
750.356(3)	Property	E	Larceny involving $1,000 to $20,000 or with prior convictions	5
750.356a(1)	Property	G	Larceny from a motor vehicle	5
750.356a(2)(c)	Property	E	Breaking and entering a vehicle to steal $1,000 to $20,000 or with prior convictions	5
750.356a(2)(d)	Property	D	Breaking and entering a vehicle to steal $20,000 or more or with prior convictions	10
750.356a(3)	Property	G	Breaking and entering a vehicle to steal causing damage	5
750.356b	Property	G	Breaking and entering a coin telephone	4

750.356c	Property	E	Retail fraud — first degree	5
750.357	Person	D	Larceny from the person	10
750.357a	Property	G	Larceny of livestock	4
750.357b	Property	E	Larceny — stealing firearms of another	5
750.358	Property	G	Larceny from burning building	5
750.360	Property	G	Larceny in a building	4
750.360a(2)(b)	Property	F	Theft detection device offense with prior conviction	4
750.361	Property	H	Trains — stealing/maliciously removing parts	2
750.362	Property	E	Larceny by conversion involving $1,000 to $20,000 or with prior convictions	5
	Property	D	Larceny by conversion involving $20,000 or more or with prior convictions	10
750.362a(2)	Property	D	Larceny of rental property involving $20,000 or more or with prior convictions	10
750.362a(3)	Property	E	Larceny of rental property involving $1,000 to $20,000 or with prior convictions	5
750.363	Property	E	Larceny by false personation involving $1,000 to $20,000 or with prior convictions	5
	Property	D	Larceny by false personation involving $20,000 or more	10
750.365	Person	D	Larceny from car or persons detained or injured by accident	20
750.366	Property	G	Larceny of railroad tickets	4
750.367	Property	E	Larceny of trees or shrubs involving $1,000 to $20,000 or with prior convictions	5
	Property	D	Larceny of a tree or shrub involving $20,000 or more or with prior convictions	10
750.367b	Property	E	Airplanes — taking possession	5
750.368(5)	Pub ord	G	Preparing, serving, or executing unauthorized process — third or subsequent offense	4
750.372	Pub ord	H	Running or allowing lottery	2
750.373	Pub ord	H	Selling or possessing lottery tickets	2
750.374	Pub ord	H	Lottery violations — subsequent offense	4

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5125 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

Compiler's note: House Bill No. 5125, referred to in enacting section 2, was filed with the Secretary of State March 27, 2002, and became P.A. 2002, No. 101, Eff. July 1, 2002.

[No. 103]

(SB 887)

AN ACT to amend 1937 PA 329, entitled "An act providing for compensation to certain peace officers injured in active duty, and payment to surviving spouses and dependents in case of death arising from active duty; and to make an appropriation therefor," by amending section 3 (MCL 419.103).

The People of the State of Michigan enact:

419.103 Payment; appropriated funds; review of claims.

Sec. 3. The amount provided for in this act shall be paid from the general fund of the state treasury, from money appropriated from said general fund for the fiscal year ending June 30, 1938, and every fiscal year thereafter, a sufficient sum to carry out the provisions of this act. The attorney general shall review all claims under this act and satisfy himself or herself of the merits of the claim before authorizing payment.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

[No. 104]

(SB 889)

AN ACT to amend 1933 PA 89, entitled "An act to prevent fraud, deception and imposition in the solicitation within the state of Michigan of the deposit of bonds, notes, debentures and other evidences of indebtedness under, and/or the consent of the holders or owners of such securities, to a protective committee agreement, and to prevent fraud, deception and imposition in the operations and activities of protective committees organized within the state of Michigan to act for and in behalf of the holders or owners of such securities, and for such purposes to create a commission to regulate and supervise the establishment and the operations of protective committees, depositaries under protective committee agreements, and solicitors for protective committee agreements; to authorize said commission to have supervision over defaulted bonds, notes, debentures, certificates of participation and similar evidences of indebtedness; to prescribe the powers and duties of such commission; to license members of protective committees, depositaries

under protective committee agreements and solicitors for protective committee agreements; to regulate and supervise and control the solicitation by anyone of bonds, notes, debentures and all other similar evidences of indebtedness, issued by the maker of any security for the purpose of procuring the modification and/or amendment and/or foreclosure of any instrument in writing securing any issue of bonds, notes, debentures and all other similar evidences of indebtedness; to authorize such commission to act as custodian or receiver and appoint custodians, agents and managers of defaulted mortgage property under orders of court or otherwise; to prescribe penalties for violation of this act; and to repeal Act No. 37 of the Public Acts of the first extra session of 1932," by amending section 13 (MCL 451.313).

The People of the State of Michigan enact:

451.313 Public trust commission; investigations; costs; audits and appraisals.

Sec. 13. Any person interested in any security in connection with which a protective committee is organized may request the commission to make an investigation, audit, or appraisal and report with respect to the property or business to which the security pertains. However, before any investigation, audit, or appraisal and report is made by the commission upon such a request, the person so requesting shall, if required by the commission, deposit with the commission the sum of money that the commission considers necessary to meet the cost of the investigation, audit, or appraisal and report. If the deposit is insufficient to defray the cost of the investigation, audit, or appraisal and report, the commission may request further deposits as a condition of the continuance by it of its investigation, audit, or appraisal and report. All money so deposited shall be deposited by the commission in the state treasury in a special fund and disbursements from that fund shall be upon the warrant drawn on the state treasurer, and any disbursements shall be for the purposes for which the money is paid. Any excess over and above the cost of the requested investigation, audit, or appraisal and report shall be returned to the person who made the deposit.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

[No. 105]

(SB 892)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident

fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 204 and 208 (MCL 500.204 and 500.208).

The People of the State of Michigan enact:

500.204 Insurance commissioner; salary; oath; bond.

Sec. 204. The commissioner shall receive an annual salary as the legislature shall appropriate, payable as other state officers are paid under the accounting laws of the state. Within 15 days from the time of notice of his or her appointment, the commissioner shall take and subscribe the constitutional oath of office and file the oath in the office of the secretary of state, and shall also within the same period give to the people of the state of Michigan a bond in the penal sum of $50,000.00, with sureties to be approved by the state treasurer, conditioned for the faithful discharge of the duties of his or her office.

500.208 Office of financial and insurance services; offices; expense; audit.

Sec. 208. The department of management and budget shall assign to the office of financial and insurance services at Lansing suitable rooms for conducting the business of the division, the necessary expense of which shall be audited by the department of management and budget.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

[No. 106]

(SB 896)

AN ACT to amend 1881 PA 181, entitled "An act to provide for the payment of interest on the educational funds, and to repeal section 10 of chapter 131 of the Compiled Laws of 1871, being compiler's section 3477," by amending section 1 (MCL 21.201).

The People of the State of Michigan enact:

21.201 Interest on educational funds; computation; payment.

Sec. 1. That upon all sums paid into the state treasury upon account of the principal of any of the educational funds, except where the provision is or shall be made by law, the state treasurer shall compute interest from the time of the payment, or from the time of the last computation of interest on the payment, to the first Monday of April in each year, and shall give credit on the interest to each fund, as the case may be; and the interest shall be paid out of the specific taxes.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

[No. 107]

(HB 5145)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 9307 (MCL 324.9307), as amended by 1998 PA 463.

The People of the State of Michigan enact:

324.9307 Directors; appointment; terms; chairperson; annual meeting; election; notice; vacancies; quorum; expenses; employees; legal services; delegation of powers and duties; copies of documents; duties of directors; removal of director; designation and function of legislative representative.

Sec. 9307. (1) A conservation district board shall consist of 5 directors, elected or appointed as provided in this part. The directors shall designate a chairperson annually.

(2) The term of office of each director shall be 4 years. All directors shall be elected at an annual meeting by residents of the district. The election shall be nonpartisan and the directors shall be elected by the residents of the district at large. At least 60 days prior to the annual meeting, a candidate for conservation district director must file at the conservation district office a petition signed by 5 residents of the district. A candidate

must be a resident of the district. The annual meeting shall be held at a date determined by the board of directors of the district. Notice of the annual meeting shall be published in the official newspaper of record for the area in which the district is located at least 45 days prior to the date of the annual meeting. This notice shall include the date, time, and location of the annual meeting, an agenda of items to be considered at the meeting, and a list of all candidates for directors of the conservation district. A resident of a district who is unable to attend the annual meeting may vote for the directors of the conservation district by absentee ballot at the conservation district office, during regular business hours of the conservation district office, at any time after publication of the notice and prior to the annual meeting. Director elections shall be certified by the department. A director shall hold office until a successor has been elected and qualified. Vacancies shall be filled by appointment by the board until the next annual meeting.

(3) A majority of the directors constitutes a quorum, and the concurrence of a majority in any matter within their duties is required for its determination. A director is entitled to expenses, including traveling expenses necessarily incurred in the discharge of his or her duties. A director may be paid a per diem for time spent undertaking his or her duties as a director in an amount not to exceed the per diem paid to a member of the commission of agriculture.

(4) The directors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The directors may call upon the attorney general of the state for legal services as they may require. The directors may delegate to their chairperson, to 1 or more directors, or to 1 or more agents or employees any powers and duties that they consider proper. The directors shall furnish to the department, upon request, copies of ordinances, rules, regulations, orders, contracts, forms, and other documents that they adopt or employ, and any other information concerning their activities that the department may require in the performance of its duties under this part.

(5) The directors shall do all of the following:

(a) Provide for the execution of surety bonds for all employees and officers who are entrusted with funds or property.

(b) Provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted.

(c) Determine the fiscal year of the district.

(d) Provide for an annual audit of the accounts of receipts and disbursements.

(e) Maintain accurate financial records of receipts and disbursements of state funds, which records shall be made available to the department.

(6) Any director may be removed by the department upon notice and hearing for neglect of duty or malfeasance in office, but for no other reason.

(7) The directors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the directors of the district on all questions of program and policy that may affect the property, water supply, or other interests of the municipality or county.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

[No. 108]

(HB 4937)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 43532 (MCL 324.43532), as amended by 1996 PA 585.

The People of the State of Michigan enact:

324.43532 Restricted fishing license; fees; rights of licensee; all-species fishing license.

Sec. 43532. (1) A person 17 years of age or older shall not take aquatic species, except aquatic insects, in the waters over which this state has jurisdiction without a license. The fee for a resident restricted fishing license is $15.00. The fee for a nonresident restricted fishing license is $34.00.

(2) The restricted fishing license entitles the licensee to take aquatic species as prescribed by law other than trout or salmon.

(3) A person under 17 years of age may take aquatic species in the waters over which this state has jurisdiction without a license. However, a person under 17 years of age may obtain an all-species fishing license. The fee for a resident or nonresident who is under 17 years of age, for an all-species fishing license is $2.00. The department shall not sell or vendor the list of licensees under this subsection.

(4) The fee for a resident all-species fishing license is $28.00. The fee for a nonresident all-species fishing license is $42.00.

(5) The all-species fishing license entitles the licensee to take all species of aquatic species as prescribed by law.

(6) A person to whom a valid restricted fishing license has been issued may return the restricted license to the department or its authorized agent and receive an all-species fishing license by paying a fee equal to the difference in cost between the all-species fishing license and the restricted fishing license for which that person is eligible.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

[No. 109]

(SB 543)

AN ACT to amend 1915 PA 312, entitled "An act to establish, protect and enforce by lien the rights of garage keepers who furnish labor or material for storing, repairing, maintaining, keeping or otherwise supplying automobiles or other vehicles," by amending

sections 2, 3, 4, 5, and 6 (MCL 570.302, 570.303, 570.304, 570.305, and 570.306), sections 2 and 3 as amended and sections 4, 5, and 6 as added by 1998 PA 236, and by adding section 10.

The People of the State of Michigan enact:

570.302 Definitions.

Sec. 2. As used in this act:

(a) "Bureau" means the bureau of automotive regulation.

(b) "Department" means the department of state.

(c) "Garage keeper" means a person or the person's heir, personal representative, successor, assignee, or authorized agent who for hire or reward, publicly offers to maintain or repair a vehicle or an accessory used in the operation of a vehicle or to furnish accessories and supplies for a vehicle or an accessory used in the operation of a vehicle.

(d) "Last known address" means the address provided by the owner in the most recent contract for storage, labor, material, or supplies entered into between the garage keeper and the owner, or in a subsequent written notice of change of address to the garage keeper or as shown by the records of the department.

(e) "Lienholder" means any person or legal entity that is noted on the motor vehicle certificate of title as a lienholder, or, if the motor vehicle certificate of title contains the term lessee, the person or legal entity that is noted on the motor vehicle certificate of title as the lessor or as shown by the records of the department.

(f) "Market value" means the trade-in value as determined by the issue of the national auto dealers association official used car guide in effect at the time the garage keeper performs the first labor or first furnishes supplies for which the garage keeper claims a lien under this act.

(g) "Owner" means that term as defined in section 37 of the Michigan vehicle code, 1949 PA 300, MCL 257.37, or as shown by the records of the department.

(h) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

570.303 Garage keeper; attachment of lien upon vehicle; manner; amount.

Sec. 3. (1) Except as otherwise provided in this act, a garage keeper who, in pursuance of a contract that is expressed, implied, written, or unwritten, furnishes labor, material, storage, diagnosis, an estimate of repairs, or supplies for a vehicle, shall have a lien upon the vehicle for the charges due for the storage, maintenance, keeping, diagnosis, estimate of repairs, and repair of the vehicle and for gasoline, electric current, or other accessories and supplies furnished, expenses bestowed, or labor performed on the vehicle at the request or with the consent of the owner of the vehicle. If a vehicle remains in the possession of a garage keeper after the completion of repairs or after a diagnosis and subsequent storage of the vehicle when repairs are not authorized, a garage keeper's lien attaches to the vehicle in the manner and amount provided in this section.

(2) The lien attaches to the vehicle on the day the garage keeper performs the last labor or furnishes the last supplies for which a lien is claimed against the vehicle. The garage keeper may keep a vehicle for not more than 225 days after performing the last labor or furnishing the last supplies for which a lien is claimed against the vehicle.

(3) The portion of a lien that is for labor and material furnished in making repairs upon a vehicle has priority over all other liens upon the vehicle. The lien has no effect against

the holder of a security interest, conditional sales agreement, or other lien that attached before the attachment of the garage keeper's lien upon the payment by a prior lienholder to the garage keeper of the amount of the lien calculated under subsection (4) and section 4.

(4) Except as provided in section 4, the maximum amount of a lien that a prior lienholder shall pay a garage keeper under this section is calculated as follows:

(a) If a repaired vehicle has a market value of more than $5,000.00, then the amount of the lien shall be not more than 20% of the market value of the repaired vehicle or $5,000.00, whichever is less.

(b) If a repaired vehicle has a market value of $5,000.00 or less, then the amount of the lien shall be not more than $1,000.00.

570.304 Garage keeper's lien; amounts not included; storage charge.

Sec. 4. (1) A garage keeper's lien under section 3 shall not include an amount for labor and materials for any of the following if the materials used were custom materials that are not normally available from the manufacturer or, in the case of a vehicle manufactured in a foreign country, a distributor of the vehicle or that are not normally installed on the vehicle by the original manufacturer:

(a) The repair or replacement of all or a part of the interior or exterior of the repaired vehicle.

(b) The installation, repair, or replacement of electronic and related parts.

(c) The installation, repair, or replacement of any other materials or parts that are not essential to the normal operation of the repaired vehicle.

(2) Unless otherwise agreed to in writing, a garage keeper's lien under section 3 may include an amount of not more than $10.00 per day for the storage of the vehicle, for the storage of an accessory used in the operation of a vehicle, or for the storage of accessories and supplies furnished for the vehicle or an accessory used in the operation of the vehicle. Unless otherwise agreed to in writing, the charge shall be for not more than 120 days' storage. However, a lienholder who pays a garage keeper's lien under section 5(8) is not liable for and is not required to pay for any storage charges that accrued prior to 45 days after the garage keeper's notification to the lienholder under section 5. Charges described in this subsection may be in addition to the maximum allowance under section 3(4).

570.305 Garage keeper's lien; enforcement; sale of vehicle at public sale.

Sec. 5. (1) A lien under section 3 shall be enforced only as provided in this section.

(2) If charges described in section 3 are not paid, the garage keeper may sell the vehicle at a public sale described in this section.

(3) To enforce a lien under section 3, a garage keeper or authorized agent shall, not more than 105 days after the date the lien attached as provided in section 3, apply to the department, in a format prescribed by the department, for a certificate of foreclosure of garage keeper's lien and bill of sale accompanied by a fee of $10.00 paid to the department. The department shall, not more than 30 days after the postmark date of a complete application received by mail or the date a complete application is hand-delivered by the garage keeper or authorized agent to the department, provide to the garage keeper or authorized agent the names and addresses of all owners of record and of all lienholders of the vehicle as shown by the records of the department.

(4) After complying with the requirements of subsection (3), the garage keeper shall notify the owner or owners, all lienholders, and the department of state, bureau of

automotive regulation, Lansing, Michigan, of the proposed sale of the vehicle in order to satisfy the lien of the garage keeper by a notice sent by certified mail return receipt requested to the last known address of the owner or owners, the lienholders and the bureau. The garage keeper shall send all the notices required by this subsection not more than 30 days after the date placed on the certificate of foreclosure of garage keeper's lien and bill of sale by the department. The notice shall include all of the following:

(a) An itemized statement of the garage keeper's lien showing the amount due at the time of the notice and the date on which the amount became due.

(b) A demand for payment in the amount necessary to satisfy the lien authorized under section 3(1). The demand for payment must give the owner or owners not less than 30 calendar days after the postmark date of the notice to satisfy the garage keeper's lien.

(c) A statement that all lienholders are being notified of the delinquency, that a lienholder has the right to satisfy the garage keeper's lien plus any storage charges provided for under section 4 and obtain possession of the vehicle as provided in section 5(8), and that a lienholder is required to notify the garage keeper before the proceeds are distributed under section 6 if the lienholder desires to claim any of the proceeds from the sale of the vehicle under section 6(1)(a).

(d) A statement of daily storage fees, if any.

(e) A statement of the date, time, manner, and place that the vehicle will be sold.

(5) Except as otherwise provided in this subsection, the sale shall be held not less than 75 calendar days after the date placed on the certificate of foreclosure of the garage keeper's lien and bill of sale by the department. The bureau may object to a sale only if it has reason to believe that the garage keeper has failed to substantially comply with this act, the rules promulgated under this act, the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, or the rules promulgated under the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, in the repair transaction involving the vehicle that is the subject of the lien. If the bureau objects to the sale within the 75-day period, all of the following conditions shall apply:

(a) The bureau shall complete an investigation of its objection within 150 calendar days after the date placed on the certificate of foreclosure of the garage keeper's lien and bill of sale by the department.

(b) Upon completion of the investigation or the expiration of the 150-calendar-day period, whichever occurs first, the bureau shall do 1 of the following:

(*i*) Remove the objection to the sale.

(*ii*) Complete service upon the garage keeper of a written notice of alleged violation that alleges a specific violation of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, or the rules promulgated under that act, and extends the bureau's objection to the sale indefinitely until resolution under this section.

(c) The garage keeper may, within 10 days after the personal service or postmarked date of the notice of alleged violation, notify the bureau, in writing, that the garage keeper wants to contest the notice of alleged violation. If the garage keeper contests the notice, the bureau shall conduct an immediate review of its reasons for the objection. After this review, the bureau shall do 1 of the following:

(*i*) Remove the objection to the sale.

(*ii*) If the objection is sustained, the bureau shall, in writing, offer the garage keeper an opportunity to have the bureau's objection resolved under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as a contested case proceeding

under the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340. If a contested case proceeding is pursued under this section, the bureau may include in that proceeding's complaint any other outstanding alleged repair act or rule violation against the garage keeper that may be pursued through a contested case proceeding. If the garage keeper fails to respond to the offer for a contested case proceeding within 10 days of receiving the offer from the bureau, the bureau's objection to the lien shall be deemed permanent.

(d) Storage charges provided for under this act shall not accrue during the period that the bureau objects to the sale.

(e) The 225-day period provided for in section 3(2) shall be extended by the number of days that the bureau objects to the sale.

(6) A sale of the vehicle shall be held at the facility of the garage keeper or at the nearest suitable place.

(7) Before a sale of a vehicle pursuant to this section, the owner or owners may pay the amount necessary to satisfy the lien, in addition to the reasonable expenses or fees incurred by the garage keeper under this act, and redeem the vehicle. Upon receipt of this payment, the garage keeper shall return the vehicle to the owner or owners in the same condition, or substantially the same condition, as the vehicle was in when the lien attached under section 3(1).

(8) Not less than 30 calendar days after the garage keeper's notice is mailed to the owner or owners, and prior to the sale, a lienholder may pay the garage keeper the amount of the garage keeper's lien as calculated under sections 3(4) and 4, or another amount to which the lienholder and garage keeper agree. Upon receipt of this payment, the garage keeper shall return the vehicle to the lienholder in the same condition, or substantially the same condition, as the vehicle was in when repairs were completed and it was stored by the garage keeper or, if no repairs were authorized by the owner, in the same condition or substantially the same condition, as the vehicle was in when it was received by the garage keeper. If the garage keeper performed diagnostic tests on the vehicle for which a lien is claimed, the garage keeper shall include a written explanation of the results of the diagnostic tests performed when the garage keeper returns the vehicle to the lienholder. The amount of a payment made under this section shall be added to the amount of the prior lienholder's lien.

(9) The amount payable to the garage keeper shall not exceed the market value of the vehicle.

(10) Upon the public sale of a vehicle under this act, the garage keeper shall complete the certificate described in subsection (3) as indicated on its face and give the completed certificate to the purchaser of the vehicle. In addition to other information that may be required by the secretary of state, the purchaser shall submit this certificate to the department when making an original application for a certificate of title or a vehicle registration for the vehicle in the name of the purchaser.

(11) The garage keeper may bid for and purchase the vehicle at the sale. If the garage keeper directly or indirectly purchases the vehicle at the sale, the lien granted under this act is extinguished in full.

(12) A person who in good faith buys a vehicle at a sale conducted pursuant to this act takes the vehicle free of a security interest created by the seller even though the security interest is perfected and even though the buyer knows of its existence.

570.306 Proceeds of sale; distribution; order of priority; return of remaining proceeds to vehicle owner; disposition of unclaimed money.

Sec. 6. (1) After the amount of the lien under section 3 is paid to the garage keeper and the costs of the sale are deducted, any remaining money shall be paid to the following persons in this descending order of priority:

(a) A prior lienholder who gives notice to the garage keeper of his or her claim of lien before the distribution of the money realized from a sale under this act is complete.

(b) The reasonable charges of the garage keeper.

(c) The owner or owners of the vehicle as described in subsection (2).

(2) Proceeds of the sale remaining after the distribution is made under subsection (1) shall be returned to the owner of the vehicle by mailing the proceeds to the owner's last known address by certified mail. If the garage keeper cannot locate the owner within 14 calendar days after the date of the sale, the remaining money shall be transmitted to the department. If the owner does not claim the remaining money within 2 years after the date of the sale, it shall escheat to the state.

570.310 False statement; violation as misdemeanor; penalty.

Sec. 10. A person, agent, or employee of a garage keeper who knowingly makes a false statement on an application for a garage keeper's lien, the documents filed by the applicant with the department in support of the application for a garage keeper's lien, or a certification required under this act is guilty of a misdemeanor punishable by a fine of not more than $1,000.00 or imprisonment for not more than 90 days, or both, for the first conviction under this section, and a fine of not more than $5,000.00 or imprisonment for not more than 1 year, or both, for any subsequent conviction under this section.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2002.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

[No. 110]

(SB 678)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 3 (MCL 205.93), as amended by 1999 PA 117.

The People of the State of Michigan enact:

205.93 Tax rate; penalties and interest; presumption; collection; price tax base; exemptions; services, information, or records.

Sec. 3. (1) There is levied upon and there shall be collected from every person in this state a specific tax for the privilege of using, storing, or consuming tangible personal

property in this state at a rate equal to 6% of the price of the property or services specified in section 3a. Penalties and interest shall be added to the tax if applicable as provided in this act. For the purpose of the proper administration of this act and to prevent the evasion of the tax, it is presumed that tangible personal property purchased is subject to the tax if brought into the state within 90 days of the purchase date and is considered as acquired for storage, use, or other consumption in this state.

(2) The tax imposed by this section for the privilege of using, storing, or consuming a vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft shall be collected before the transfer of the vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft, except a transfer to a licensed dealer or retailer for purposes of resale that arises by reason of a transaction made by a person who does not transfer vehicles, ORVs, mobile homes, aircraft, snowmobiles, or watercraft in the ordinary course of his or her business done in this state. The tax on a vehicle, ORV, snowmobile, and watercraft shall be collected by the secretary of state before the transfer of the vehicle, ORV, snowmobile, or watercraft registration. The tax on a mobile home shall be collected by the department of consumer and industry services, mobile home commission, or its agent before the transfer of the certificate of title. The tax on an aircraft shall be collected by the department of treasury. Notwithstanding any limitation contained in section 2 and except as provided in this subsection, the price tax base of any vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft subject to taxation under this act shall be not less than its retail dollar value at the time of acquisition as fixed pursuant to rules promulgated by the department. The price tax base of a new or previously owned car or truck held for resale by a dealer and that is not exempt under section 4(1)(c) is the purchase price of the car or truck multiplied by 2.5% plus $30.00 per month beginning with the month that the dealer uses the car or truck in a nonexempt manner.

(3) The following transfers or purchases are not subject to use tax:

(a) A transaction or a portion of a transaction if the transferee or purchaser is the spouse, mother, father, brother, sister, child, stepparent, stepchild, stepbrother, stepsister, grandparent, grandchild, legal ward, or a legally appointed guardian with a certified letter of guardianship, of the transferor.

(b) A transaction or a portion of a transaction if the transfer is a gift to a beneficiary in the administration of an estate.

(c) If a vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft that has once been subjected to the Michigan sales or use tax is transferred in connection with the organization, reorganization, dissolution, or partial liquidation of an incorporated or unincorporated business and the beneficial ownership is not changed.

(d) If an insurance company licensed to conduct business in this state acquires ownership of a late model distressed vehicle as defined in section 12a of the Michigan vehicle code, 1949 PA 300, MCL 257.12a, through payment of damages in response to a claim or when the person who owned the vehicle before the insurance company reacquires ownership from the company as part of the settlement of a claim.

(4) The department may utilize the services, information, or records of any other department or agency of state government in the performance of its duties under this act, and other departments or agencies of state government are required to furnish those services, information, or records upon the request of the department.

This act is ordered to take immediate effect.
Approved March 27, 2002.
Filed with Secretary of State March 27, 2002.

[No. 111]

(HB 5327)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," (MCL 380.1 to 380.1852) by adding section 1165.

The People of the State of Michigan enact:

380.1165 Financial education programs.

Sec. 1165. (1) Not later than July 1, 2002, the department shall develop or adopt, and shall make available to schools, 1 or more model programs for youth financial education. A program under this section shall be designed to incorporate financial education throughout the curriculum for grades K to 12 and shall be based on the concept of achieving financial literacy through the teaching of personal financial management skills and the basic principles involved with earning, spending, saving, borrowing, and investing.

(2) Each school district, local act school district, and public school academy is encouraged to adopt and implement the model financial education programs developed under subsection (1) or 1 or more similar financial education programs.

(3) To the extent that federal funds are available for these purposes, the department shall use those funds for grants to public schools and other measures to encourage implementation of financial education programs.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 1, 2002.

[No. 112]

(SB 730)

AN ACT to amend 1966 PA 189, entitled "An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts," by amending sections 4 and 5 (MCL 780.654 and 780.655).

The People of the State of Michigan enact:

780.654 Search warrant; direction of warrant; contents; order to suppress affidavit.

Sec. 4. (1) A search warrant shall be directed to the sheriff or any peace officer, commanding the sheriff or peace officer to search the house, building, or other location or

place, where any property or other thing for which the sheriff or peace officer is required to search is believed to be concealed. Each warrant shall designate and describe the house or building or other location or place to be searched and the property or thing to be seized.

(2) The warrant shall either state the grounds or the probable or reasonable cause for its issuance or shall have attached to it a copy of the affidavit.

(3) Upon a showing that it is necessary to protect an ongoing investigation or the privacy or safety of a victim or witness, the magistrate may order that the affidavit be suppressed and not be given to the person whose property was seized or whose premises were searched until that person is charged with a crime or named as a claimant in a civil forfeiture proceeding involving evidence seized as a result of the search.

780.655 Property seized upon search; tabulation; filing; custody; restoration to owner; disposition of other property.

Sec. 5. (1) When an officer in the execution of a search warrant finds any property or seizes any of the other things for which a search warrant is allowed by this act, the officer, in the presence of the person from whose possession or premises the property or thing was taken, if present, or in the presence of at least 1 other person, shall make a complete and accurate tabulation of the property and things that were seized. The officer taking property or other things under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and shall give to the person a copy of the tabulation upon completion, or shall leave a copy of the warrant and tabulation at the place from which the property or thing was taken. The officer is not required to give a copy of the affidavit to that person or to leave a copy of the affidavit at the place from which the property or thing was taken.

(2) The officer shall file the tabulation promptly with the court or magistrate. The tabulation may be suppressed by order of the court until the final disposition of the case unless otherwise ordered. The property and things that were seized shall be safely kept by the officer so long as necessary for the purpose of being produced or used as evidence in any trial.

(3) As soon as practicable, stolen or embezzled property shall be restored to the owner of the property. Other things seized under the warrant shall be disposed of under direction of the court or magistrate, except that money and other useful property shall be turned over to the state, county or municipality, the officers of which seized the property under the warrant. Money turned over to the state, county, or municipality shall be credited to the general fund of the state, county, or municipality.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 113]

(SB 930)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of

evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding chapter LXXXIII-A.

The People of the State of Michigan enact:

CHAPTER LXXXIII-A

750.543a Short title.

Sec. 543a. This chapter shall be known and may be cited as the "Michigan anti-terrorism act".

750.543b Definitions.

Sec. 543b. As used in this chapter:

(a) "Act of terrorism" means a willful and deliberate act that is all of the following:

(*i*) An act that would be a violent felony under the laws of this state, whether or not committed in this state.

(*ii*) An act that the person knows or has reason to know is dangerous to human life.

(*iii*) An act that is intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion.

(b) "Dangerous to human life" means that which causes a substantial likelihood of death or serious injury or that is a violation of section 349 or 350.

(c) "Harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", and "harmful radioactive device" mean those terms as defined in section 200h.

(d) "Material support or resources" means currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, including any related physical assets or intangible property, or expert services or expert assistance.

(e) "Person" means an individual, agent, association, charitable organization, corporation, joint apprenticeship committee, joint stock company, labor organization, legal representative, mutual company, partnership, receiver, trust, trustee, trustee in bankruptcy, unincorporated organization, or any other legal or commercial entity.

(f) "Renders criminal assistance" means that the person with the intent to avoid, prevent, hinder, or delay the discovery, apprehension, prosecution, trial, or sentencing of a person who he or she knows or has reason to know has violated this chapter or is wanted as a material witness in connection with an act of terrorism pursuant to section 39 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.39, does any of the following:

(*i*) Harbors or conceals that other person.

(*ii*) Warns that other person of impending discovery or apprehension.

(*iii*) Provides that other person with money, transportation, a weapon, a disguise, or false identification, or any other means of avoiding discovery or apprehension.

(*iv*) Prevents or obstructs, by means of force, intimidation, or deception, anyone from performing an act that might aid in the discovery, apprehension, or prosecution of that other person.

(*v*) Suppresses, by any act of concealment, alteration, or destruction, any physical evidence that might aid in the discovery, apprehension, or prosecution of that other person.

(*vi*) Engages in conduct proscribed under section 120, 120a, or 122 or chapter XXXII.

(g) "Terrorist" means any person who engages or is about to engage in an act of terrorism.

(h) "Violent felony" means a felony in which an element is the use, attempted use, or threatened use of physical force against an individual, or the use, attempted use, or threatened use of a harmful biological substance, a harmful biological device, a harmful chemical substance, a harmful chemical device, a harmful radioactive substance, a harmful radioactive device, an explosive device, or an incendiary device.

750.543f Terrorism; action; felony; penalty.

Sec. 543f. (1) A person is guilty of terrorism when that person knowingly and with premeditation commits an act of terrorism.

(2) Terrorism is a felony punishable by imprisonment for life or any term of years or a fine of not more than $100,000.00, or both. However, if death was caused by the terrorist act, the person shall be punished by imprisonment for life without eligibility for parole.

750.543h Hindering prosecution of terrorism; conduct; felony; penalty.

Sec. 543h. (1) A person is guilty of hindering prosecution of terrorism when he or she knowingly renders criminal assistance to a person who has committed an act of terrorism.

(2) This section does not apply to conduct for which a person may be punished as if he or she had committed the offense committed by another person as allowed under section 39 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.39.

(3) Hindering prosecution of terrorism is a felony punishable by imprisonment for life or any term of years or a fine of not more than $100,000.00, or both.

750.543k Providing material support for terrorist acts or soliciting material support for terrorism as felonies; penalty.

Sec. 543k. (1) Any person who does any of the following is guilty of a crime punishable as provided in subsection (2):

(a) Knowingly raises, solicits, or collects material support or resources intending that the material support or resources will be used, in whole or in part, to plan, prepare, carry out, or avoid apprehension for committing an act of terrorism against the United States or its citizens, this state or its citizens, or a political subdivision or any other instrumentality of this state or of a local unit of government who knows that the material support or resources raised, solicited, or collected will be used by a terrorist or terrorist organization.

(b) Knowingly provides material support or resources to a person knowing that the person will use that support or those resources in whole or in part to plan, prepare, carry out, facilitate, or avoid apprehension for committing an act of terrorism against the United States or its citizens, this state or its citizens, or a political subdivision or any other instrumentality of this state or of a local unit of government.

(2) A person who violates subsection (1)(a) is guilty of soliciting material support for terrorism. A person who violates subsection (1)(b) is guilty of providing material support for terrorist acts. Soliciting material support for terrorism and providing material support for terrorist acts are felonies punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

750.543m Making terrorist threat or false report of terrorism; intent or capability as defense prohibited; violation as felony; penalty.

Sec. 543m. (1) A person is guilty of making a terrorist threat or of making a false report of terrorism if the person does either of the following:

(a) Threatens to commit an act of terrorism and communicates the threat to any other person.

(b) Knowingly makes a false report of an act of terrorism and communicates the false report to any other person, knowing the report is false.

(2) It is not a defense to a prosecution under this section that the defendant did not have the intent or capability of committing the act of terrorism.

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5495 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: House Bill No. 5495, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 131, Eff. Apr. 22, 2002.

[No. 114]

(SB 936)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal

offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 19f of chapter VII (MCL 767.19f).

The People of the State of Michigan enact:

CHAPTER VII

767.19f Grand jury; publication of testimony prohibited; penalty, exceptions.

Sec. 19f. (1) Except as otherwise provided by law, a person shall not publish or make known to any other person any testimony or exhibits obtained or used, or any proceeding conducted, in connection with any grand jury inquiry. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 1 year or by a fine of not more than $1,000.00, or both.

(2) Subsection (1) does not apply to any of the following:

(a) Communications between prosecuting officers for the purpose of presenting evidence before the grand jury, for the purpose of reviewing evidence presented to the grand jury for prospective prosecution, or for any other purpose involving the execution of a public duty.

(b) Communications between law enforcement officers in cases involving violations of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(3) Subsection (1) applies to, but its application is not limited to, applications and petitions for and orders of immunity and to any transcript of testimony that may be delivered to a witness pursuant to his or her grant of immunity, except that the witness may be privileged to disclose such application, petition, order, and transcript to his or her attorney.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

[No. 115]

(SB 939)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding section 543r.

The People of the State of Michigan enact:

750.543r Obtaining or possessing certain information about vulnerable target; intent; felony; penalty; "vulnerable target" defined.

Sec. 543r. (1) A person shall not obtain or possess a blueprint, an architectural or engineering diagram, security plan, or other similar information of a vulnerable target, with the intent to commit an offense prohibited under this chapter.

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(3) As used in this section, "vulnerable target" means that term as defined in section 212a.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State March 29, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

[No. 116]

(SB 940)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 212a (MCL 750.212a), as added by 1998 PA 207.

The People of the State of Michigan enact:

750.212a Violation as felony; term of imprisonment; definitions.

Sec. 212a. (1) If a person violates this chapter, the violation is committed in or is directed at a vulnerable target, and the violation results in the death of another individual or results in serious impairment of a body function of another individual, the person is guilty of a felony punishable by imprisonment for not more than 20 years. A term of imprisonment imposed under this section shall be served concurrently to the term of imprisonment for the underlying violation.

(2) As used in this section:

(a) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(b) "Vulnerable target" means any of the following:

(*i*) A child care center or day care center as defined in section 1 of 1973 PA 116, MCL 722.111.

(*ii*) A health care facility or agency as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(*iii*) A building or structure open to the general public.

(*iv*) A church, synagogue, mosque, or other place of religious worship.

(*v*) A public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade 1 through 12.

(*vi*) An institution of higher education.

(*vii*) A stadium.

(*viii*) A transportation structure or facility open to the public, including, but not limited to, a bridge, a tunnel, a public highway, or a railroad.

(*ix*) A vehicle, locomotive or railroad car, aircraft, or watercraft used to provide transportation services to the public or to provide for the movement of goods in commerce.

(*x*) An airport. As used in this subparagraph, "airport" means that term as defined in section 9 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.9.

(*xi*) Port facilities. As used in this subparagraph, "port facilities" means that term as defined in section 2 of the Hertel-Law-T. Stopczynski port authority act, 1978 PA 639, MCL 120.102.

(*xii*) A public services provider. As used in this subparagraph, "public services provider" means any of the following:

(A) A natural gas company subject to the jurisdiction of the federal energy regulatory commission.

(B) An electric, steam, gas, telephone, power, water, or pipeline company, nuclear reactor, or nuclear waste storage facility.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5511 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: House Bill No. 5511, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 140, Eff. Apr. 22, 2002.

[No. 117]

(SB 942)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding section 543p.

The People of the State of Michigan enact:

750.543p Internet or telecommunications or electronic device; prohibited use; violation as felony; penalty; definitions.

Sec. 543p. (1) A person shall not use the internet or a telecommunications device or system or other electronic device or system so as to disrupt the functions of the public safety, educational, commercial, or governmental operations within this state with the intent to commit a willful and deliberate act that is all of the following:

(a) An act that would be a felony under the laws of this state, whether or not committed in this state.

(b) An act that the person knows or has reason to know is dangerous to human life as that term is defined in section 543b of the Michigan penal code, 1931 PA 328, MCL 750.543b.

(c) An act that is intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion.

(2) A person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(3) As used in this section:

(a) "Computer network", "computer system", and "internet" mean those terms as defined in section 145d.

(b) "Electronic device" means any instrument, equipment, or device having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(c) "Electronic system" includes, but is not limited to, a computer system or computer network, digital broadcast system, or satellite network.

(d) "Telecommunications device" means that term as defined in section 540c.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

[No. 118]

(SB 943)

AN ACT to amend 1963 PA 181, entitled "An act to promote safety upon the public highways by regulating the operation of certain vehicles; to provide consistent regulation of these areas by state agencies and local units of government; to establish the qualifications of persons necessary for the safe operation of such vehicles; to limit the hours of service of persons engaged in operating such vehicles; to require the keeping of records of such operations; to provide penalties for the violation of this act; to prescribe the powers and duties of certain state agencies; and to repeal certain acts and parts of acts," by amending section 7c (MCL 480.17c), as amended by 2000 PA 298.

The People of the State of Michigan enact:

480.17c Owner or use of certain vehicles; transporting package or hazardous material required to be marked, labeled, or endorsed; violation; penalty; owner or user of hazardous materials vehicle inspection or repair facility; violation as misdemeanor.

Sec. 7c. (1) A driver or operator or an owner or user of a bus, truck, truck tractor, or trailer, or certain other motor vehicles, or an officer or agent of an individual, partnership, corporation, or association, or their lessees or receiver appointed by a court that is the owner or user of a vehicle, who requires or permits the driver or operator to operate or drive a bus, truck, truck tractor, or trailer, or certain other motor vehicles, that violates this act or a rule promulgated under this act if the vehicle is transporting a package required to be marked or labeled under 49 C.F.R. parts 100 to 180, upon conviction, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $500.00, or both, for each violation.

(2) A person or entity identified in subsection (1) shall not transport, or require, permit, or allow to be transported, hazardous material for which a placard is required under 49 C.F.R. parts 100 to 199, in a vehicle identified in subsection (1) if the person that is transporting the hazardous material does not have a hazardous material endorsement on his or her operator's or chauffeur's license. A person or entity that violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $500.00, or both, for each violation.

(3) An officer, employee, owner, or agent of an individual, partnership, corporation, or association, or their lessees or receiver appointed by a court that is the owner or user of any hazardous materials vehicle inspection or repair facility that violates a section of this

act, or a rule promulgated under this act, related to the transportation of hazardous materials, is guilty of a misdemeanor punishable as prescribed in this section.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 119]

(SB 948)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 24 of chapter VII (MCL 767.24), as amended by 2001 PA 6.

The People of the State of Michigan enact:

CHAPTER VII

767.24 Indictments; finding and filing; limitations.

Sec. 24. (1) An indictment for murder, or criminal sexual conduct in the first degree, or a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, or a violation of chapter XXXIII of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a, that is punishable by life imprisonment may be found and filed at any time.

(2) An indictment for a violation or attempted violation of section 145c, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c, 750.520c, 750.520d, 750.520e, and 750.520g, may be found and filed as follows:

(a) Except as otherwise provided in subdivision (b), an indictment may be found and filed within 10 years after the offense is committed or by the alleged victim's twenty-first birthday, whichever is later.

(b) If evidence of the violation is obtained and that evidence contains DNA that is determined to be from an unidentified individual, an indictment against that individual for the violation may be found and filed at any time after the offense is committed. However, after the individual is identified, the indictment shall be found and filed within 10 years after the individual is identified or by the alleged victim's twenty-first birthday, whichever is later.

(c) As used in this subsection:

(*i*) "DNA" means human deoxyribonucleic acid.

(*ii*) "Identified" means the individual's legal name is known and he or she has been determined to be the source of the DNA.

(3) An indictment for kidnapping, extortion, assault with intent to commit murder, attempted murder, manslaughter, conspiracy to commit murder, or first-degree home invasion shall be found and filed within 10 years after the offense is committed.

(4) All other indictments shall be found and filed within 6 years after the offense is committed.

(5) Any period during which the party charged did not usually and publicly reside within this state is not part of the time within which the respective indictments shall be found and filed.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

[No. 120]

(SB 949)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations;

to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 1f of chapter IX (MCL 769.1f), as amended by 2001 PA 208.

The People of the State of Michigan enact:

CHAPTER IX

769.1f Expenses for which court may order person convicted to reimburse state or local unit of government; payment; reimbursement as condition of probation or parole; enforcement of order; expenses for emergency response; definitions.

Sec. 1f. (1) As part of the sentence for a conviction of any of the following offenses, in addition to any other penalty authorized by law, the court may order the person convicted to reimburse the state or a local unit of government for expenses incurred in relation to that incident including but not limited to expenses for an emergency response and expenses for prosecuting the person, as provided in this section:

(a) A violation or attempted violation of section 625(1), (3), (4), (5), (6), or (7) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m, or of a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625 and 257.625m.

(b) Felonious driving, negligent homicide, manslaughter, or murder, or attempted felonious driving, negligent homicide, manslaughter, or murder, resulting from the operation of a motor vehicle, snowmobile, ORV, aircraft, vessel, or locomotive engine while the person was impaired by or under the influence of intoxicating liquor or a controlled substance, as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, or a combination of intoxicating liquor and a controlled substance, or had an unlawful blood alcohol content.

(c) A violation or attempted violation of section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127.

(d) A violation or attempted violation of section 81134 or 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.81135.

(e) A violation or attempted violation of section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185.

(f) A violation or attempted violation of section 80176(1), (3), (4), or (5) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, or a local ordinance substantially corresponding to section 80176(1) or (3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176.

(g) A violation or attempted violation of section 353 or 355 of the railroad code of 1993, 1993 PA 354, MCL 462.353 and 462.355.

(h) A violation or attempted violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a.

(i) A finding of guilt for criminal contempt for a violation of a personal protection order issued under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i.

(2) The expenses for which reimbursement may be ordered under this section include all of the following:

(a) The salaries or wages, including overtime pay, of law enforcement personnel for time spent responding to the incident from which the conviction arose, arresting the person convicted, processing the person after the arrest, preparing reports on the incident, investigating the incident, and collecting and analyzing evidence, including, but not limited to, determining bodily alcohol content and determining the presence of and identifying controlled substances in the blood, breath, or urine.

(b) The salaries, wages, or other compensation, including overtime pay, of fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, for time spent in responding to and providing fire fighting, rescue, and emergency medical services in relation to the incident from which the conviction arose.

(c) The cost of medical supplies lost or expended by fire department and emergency medical service personnel, including volunteer fire fighters or volunteer emergency medical service personnel, in providing services in relation to the incident from which the conviction arose.

(d) The salaries, wages, or other compensation, including, but not limited to, overtime pay of prosecution personnel for time spent investigating and prosecuting the crime or crimes resulting in conviction.

(e) The cost of extraditing a person from another state to this state including, but not limited to, all of the following:

(*i*) Transportation costs.

(*ii*) The salaries or wages of law enforcement and prosecution personnel, including overtime pay, for processing the extradition and returning the person to this state.

(3) If police, fire department, or emergency medical service personnel from more than 1 unit of government incurred expenses as described in subsection (2), the court may order the person convicted to reimburse each unit of government for the expenses it incurred.

(4) The amount ordered to be paid under this section shall be paid to the clerk of the court, who shall transmit the appropriate amount to the unit or units of government named in the order to receive reimbursement. If not otherwise provided by the court

under this subsection, the reimbursement ordered under this section shall be made immediately. However, the court may require that the person make the reimbursement ordered under this section within a specified period or in specified installments.

(5) If the person convicted is placed on probation or paroled, any reimbursement ordered under this section shall be a condition of that probation or parole. The court may revoke probation and the parole board may revoke parole if the person fails to comply with the order and if the person has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the person's employment status, earning ability, number of dependents, and financial resources, the willfulness of the person's failure to pay, and any other special circumstances that may have a bearing on the person's ability to pay.

(6) An order for reimbursement under this section may be enforced by the prosecuting attorney or the state or local unit of government named in the order to receive the reimbursement in the same manner as a judgment in a civil action.

(7) Notwithstanding any other provision of this section, a person shall not be imprisoned, jailed, or incarcerated for a violation of parole or probation, or otherwise, for failure to make a reimbursement as ordered under this section unless the court determines that the person has the resources to pay the ordered reimbursement and has not made a good faith effort to do so.

(8) A local unit of government may elect to be reimbursed for expenses under this section or a local ordinance, or a combination of this section and a local ordinance. This subsection does not allow a local unit of government to be fully reimbursed more than once for any expense incurred by that local unit of government.

(9) As part of the sentence for a conviction of any violation or attempted violation of chapter XXXIII, section 327, 327a, 328, or 436, or chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a, 750.327, 750.327a, 750.328, and 750.436, and 750.543a to 750.543z, in addition to any other penalty authorized by law, the court shall order the person convicted to reimburse any government entity for expenses incurred in relation to that incident including, but not limited to, expenses for an emergency response and expenses for prosecuting the person, as provided in subsections (2) to (8). As used in this subsection, "government entity" means this state, a local unit of government, or the United States government.

(10) As used in this section:

(a) "Aircraft" means that term as defined in section 4 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.4.

(b) "Local unit of government" means any of the following:

(*i*) A city, village, township, or county.

(*ii*) A local or intermediate school district.

(*iii*) A public school academy.

(*iv*) A community college.

(c) "Motor vehicle" means that term as defined in section 33 of the Michigan vehicle code, 1949 PA 300, MCL 257.33.

(d) "ORV" means that term as defined in section 81101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101.

(e) "Snowmobile" means that term as defined in section 82101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101.

(f) "State" includes a state institution of higher education.

(g) "Vessel" means that term as defined in section 80104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80104.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

[No. 121]

(SB 994)

AN ACT to amend 1955 PA 133, entitled "An act to provide for the granting of military leaves and providing reemployment protection for officers and enlisted men of the military or naval forces of the state or of the United States," by amending section 3 (MCL 32.273).

The People of the State of Michigan enact:

32.273 Members of military or naval forces; leave of absence from employment for military purposes; reemployment; priority; seniority, rights, and benefits; exception; definitions.

Sec. 3. (1) An employee who requests a leave from his or her employment shall not be denied a leave of absence by his or her employer for the purpose of being inducted into or entering into active service, active state service, or the service of the United States, for the purpose of determining his or her physical fitness to enter the service, or for performing training duty as an officer or enlisted member of the military or naval forces of this state or of the United States. Following release from service, training duty, or rejection, the employee shall, if he or she makes application to his or her employer for reemployment within 15 days following service, release, or rejection, be reemployed in a position of employment in the following order of priority:

(a) Following service of 1 to 90 days, in the position of employment in which the person would have been employed if the continuous employment of the person with the employer had not been interrupted by service, the duties of which the person is qualified to perform.

(b) Following service of 1 to 90 days, in the position of employment in which the person was employed on the date of the commencement of service, only if the person is not qualified to perform the duties of the position referred to in subdivision (a) and after reasonable efforts by the employer to qualify the person have been made.

(c) Following service of 91 or more days, a position described under subdivision (a) or (b) or in any other position of lesser status or pay that the person is qualified to perform, only

if the person is not qualified and cannot become qualified with reasonable efforts by the employer to be employed as described in subdivision (b).

(2) A person who is reemployed under this section is entitled to the seniority and other rights and benefits that are determined by seniority that the person had on the date of the commencement of service plus the additional seniority and rights and benefits that the person would have attained if the person had been continually employed.

(3) In addition to the seniority, rights, and benefits under subsection (2), a person who is reemployed under this section is entitled to rights and benefits, not determined by seniority, that are generally provided by the employer to employees who have similar seniority, status, and pay who are on furlough or leave of absence under a contract, agreement, policy, practice, or plan in effect at the commencement of service or established while the person performs service.

(4) The employee is not entitled to reemployment under this section if the employee who is absent by reason of active service, active state service, or the service of the United States has a cumulative period of service in the uniformed services, with respect to the employer relationship for which a person seeks reemployment, that exceeds 5 years, except that any period of service shall not include any of the following:

(a) Any service that is required, beyond 5 years, to complete an initial period of obligated service.

(b) Any service during which the person was unable to obtain orders releasing him or her from a period of service in the uniformed services before the expiration of the 5-year period and the inability was through no fault of the person.

(c) Any service performed as required pursuant to 10 U.S.C. 10147, under 32 U.S.C. 502(a) or 503, or to fulfill additional training requirements determined and certified in writing by the appropriate service secretary to be necessary for professional development or for completion of skill training or retraining.

(d) Any service performed by a member in active service, active state service, or the service of the United States if any of the following occur:

(*i*) The member is ordered to or retained on active duty, active service, or active state service under 10 U.S.C. 688, 12301(a), 12301(g), 12302, 12304, or 12305, or under 14 U.S.C. 331, 332, 359, 360, 367, or 712.

(*ii*) The member is ordered to or retained on active duty, active service, or active state service, other than for training, under any provision of law because of a war or national emergency declared by the president, the congress, or the governor.

(*iii*) The member is ordered to active duty, other than for training, in support, as determined by the appropriate service secretary, of an operational mission for which personnel have been ordered to active duty under 10 U.S.C. 12304.

(*iv*) The member is ordered to active duty in support, as determined by the appropriate service secretary, of a critical mission or requirement of the uniformed services.

(*v*) The member is called into federal service as a member of the national guard under 10 U.S.C. 331 to 335 or under 10 U.S.C. 12406.

(5) An employee is not entitled to the benefits under this section if the service of the employee in any of the uniformed services is terminated under any of the following circumstances:

(a) A separation of the person from the uniformed service or national guard with a dishonorable or bad conduct discharge.

(b) A separation of the person from the uniformed service or national guard under other than honorable conditions, as characterized pursuant to regulations prescribed by the appropriate service secretary.

(c) A dismissal of the person under 10 U.S.C. 1161(a).

(d) A dropping from the rolls pursuant to 10 U.S.C. 1161(b).

(6) As used in this section:

(a) "Active service" means service, including active state service or special duty required by law, regulation, or pursuant to order of the governor. Active service includes continuing service of an active member of the national guard and the defense force in fulfilling that active member's commission, appointment, or enlistment.

(b) "Active state service", as applied to the national guard and the defense force, means military service in support of civil authorities, at the request of local authorities, including, but not limited to, support in the enforcement of laws prohibiting the importation, sale, delivery, possession, or use of a controlled substance, if ordered by the governor or as otherwise provided in this act. As used in this subdivision, "controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(c) "Service" means active service, active state service, or in the service of the United States.

(d) "Service secretary" means the secretary of the army, secretary of the navy, or secretary of the air force as defined in 10 U.S.C. 101(9).

(e) "Uniformed service" means the armed forces, the reserve component, the national guard in active service or active state service, the commissioned corps of the public health service, and any other category of persons designated by the president or governor in time of war or national emergency.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 122]

(SB 995)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in

criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16z of chapter XVII (MCL 777.16z), as amended by 2000 PA 279.

The People of the State of Michigan enact:

CHAPTER XVII

777.16z §§ 750.535 to 750.552b; felonies to which chapter applicable.

Sec. 16z. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.535(2)	Property	D	Receiving or concealing stolen property having a value of $20,000 or more or with prior convictions	10
750.535(3)	Property	E	Receiving or concealing stolen property having a value of $1,000 to $20,000 or with prior convictions	5
750.535a(2)	Pub ord	D	Operating a chop shop	10
750.535a(3)	Pub ord	D	Operating a chop shop, subsequent violation	10
750.535b	Pub saf	E	Stolen firearms or ammunition	10
750.539c	Pub ord	H	Eavesdropping	2
750.539d	Pub ord	H	Installing eavesdropping device	2
750.539e	Pub ord	H	Divulging or using information obtained by eavesdropping	2
750.539f	Pub ord	H	Manufacture or possession of eavesdropping device	2
750.540	Pub ord	H	Tapping or cutting telephone lines	2
750.540c(3)	Property	F	Manufacturing or delivering a counterfeit communications device	4
750.540f(2)	Property	E	Knowingly publishing a communications access device with prior convictions	5
750.540g(1)(c)	Property	E	Diverting telecommunication services having a value of $1,000 to $20,000 or with prior convictions	5
750.540g(1)(d)	Property	D	Diverting telecommunications services having a value of $20,000 or more or with prior convictions	10
750.543f	Person	A	Terrorism without causing death	Life

750.543h	Pub ord	A	Hindering prosecution of terrorism	Life
750.543k	Pub saf	B	Soliciting material support for terrorism or terrorist acts	20
750.543m	Pub ord	B	Threat or false report of terrorism	20
750.543p	Pub saf	B	Use of internet or telecommunications to commit terrorism	20
750.543r	Pub saf	B	Surveillance of vulnerable target with intent to commit terrorism	20
750.545	Pub ord	E	Misprision of treason	5
750.552b	Property	F	Trespassing on correctional facility property	4

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 930.

(b) Senate Bill No. 939.

(c) Senate Bill No. 942.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 930 was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.
Senate Bill No. 939 was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 115, Eff. Apr. 22, 2002.
Senate Bill No. 942 was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 117, Eff. Apr. 22, 2002.

[No. 123]

(SB 996)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and

compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16v of chapter XVII (MCL 777.16v), as amended by 2000 PA 279.

The People of the State of Michigan enact:

CHAPTER XVII

777.16v §§ 750.422 to 750.443; felonies to which chapter applicable.

Sec. 16v. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.422	Pub trst	C	Perjury committed in court — noncapital crime	15
	Pub trst	B	Perjury committed in court — capital crime	Life
750.423	Pub trst	E	Perjury by falsely swearing	15
750.424	Pub trst	C	Subornation of perjury	15
750.425	Pub trst	E	Inciting or procuring perjury but perjury not committed	5
750.430a	Person	D	Human cloning	10
750.436(2)(a)	Pub saf	C	Poisoning food, drink, medicine, or water supply	15
750.436(2)(b)	Property	B	Poisoning food, drink, medicine, or water supply causing property damage	20
750.436(2)(c)	Person	A	Poisoning food, drink, medicine, or water supply causing injury	25
750.436(2)(d)	Person	A	Poisoning food, drink, medicine, or water supply causing serious impairment	Life
750.436(3)(a)	Pub ord	F	False report of poisoning food, drink, medicine, or water supply	4
750.436(3)(b)	Pub ord	D	False report of poisoning food, drink, medicine, or water supply with prior conviction	10
750.439	Pub ord	G	Polygamy	4
750.440	Pub ord	G	Polygamy — knowingly entering a prohibited marriage	4
750.441	Pub ord	G	Teaching or advocating polygamy	4
750.442	Pub ord	G	Participating in prizefights	4
750.443	Pub ord	G	Prizefights — training	4

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5507 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: House Bill No. 5507, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 135, Eff. Apr. 22, 2002.

[No. 124]

(SB 997)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 159g (MCL 750.159g), as amended by 1997 PA 75.

The People of the State of Michigan enact:

750.159g "Racketeering" defined.

Sec. 159g. As used in this chapter, "racketeering" means committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain, involving any of the following:

(a) A felony violation of section 8 of the tobacco products tax act, 1993 PA 327, MCL 205.428, concerning tobacco product taxes, or section 9 of former 1947 PA 265, concerning cigarette taxes.

(b) A violation of section 11151(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11151, or section 48(3) of former 1979 PA 64, concerning felonious disposal of hazardous waste.

(c) A felony violation of part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, concerning controlled substances or androgenic anabolic steroids.

(d) A felony violation of section 60 of the social welfare act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

(e) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607, concerning medicaid fraud.

(f) A felony violation of section 18 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.218, concerning the business of gaming.

(g) A violation of section 409 of the uniform securities act, 1964 PA 265, MCL 451.809, concerning securities fraud.

(h) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677, concerning the display or dissemination of obscene matter to minors.

(i) A felony violation of section 72, 73, 74, 75, or 77, concerning arson.

(j) A violation of section 93, 94, 95, or 96, concerning bank bonds, bills, notes, and property.

(k) A violation of section 110 or 110a, concerning breaking and entering or home invasion.

(*l*) A violation of section 117, 118, 119, 120, 121, or 124, concerning bribery.

(m) A violation of section 120a, concerning jury tampering.

(n) A violation of section 145c, concerning child sexually abusive activity or material.

(o) A felony violation of section 157n, 157p, 157q, 157r, 157s, 157t, or 157u, concerning credit cards or financial transaction devices.

(p) A felony violation of section 174, 175, 176, 180, 181, or 182, concerning embezzlement.

(q) A felony violation of chapter XXXIII, concerning explosives and bombs.

(r) A violation of section 213, concerning extortion.

(s) A felony violation of section 218, concerning false pretenses.

(t) A felony violation of section 223(2), 224(1)(a), (b), or (c), 224b, 224c, 224e(1), 226, 227, 234a, 234b, or 237a, concerning firearms or dangerous weapons.

(u) A felony violation of chapter XLI, concerning forgery and counterfeiting.

(v) A violation of section 271, 272, 273, or 274, concerning securities fraud.

(w) A violation of section 300a, concerning food stamps or coupons or access devices.

(x) A violation of section 301, 302, 303, 304, 305, 305a, or 313, concerning gambling.

(y) A violation of section 316 or 317, concerning murder.

(z) A violation of section 330, 331, or 332, concerning horse racing.

(aa) A violation of section 349, 349a, or 350, concerning kidnapping.

(bb) A felony violation of chapter LII, concerning larceny.

(cc) A violation of section 411k, concerning money laundering.

(dd) A violation of section 422, 423, 424, or 425, concerning perjury or subornation of perjury.

(ee) A violation of section 452, 455, 457, 458, or 459, concerning prostitution.

(ff) A violation of section 529, 529a, 530, or 531, concerning robbery.

(gg) A felony violation of section 535, 535a, or 536a, concerning stolen, embezzled, or converted property.

(hh) A violation of chapter LXXXIII-A, concerning terrorism.

(ii) A violation of section 5 of 1984 PA 343, MCL 752.365, concerning obscenity.

(jj) An offense committed within this state or another state that constitutes racketeering activity as defined in section 1961(1) of title 18 of the United States Code, 18 U.S.C. 1961.

(kk) An offense committed within this state or another state in violation of a law of the United States that is substantially similar to a violation listed in subdivisions (a) through (ii).

(*ll*) An offense committed in another state in violation of a statute of that state that is substantially similar to a violation listed in subdivisions (a) through (ii).

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

[No. 125]

(SB 1005)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 21513 (MCL 333.21513), as amended by 1993 PA 79.

The People of the State of Michigan enact:

333.21513 Owner, operator, and governing body of hospital; responsibilities and duties generally.

Sec. 21513. The owner, operator, and governing body of a hospital licensed under this article:

(a) Are responsible for all phases of the operation of the hospital, selection of the medical staff, and quality of care rendered in the hospital.

(b) Shall cooperate with the department in the enforcement of this part, and require that the physicians, dentists, and other personnel working in the hospital who are required to be licensed or registered are in fact currently licensed or registered.

(c) Shall assure that physicians and dentists admitted to practice in the hospital are granted hospital privileges consistent with their individual training, experience, and other qualifications.

(d) Shall assure that physicians and dentists admitted to practice in the hospital are organized into a medical staff to enable an effective review of the professional practices in the hospital for the purpose of reducing morbidity and mortality and improving the care provided in the hospital for patients. The review shall include the quality and necessity of the care provided and the preventability of complications and deaths occurring in the hospital.

(e) Shall not discriminate because of race, religion, color, national origin, age, or sex in the operation of the hospital including employment, patient admission and care, room assignment, and professional or nonprofessional selection and training programs, and shall not discriminate in the selection and appointment of individuals to the physician staff of the hospital or its training programs on the basis of licensure or registration or professional education as doctors of medicine, osteopathic medicine and surgery, or podiatry.

(f) Shall assure that the hospital adheres to medical control authority protocols according to section 20918.

(g) Shall assure that the hospital develops and maintains a plan for biohazard detection and handling.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 126]

(HB 4037)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 310 (MCL 257.310), as amended by 2001 PA 216.

The People of the State of Michigan enact:

257.310 Operator's or chauffeur's license; issuance; motorcycle indorsement or vehicle group designation or indorsement application; contents of license; digitized license; unlawful acts; penalties; temporary driver's permit; medical data or anatomical gift; designation of patient advocate or emancipated status.

Sec. 310. (1) The secretary of state shall issue an operator's license to each person licensed as an operator and a chauffeur's license to each person licensed as a chauffeur.

An applicant for a motorcycle indorsement under section 312a or a vehicle group designation or indorsement shall first qualify for an operator's or chauffeur's license before the indorsement or vehicle group designation application is accepted and processed.

(2) The license issued under subsection (1) shall contain all of the following information:

(a) The distinguishing number permanently assigned to the licensee.

(b) The full name, date of birth, address of residence, height, eye color, sex, an image, and the signature of the licensee.

(c) An indication that the license contains 1 or more of the following:

(*i*) The blood type of the licensee.

(*ii*) Immunization data of the licensee.

(*iii*) Medication data of the licensee.

(*iv*) A statement that the licensee is deaf.

(*v*) A statement that the licensee is an organ and tissue donor pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(*vi*) Emergency contact information of the licensee.

(*vii*) A sticker or decal as specified by the secretary of state to indicate that the licensee has designated 1 or more patient advocates in accordance with section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506, or a statement that the licensee carries an emergency medical information card.

(d) If the licensee has made a statement described in subdivision (c)(*v*), the signature of the licensee following the indication of his or her organ and tissue donor intent identified in subdivision (c)(*v*), along with the signature of at least 1 witness.

(e) The sticker or decal described in subdivision (c)(*vii*) may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the emergency medical information card, but shall meet the specifications of the secretary of state. The emergency medical information card may contain the information described in subdivision (c)(*vi*), information concerning the licensee's patient advocate designation, other emergency medical information, or an indication as to where the licensee has stored or registered emergency medical information.

(3) Except as otherwise required in this chapter, other information required on the license pursuant to this chapter may appear on the license in a form prescribed by the secretary of state.

(4) The license shall not contain a fingerprint or finger image of the licensee.

(5) A digitized license may contain an identifier for voter registration purposes. The digitized license may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's driver license number, birth date, license expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the person's name, address, driving record, or other personal identifier. The license shall identify the encoded information.

(6) The license shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the license without ready detection. In addition, a license with a vehicle group designation shall contain the information required pursuant to 49 C.F.R. part 383.

(7) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates a license photograph, the negative of the photograph, an image, a license, or the electronic

data contained on a license or a part of a license or who uses a license, an image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:

(a) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than $10,000.00, or both.

(c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(8) A person who sells, or who possesses with the intent to deliver to another, a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both.

(9) A person who is in possession of 2 or more reproduced, altered, counterfeited, forged, or duplicated license photographs, negatives of the photograph, images, licenses, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both.

(10) A person who is in possession of a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(11) Subsections (7)(a) and (b), (8), and (9) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(12) The secretary of state, upon determining after an examination that an applicant is mentally and physically qualified to receive a license, may issue to that person a temporary driver's permit entitling the person while having the permit in his or her immediate possession to drive a motor vehicle upon the highway for a period not exceeding 60 days before issuance to the person of an operator's or chauffeur's license by the secretary of state.

(13) An operator or chauffeur may indicate on the license in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the licensee is deaf, or a statement that the licensee is an organ and tissue donor and has made an anatomical gift pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(14) An operator or chauffeur may indicate on the license in a place designated by the secretary of state that he or she has designated a patient advocate in accordance with sections 5506 to 5513 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5513.

(15) If the applicant provides proof to the secretary of state that he or she is a minor who has been emancipated pursuant to 1968 PA 293, MCL 722.1 to 722.6, the license shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 127]

(HB 5041)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 12d of chapter XVII (MCL 777.12d), as added by 2002 PA 34.

The People of the State of Michigan enact:

CHAPTER XVII

777.12d Chapter 257; felonies.

Sec. 12d. This chapter applies to the following felonies enumerated in chapters III, IV, and V of the Michigan vehicle code, 1949 PA 300, within chapter 257 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
257.309(6)	Pub ord	F	Corrupting an examining officer	5
257.309(7)	Pub ord	F	Deviating from road test criteria	5

257.309(8)	Pub ord	F	Forging, counterfeiting, or altering road test certification	5
257.310(7)(a)	Pub ord	D	Forging driver license with intent to commit crime punishable by 10 years or more	10
257.310(7)(b)	Pub ord	E	Forging driver license with intent to commit crime punishable by 6 months or more but less than 10 years	5
257.310(8)	Pub ord	E	Selling or possessing forged driver license with intent to deliver	5
257.310(9)	Pub ord	E	Possession of 2 or more forged driver licenses	5
257.312b(6)	Pub ord	F	Corrupting a person or agency conducting a motorcycle driving test	5
257.312b(7)	Pub ord	F	Deviating from motorcycle road test criteria	5
257.312b(8)	Pub ord	F	Forging, counterfeiting, or altering motorcycle road test certification	5
257.329(1)	Property	G	Possession/sale of stolen or counterfeit insurance certificates	5
257.329(2)	Property	E	Possession/sale of stolen or counterfeit insurance certificates — second offense	7
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Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4037 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: House Bill No. 4037, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 126, Eff. Apr. 22, 2002.

[No. 128]

(HB 5270)

AN ACT to amend 1966 PA 189, entitled "An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts," by amending section 1 (MCL 780.651), as amended by 1990 PA 43.

The People of the State of Michigan enact:

780.651 Issuance of search warrant; requirements; making affidavit for search warrant or search warrant by electronic or electromagnetic means; proof; paper quality and durability standards; oath or affirmation administered by electronic or electromagnetic means; impression seal; nonpublic information.

Sec. 1. (1) When an affidavit is made on oath to a magistrate authorized to issue warrants in criminal cases, and the affidavit establishes grounds for issuing a warrant pursuant to this act, the magistrate, if he or she is satisfied that there is probable cause for the search, shall issue a warrant to search the house, building, or other location or place where the property or thing to be searched for and seized is situated.

(2) An affidavit for a search warrant may be made by any electronic or electromagnetic means of communication if both of the following occur:

(a) The judge or district court magistrate orally administers the oath or affirmation to an applicant for a search warrant who submits an affidavit under this subsection.

(b) The affiant signs the affidavit. Proof that the affiant has signed the affidavit may consist of an electronically or electromagnetically transmitted facsimile of the signed affidavit.

(3) A judge may issue a written search warrant in person or by any electronic or electromagnetic means of communication. If a court order required pursuant to section 625a of the Michigan vehicle code, 1949 PA 300, MCL 257.625a, is issued as a search warrant, the written search warrant may be issued in person or by any electronic or electromagnetic means of communication by a judge or by a district court magistrate.

(4) The peace officer or department receiving an electronically or electromagnetically issued search warrant shall receive proof that the issuing judge or district court magistrate has signed the warrant before the warrant is executed. Proof that the issuing judge or district court magistrate has signed the warrant may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant.

(5) The state court administrator shall establish paper quality and durability standards for warrants issued under this section.

(6) If an oath or affirmation is orally administered by electronic or electromagnetic means of communication under this section, the oath or affirmation is considered to be administered before the judge or district court magistrate.

(7) If an affidavit for a search warrant is submitted by electronic or electromagnetic means of communication, or a search warrant is issued by electronic or electromagnetic means of communication, the transmitted copies of the affidavit or search warrant are duplicate originals of the affidavit or search warrant and are not required to contain an impression made by an impression seal.

(8) A search warrant, affidavit, or tabulation contained in any court file or record retention system is nonpublic information.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 129]

(HB 5295)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 760.1 to 777.69) by adding section 2 to chapter II.

The People of the State of Michigan enact:

CHAPTER II

762.2 In-state prosecution for criminal offense; circumstances.

Sec. 2. (1) A person may be prosecuted for a criminal offense he or she commits while he or she is physically located within this state or outside of this state if any of the following circumstances exist:

(a) He or she commits a criminal offense wholly or partly within this state.

(b) His or her conduct constitutes an attempt to commit a criminal offense within this state.

(c) His or her conduct constitutes a conspiracy to commit a criminal offense within this state and an act in furtherance of the conspiracy is committed within this state by the offender, or at his or her instigation, or by another member of the conspiracy.

(d) A victim of the offense or an employee or agent of a governmental unit posing as a victim resides in this state or is located in this state at the time the criminal offense is committed.

(e) The criminal offense produces substantial and detrimental effects within this state.

(2) A criminal offense is considered under subsection (1) to be committed partly within this state if any of the following apply:

(a) An act constituting an element of the criminal offense is committed within this state.

(b) The result or consequences of an act constituting an element of the criminal offense occur within this state.

(c) The criminal offense produces consequences that have a materially harmful impact upon the system of government or the community welfare of this state, or results in persons within this state being defrauded or otherwise harmed.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 130]

(HB 5349)

AN ACT to amend 1976 PA 442, entitled "An act to provide for public access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to provide remedies and penalties; and to repeal certain acts and parts of acts," by amending section 13 (MCL 15.243), as amended by 2001 PA 74.

The People the State of Michigan enact:

15.243 Exemptions from disclosure; withholding of information required by law or in possession of executive office.

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act any of the following:

(a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

(b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

(*i*) Interfere with law enforcement proceedings.

(*ii*) Deprive a person of the right to a fair trial or impartial administrative adjudication.

(*iii*) Constitute an unwarranted invasion of personal privacy.

(*iv*) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(*v*) Disclose law enforcement investigative techniques or procedures.

(*vi*) Endanger the life or physical safety of law enforcement personnel.

(c) A public record that if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(d) Records or information specifically described and exempted from disclosure by statute.

(e) A public record or information described in this section that is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.

(f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:

(*i*) The information is submitted upon a promise of confidentiality by the public body.

(*ii*) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.

(*iii*) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

(g) Information or records subject to the attorney-client privilege.

(h) Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

(i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.

(j) Appraisals of real property to be acquired by the public body until (*i*) an agreement is entered into; or (*ii*) 3 years have elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.

(k) Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(*l*) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation.

(m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption does not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under 1947 PA 336, MCL 423.201 to 423.217.

(n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.

(o) Information that would reveal the exact location of archaeological sites. The department of history, arts, and libraries may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites.

(p) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision does not apply after 1 year has elapsed from the time the public body completes the testing.

(q) Academic transcripts of an institution of higher education established under section 5, 6, or 7 of article VIII of the state constitution of 1963, if the transcript pertains to a student who is delinquent in the payment of financial obligations to the institution.

(r) Records of a campaign committee including a committee that receives money from a state campaign fund.

(s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:

(*i*) Identify or provide a means of identifying an informant.

(*ii*) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

(*iii*) Disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have.

(*iv*) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents.

(*v*) Disclose operational instructions for law enforcement officers or agents.

(*vi*) Reveal the contents of staff manuals provided for law enforcement officers or agents.

(*vii*) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.

(*viii*) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.

(*ix*) Disclose personnel records of law enforcement agencies.

(*x*) Identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.

(t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department of consumer and industry services under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:

(*i*) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.

(*ii*) The fact that an allegation was received by the department of consumer and industry services; the fact that the department of consumer and industry services did not issue a complaint for the allegation; and the fact that the allegation was dismissed.

(u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.

(v) Records or information relating to a civil action in which the requesting party and the public body are parties.

(w) Information or records that would disclose the social security number of any individual.

(x) Except as otherwise provided in this subdivision, an application for the position of president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.

(y) Records or information of measures designed to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543 to 750.543z, emergency response plans, risk planning documents, threat assessments, and domestic preparedness strategies, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

(2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with section 444 of subpart 4 of part C of the general education provisions act, title IV of Public Law 90-247, 20 U.S.C. 1232g, commonly referred to as the family educational rights and privacy act of 1974.

(3) This act does not authorize the withholding of information otherwise required by law to be made available to the public or to a party in a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Except as otherwise exempt under subsection (1), this act does not authorize the withholding of a public record in the possession of the executive office of the governor or lieutenant governor, or an employee of either executive office, if the public record is transferred to the executive office of the governor or lieutenant governor, or an employee of either executive office, after a request for the public record has been received by a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of government that is subject to this act.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 131]

(HB 5495)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding chapter LXXXIII-A.

The People of the State of Michigan enact:

CHAPTER LXXXIII-A

750.543c "Terrorist organization" defined.

Sec. 543c. As used in this chapter, "terrorist organization" means an organization that, on the effective date of the amendatory act that added this section, is designated by the United States state department as engaging in or sponsoring an act of terrorism.

750.543y Other violations arising out of same criminal transaction.

Sec. 543y. This chapter does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law arising out of the same criminal transaction as the violation of this chapter.

750.543z Constitutionally protected conduct; prosecution prohibited.

Sec. 543z. Notwithstanding any provision in this chapter, a prosecuting agency shall not prosecute any person or seize any property for conduct presumptively protected by the first amendment to the constitution of the United States in a manner that violates any constitutional provision.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

[No. 132]

(HB 5496)

AN ACT to amend 1976 PA 390, entitled "An act to provide for planning, mitigation, response, and recovery from natural and human-made disaster within this state; to create

the Michigan emergency management advisory council and prescribe its powers and duties; to prescribe the powers and duties of certain state and local agencies and officials; to prescribe immunities and liabilities; to provide for the acceptance of gifts; to repeal certain acts and parts of acts; and to repeal certain parts of the act," by amending sections 3, 7, 7a, 8, 9, 10, and 11 (MCL 30.403, 30.407, 30.407a, 30.408, 30.409, 30.410, and 30.411), sections 3, 7, 8, 9, 10, and 11 as amended and section 7a as added by 1990 PA 50, and by adding section 21; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

30.403 Responsibility of governor; executive orders, proclamations, and directives; declaration, duration, and termination of state of disaster or state of emergency; contents and dissemination of executive order or proclamation.

Sec. 3. (1) The governor is responsible for coping with dangers to this state or the people of this state presented by a disaster or emergency.

(2) The governor may issue executive orders, proclamations, and directives having the force and effect of law to implement this act. Except as provided in section 7(2), an executive order, proclamation, or directive may be amended or rescinded by the governor.

(3) The governor shall, by executive order or proclamation, declare a state of disaster if he or she finds a disaster has occurred or the threat of a disaster exists. The state of disaster shall continue until the governor finds that the threat or danger has passed, the disaster has been dealt with to the extent that disaster conditions no longer exist, or until the declared state of disaster has been in effect for 28 days. After 28 days, the governor shall issue an executive order or proclamation declaring the state of disaster terminated, unless a request by the governor for an extension of the state of disaster for a specific number of days is approved by resolution of both houses of the legislature. An executive order or proclamation issued pursuant to this subsection shall indicate the nature of the disaster, the area or areas threatened, the conditions causing the disaster, and the conditions permitting the termination of the state of disaster. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be promptly filed with the emergency management division of the department and the secretary of state, unless circumstances attendant upon the disaster prevent or impede its prompt filing.

(4) The governor shall, by executive order or proclamation, declare a state of emergency if he or she finds that an emergency has occurred or that the threat of an emergency exists. The state of emergency shall continue until the governor finds that the threat or danger has passed, the emergency has been dealt with to the extent that emergency conditions no longer exist, or until the declared state of emergency has been in effect for 28 days. After 28 days, the governor shall issue an executive order or proclamation declaring the state of emergency terminated, unless a request by the governor for an extension of the state of emergency for a specific number of days is approved by resolution of both houses of the legislature. An executive order or proclamation issued pursuant to this subsection shall indicate the nature of the emergency, the area or areas threatened, the conditions causing the emergency, and the conditions permitting the termination of the state of emergency. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and shall be promptly filed with the emergency management division of the department and the secretary of state, unless circumstances attendant upon the emergency prevent or impede its prompt filing.

30.407 Powers and duties of director.

Sec. 7. (1) The director shall implement the orders and directives of the governor in the event of a disaster or an emergency and shall coordinate all federal, state, county, and municipal disaster prevention, mitigation, relief, and recovery operations within this state. At the specific direction of the governor, the director shall assume complete command of all disaster relief, mitigation, and recovery forces, except the national guard or state defense force, if it appears that this action is absolutely necessary for an effective effort.

(2) If the governor has issued a proclamation, executive order, or directive under section 3 regarding state of disaster or state of emergency declarations, section 5 regarding actions directed by the governor, or section 21 regarding heightened state of alert, the director may, with the concurrence of the governor, amend the proclamation or directive by adding additional counties or municipalities or terminating the orders and restrictions as considered necessary.

(3) The director shall comply with the applicable provisions of the Michigan emergency management plan in the performance of the director's duties under this act.

(4) The director's powers and duties shall include the administration of state and federal disaster relief funds and money; the mobilization and direction of state disaster relief forces; the assignment of general missions to the national guard or state defense force activated for active state duty to assist the disaster relief operations; the receipt, screening, and investigation of requests for assistance from county and municipal governmental entities; making recommendations to the governor; and other appropriate actions within the general authority of the director.

(5) In carrying out the director's responsibilities under this act, the director may plan for and utilize the assistance of any volunteer group or person having a pertinent service to render.

(6) The director may issue a directive relieving the donor or supplier of voluntary or private assistance from liability for other than gross negligence in the performance of the assistance.

30.407a Emergency management division; establishment; purpose; employees; emergency management plan; grants; powers of division; definition.

Sec. 7a. (1) The department shall establish an emergency management division for the purpose of coordinating within this state the emergency management activities of county, municipal, state, and federal governments. The department shall provide the division with professional and support employees as necessary for the performance of its functions.

(2) The division shall prepare and maintain a Michigan emergency management plan that is a comprehensive plan that encompasses mitigation, preparedness, response, and recovery for this state.

(3) The division shall receive available state and federal emergency management and disaster related grants-in-aid and shall administer and apportion the grants according to appropriately established guidelines to the agencies of this state and local political subdivisions.

(4) The division may do 1 or more of the following:

(a) Promulgate rules that establish standards and requirements for the appointment, training, and professional development of emergency management coordinators.

(b) Promulgate rules that establish standards and requirements for local and interjurisdictional emergency management programs.

(c) Periodically review local and interjurisdictional emergency operations plans.

(d) Promulgate rules that establish standards and requirements for emergency training and exercising programs and public information programs.

(e) Make surveys of industries, resources, and facilities within this state, both public and private, necessary to carry out the purposes of this act.

(f) Prepare, for issuance by the governor, executive orders, proclamations, and regulations as necessary or appropriate in coping with disasters and emergencies.

(g) Provide for 1 or more state emergency operations centers to provide for the coordination of emergency response and disaster recovery in this state.

(h) Provide for the coordination and cooperation of state agencies and departments with federal and local government agencies and departments in emergency management activities.

(i) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this act and in implementing programs for disaster mitigation, preparation, response, and recovery.

(j) Propose and administer statewide mutual aid compacts and agreements.

(k) Do other activities necessary, incidental, or appropriate for the implementation of this act.

(5) For purposes of this section, the judicial branch of this state is considered a department of state government.

(6) As used in this section, "division" means the emergency management division of the department.

30.408 Emergency management coordinator; employment or appointment; duties; annexes to emergency management plan; cooperation of state agencies.

Sec. 8. (1) The director of each department of state government, and those agencies of state government required by the Michigan emergency management plan to provide an annex to that plan, shall serve as emergency management coordinator for their respective departments or agencies. Each director may appoint or employ a designated representative as emergency management coordinator, provided that the representative shall act for and at the direction of that director while functioning in the capacity of emergency management coordinator upon the activation of the state emergency operations center, or the declaration of a state of disaster or emergency. Each department or agency emergency management coordinator shall act as liaison between his or her department or agency and the emergency management division of the department in all matters of emergency management, including the activation of the Michigan emergency management plan. Each department or agency of state government specified in the Michigan emergency management plan shall prepare and continuously update an annex to the plan providing for the delivery of emergency management activities by that agency or the department. The annexes shall be in a form prescribed by the director. The emergency management coordinator shall represent the agency or department head in the drafting and updating of the respective agency's or the department's emergency management annex and in coordinating the agency's or department's emergency management efforts with those of the other state agencies as well as with county and municipal governments.

(2) Upon the declaration of a state of disaster or a state of emergency by the governor, each state agency shall cooperate to the fullest possible extent with the director in the performance of the services that it is suited to perform, and as described in the Michigan

emergency management plan, in the prevention, mitigation, response to, or recovery from the disaster or emergency. For purposes of this section, the judicial branch of this state is considered a department of state government and the chief justice of the Michigan supreme court is considered the director of that department.

30.409 Emergency management coordinator; appointment; duties; eligibility.

Sec. 9. (1) The county board of commissioners of each county shall appoint an emergency management coordinator. In the absence of an appointed person, the emergency management coordinator shall be the chairperson of the county board of commissioners. The emergency management coordinator shall act for, and at the direction of, the chairperson of the county board of commissioners in the coordination of all matters pertaining to emergency management in the county, including mitigation, preparedness, response, and recovery. In counties with an elected county executive, the county emergency management coordinator may act for and at the direction of the county executive. Pursuant to a resolution adopted by a county, the county boards of commissioners of not more than 3 adjoining counties may agree upon and appoint a coordinator to act for the multicounty area.

(2) A municipality with a population of 25,000 or more shall either appoint a municipal emergency management coordinator or appoint the coordinator of the county as the municipal emergency management coordinator pursuant to subsection (7). In the absence of an appointed person, the emergency management coordinator shall be the chief executive official of that municipality. The coordinator of a municipality shall be appointed by the chief executive official in a manner provided in the municipal charter. The coordinator of a municipality with a population of 25,000 or more shall act for and at the direction of the chief executive official of the municipality or the official designated in the municipal charter in the coordination of all matters pertaining to emergency management, disaster preparedness, and recovery assistance within the municipality.

(3) A municipality with a population of 10,000 or more may appoint an emergency management coordinator for the municipality. The coordinator of a municipality shall be appointed by the chief executive official in a manner provided in the municipal charter. The coordinator of a municipality with a population of 10,000 or more shall act for and at the direction of the chief executive official or the official designated by the municipal charter in the coordination of all matters pertaining to emergency management, disaster preparedness, and recovery assistance within the municipality.

(4) A municipality having a population of less than 10,000 may appoint an emergency management coordinator who shall serve at the direction of the county emergency management coordinator.

(5) A public college or university with a combined average population of faculty, students, and staff of 25,000 or more, including its satellite campuses within this state, shall appoint an emergency management coordinator for the public college or university. Public colleges or universities with a combined average population of faculty, students, and staff of 10,000 or more, including its satellite campuses within this state, may appoint an emergency management coordinator for the public college or university.

(6) A person is not ineligible for appointment as an emergency management coordinator, or as a member of a county or municipal emergency services or emergency management agency or organization, because that person holds another public office or trust, and that person shall not forfeit the right to a public office or trust by reason of his or her appointment as an emergency management coordinator.

(7) A county coordinator may be appointed a municipal coordinator for any municipality within the county and a municipal coordinator may be appointed a county coordinator.

30.410 Powers of county and municipality; mutual aid or reciprocal aid agreements or compacts; assistance of emergency management coordinator.

Sec. 10. (1) Each county and municipality that has appointed an emergency management coordinator under section 9 may do 1 or more of the following:

(a) Direct and coordinate the development of emergency operations plans and programs in accordance with the policies and plans established by the appropriate federal and state agencies. Each department or agency of a county or municipality specified in the emergency operations plan to provide an annex to the plan shall prepare and continuously update the annex providing for emergency management activities, including mitigation, preparedness, response, and recovery, by the department or agency and those other emergency activities the department or agency is specified to coordinate. Emergency operations plans and programs developed under this subsection shall include provisions for the dissemination of public information and local broadcasters shall be consulted in developing such provisions. Emergency operations plans and programs developed under this subdivision shall include local courts.

(b) Declare a local state of emergency if circumstances within the county or municipality indicate that the occurrence or threat of widespread or severe damage, injury, or loss of life or property from a natural or human-made cause exists and, under a declaration of a local state of emergency, issue directives as to travel restrictions on county or local roads. This power shall be vested in the chief executive official of the county or municipality or the official designated by charter and shall not be continued or renewed for a period in excess of 7 days except with the consent of the governing body of the county or municipality. The declaration of a local state of emergency shall be promptly filed with the emergency management division of the department, unless circumstances attendant upon the disaster prevent or impede its prompt filing.

(c) Appropriate and expend funds, make contracts, and obtain and distribute equipment, materials, and supplies for disaster purposes.

(d) Provide for the health and safety of persons and property, including emergency assistance to the victims of a disaster.

(e) Direct and coordinate local multi-agency response to emergencies within the county or municipality.

(f) Appoint, employ, remove, or provide, with or without compensation, rescue teams, auxiliary fire and police personnel, and other disaster workers.

(g) Appoint a local emergency management advisory council.

(h) If a state of disaster or emergency is declared by the governor, assign and make available for duty the employees, property, or equipment of the county or municipality relating to fire fighting; engineering; rescue; health, medical, and related services; police; transportation; construction; and similar items or service for disaster relief purposes within or without the physical limits of the county or municipality as ordered by the governor or the director.

(i) In the event of a foreign attack upon this state, waive procedures and formalities otherwise required by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of permanent and temporary workers, the utilization of volunteer workers, the rental of equipment, the purchase and

distribution with or without compensation of supplies, materials, and facilities, and the appropriation and expenditure of public funds.

(2) For the purpose of providing assistance during a disaster or emergency, municipalities and counties may enter into mutual aid or reciprocal aid agreements or compacts with other counties, municipalities, public agencies, federally recognized tribal nations, or private sector agencies, or all of these entities. A compact entered into pursuant to this subsection is limited to the exchange of personnel, equipment, and other resources in times of emergency, disaster, or other serious threats to public health and safety. The arrangements shall be consistent with the Michigan emergency management plan.

(3) The emergency management coordinator may assist in the development or negotiation, or both, of a mutual aid or reciprocal aid agreement or compact made pursuant to section 4(3) and shall carry out the agreement or compact.

30.411 Powers and duties of personnel of disaster relief forces; liability for personal injury or property damage; right to benefits or compensation; disaster relief workers; immunity; additional authority of dentists, veterinarians, nurses, or paramedics; liability and legal obligation of persons owning or controlling real estate or other premises used for shelter.

Sec. 11. (1) Personnel of disaster relief forces while on duty are subject to all of the following provisions:

(a) If they are an employee of this state, they have the powers, duties, rights, privileges, and immunities of and receive the compensation incidental to their employment.

(b) If they are employees of a political subdivision of this state, regardless of where serving, they have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment.

(c) If they are not employees of this state or a political subdivision of this state, they are entitled to the same rights and immunities as provided by law for the employees of this state. All personnel of disaster relief forces shall, while on duty, be subject to the operational control of the authority in charge of disaster relief activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses.

(2) This state, any political subdivision of this state, or the employees, agents, or representatives of this state or any political subdivision of this state are not liable for personal injury or property damage sustained by any person appointed or acting as a member of disaster relief forces. This act shall not affect the right of a person to receive benefits or compensation to which he or she may otherwise be entitled to under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, any pension law, or any act of congress.

(3) This state or a political subdivision of this state engaged in disaster relief activity is not liable for the death of or injury to a person or persons, or for damage to property, as a result of that activity. The employees, agents, or representatives of this state or a political subdivision of this state and nongovernmental disaster relief force workers or private or volunteer personnel engaged in disaster relief activity are immune from tort liability to the extent provided under section 7 of 1964 PA 170, MCL 691.1407. As used in this section, "disaster relief activity" includes training for or responding to an actual, impending, mock, or practice disaster or emergency.

(4) A person licensed to practice medicine or osteopathic medicine and surgery, or a licensed hospital, registered nurse, practical nurse, dentist, veterinarian, or paramedical

person, whether licensed in this or another state or by the federal government or a branch of the armed forces of the United States, or a student nurse undergoing training in a licensed hospital in this or another state, that renders services during a state of disaster declared by the governor and at the express or implied request of a state official or agency or county or local coordinator or executive body, is considered an authorized disaster relief worker or facility and is not liable for an injury sustained by a person by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained. The immunity granted by this subsection does not apply in the event of a willful act or omission. If a civil action for malpractice is filed alleging a willful act or omission resulting in injuries, the services rendered that resulted in those injuries shall be judged according to the standards required of persons licensed in this state to perform those services.

(5) A licensed dentist, veterinarian, registered nurse, practical nurse, or licensed paramedical person, whether licensed in this or another state or by the federal government or a branch of the armed forces of the United States, or a student nurse undergoing training in a licensed hospital in this or another state, during a state of disaster declared by the governor, may practice, in addition to the authority granted by other statutes of this state, the administration of anesthetics; minor surgery; intravenous, subcutaneous, or intramuscular procedure; or oral and topical medication; or a combination of these under the supervision of a member of the medical staff of a licensed hospital of this state, and may assist the staff member in other medical and surgical proceedings.

(6) A person owning or controlling real estate or other premises who voluntarily and without compensation grants to this state or a political subdivision of this state a license or privilege, or otherwise permits this state or a political subdivision of this state to inspect, designate, and use the whole or any part or parts of the real estate or other premises for the purpose of sheltering persons during an actual, impending, mock, or practice disaster, together with his or her successors in interest, if any, is not civilly liable for negligently causing the death of or injury to any person on or about the real estate or premises under the license, privilege, or permission or for loss or damage to the property of the person.

(7) A person owning or controlling real estate or other premises who has gratuitously granted the use of the real estate or other premises for the purposes stated in this section is legally obligated to make known to the licensee any hidden dangers or safety hazards that are known to the owner or occupant of the real estate or premises that might possibly result in the death or injury or loss of property to a person using the real estate or premises.

30.421 Heightened state of alert; cause; powers of governor; violation as misdemeanor; penalty; civil action; definitions.

Sec. 21. (1) If good cause exists to believe that terrorists or members of a terrorist organization are within this state or that acts of terrorism may be committed in this state or against a vital resource, the governor may by executive order or proclamation declare a heightened state of alert and subsequently exercise the authority provided in section 3(2) and section 5(1)(b), (c), (e), (f), (g), (h), (i), and (j) in an effort to safeguard the interests of this state or a vital resource, to prevent or respond to acts of terrorism, or to facilitate the apprehension of terrorists or members of a terrorist organization and those acting in concert with them. However, in exercising the authority under section 5(1)(h), the governor shall not suspend or limit the sale, dispensing, or transportation of alcoholic beverages under this section. Within 7 days after declaring a heightened state of alert, the governor shall notify the majority leader and minority leader of the senate and the

speaker and minority leader of the house of representatives of the declaration. The governor may utilize the services, facilities, and resources available under this act under a declared state of disaster or emergency. The exercise of those powers shall be consistent with the provisions of the state constitution of 1963 and the federal constitution and may continue until the heightened state of alert is no longer in effect. The heightened state of alert shall continue until the governor finds that the threat or danger has passed, the heightened state of alert has been dealt with to the extent that the heightened state of alert conditions no longer exist, or until the heightened state of alert has been in effect for 60 days. After 60 days, the governor shall terminate the heightened state of alert, unless a request by the governor for an extension of the heightened state of alert for a specific number of days is approved by resolution of both houses of the legislature.

(2) A person shall not willfully disobey or interfere with the implementation of a rule, order, or directive issued by the governor under this section. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both. Notwithstanding any provision in this section, a prosecuting agency shall not prosecute any person or seize any property for conduct presumptively protected by the first amendment to the constitution of the United States in a manner that violates any constitutional provision.

(3) The attorney general or a prosecuting attorney may bring a civil action for damages or equitable relief to enforce the provisions of this act and the orders, rules, or regulations made in conformity with this act.

(4) As used in this section:

(a) "Act of terrorism" and "terrorist" mean those terms as defined in section 543b of the Michigan penal code, 1931 PA 328, MCL 750.543b.

(b) "Terrorist organization" means that term as defined in section 543c of the Michigan penal code, 1931 PA 328, MCL 750.543c.

(c) "Vital resource" means a public or private building, facility, property, function, or location, the protection of which is considered necessary to the public health, safety, and welfare and which the governor has designated, in writing, as a vital resource of this state.

Repeal of § 30.415.

Enacting section 1. Section 15 of the emergency management act, 1976 PA 390, MCL 30.415, is repealed.

Effective date.

Enacting section 2. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 133]

(HB 5501)

AN ACT to amend 1967 PA 150, entitled "An act to provide for the militia of this state and its organization, command, personnel, administration, training, supply, discipline, deployment, employment, and retirement; and to repeal certain acts and parts of acts," by amending sections 105, 179, and 310 (MCL 32.505, 32.579, and 32.710), sections 105 and 179 as

amended by 1998 PA 212 and section 310 as amended by 1990 PA 301, and by adding section 372a.

The People of the State of Michigan enact:

32.505 Definitions.

Sec. 105. The definitions used in the command, administration, supply, training, discipline, deployment, and employment of the armed forces of the United States, unless clearly inapplicable or contradictory, are adopted with respect to the state military establishment except as otherwise provided in this act. As used in this act:

(a) "Military" means a reference to all components of the state military establishment.

(b) "Michigan national guard" means the army national guard and the air national guard.

(c) "Commander-in-chief" means the governor of this state.

(d) "Active state service", as applied to the national guard and the defense force, means military service in support of civil authorities, at the request of local authorities, including, but not limited to, support in the enforcement of laws prohibiting the importation, sale, delivery, possession, or use of a controlled substance, if ordered by the governor or as otherwise provided in this act. As used in this section, "controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(e) "Special duty" means military service in support of the full-time operation of the state military establishment for a period of not less than 1 day if ordered by competent authority.

(f) "Active service" means service, including active state service and special duty required by law, regulation, or pursuant to order of the governor. Active service includes continuing service of an active member of the national guard and the defense force in fulfilling that active member's commission, appointment, or enlistment.

(g) "Inactive status" means the status of those members of the national guard who are listed on an inactive list authorized by a federal statute or regulation.

(h) "In the service of the United States" and "not in the service of the United States" mean the same as those terms are used and construed under federal laws and regulations.

(i) "Officer" means a commissioned officer and a warrant officer, unless a distinction between commissioned officer and warrant officer is clearly evident.

(j) "Martial law" or "martial rule" means the exercise of partial or complete military control over domestic territory in time of emergency because of public necessity.

(k) "Armory" means a building, facility, or the lots and grounds used by an army, navy, or air unit of the organized militia as a home station.

(*l*) "Military establishment" means the organized militia of this state, including the employees and equipment assigned or necessary to carry out the provisions of this act.

(m) "Vital resource" means a public or private building, facility, property, or location that the governor considers necessary to protect the public health, safety, and welfare of the citizens of this state.

32.579 Command of state military personnel; militia on active service; duties, liabilities, and immunities; defense of civil action or criminal prosecution.

Sec. 179. (1) No civilian person, except the governor, may command personnel of the state military establishment.

(2) If any portion of the organized militia is called into active service, active state service, or the service of the United States to execute the laws, engage in disaster relief, suppress or prevent actual or threatened riot or insurrection, repel invasion, respond to acts or threats of terrorism or safeguard military or other vital resources of this state or of the United States, or to assist in the enforcement of a law prohibiting the importation, sale, delivery, possession, or use of a controlled substance as that term is defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, a commanding officer shall use his or her own judgment in apprehending or dispersing a sniper, a rioter, a mob, or an unlawful assembly. In situations described in this subsection, the commanding officer may apprehend a person on a state military base, armory base, air base, or a vital resource of this state or of the United States if the commanding officer has reasonable cause to believe the person has committed a felony or a misdemeanor punishable by imprisonment for more than 92 days on that state military base, armory base, air base, or a vital resource of this state or of the United States. In situations described in this subsection, the commanding officer or an individual under his or her command may apprehend a person on a state military base, armory base, air base, or a vital resource of this state or of the United States if the person commits a crime in the presence of the commanding officer or an individual under his or her command on that state military base, armory base, air base, or a vital resource of this state or of the United States. That commanding officer shall determine the amount and kind of force to be used in preserving the peace and carrying out the orders of the governor. Except as provided in subsection (3), that commanding officer's honest and reasonable judgment under the circumstances then existing, in the exercise of his or her duty, is full protection, civilly and criminally, for an act done in the line of duty, and a member of the organized militia in active service, active state service, or the service of the United States is not liable civilly or criminally for an act committed by him or her in the performance of his or her duty.

(3) A member of the organized militia in active service, active state service, or the service of the United States has the immunity of a peace officer in this state if 1 or more of the following apply:

(a) The member is acting in aid of civil authorities and acting in the line of duty.

(b) The member is assisting in the enforcement of a law prohibiting the importation, sale, delivery, possession, or use of a controlled substance as that term is defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104, and acting in the line of duty.

(c) The member has been ordered by the governor to respond to acts or threats of terrorism or to safeguard military or other vital resources of this state or of the United States and is acting in the line of duty.

(4) The attorney general of this state shall defend a civil action or criminal prosecution brought in a state or federal court, against a member of the organized militia or his or her estate, arising from an act or omission alleged to have been committed while in active service, active state service, or the service of the United States.

32.710 Adjutant general; powers and duties; location of office; seal; copies of orders, records, and papers as evidence.

Sec. 310. The adjutant general is the military advisor to the governor and the director of the department of military and veterans affairs. The adjutant general's office is in Lansing. The adjutant general may publish orders and other directives in the name of the governor and this state to implement and administer the duties and responsibilities outlined in this act. The adjutant general's duties include the development and

implementation of plans for the defense of state military personnel, lands, installations, and vital resources; maintenance of the personnel records of all active, inactive, retired, or deceased personnel of the state military establishment; and liaison in the transaction of official business for this state with the United States and with other states and territories, including those duties devolving upon the adjutant general pursuant to the national defense act and other pertinent federal laws and regulations. The adjutant general shall maintain records of claims for state gratuities for military service rendered by citizens of this state and, when authorized by the legislature, shall receive, examine, process, and recommend the payment of gratuities pursuant to law. The adjutant general may use the coat of arms of this state with the words added "State of Michigan, Department of Military and Veterans Affairs" as the seal of office. All copies of orders, records, and papers certified and authenticated under the seal are equivalent in evidence to the originals.

32.772a Property used for military purposes.

Sec. 372a. If the governor declares military property or any part of military property to be a vital resource of the state, the adjutant general may limit access to and from property used for military purposes if necessary for the protection of military personnel, installations, property, or vital resources or if necessary to protect the public health, safety, and welfare of the citizens of this state.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 134]

(HB 5506)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 204a (MCL 750.204a), as amended by 1998 PA 208.

The People of the State of Michigan enact:

750.204a Device representing or presented as explosive, incendiary device, or bomb; sending or transporting; intent; felony; penalty; jurisdiction.

Sec. 204a. (1) A person who, with the intent to terrorize, frighten, intimidate, threaten, harass, or annoy any other person, possesses, delivers, sends, transports, or places a device that is constructed to represent an explosive, incendiary device, or bomb, or that is presented as an explosive, incendiary device, or bomb, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $3,000.00, or both.

(2) An offense is committed under this section if the device is delivered or sent from this state or is possessed, transported, received, or placed in this state and may be prosecuted in the jurisdiction from which it was delivered or sent or in which it was possessed, transported, received, or placed.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 135]

(HB 5507)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 436 (MCL 750.436), as amended by 1988 PA 87.

The People of the State of Michigan enact:

750.436 Mingling poison or harmful substance with food, drink, nonprescription medicine, or pharmaceutical product, or placing poison or harmful substance in spring, well, reservoir, or public water supply; malicious information; violation; penalties.

Sec. 436. (1) A person shall not do either of the following:

(a) Willfully mingle a poison or harmful substance with a food, drink, nonprescription medicine, or pharmaceutical product, or willfully place a poison or harmful substance in a spring, well, reservoir, or public water supply, knowing or having reason to know that the food, drink, nonprescription medicine, pharmaceutical product, or water may be ingested or used by a person to his or her injury.

(b) Maliciously inform another person that a poison or harmful substance has been or will be placed in a food, drink, nonprescription medicine, pharmaceutical product, spring, well, reservoir, or public water supply, knowing that the information is false and that it is likely that the information will be disseminated to the public.

(2) A person who violates subsection (1)(a) is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) to (e), the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(b) If the violation damages the property of another person, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $15,000.00, or both.

(c) If the violation causes physical injury to another individual, other than serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 25 years or a fine of not more than $20,000.00, or both.

(d) If the violation causes serious impairment of a body function to another individual, the person is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $25,000.00, or both. As used in this subdivision, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(e) If the violation causes the death of another individual, the person is guilty of a felony and shall be imprisoned for life without eligibility for parole and may be fined not more than $40,000.00, or both.

(3) A person who violates subsection (1)(b) is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(b) If the person has previously been convicted of violating subsection (1)(b), the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(4) The court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other violation of law arising out of the same transaction as the violation of this section.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

[No. 136]

(HB 5509)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 411j (MCL 750.411j), as amended by 1997 PA 75.

The People of the State of Michigan enact:

750.411j Definitions.

Sec. 411j. As used in this section and sections 411k to 411q:

(a) "Controlled substance offense" means a felony violation of part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, concerning controlled substances or androgenic anabolic steroids.

(b) "Knowingly", in the case of a corporation, means with the approval or prior actual knowledge of the board of directors, a majority of the directors, or persons who together hold a majority of the voting ownership interests in the corporation. In determining whether a majority of the directors approved of or had knowledge of the activity, a director who was not aware of the activity due to his or her own negligence or other fault is regarded as having had knowledge of the activity. This subdivision does not limit the liability of any individual officer, employee, director, or stockholder of a corporation.

(c) "Financial transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery, exchange, or other disposition of a monetary instrument or other property and, with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

(d) "Financial institution" means 1 or more of the following, if located in or doing business in this state:

(*i*) An insured bank, as defined in section 3(h) of the federal deposit insurance act, chapter 967, 64 Stat. 873, 12 U.S.C. 1813(h).

(*ii*) A commercial bank or trust company.

(*iii*) A private banker.

(*iv*) An agency or branch of a foreign bank.

(*v*) A savings and loan institution.

(*vi*) A thrift institution.

(*vii*) A credit union.

(*viii*) A broker or dealer registered with the securities and exchange commission under the securities exchange act of 1934, chapter 404, 48 Stat. 881.

(*ix*) A broker or dealer in securities or commodities.

(*x*) An investment banker or investment company.

(*xi*) A currency exchange.

(*xii*) An insurer, redeemer, or cashier of traveler's checks, checks, or money orders.

(*xiii*) An operator of a credit card system.

(*xiv*) An insurance company.

(*xv*) A dealer in precious metals, stones, or jewels.

(*xvi*) A pawnbroker.

(*xvii*) A loan, finance, or mortgage company.

(*xviii*) A travel agency.

(*xix*) A licensed sender of money.

(*xx*) A telegraph company.

(e) "Monetary instrument" means coin or currency of the United States or another country, or group of countries, a traveler's check, personal check, bank check, money order, or investment security or negotiable instrument in bearer form or in any other form such that delivery is sufficient to pass title.

(f) "Proceeds of a specified criminal offense" means any monetary instrument or other real, personal, or intangible property obtained through the commission of a specified criminal offense, including any appreciation in the value of the monetary instrument or property.

(g) "Specified criminal offense" means any of the following:

(*i*) A felony violation of section 8 of the tobacco products tax act, 1993 PA 327, MCL 205.428, or section 9 of former 1947 PA 265, concerning cigarette taxes.

(*ii*) A violation of section 11151 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11151, or section 48(3) of former 1979 PA 64, concerning felonious disposal of hazardous waste.

(*iii*) A controlled substance offense.

(*iv*) A felony violation of section 60 of the social welfare act, 1939 PA 280, MCL 400.60, concerning welfare fraud.

(*v*) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607, concerning medicaid fraud.

(*vi*) A felony violation of section 18 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.218, concerning the business of gaming.

(*vii*) A violation of section 409 of the uniform securities act, 1964 PA 265, MCL 451.809, concerning securities fraud.

(*viii*) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677, concerning the display or dissemination of obscene matter to minors.

(*ix*) A felony violation of section 72, 73, 74, or 75, concerning arson.

(*x*) A violation of section 93, 94, 95, or 96, concerning bank bonds, bills, notes, or property.

(*xi*) A violation of section 117, 118, 119, 120, 121, or 124, concerning bribery.

(*xii*) A violation of section 120a, concerning jury tampering.

(*xiii*) A violation of section 145c, concerning child sexually abusive activity or material.

(*xiv*) A felony violation of section 157n, 157p, 157q, 157r, 157s, 157t, or 157u, concerning credit cards or financial transaction devices.

(*xv*) A violation of section 159i, concerning racketeering.

(*xvi*) A felony violation of section 174, 175, 176, 180, 181, or 182, concerning embezzlement.

(*xvii*) A felony violation of chapter XXXIII, concerning explosives or bombs.

(*xviii*) A violation of section 213, concerning extortion.

(*xix*) A felony violation of section 218, concerning false pretenses.

(*xx*) A felony violation of chapter XLI, concerning forgery or counterfeiting.

(*xxi*) A violation of section 271, 272, 273, or 274, concerning securities fraud.

(*xxii*) A violation of section 301, 302, 303, 304, 305, 305a, or 313, concerning gambling.

(*xxiii*) A violation of section 316 or 317 concerning murder.

(*xxiv*) A violation of section 330, 331, or 332, concerning horse racing.

(*xxv*) A violation of section 349, 349a, or 350, concerning kidnapping.

(*xxvi*) A felony violation of chapter LII, concerning larceny.

(*xxvii*) A violation of section 422, 423, 424, or 425, concerning perjury or subornation of perjury.

(*xxviii*) A violation of section 452, 455, 457, 458, or 459, concerning prostitution.

(*xxix*) A violation of section 529, 530, or 531, concerning robbery.

(*xxx*) A felony violation of section 535, 535a, or 536a, concerning stolen, embezzled, or converted property.

(*xxxi*) A violation of chapter LXXXIII-A, concerning terrorism.

(*xxxii*) A violation of section 5 of 1984 PA 343, MCL 752.365, concerning obscenity.

(*xxxiii*) A conspiracy, attempt, or solicitation to commit an offense listed in subparagraphs (*i*) to (*xxxii*).

(h) "Substituted proceeds of a specified criminal offense" means any monetary instrument or other real, personal, or intangible property obtained or any gain realized by the sale or exchange of proceeds of a specified criminal offense.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved March 29, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

[No. 137]

(SB 946)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 31, 37, and 49 of chapter XVII (MCL 777.31, 777.37, and 777.49), sections 31 and 49 as amended by 2001 PA 136 and section 37 as added by 1998 PA 317, and by adding section 49a.

The People of the State of Michigan enact:

CHAPTER XVII

777.31 Aggravated use of weapon; definitions.

Sec. 31. (1) Offense variable 1 is aggravated use of a weapon. Score offense variable 1 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) A firearm was discharged at or toward a human being or a victim was cut or stabbed with a knife or other cutting or stabbing weapon ..... 25 points

(b) The victim was subjected or exposed to a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device..... 20 points

(c) A firearm was pointed at or toward a victim or the victim had a reasonable apprehension of an immediate battery when threatened with a knife or other cutting or stabbing weapon ..... 15 points

(d) The victim was touched by any other type of weapon..... 10 points

(e) A weapon was displayed or implied..... 5 points

(f) No aggravated use of a weapon occurred..... 0 points

(2) All of the following apply to scoring offense variable 1:

(a) Count each person who was placed in danger of injury or loss of life as a victim.

(b) In multiple offender cases, if 1 offender is assessed points for the presence or use of a weapon, all offenders shall be assessed the same number of points.

(c) Score 5 points if an offender used an object to suggest the presence of a weapon.

(d) Score 5 points if an offender used a chemical irritant, chemical irritant device, smoke device, or imitation harmful substance or device.

(e) Do not score 5 points if the conviction offense is a violation of section 82 or 529 of the Michigan penal code, 1931 PA 328, MCL 750.82 and 750.529.

(3) As used in this section:

(a) "Chemical irritant", "chemical irritant device", "harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", "harmful radioactive device", and "imitation harmful substance or device" mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

(b) "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

777.37 Aggravated physical abuse; "sadism" defined.

Sec. 37. (1) Offense variable 7 is aggravated physical abuse. Score offense variable 7 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) A victim was treated with sadism, torture, or excessive brutality or conduct designed to substantially increase the fear and anxiety a victim suffered during the offense..... 50 points

(b) No victim was treated with sadism, torture, or excessive brutality or conduct designed to substantially increase the fear and anxiety a victim suffered during the offense ..... 0 points

(2) Count each person who was placed in danger of injury or loss of life as a victim.

(3) As used in this section, "sadism" means conduct that subjects a victim to extreme or prolonged pain or humiliation and is inflicted to produce suffering or for the offender's gratification.

777.49 Security threat to penal institution or court or interference with administration of justice or emergency services.

Sec. 49. Offense variable 19 is threat to the security of a penal institution or court or interference with the administration of justice or the rendering of emergency services. Score offense variable 19 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender by his or her conduct threatened the security of a penal institution or court ..... 25 points

(b) The offender used force or the threat of force against another person or the property of another person to interfere with, attempt to interfere with, or that results in the interference with the administration of justice or the rendering of emergency services ..... 15 points

(c) The offender otherwise interfered with or attempted to interfere with the administration of justice ..... 10 points

(d) The offender did not threaten the security of a penal institution or court or interfere with or attempt to interfere with the administration of justice or the rendering of emergency services by force or threat of force .... 0 points

777.49a Terrorism; definitions.

Sec. 49a. (1) Offense variable 20 is terrorism. Score offense variable 20 by determining which of the following applies and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender committed an act of terrorism by using or threatening to use a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device ..... 100 points

(b) The offender committed an act of terrorism without using or threatening to use a harmful biological substance, harmful biological device, harmful chemical substance, harmful chemical device, harmful radioactive material, harmful radioactive device, incendiary device, or explosive device ..... 50 points

(c) The offender supported an act of terrorism, a terrorist, or a terrorist organization ..... 25 points

(d) The offender did not commit an act of terrorism or support an act of terrorism, a terrorist, or a terrorist organization ..... 0 points

(2) As used in this section:

(a) "Act of terrorism" and "terrorist" mean those terms as defined in section 543b of the Michigan penal code, 1931 PA 328, MCL 750.543b.

(b) "Harmful biological substance", "harmful biological device", "harmful chemical substance", "harmful chemical device", "harmful radioactive material", and "harmful

radioactive device" mean those terms as defined in section 200h of the Michigan penal code, 1931 PA 328, MCL 750.200h.

(c) "Incendiary device" includes gasoline or any other flammable substance, a blowtorch, fire bomb, Molotov cocktail, or other similar device.

(d) "Terrorist organization" means that term as defined in section 543c of the Michigan penal code, 1931 PA 328, MCL 750.543c.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

[No. 138]

(SB 468)

AN ACT to authorize the department of natural resources to convey certain state owned parcels of property in Genesee county and Kalkaska county; to authorize the state administrative board to convey certain parcels of state owned property in Wayne county; to prescribe conditions for the conveyances; and to provide for disposition of the revenue from the conveyances.

The People of the State of Michigan enact:

Conveyance of property located in Genesee county to Genesee county; consideration; jurisdiction; description; quitclaim deed; approval by attorney general; reservation of mineral rights; adjustments; deposit and credit of revenue.

Sec. 1. (1) The department of natural resources, on behalf of the state, may convey to Genesee county, for consideration of $1.00, property under the jurisdiction of the department of natural resources and located in Genesee county, Michigan, and further described as follows:

Parcel A

1.5 acres - and improvements - $35,000.00 (Optioned at appraisal)

E 15 rods of S 16 rods of W1/2 of SW1/4, Sec. 1, T8N, R7E - Genesee County

Vendor: Douglas Roster, Mt. Morris, Michigan

Option Expires: November 2, 1993

Reservations: Seller reserves occupancy of building and site until June 1, 1994

Appraisal: Land $8,000.00; Improvements $27,000.00; Total $35,000.00

Relocation cost: $5,550.00

Assessed Value: $15,400.00

Parcel B

50.3 acres - $1,192.84 per acre - $60,000.00 (Optioned at 3.3 per cent over appraisal)

S1/2 of N1/2 of NE frl 1/4 except N 142 feet of S 628.45 feet of E 310 feet, also except S 220 feet of E 238 feet, Sec. 1, T8N, R7E - Genesee County

Vendor: William Szikszay, Ortonville, Michigan

Option Expires: November 12, 1993

Reservations: Cropping rights until December 31, 1993

Appraisal: Land $58,000.00; Improvements $0; Total $58,000.00

Assessed Value: $21,800.00

(2) The conveyance authorized by this section shall provide that the property conveyed shall be used only for public recreation purposes and shall be open to all residents of the state on the same terms, fees, and conditions; and that upon termination of that use or use for any other purpose the property shall revert immediately to the state, with the state assuming no liability for any improvements made by Genesee county.

(3) The conveyance authorized by this section shall be by quitclaim deed approved by the attorney general and shall reserve mineral rights to the state.

(4) The description of the parcels in subsection (1) is approximate and for purposes of the conveyance is subject to adjustments as the department of natural resources or the attorney general considers necessary by survey or other legal description.

(5) The revenue received under this section shall be deposited in the state treasury and credited to the general fund.

Conveyance of property located in Wayne county; consideration; jurisdiction; description; manner and conduct of sale; use of broker services; notice; publication requirements; quitclaim deed; appraisal; adjustments; deposit and credit of revenue.

Sec. 2. (1) The state administrative board, on behalf of the state, may convey for consideration of not less than fair market value as determined pursuant to subsection (6) certain state owned property now under the jurisdiction of the department of management and budget and located in Wayne county, and further described as follows:

Michigan Plaza Building and land:

PARCEL A:

All of Lots 108 through 113, inclusive, except the Easterly 12 feet of Lot 113 of West Side Industrial Subdivision No. 2, of part of Private Claims 22, 23, 24, 27, 246, 248, and 727, City of Detroit, Wayne County, Michigan, as recorded in Liber 86 of Plats, Pages 39 and 40, Wayne County Records, said parcel of land being more particularly described as:

BEGINNING at the southwest corner of Porter Street and Sixth Street at the northwest corner of said Easterly 12 feet of Lot 113; thence S30 degrees 00 minutes 47 seconds E 285.50 feet along the southwesterly line of said Easterly 12 feet of Lot 113 and Sixth Street to the northwesterly line of Abbott Street; thence S59 degrees 58 minutes 43 seconds W 309.10 feet along said northwesterly line and southeasterly line of said Lots 108 through 113 to the southwest corner of said Lot 108; thence N30 degrees 00 minutes 47 seconds W 285.50 feet along the southwesterly line of said Lot 108 to the southeasterly line of said Porter Street; thence N59 degrees 58 minutes 43 seconds E 390.10 feet along said southeasterly line to the Point of Beginning, containing 2.557 acres and being subject to easements and restrictions of record.

PARCEL B:

All of Lots 1 through 14, inclusive, except the Easterly 12 feet of Lots 1 and 14 of Block 42, the adjacent vacated Southerly 5 feet of Abbott Street, the vacated alley and public easements in said Block 42, and the East 25 feet of vacated Brooklyn Avenue and public easement lying between Howard Avenue (60 feet wide) and Abbott Avenue (50 feet wide), said easement created by the Common Council of the City of Detroit on September 24, 1968, and recorded in the J.C.C.,Pages 2331 - 2332, of the Plat of the Labrosse Farm, South of Chicago Road (Michigan Avenue), from Chicago Road to Fort Street, (City of Detroit), Wayne County, Territory of (now State of) Michigan, as recorded in Liber 13 of Deeds, Page 35, Wayne County Records; said parcel of land being more particularly described as:

BEGINNING at the northwest corner of Howard Street and Sixth Street at the southeast corner of said Easterly 12 feet of Lot 14; thence S60 degrees 01 minutes 23 seconds W 363.27 feet along the northwesterly line of said Howard Street to the southwesterly line of said East 25 feet of vacated Brooklyn Avenue; thence N30 degrees 00 minutes 47 seconds W 285.75 feet along said southwesterly line to the northwesterly line of said vacated Southerly 5 feet of Abbott Street; thence N59 degrees 58 minutes 43 seconds E 363.27 feet along said northwesterly line to the southwesterly line of said Easterly 12 feet of said Lots 1 and 14 and said Sixth Street; thence S30 degrees 00 minutes 47 seconds E 286.03 feet along said southwesterly line of said Easterly 12 feet of said Lots 1 and 14 and said Sixth Street to the Point of Beginning, containing 1.128 acres and being subject to easements and restrictions of record.

PARCEL C:

All of Lots 1 through 7, inclusive, except the Easterly 12 feet of Lot 1 and the Northerly 90.00 feet of Lots 8 through 11 of Block 42, of the Plat of the Labrosse Farm, South of Chicago Road (Michigan Avenue), from Chicago Road to Fort Street, (City of Detroit), Wayne County, Territory of (now State of) Michigan, as recorded in Liber 13 of Deeds, Page 35, Wayne County Records, and the Northerly 90.00 feet of Lots 1 through 5, inclusive, except the Easterly 12 feet of Lot 1, of the Plat of the Subdivision of Lots 12, 13, & 14, Block Number 34, Labrosse Farm on the Northwest Corner of Lafayette & Sixth Street, Detroit, Wayne County, Michigan, as recorded in Liber 44 of Deeds, Page 120, Wayne County Records, and the vacated alley in said Block 42, said parcel of land being more particularly described as:

BEGINNING at the southwest corner of Howard Street and Sixth Street at the northwest corner of said Easterly 12 feet of Lot 1; thence S30 degrees 00 minutes 47 seconds E 239.88 feet; thence S60 degrees 00 minutes 34 seconds W 338.58 feet along the southeasterly line of said Northerly 90 feet of said Lots 1 through 5 of the Subdivision of Lots 12, 13, & 14 and Lots 8 through 11 of said Block 34 to the southwesterly line of Brooklyn Avenue; thence N29 degrees 59 minutes 27 seconds W 239.96 feet along said southwesterly line to the northwesterly line of Howard Street; thence N60 degrees 01 minutes 23 seconds E 338.49 feet along said northwesterly line to the Point of Beginning, containing 1.864 acres and being subject to easements and restrictions of record.

PARCEL D:

Not included in Plaza Building Property.

PARCEL E:

All of Lots 114 through 123, inclusive, of West Side Industrial Subdivision No. 2, of part of Private Claims 22, 23, 24, 27, 246, 248, and 727, City of Detroit, Wayne County, Michigan, as recorded in Liber 86 of Plats, Pages 39 and 40, Wayne County Records, and a parcel of land lying south of Porter Street (60 feet wide), north of Howard Street (60 feet wide), east of and adjacent to the easterly line of said West Side Industrial Subdivision

No. 2, and west of the westerly line of the John C. Lodge Freeway and being a part of Lots 3, 4, and 12, and part of the vacated public alley (20 feet wide) adjoining said lots in Block 41, and part of Lots 4, 10, and 11 and part of the vacated public alley (20 feet wide) adjoining said lots in Block 49, and part of vacated Abbott Street (60 feet wide), of the Subdivision of that Part of the Labrosse (or Berthelet) Farm, and the Forsyth Farm South of Michigan Avenue, Map of the Western Addition to the City of Detroit, by John Mullett, Surveyor, July 3, 1835, City of Detroit, Wayne County, Michigan, as recorded in liber 14 of deeds, page 136, Wayne County Records and described as:

BEGINNING at the southwesterly corner of said Lot 12, which is also the southeasterly corner of said West Side Industrial Subdivision No. 2; thence along the easterly line of said West Side Industrial Subdivision No. 2, N30 degrees W 258.70 feet, and N45 degrees 15 minutes 59 seconds W 22.81 feet, and N66 degrees 12 minutes 03 seconds W 74.42 feet, and N30 degrees 01 minutes 13 seconds W 105.25 feet, and S59 degrees 58 minutes 35 seconds W 25.05 feet, and N30 degrees 01 minutes 13 seconds W 25.00 feet, and N21 degrees 23 minutes 35 seconds E32.05 feet, and N30 degrees 01 minutes 13 seconds W 130.19 feet to the northeasterly corner of said West Side Industrial Subdivision No. 2; thence along the westerly right of way line of said John C. Lodge Freeway, S37 degrees 59 minute 13 second E 597.91 feet; thence on a curve to the right, radius 43.33 feet, and arc distance of 45.39 feet to the Point of Beginning, chord of said curve bears S18 degrees 38 minutes 29 seconds W 44.00 feet, to the Point of Beginning, said parcel of land being more particularly described as:

BEGINNING at the southeast corner of Porter Street and Sixth Street at the northwest corner of said Lot 114; thence N60 degrees 00 minutes 00 seconds E 150.21 feet along the southeasterly line of Porter Street to the westerly Limited Access Right of Way Line of said John C. Lodge Freeway; thence S37 degrees 59 minutes 13 seconds E 597.71 feet; thence to the southeasterly line of a 20 foot wide public alley; thence southerly 46.15 feet along the arc of a 43.33 foot radius non-tangential curve to the right (with a central angle of 61 degrees 01 minutes 32 seconds subtending a chord bearing S18 degrees 17 minutes 30 seconds W 44.00 feet and having a tangent of 25.54 feet) to the southeast corner of said Lot 123 and northwesterly line of Howard Street; thence S60 degrees 00 minutes 00 seconds W 200.27 feet along said northwesterly line to the northeasterly line of said Sixth Street; thence N30 degrees 00 minutes 47 seconds W 621.19 feet along said northeasterly line and southwesterly line of said Lots 114 through 123 to the Point of Beginning, containing 2.754 acres and being subject to easements and restrictions of record.

(2) The sale of the property described in this section shall be conducted in a manner to realize the highest price for the sale and the highest return to the state. The sale of this property shall be done in an open manner that uses 1 or more of the following:

(a) A competitive sealed bid.

(b) Oral bid.

(c) Public auction.

(d) Use of broker services.

(3) Broker services for the sale of property under this section shall only be used if there are 3 or more bidders for this property. The minimum selling price for the property shall be the higher value of either its fair market value or the result of a professional concept plan value as determined by a real estate professional qualified to make such valuations. This real estate professional shall be selected through a request for proposal and competitive bid process.

(4) A notice of a sealed or oral bid, public auction sale, or use of broker negotiation services regarding the property described in this section shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 days before the sale. The newspaper shall be 1 that is published in the county where the property is located. If a newspaper is not published in the county where the property is located, the notice shall be published in a newspaper in a county nearest to the county in which the property is located. A notice shall describe the general location of the property and the date, time, and place of the sale.

(5) The conveyance authorized under this section shall be by quitclaim deed approved by the attorney general.

(6) The fair market value of the property described in this section shall be determined by an appraisal as prepared by the state tax commission and an independent fee appraiser.

(7) The descriptions of the parcels in this section are approximate and for purposes of the conveyance are subject to adjustments as the state administrative board or the attorney general considers necessary by survey or other legal description.

(8) The net revenue received under this section shall be deposited in the state treasury and credited to the general fund. As used in this subsection, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the state associated with the sale of the property.

Conveyance of property located in township of Clearwater, Kalkaska county, to the township of Clearwater; consideration; jurisdiction; description; quitclaim deed; approval by attorney general; reservation of mineral rights; deposit and credit of revenue.

Sec. 3. (1) The department of natural resources, on behalf of the state, may convey to the township of Clearwater, for consideration of $1.00, property under the jurisdiction of the department of natural resources and located in the township of Clearwater, Kalkaska county, Michigan, and further described as follows:

T 28 N, R 8 W, Sec. 9. A metes and bounds description in the NW 1/4 of SE 1/4, described as follows:

That part of the NW 1/4 SE 1/4 lying North of Smith and Ricker's Addition to Rapid City, except the right of way over a strip of land 2 rods wide extending across the entire north side thereof for a highway for public and private use and except a parcel of land beginning 66 feet due North of the Northwest corner of Lot 10, Block B of the aforesaid Addition to Rapid City, thence continuing due North 99 feet, thence East 356 feet on a line parallel with the North line of Water Street of the aforesaid Addition, thence due South 99 feet on the center line of First Street produced to the North line of Water Street, thence West 356 feet on the North line of Water Street to the point of beginning, and also except a parcel of land beginning at the intersection of the North line of Water Street and the center line of First Street of the aforesaid Addition, thence due North 99 feet, thence East 363 feet on a line parallel with the North line of Water Street, thence due South 99 feet to the North line of Water Street, thence West 363 feet on the North line of Water Street to the point of beginning. (Located on Rapid River, 15.37 acres, 1,452 feet of frontage)

T 28 N, R 8 W, Sec. 9 - A metes and bounds description in the NE 1/4 of SW 1/4, described as follows:

Commencing at the corner (center) of Section 9, running thence West on the East and West quarter line of said Section 9, 23 rods more or less to a point situated 133 feet East of the center line of the main track of the Chicago, Petoskey Division of the Pere Marquette Railroad, as now located over and across Section 9; thence South 36 rods; East to North and South quarter line of said Section 9; thence North to place of beginning. (Located on Rapid River, 5.175 acres, 308 feet of frontage)

(2) The conveyance authorized by this section shall provide for all of the following:

(a) The property shall be used exclusively for the purpose of public recreational and boating and fishing accesses and if any fee, term, or condition for the use of the property is imposed on members of the public, or if any of those fees, terms, or conditions are waived for use of this property, resident and nonresident members of the public shall be subject to the same fees, terms, conditions, and waivers.

(b) Upon termination of the use described in subdivision (a) or use for any other purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(c) If the grantee disputes the state's exercise of its right of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

(3) The conveyance authorized by this section shall be by quitclaim deed approved by the attorney general and shall not reserve mineral rights to the state.

(4) The revenue received under this section shall be deposited in the state treasury and credited to the general fund.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 1, 2002.

[No. 139]

(SB 899)

AN ACT to amend 1917 PA 99, entitled "An act to provide for the construction, maintenance and improvement of federal aided roads; to authorize townships, good roads districts and counties to raise money by taxation and by loan for the purpose of contributing thereto; to validate and legalize proceedings heretofore taken to raise money for the purpose contemplated by this act; and to provide an appropriation for paying the state's portion of the expense incurred hereunder," by amending section 1 (MCL 249.1).

The People of the State of Michigan enact:

249.1 Assent to federal aid for construction of rural post road; availability of funds; authority to survey, contract, receive and disburse money.

Sec. 1. The legislature of the state of Michigan hereby assents to the provisions of the act of congress, approved July 11, 1916, 39 Stat. 355, entitled "An act to provide that the United States shall aid the states in the construction of rural post roads, and for other purposes," and the good faith of the state is hereby pledged under the provisions of this act to make available from time to time sufficient funds to pay the state's portion of the cost of constructing and maintaining federal aided roads. The state transportation

department through the director of the state transportation department may make surveys, prepare plans and specifications, and take charge of the building and maintaining of federal aided roads in accordance with the provisions of the act of congress and the rules and regulations of the secretary of agriculture made under that act and amendments to that act as may from time to time be made. The director of the state transportation department may enter into all contracts and agreements with the United States government relating to the construction and maintenance of rural post roads under the provisions of the act of congress, to submit the scheme or program of construction and maintenance as may be required by the secretary of agriculture, and do all other things necessary fully to carry out the cooperation contemplated and provided for by that act. The state treasurer may receive any and all money due the state of Michigan under the provisions of this act, and shall pay out the same under the orders of the director of the state transportation department.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 1, 2002.

[No. 140]

(HB 5511)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 212a (MCL 750.212a), as added by 1998 PA 207.

The People of the State of Michigan enact:

750.212a Violation as felony; term of imprisonment; definitions; other violations.

Sec. 212a. (1) If a person violates this chapter and the violation is committed in or is directed at a vulnerable target, the person is guilty of a felony punishable by imprisonment for not more than 20 years. The court may order a term of imprisonment imposed under this section to be served consecutively to the term of imprisonment for the underlying violation.

(2) As used in this section:

(a) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(b) "Vulnerable target" means any of the following:

(*i*) A child care center or day care center as defined in section 1 of 1973 PA 116, MCL 722.111.

(*ii*) A health care facility or agency as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(*iii*) A building or structure open to the general public.

(*iv*) A church, synagogue, mosque, or other place of religious worship.

(*v*) A public, private, denominational, or parochial school offering developmental kindergarten, kindergarten, or any grade 1 through 12.

(*vi*) An institution of higher education.

(*vii*) A stadium.

(*viii*) A transportation structure or facility open to the public, including, but not limited to, a bridge, a tunnel, a public highway, or a railroad.

(*ix*) An airport. As used in this subparagraph, "airport" means that term as defined in section 2 or section 9 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2 and 259.9.

(*x*) Port facilities. As used in this subparagraph, "port facilities" means that term as defined in section 2 of the Hertel-Law-T. Stopczynski port authority act, 1978 PA 639, MCL 120.102.

(*xi*) A public services facility. As used in this subparagraph, "public services facility" means any of the following facilities whether publicly or privately owned:

(A) A natural gas refinery, natural gas storage facility, or natural gas pipeline.

(B) An electric, steam, gas, telephone, power, water, or pipeline facility.

(C) A nuclear power plant, nuclear reactor facility, or nuclear waste storage facility.

(*xii*) A petroleum refinery, petroleum storage facility, or petroleum pipeline.

(*xiii*) A vehicle, locomotive or railroad car, aircraft, or watercraft used to provide transportation services to the public or to provide for the movement of goods in commerce.

(*xiv*) A building, structure, or other facility owned or operated by the federal government, by this state, or by a political subdivision or any other instrumentality of this state or of a local unit of government.

(3) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law committed by that individual while violating this section.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 940 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 940, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 116, Eff. Apr. 22, 2002.

[No. 141]

(HB 5512)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of

evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding section 543x.

The People of the State of Michigan enact:

750.543x Restitution; reimbursement.

Sec. 543x. The court shall order a person who violates this chapter to make restitution to any victim in the manner provided in section 16, 44, or 76 of the crime victim's rights act, 1985 PA 87, MCL 780.766, 780.794, and 780.826, and to reimburse any governmental entity for its expenses incurred as a result of the violation, in the manner provided in section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

[No. 142]

(HB 5513)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 4701 and 4702 (MCL 600.4701 and 600.4702), section 4701 as amended by 2000 PA 184 and section 4702 as added by 1988 PA 104.

The People of the State of Michigan enact:

600.4701 Definitions.

Sec. 4701. As used in this chapter:

(a) "Crime" means committing, attempting to commit, conspiring to commit, or soliciting another person to commit any of the following offenses in connection with which the forfeiture of property is sought:

(*i*) A violation of part 111 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11101 to 324.11153.

(*ii*) A violation of part 121 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.12101 to 324.12117.

(*iii*) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607.

(*iv*) A violation of section 2 or 3 of the Michigan antitrust reform act, 1984 PA 274, MCL 445.772 and 445.773.

(*v*) A violation described in section 409 of the uniform securities act, 1964 PA 265, MCL 451.809.

(*vi*) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677.

(*vii*) A violation of section 49, 75, 94, 95, 96, 100, 104, 105, 106, 110, 112, 117, 118, 119, 120, 121, 124, 145c, 145d, 157q, 157r, 174, 175, 176, 180, 181, 182, 213, 214, 218, 219a, 224, 248, 249, 250, 251, 252, 253, 254, 255, 263, 264, 271, 272, 273, 274, 300, 356, 357, 357a, 359, 360, 529, 530, 531, 535, 540c, or 540g or chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.49, 750.75, 750.94, 750.95, 750.96, 750.100, 750.104, 750.105, 750.106, 750.110, 750.112, 750.117, 750.118, 750.119, 750.120, 750.121, 750.124, 750.145c, 750.145d, 750.157q, 750.157r, 750.174, 750.175, 750.176, 750.180, 750.181, 750.182, 750.213, 750.214, 750.218, 750.219a, 750.224, 750.248, 750.249, 750.250, 750.251, 750.252, 750.253, 750.254, 750.255, 750.263, 750.264, 750.271, 750.272, 750.273, 750.274, 750.300, 750.356, 750.357, 750.357a, 750.359, 750.360, 750.529, 750.530, 750.531, 750.535, 750.540c, 750.540g, and 750.543a to 750.543z.

(*viii*) A violation of 1979 PA 53, MCL 752.791 to 752.797.

(b) "Instrumentality of a crime" means any property, other than real property, the use of which contributes directly and materially to the commission of a crime.

(c) "Person" means an individual, corporation, partnership, or other business entity, or an unincorporated or voluntary association.

(d) "Proceeds of a crime" means any property obtained through the commission of a crime, including any appreciation in the value of the property.

(e) "Security interest" means any interest in real or personal property that secures payment or performance of an obligation.

(f) "Substituted proceeds of a crime" means any property obtained or any gain realized by the sale or exchange of proceeds of a crime.

600.4702 Property subject to seizure and forfeiture; encumbrances; substituted proceeds of crime.

Sec. 4702. (1) Except as otherwise provided in this section, the following property is subject to seizure by, and forfeiture to, a local unit of government or this state under this chapter:

(a) All personal property that is the proceeds of a crime, the substituted proceeds of a crime, or an instrumentality of a crime.

(b) All real property that is the proceeds of a crime or the substituted proceeds of a crime, except real property that is the primary residence of the spouse or a dependent child of the owner, unless that spouse or dependent child had prior knowledge of, and consented to the commission of, the crime.

(c) In the case of a crime that is a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, all property described in subdivisions (a) and (b) and all real property or personal property that performed 1 of the following functions:

(*i*) Contributed directly and materially to the commission of the crime.

(*ii*) Was used to conceal the crime.

(*iii*) Was used to escape from the scene of the crime.

(*iv*) Was used to conceal the identity of 1 or more of the individuals who committed the crime.

(2) Property is not subject to seizure or forfeiture if either of the following circumstances exists:

(a) The owner of the property did not have prior knowledge of, or consent to the commission of, the crime.

(b) The owner served written notice of the commission of the crime upon an appropriate law enforcement agency, and served a written notice to quit upon the person who committed the crime.

(3) The forfeiture of property encumbered by a security interest is subject to the interest of the holder of the security interest who did not have prior knowledge of, or consent to the commission of, the crime.

(4) The forfeiture of property encumbered by an unpaid balance on a land contract is subject to the interest of the land contract vendor, if the vendor did not have prior knowledge of, or consent to the commission of, the crime.

(5) The forfeiture of the substituted proceeds of a crime is limited to the value of the proceeds of the crime plus the amount by which any restitution or damages owed to the victim of the crime exceeds the value of the proceeds of the crime.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 1, 2002.

[No. 143]

(HB 5520)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties

of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 22 of chapter XVII (MCL 777.22), as amended by 2000 PA 279.

The People of the State of Michigan enact:

CHAPTER XVII

777.22 Offense variables; scoring.

Sec. 22. (1) For all crimes against a person, score offense variables 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 19, and 20. Score offense variables 5 and 6 for homicide, attempted homicide, conspiracy or solicitation to commit a homicide, or assault with intent to commit murder. Score offense variable 16 under this subsection for a violation or attempted violation of section 110a of the Michigan penal code, 1931 PA 328, MCL 750.110a. Score offense variables 17 and 18 if an element of the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

(2) For all crimes against property, score offense variables 1, 2, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(3) For all crimes involving a controlled substance, score offense variables 1, 2, 3, 12, 13, 14, 15, 19, and 20.

(4) For all crimes against public order and all crimes against public trust, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20.

(5) For all crimes against public safety, score offense variables 1, 3, 4, 9, 10, 12, 13, 14, 16, 19, and 20. Score offense variable 18 if an element of the offense or attempted offense involves the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive.

Effective date.

Enacting section 1. This amendatory act takes effect April 22, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 930 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 1, 2002.

Compiler's note: Senate Bill No. 930, referred to in enacting section 2, was filed with the Secretary of State April 1, 2002, and became P.A. 2002, No. 113, Eff. Apr. 22, 2002.

[No. 144]

(SB 1105)

AN ACT to make appropriations for the state institutions of higher education and certain state purposes related to education for the fiscal year ending September 30, 2003;

to provide for the expenditures of those appropriations; and to prescribe the powers and duties of certain state departments, institutions, agencies, employees, and officers.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; higher education.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for higher education for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

HIGHER EDUCATION		
APPROPRIATION SUMMARY:		
Full-time equated classified position	1.0	
GROSS APPROPRIATION	$	1,943,717,366
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	1,943,717,366
Federal revenues:		
Total federal revenues		5,500,000
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		125,573,850
State general fund/general purpose	$	1,812,643,516

Central Michigan university.

Sec. 102. CENTRAL MICHIGAN UNIVERSITY

Operations	$	90,003,800
GROSS APPROPRIATION	$	90,003,800
Appropriated from:		
State general fund/general purpose	$	90,003,800

Eastern Michigan university.

Sec. 103. EASTERN MICHIGAN UNIVERSITY

Operations	$	87,637,200
GROSS APPROPRIATION	$	87,637,200
Appropriated from:		
State general fund/general purpose	$	87,637,200

Ferris state university.

Sec. 104. FERRIS STATE UNIVERSITY

Operations	$	55,520,300
GROSS APPROPRIATION	$	55,520,300
Appropriated from:		
State general fund/general purpose	$	55,520,300

		For Fiscal Year Ending Sept. 30, 2003
Grand valley state university.		
Sec. 105. GRAND VALLEY STATE UNIVERSITY		
Operations	$	60,095,400
GROSS APPROPRIATION	$	60,095,400
Appropriated from:		
State general fund/general purpose	$	60,095,400
Lake Superior state university.		
Sec. 106. LAKE SUPERIOR STATE UNIVERSITY		
Operations	$	14,268,700
GROSS APPROPRIATION	$	14,268,700
Appropriated from:		
State general fund/general purpose	$	14,268,700
Michigan state university.		
Sec. 107. MICHIGAN STATE UNIVERSITY		
Operations	$	325,982,300
GROSS APPROPRIATION	$	325,982,300
Appropriated from:		
State general fund/general purpose	$	325,982,300
Michigan technological university.		
Sec. 108. MICHIGAN TECHNOLOGICAL UNIVERSITY		
Operations	$	55,241,600
GROSS APPROPRIATION	$	55,241,600
Appropriated from:		
State general fund/general purpose	$	55,241,600
Northern Michigan university.		
Sec. 109. NORTHERN MICHIGAN UNIVERSITY		
Operations	$	52,012,900
GROSS APPROPRIATION	$	52,012,900
Appropriated from:		
State general fund/general purpose	$	52,012,900
Oakland university.		
Sec. 110. OAKLAND UNIVERSITY		
Operations	$	52,384,700
GROSS APPROPRIATION	$	52,384,700
Appropriated from:		
State general fund/general purpose	$	52,384,700
Saginaw valley state university.		
Sec. 111. SAGINAW VALLEY STATE UNIVERSITY		
Operations	$	27,393,300
GROSS APPROPRIATION	$	27,393,300
Appropriated from:		
State general fund/general purpose	$	27,393,300

		For Fiscal Year Ending Sept. 30, 2003
University of Michigan - Ann Arbor.		
Sec. 112. UNIVERSITY OF MICHIGAN - ANN ARBOR		
Operations	$	363,562,700
GROSS APPROPRIATION	$	363,562,700
Appropriated from:		
State general fund/general purpose	$	363,562,700
University of Michigan - Dearborn.		
Sec. 113. UNIVERSITY OF MICHIGAN - DEARBORN		
Operations	$	27,993,300
GROSS APPROPRIATION	$	27,993,300
Appropriated from:		
State general fund/general purpose	$	27,993,300
University of Michigan - Flint.		
Sec. 114. UNIVERSITY OF MICHIGAN - FLINT		
Operations	$	24,068,100
GROSS APPROPRIATION	$	24,068,100
Appropriated from:		
State general fund/general purpose	$	24,068,100
Wayne state university.		
Sec. 115. WAYNE STATE UNIVERSITY		
Operations	$	253,644,700
GROSS APPROPRIATION	$	253,644,700
Appropriated from:		
State general fund/general purpose	$	253,644,700
Western Michigan university.		
Sec. 116. WESTERN MICHIGAN UNIVERSITY		
Operations	$	125,677,200
GROSS APPROPRIATION	$	125,677,200
Appropriated from:		
State general fund/general purpose	$	125,677,200
State and regional programs.		
Sec. 117. STATE AND REGIONAL PROGRAMS		
Full-time equated position	1.0	
Agricultural experiment station	$	36,848,700
Cooperative extension service		31,782,600
Rare isotope accelerator		2,000,000
Michigan molecular institute		236,900
Japan center for Michigan universities		305,300
Higher education database modernization and conversion—1.0 FTE position		250,000
Midwestern higher education compact		82,500
GROSS APPROPRIATION	$	71,506,000

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Special revenue funds:		
Michigan tobacco settlement trust fund	$	2,000,000
State general fund/general purpose	$	69,506,000

Martin Luther King, Jr. - Cesar Chavez - Rosa Parks program.

Sec. 118. MARTIN LUTHER KING, JR. - CESAR CHAVEZ - ROSA PARKS PROGRAM

Select student supportive services	$	2,173,450
Michigan college/university partnership program		652,050
Morris Hood, Jr. educator development program		165,100
GROSS APPROPRIATION	$	2,990,600
Appropriated from:		
State general fund/general purpose	$	2,990,600

Grants and financial aid.

Sec. 119. GRANTS AND FINANCIAL AID

State competitive scholarships	$	36,654,616
Tuition grants		66,100,200
Michigan work-study program		8,015,800
Part-time independent student program		2,903,000
Grant for Michigan resident dental graduates		5,052,300
Grant for general degree graduates		6,319,400
Grant for allied health graduates		935,100
Michigan education opportunity grants		2,280,300
Robert C. Byrd honors scholarship program		1,900,000
Nursing scholarship program		4,000,000
Michigan merit award program		114,323,850
Tuition incentive program		5,250,000
GROSS APPROPRIATION	$	253,734,566
Appropriated from:		
Federal revenues:		
Higher education act of 1965, title IV, 20 U.S.C.		3,600,000
Higher education act of 1965, title IV, part A		1,900,000
Special revenue funds:		
Michigan merit award trust fund		123,573,850
State general fund/general purpose	$	124,660,716

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $1,938,217,366.00

and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $4,029,061.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

Part-time independent student program	$	1,345,831
Michigan education opportunity grant		999,912
Michigan work-study		1,683,318
TOTAL	$	4,029,061

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Reporting requirements; use of internet.

Sec. 208. Unless otherwise specified, the institutions of higher education shall use the internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement, or it may include placement of reports on an internet or intranet site.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods and services, or both, are available. Not later than May 1, 2003, each university shall have available upon request information on efforts to comply with this section.

Distribution of payments; installments; submission of HEIDI data; procedures.

Sec. 210. (1) The funds appropriated in part 1 to state institutions of higher education shall be paid out of the state treasury and distributed by the state treasurer to the respective institutions in 11 equal monthly installments on the sixteenth of each month, or the next succeeding business day, beginning with October 16, 2002. Except for Wayne State University, each institution shall accrue its July and August 2003 payments to its institutional fiscal year ending June 30, 2003.

(2) All universities shall submit higher education institutional data inventory (HEIDI) data and associated financial and program information requested by and in a manner prescribed by the state budget director. For universities with fiscal years ending June 30, 2002, these data shall be submitted to the state budget director by October 15, 2002. Universities with a fiscal year ending September 30, 2002 shall submit preliminary HEIDI data by November 15, 2002 and final data by December 15, 2002. If a university fails to submit HEIDI data and associated financial aid program information in accordance with this reporting schedule, the state treasurer shall withhold the monthly installments under subsection (1) to the university until those data are submitted.

(3) A detailed description of procedures utilized to arrive at the amounts appropriated in part 1 shall be submitted to each institution by the senate and house fiscal agencies.

Federal or private funds; purposes; use.

Sec. 211. Funds received by the state from the federal government or private sources for the use of a college or university are appropriated for the purposes for which they are provided. The acceptance and use of federal or private funds does not place an obligation upon the legislature to continue the purposes for which the funds are made available.

Furnishing program and financial information.

Sec. 213. A state institution of higher education that receives funds under this act shall furnish all program and financial information that is required by and in a manner prescribed by the state budget director or the house or senate appropriations committee.

Tuition and fee changes; submission of notification and documentation.

Sec. 214. If section 274 of the income tax act of 1967, 1967 PA 281, MCL 206.274, is not repealed and if a state institution of higher education that receives funds under this act notifies the department of treasury regarding its tuition and fee rates in order to qualify as an eligible institution for the Michigan tuition tax credit under section 274 of the income tax act of 1967, 1967 PA 281, MCL 206.274, the institution shall also submit the notification and applicable documentation of tuition and fee changes to the house and senate fiscal agencies.

Department of treasury annual report.

Sec. 216. By February 15, 2003, the department of treasury shall provide the state budget director, the subcommittees on higher education of the house and senate appropriations committees, and the senate and house fiscal agencies with an annual report on restricted fund balances, projected revenues, and expenditures for the fiscal year ending September 30, 2002 and projected restricted fund balances, revenues, and expenditures for the fiscal year ending September 30, 2003.

Capital outlay projects; competitive bid.

Sec. 218. It is the intent of the legislature that capital outlay projects for which any state funds are used be competitively bid. As used in this section, "capital outlay projects" means capital outlay as defined in section 113 of the management and budget act, 1984 PA 431, MCL 18.1113.

GRANTS AND FINANCIAL AID

State competitive scholarship program.

Sec. 301. (1) Payments of the amounts included in part 1 for the state competitive scholarship program shall be distributed pursuant to 1964 PA 208, MCL 390.971 to 390.981.

(2) The Michigan higher education assistance authority shall implement a proportional competitive scholarship maximum award level for recipients enrolled less than full-time in a given semester or term.

(3) If a student who receives an award under this section has his or her tuition and fees paid under the Michigan educational trust program, pursuant to the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1444, and still has financial need, the funds awarded under this section may be used for educational expenses other than tuition and fees.

(4) If the Michigan higher education assistance authority increases the maximum award per eligible student from that provided in the previous fiscal year, it shall not have the effect of reducing the number of eligible students receiving awards in relation to the total number of eligible applicants. Any increase in the maximum grant shall be proportional for all eligible students receiving awards.

Tuition grant program.

Sec. 302. (1) The amounts appropriated in part 1 for the state tuition grant program shall be distributed pursuant to 1966 PA 313, MCL 390.991 to 390.997a.

(2) Tuition grant awards shall be made to all eligible Michigan residents who apply before September 1, 2002 and who are qualified. Tuition grant awards shall not be made to students newly enrolled in a juris doctor law degree program after the 1995-96 academic year.

(3) The Michigan higher education assistance authority shall determine an actual maximum tuition grant award per student that ensures that the aggregate payments for the tuition grant program do not exceed the appropriation contained in part 1 for the state tuition grant program. By December 15, 2002, and again by February 1, 2003, the authority shall analyze the status of award commitments, shall make any necessary adjustments, and shall confirm that those award commitments will not exceed the appropriation contained in part 1 for the tuition grant program. The determination and actions shall be reported to the state budget director and the house and senate fiscal agencies no later than February 15, 2003. If award adjustments are necessary, the students shall be notified of the adjustment by the third Monday in February.

(4) Any unexpended and unencumbered funds remaining on September 30, 2003 from the amounts appropriated in part 1 for the tuition grant program shall not lapse on September 30, 2003, but shall continue to be available for expenditure for tuition grants provided in the 2003-2004 fiscal year. The use of these unexpended fiscal year 2002-2003 funds shall terminate at the end of the 2003-2004 fiscal year.

(5) The Michigan higher education assistance authority shall continue a proportional tuition grant maximum award level for recipients enrolled less than full-time in a given semester or term.

(6) If the Michigan higher education assistance authority increases the maximum award per eligible student from that provided in the previous fiscal year, it shall not have the effect of reducing the number of eligible students receiving awards in relation to the total number of eligible applicants. Any increase in the maximum grant shall be proportional for all eligible students receiving awards for fiscal year 2002-2003.

(7) All Ferris State University students enrolled at Kendall College of Art and Design prior to January 1, 2001 who were qualified for the state tuition grant shall continue to receive the dollar amount of the state tuition grant for which they were eligible until they graduate or are no longer enrolled in the Kendall College of Art and Design at Ferris State University.

Work-study program.

Sec. 303. (1) Included in the appropriation in part 1 is funding for the Michigan work-study program established under 1986 PA 288, MCL 390.1371 to 390.1382, and 1986 PA 303, MCL 390.1321 to 390.1332. An effort should be made by each institution participating in the Michigan work-study program to assure that not less than 10% of those undergraduate, graduate, and professional students eligible to participate in the program are placed with for-profit employers no later than December 31 of each year for which funding is provided under this act.

(2) The Michigan higher education assistance authority shall allocate funds to institutions eligible for work-study money based upon each institution's specific Pell grant index and each institution's utilization rate of work-study funds for the 3 most recent years for which statistics are available.

(3) The Michigan higher education assistance authority shall set aside not more than 5% of the total work-study appropriation to process requests from participating institutions

for allocation adjustments. Allocation adjustments shall be based on criteria set by the authority prior to making the allocations under subsection (2).

General degree reimbursement program.

Sec. 304. (1) Payments of the amounts included in part 1 for the general degree reimbursement program established under 1974 PA 75, MCL 390.1021 to 390.1027, shall be made for all degrees identified in section 1(1) of 1974 PA 75, MCL 390.1021, except doctor of dental surgery, doctor of dental medicine, juris doctor law, and allied health degrees.

(2) The reimbursement rate per eligible degree shall be the equally prorated amount permitted by the appropriation, except that the amount of the reimbursement for each associate degree shall be 1/2 of the rate of reimbursement for the other degrees eligible under subsection (1) for the general degree reimbursement program.

(3) From the general degree reimbursement program, $135,300.00 shall be provided to Spring Arbor University for the southern Michigan state prison program.

(4) From the general degree reimbursement program, $200,500.00 shall be provided to the University of Detroit - Mercy for graduate research aid.

(5) From the general degree reimbursement program, $30,100.00 shall be provided to Marygrove College for learning clinics.

(6) From the general degree reimbursement program, $50,000.00 shall be provided to Finlandia University for career education programs.

Allied health degree reimbursement program; rate.

Sec. 305. The reimbursement rate per eligible degree under the allied health degree reimbursement program established under 1974 PA 75, MCL 390.1021 to 390.1027, shall be the equally prorated amount permitted by the appropriation included in part 1.

Degree reimbursement programs funds; use for theology or divinity programs; prohibition.

Sec. 306. Funds disbursed through the degree reimbursement programs shall not be used by any recipient institution for theology or divinity programs.

Audit.

Sec. 307. The auditor general may audit selected enrollments, degrees, and awards at selected independent colleges and universities receiving awards administered by the department of treasury. The audits shall be based upon definitions and requirements established by the Michigan higher education assistance authority, the state budget director, and the senate and house fiscal agencies. The auditor general shall accept the Free Application for Federal Student Aid (FAFSA) form as the standard of residency documentation. The auditor general shall submit a report of findings to the senate and house appropriations committees and state budget director by May 1, 2003.

Student financial aid and degree reimbursement programs; payments; distributions.

Sec. 308. The sums appropriated in part 1 for the student financial aid and degree reimbursement programs shall be paid out of the state treasury and shall be distributed to the respective institutions under a quarterly payment system as follows:

(a) For the state competitive scholarship, tuition incentive, and tuition grant programs, 40% shall be paid at the beginning of the state's first fiscal quarter, 40% at the beginning

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

of the state's second fiscal quarter, 10% at the beginning of the state's third fiscal quarter, and 10% at the beginning of the state's fourth fiscal quarter.

(b) For the work-study program, payments shall be made in 11 monthly installments from October 1 to August 31 of any year.

(c) For the part-time independent student program and Michigan education opportunity grant program, 50% shall be paid at the beginning of the state's first fiscal quarter, 25% at the beginning of the state's second fiscal quarter, and 25% at the beginning of the state's third fiscal quarter.

(d) For the general degree reimbursement program, allied health degree reimbursement program, Michigan resident dental grant program, and Robert C. Byrd honors scholarship program, 50% shall be paid at the beginning of the state's first fiscal quarter and 50% at the beginning of the state's second fiscal quarter after the number of earned degrees conferred and total amounts to be paid are certified.

Needs analysis.

Sec. 309. The Michigan higher education assistance authority shall determine the needs analysis criteria for students to qualify for the competitive scholarship program and tuition grant program. To be consistent with federal requirements, student wages may be taken into consideration when determining the amount of the award.

Tuition incentive program/high school completion program.

Sec. 310. (1) The funds appropriated in part 1 for the tuition incentive program/high school completion program shall be distributed as provided in this section and pursuant to the administrative procedures for the tuition incentive program/high school completion program of the department of treasury.

(2) As used in this section:

(a) "Phase I" means the first part of the tuition incentive assistance program defined as the academic period of 80 semester or 120 term credits, or less, leading to an associate degree or certificate.

(b) "Phase II" means the second part of the tuition incentive assistance program which provides assistance in the third and fourth year of 4-year degree programs.

(c) "Department" means the department of treasury.

(3) A person shall meet the following basic criteria and financial thresholds to be eligible for tuition incentive benefits:

(a) To be eligible for phase I, a person shall meet all of the following criteria:

(*i*) Apply for certification to the department before graduating from high school or completing the general education development (GED) certificate.

(*ii*) Be less than 20 years of age at the time of high school graduation or GED completion.

(*iii*) Be a United States citizen and a resident of Michigan according to institutional criteria.

(*iv*) Be at least a half-time student, earning less than 80 semester or 120 term credits at a participating educational institution within 4 years of high school graduation or GED certificate completion.

(b) To be eligible for phase II, a person shall meet either of the following criteria in addition to the criteria in subdivision (a):

(*i*) Complete at least 56 transferable semester or 84 transferable term credits.

(*ii*) Obtain an associate degree or certificate at a participating institution.

(c) To be eligible for phase I or phase II, a person must be financially eligible as determined by the department. A person is financially eligible for the tuition incentive program if that person was Medicaid eligible for 24 months within the 36 months before application. Certification of eligibility may begin in the sixth grade and continue until the time of enrollment in a participating institution.

(4) For phase I, the department shall provide payment on behalf of a person eligible under subsection (3). The department shall reject billings that are excessive or outside the guidelines for the type of educational institution.

(5) For phase I, all of the following apply:

(a) Payments for associate degree or certificate programs shall not be made for more than 80 semester or 120 term credits for any individual student at any participating institution.

(b) For persons enrolled at a Michigan community college, the department shall pay the current in-district tuition and mandatory fees. For persons residing in an area that is not included in any community college district, the out-of-district tuition rate may be authorized.

(c) For persons enrolled at a Michigan public university, the department shall pay lower level resident tuition and mandatory fees for the current year.

(d) For persons enrolled at a Michigan independent, nonprofit degree granting college or university, or a Michigan federal tribally controlled community college, or Focus: HOPE, the department shall pay mandatory fees for the current year and a per-credit payment that does not exceed the average community college in-district per-credit tuition rate as reported on August 1, for the immediately preceding academic year.

(6) A person participating in phase II may be eligible for additional funds not to exceed $500.00 per semester or $400.00 per term up to a maximum of $2,000.00 subject to the following conditions:

(a) Credits are earned in a 4-year program at a Michigan degree granting 4-year college or university.

(b) The tuition reimbursement is for coursework completed within 30 months of completion of the phase I requirements.

(7) Program payments shall not be used by any recipient for theology or divinity courses.

(8) The department shall work closely with participating institutions to develop an application and eligibility determination process that will provide the highest level of participation and ensure that all requirements of the program are met.

(9) Applications for the tuition incentive program may be approved at any time after the student begins the sixth grade. If a determination of financial eligibility is made, that determination is valid as long as the student meets all other program requirements and conditions.

(10) Each institution shall ensure that all known available restricted grants for tuition and fees are used prior to billing the tuition incentive program for any portion of a student's tuition and fees.

(11) The department shall ensure that the tuition incentive program is well publicized and that potentially eligible Medicaid clients are provided information on the program. The department shall provide the necessary funding and staff to fully operate the program.

(12) Any unexpended and unencumbered funds remaining on September 30, 2003 from the amounts appropriated in part 1 for the tuition incentive program shall not lapse on

September 30, 2003, but shall continue to be available for expenditure for the tuition incentive program in the fiscal year ending September 30, 2004.

Availability of independent college and university data.

Sec. 311. To enable the legislature and the state budget director to evaluate the appropriation needs of higher education, each independent college and university shall make available to the legislature or state budget director, upon request, data regarding grants for the preceding, current, and ensuing fiscal years.

Nursing scholarship program.

Sec. 312. (1) From the funds appropriated in part 1, the Michigan higher education assistance authority shall establish and administer the nursing scholarship program. The department of treasury shall disburse the amount of the scholarship awards determined under subsection (2) to recipients.

(2) The authority shall review applications for and determine recipients of the scholarships, which are intended for tuition, fees, and associated costs of a nursing education program.

(3) The scholarships may be used by enrollees in a licensed practical nurse (LPN), associate degree of nursing (ADN), or bachelor's of science nursing (BSN) program approved by the Michigan department of education.

(4) The authority shall develop and adopt rules regarding the required commitment by graduates of a program described in subsection (3) who received scholarships under the nursing scholarship program to employment in a direct patient care setting. It shall also determine the amount of the scholarship for each of the educational tracks identified in subsection (3).

(5) Any unexpended and unencumbered funds remaining on September 30, 2003 from the amounts appropriated in part 1 for the nursing scholarship program shall not lapse on September 30, 2003, but shall continue to be available for expenditure for nursing scholarships provided in the 2003-2004 fiscal year. The use of these unexpended fiscal year 2002-2003 funds shall terminate at the end of the 2003-2004 fiscal year.

(6) When statutory provisions are enacted to provide for a nursing scholarship program, the provisions of subsections (2) through (5) are superseded.

STATE UNIVERSITIES

Joseph F. Young, Sr. psychiatric research and training program; use of funds by Wayne state university; reports.

Sec. 401. (1) Included in part 1 is $6,356,023.00 to Wayne State University for the Joseph F. Young, Sr. psychiatric research and training program. Wayne State University shall use these funds for psychiatric laboratory and clinical research, training, and treatment services. Within the available appropriation, services shall not be denied to any patient who meets established research guidelines for treatment on the basis of personal financial circumstances, age, geographic residence, or projected/actual length of treatment as medically warranted.

(2) Wayne State University shall report the following information to the department of community health by November 1, 2003:

(a) The number and type of psychiatric research projects funded by the appropriation described in subsection (1).

(b) The number and type of students trained and the location of training funded by the appropriation.

(c) Demographic data regarding the number and profile of patients to receive psychiatric services funded by the appropriation and a profile of the services provided.

(d) A summary budget outlining major expenditure categories and any first- and third-party reimbursements.

(3) Copies of these reports shall also be provided to the house and senate fiscal agencies and the state budget director.

Biological station at Douglas lake.

Sec. 402. The University of Michigan biological station at Douglas Lake in Cheboygan County is regarded as a unique resource and is designated as a special research reserve. It is the intent of the legislature to protect and preserve the unique long-term research value and capabilities of the biological station area and Douglas Lake. The legislature further intends that no state programs or policies be developed that would have a deleterious impact on the research value of Douglas Lake.

Higher education institutional data inventory advisory committee.

Sec. 405. (1) There is created the higher education institutional data inventory advisory committee. The committee shall be appointed by the state budget director and shall consist of the following members:

(a) One representative from the house fiscal agency.

(b) One representative from the senate fiscal agency.

(c) One representative from the state budget director's office.

(d) Three representatives of the presidents council of state universities. The presidents council shall appoint 1 representative each from a masters, a doctoral, and a research university.

(2) The committee shall provide for the general scope and direction for implementing the conversion and modernization of the state's higher education databases, for which funding is provided in part 1.

(3) The committee shall prepare a plan for the conversion and modernization effort. The plan shall include, but is not limited to, all of the following:

(a) The development of a data dictionary/glossary.

(b) The integration of appropriate federal, national, regional, and state databases.

(c) The assurance of the accuracy of the data.

Tenured and tenure track faculty; commitment to undergraduate instruction.

Sec. 408. The legislature recognizes that the first and foremost obligation of the public universities is undergraduate instruction. The public universities are therefore encouraged to increase their commitment of tenured and tenure track faculty to undergraduate instruction.

University groupings; funding floors.

Sec. 409. The amounts included in part 1 for public universities recognize 4 separate university groupings. Funding floors for the 4 groupings are established as follows:

(a) Funding floor of $4,600.00 per fiscal-year-equated student for Eastern Michigan University, Ferris State University, Grand Valley State University, Lake Superior State

University, Northern Michigan University, Saginaw Valley State University, and the University of Michigan-Flint.

(b) Funding floor of $4,800.00 per fiscal-year-equated student for Central Michigan University, Oakland University, and the University of Michigan-Dearborn.

(c) Funding floor of $5,800.00 per fiscal-year-equated student for Michigan Technological University and Western Michigan University.

(d) Funding floor of $9,100.00 per fiscal-year-equated student for Michigan State University, the University of Michigan-Ann Arbor, and Wayne State University.

Law degree seeking students; use of state funds.

Sec. 418. No state funds shall be used by any state university to undertake a collaborative effort with any other university that would have the effect of increasing its enrollment of first-time professional law degree seeking students.

Charter schools development and performance institute; report.

Sec. 421. (1) Central Michigan University shall report by September 30, 2003 to the state budget director, house and senate appropriations committees, and the house and senate fiscal agencies information on the activities and effectiveness of the charter schools development and performance institute for which an appropriation is provided in part 1. Included in the report shall be an accounting of all revenues and expenditures of the institute, the names of the public school academies served, and the type of assistance provided to each public school academy.

(2) All funds received under part 1 for the charter schools development and performance institute are intended to be expended on activities of that institute.

Textbook purchases.

Sec. 426. It is the legislative intent that private bookstores that sell textbooks to university students and student governments that provide a book swap for university students have accurate and timely access to lists of universities' required textbooks in order to provide prompt and efficient service for students. It is further the legislative intent that each state university allow students who are on financial aid or are receiving tuition grants to decide where to purchase their textbooks.

Project GREEEN.

Sec. 433. (1) Included in part 1 is $3,281,500.00 for the agricultural experiment station and $2,910,000.00 for the cooperative extension service for project GREEEN. Project GREEEN is intended to address critical regulatory, food safety, economic, and environmental problems faced by this state's plant-based agriculture, forestry, and processing industries. "GREEEN" is an acronym for generating research and extension to meet environmental and economic needs.

(2) The department of agriculture and Michigan State University, in consultation with agricultural commodity groups and other interested parties, shall develop project GREEEN and its program priorities.

(3) Not later than September 30, 2003, a report shall be submitted by Michigan State University to the state budget director, the house and senate appropriations subcommittees on agriculture and on higher education, and the house and senate fiscal agencies for the preceding fiscal year regarding project GREEEN projects. The report shall include, but is not limited to, the dollar amount of each project and a review of each project's performance and accomplishments.

Presidents council meetings with Michigan economic development corporation; report.

Sec. 434. All state universities shall work with the Michigan economic development corporation (MEDC) to foster the state's economic development. The presidents council shall meet quarterly with the MEDC or its representative to discuss potential cooperative efforts and examine any strategies or issues of concern related to advancement of Michigan's economic development. The state universities, through its presidents council, shall submit a report that summarizes the discussion and identifies any conclusions or recommendations of the participants at each quarterly meeting. The quarterly report shall be submitted to the state budget director, the house and senate appropriations subcommittees on higher education, and the house and senate fiscal agencies no later than 30 days after each quarterly meeting.

Automatic sprinkler systems; installation in dormitories.

Sec. 435. Each institution of higher education shall conduct a study on the installation of automatic sprinkler and other fire safety systems in dormitories, and shall report to the legislature on or before January 1, 2003 the existence or nonexistence of such systems and the estimated cost of installing automatic sprinkler systems where they do not exist.

Tuition restraint; appropriation; withholding funds if tuition increase more than certain amount.

Sec. 436. (1) It is the intent of the legislature to recognize and maintain the quality of Michigan's colleges and universities by allowing the higher education appropriations for the 2002-2003 fiscal year to remain at the same level as the appropriations for fiscal year 2001-2002, with no reductions. It is also the intent of the legislature to recognize the need for tuition restraint on the part of Michigan's public universities, in order to maintain access and affordability at Michigan's colleges and universities for students and parents. It is further the intent of the legislature to reduce appropriations for any college or university that does not exercise tuition restraint for the 2002-2003 academic year, as outlined in subsection (2).

(2) The appropriation for any university in part 1 of this act shall not be reduced if that university adopts a tuition and fee rate increase for resident undergraduate students that is 8.5% or less over the prior year, or a total increase of $425.00 or less over the prior year, whichever is greater, and if a university reports to the state budget director and the appropriations committees of the house and senate any cost increases in excess of the increase over the prior year in the Detroit consumer price index, for utilities, retirement, health care, or technology.

(3) It is the intent of the legislature that the presidents and chancellors of Michigan's 15 public universities voluntarily agree to the conditions outlined in subsection (2), and that a letter signed by the presidents and chancellors confirming this agreement would be transmitted to the legislature by February 28, 2002.

(4) If a university does not exercise the tuition restraint as outlined in subsections (2) and (3) above, the legislature authorizes the state budget director to withhold funds appropriated for that university by an amount equal to the amount in excess of the desired restraint and to notify the appropriations committees of the house and senate. It is the intent of the legislature to redistribute these funds, based on each university's percentage share of the fiscal year 2001-2002 base appropriations, to those universities that honor the tuition restraint commitment.

Rare isotope accelerator facilities.

Sec. 437. Included in part 1 is $2,000,000.00 for design and architectural studies related to the rare isotope accelerator facilities to be located at Michigan State University. This appropriation is for the development of a program statement and preliminary design documents for the rare isotope accelerator office building and for evaluation and prototyping of the rare isotope accelerator design elements. It is the intent of the legislature that Michigan State University will collaborate with the Michigan economic development corporation to develop the program statement and preliminary design documents.

Availability of additional revenue; appropriation.

Sec. 438. It is the intent of the legislature that if the May 2002 consensus revenue estimating conference determines that additional state general fund/general purpose revenue is available for expenditure in fiscal year 2002-2003, funds shall be appropriated to the state universities that have a per fiscal-year-equated student appropriation less than the per fiscal-year-equated student funding floor amount specified in section 409.

College credits earned through postsecondary enrollment options act; formation of workgroup.

Sec. 439. It is the intent of the legislature that a workgroup be formed to evaluate, discuss, and make recommendations for future action regarding state university admission and enrollment policies that specifically address the acceptance and application of college credits earned by students through the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524. The workgroup shall be bipartisan and shall include the chairpersons of the house and senate appropriations subcommittees on higher education, community colleges, and school aid.

MARTIN LUTHER KING, JR. - CESAR CHAVEZ - ROSA PARKS PROGRAMS

Martin Luther King, Jr. - Cesar Chavez - Rosa Parks future faculty program.

Sec. 501. (1) Included in the appropriation for each public university in part 1 is funding for the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks future faculty program, that is intended to increase the pool of minority candidates pursuing faculty teaching careers in postsecondary education. Each university shall apply the percentage increase applicable to every university in the calculation of appropriations in part 1 to the amount of funds allocated to the future faculty program.

(2) The program shall be administered by each university in a manner prescribed by the Michigan department of career development. The Michigan department of career development shall use a good faith effort standard to evaluate whether a fellowship is in default.

Martin Luther King, Jr. - Cesar Chavez - Rosa Parks college day program.

Sec. 502. (1) Included in the appropriation for each public university in part 1 is funding for the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks college day program that is intended to introduce schoolchildren underrepresented in postsecondary education to the potential of a college education.

(2) Individual program plans of each university shall include a budget of equal contributions from this program, the participating public university, the participating school district, and the participating independent degree granting college. College day funds shall not be expended to cover indirect costs. Not more than 20% of the university match shall be attributable to indirect costs. Each university shall apply the percentage increase applicable to every university in the calculation of appropriations in part 1 to the amount of funds allocated to the college day program.

(3) The program shall be administered by each university in a manner prescribed by the Michigan department of career development.

Martin Luther King, Jr. - Cesar Chavez - Rosa Parks select student support services program.

Sec. 503. (1) Included in part 1 is funding for the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks select student support services program for developing academically and economically disadvantaged student retention programs for 4-year public and independent educational institutions in this state.

(2) An award made under this program to any 1 institution shall not be greater than $150,000.00, and the amount awarded shall be matched on a 70% state, 30% college or university basis.

(3) The program shall be administered by the Michigan department of career development.

Martin Luther King, Jr. - Cesar Chavez - Rosa Parks college/university partnership program.

Sec. 504. (1) Included in part 1 is funding for the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks college/university partnership program between 4-year public and independent colleges and universities and public community colleges, which is intended to increase the number of academically and economically disadvantaged students who transfer from community colleges into baccalaureate programs.

(2) The grants shall be made under this program to Michigan public and independent colleges and universities. An award to any 1 institution shall not be greater than $150,000.00, and the amount awarded shall be matched on a 70% state, 30% college or university basis.

(3) The program shall be administered by the Michigan department of career development.

Martin Luther King, Jr. - Cesar Chavez - Rosa Parks visiting professors program.

Sec. 505. (1) Included in the appropriation for each public university in part 1 is funding for the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks visiting professors program which is intended to increase the number of underrepresented minority instructors in the classroom and provide role models for underrepresented minority students.

(2) The program shall be administered by the Michigan department of career development.

Morris Hood, Jr. educator development program.

Sec. 506. (1) Included in the appropriation in part 1 is funding under the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks initiative for the Morris Hood, Jr. educator development program which is intended to increase the number of minority students,

especially males, who enroll in and complete K-12 teacher education programs at the baccalaureate level.

(2) The program shall be administered by each state-approved teacher education institution in a manner prescribed by the Michigan department of career development.

(3) Approved teacher education institutions may and are encouraged to use student support services funding in coordination with the Morris Hood, Jr. funding to achieve the goals of the program.

Expenditure of funds received under section 503, 504, or 506; notification.

Sec. 507. Each state institution of higher education receiving funds under section 503, 504, or 506 shall notify the Michigan department of career development by April 15, 2003 as to whether it will expend by the end of its fiscal year the funds received under section 503, 504, or 506. Notwithstanding the award limitations in sections 503 and 504, the amount of funding reported as not being expended will be reallocated to the institutions that intend to expend all funding received under section 503, 504, or 506.

STUDENT PERFORMANCE REPORTING

Academic status of students; informing high schools.

Sec. 601. (1) From the amount appropriated in part 1 for state universities, the state universities shall systematically inform Michigan high schools regarding the academic status of students from each high school in a manner prescribed by the presidents council, state universities of Michigan in cooperation with the Michigan association of secondary school principals.

(2) The Michigan high schools shall systematically inform the state universities about the use of information received under this section in a manner prescribed by the Michigan association of secondary school principals in cooperation with the presidents council, state universities of Michigan.

Academic status of community college transfer students.

Sec. 602. From the amount appropriated in part 1 for state universities, the state universities shall inform Michigan community colleges regarding the academic status of community college transfer students in a manner prescribed by the presidents council, state universities of Michigan in cooperation with the Michigan community college association.

GENERAL REPORTS AND AUDITS

HEIDI enrollment data; review and audits; reports.

Sec. 701. (1) The auditor general shall review higher education institutional data inventory (HEIDI) enrollment data submitted by all public universities and may perform audits of selected public universities if determined necessary. The review and audits shall be based upon the definitions, requirements, and uniform reporting categories established by the state budget director and the senate and house fiscal agencies. The auditor general

shall submit a report of findings to the house and senate appropriations committees and the state budget director no later than July 1, 2003.

(2) Student credit hours reports shall not include the following:

(a) Student credit hours generated through correspondence courses, credit by examination, or inmate prison programs regardless of teaching location.

(b) Student credit hours generated in new degree programs after January 1, 1975, that have not been specifically authorized for funding by the legislature, except spin-off programs converted from existing core programs that do all of the following:

(*i*) Represent new options, fields, or concentrations within existing programs.

(*ii*) Are consistent with the current institutional role and mission.

(*iii*) Are accommodated within the continuing funding base of the institution.

(*iv*) Do not require a new degree level beyond that which the institution is currently authorized to grant within that discipline or field.

(*v*) Do not require funding from the state other than that provided by the student credit hours generated within the program, either before program initiation or within the first 3 years of program operation.

(3) The auditor general shall periodically audit higher education institutional data inventory (HEIDI) data as submitted by the state universities for compliance with the definitions approved by the HEIDI advisory committee for the HEIDI database.

Degree programs; listing.

Sec. 701a. (1) Pursuant to section 701(2)(b), the following degree programs may be established:

(a) Bachelors

Eastern Michigan University	Technology Management, B.S.
Ferris State University	Communication Major, B.A.
Ferris State University	Mathematics Major, B.A.
Ferris State University	Biology Major, B.A.
Ferris State University	E-Commerce Marketing, B.S.
Ferris State University	Industrial Technology and Management Concentration, B.A.S.
Lake Superior State University	Liberal Studies, B.A./B.S.
Michigan State University	Music Education, B.Mus.
Michigan Technological University	Bioinformatics, B.S.
University of Michigan	Joint Literature, Science and Arts/School of Natural Resources and Environment Degree in the Environment, B.A./B.S.
University of Michigan	Bachelor of Fine Arts (replaces existing curriculum), B.F.A.

(b) Masters

Central Michigan University	Geographic Information Sciences, M.S.
Michigan State University	Applied Spanish Linguistics, M.A.
Michigan State University	Education, M.A.
Michigan State University	Zoo and Aquarium Management, M.S.
Michigan State University	Comparative Medicine and Integrative Biology, M.S.
Michigan State University	Logistics, M.S.

Michigan State University	Professional Applications in Anthropology, M.A.
Oakland University	Information Technology Management, M.S.
Oakland University	Embedded Systems, M.S.
Oakland University	Information Systems Engineering, M.S.
Oakland University	Liberal Studies, M.A.
University of Michigan	Interdisciplinary Program in Survey Methodology, M.S.
University of Michigan	Judaic Studies, M.A.
University of Michigan	Integrated Microsystems, M. Engineering
Western Michigan University	Performing Arts Administration, M.F.A.
Western Michigan University	Educational Technology, M.A.

(c) Doctorate/Other

Central Michigan University	Doctor of Health Administration, D.H.A.
Oakland University	Doctorate in Physical Therapy (combined with DScPT proposal), D.P.T.
Oakland University	Doctorate of Science in Physical Therapy (combined with DPT proposal), D.S.P.T.
Michigan State University	Comparative Medicine & Integrative Biology, Ph.D.
University of Michigan	Interdisciplinary Program in Survey Methodology, Ph.D.
University of Michigan	Interdepartmental Program in Greek and Roman History, Ph.D.
University of Michigan-Flint	Doctor of Physical Therapy, D.P.T.
Wayne State University	Doctor of Audiology, Au.D.
Western Michigan University	Doctor of Audiology, Au.D.
Western Michigan University	Electrical and Computer Engineering, Ph.D.

(2) The listing of degree programs in subsection (1) does not constitute legislative intent to provide additional dollars for those programs.

Report.

Sec. 702. The principal executive officer of each institution of higher education receiving an appropriation under this act shall expend a portion of the funds appropriated to that institution to make a report to the auditor general, the house and senate fiscal agencies, and the state budget director within 60 days after the auditor general issues his or her report on the operation of the institution. The institution's report shall specify all of the following:

(a) The recommendations of the auditor general implemented by the institution, including projected dates and resources required, if any, to achieve compliance.

(b) The recommendations of the auditor general not implemented by the institution or implemented by the institution as modified.

(c) The rationale for not implementing a recommendation of the auditor general or of implementing a recommendation as modified.

HEIDI submission; report; definitions; additional information.

Sec. 705. (1) As part of the higher education data inventory (HEIDI) submission, each state university shall report the following information for the 2001-2002 academic year on or before October 31, 2002:

(a) Separately, the number of full-time equated tenured faculty, tenure-track faculty, nontenure-track faculty, and instruction/research assistants who taught an undergraduate class section.

(b) The total number of undergraduate credit hours taught by each of the following:

(*i*) Tenured faculty.

(*ii*) Tenure-track faculty.

(*iii*) Nontenure-track faculty.

(*iv*) Instruction/research assistants.

(2) For the purposes of subsection (1), the following definitions apply:

(a) "Tenured faculty" means a faculty member who has earned tenure.

(b) "Tenure-track faculty" means a faculty member who has not yet earned tenure but is eligible to earn tenure.

(c) "Nontenure-track faculty" means a faculty member who is not eligible to earn tenure.

(d) "Instruction/research assistant" means an individual who is a master's or doctoral degree candidate.

(3) Each state university shall also report the following information for the 2001-2002 academic year, as part of the higher education data inventory (HEIDI) submission, on or before October 31, 2002:

(a) Separately, the fall term number (head count) of part-time faculty and full-time faculty.

(b) Separately, the fall term number (head count) of tenured faculty and nontenured faculty.

(4) For the purposes of subsection (3), the following definitions apply:

(a) "Part-time faculty" means an individual who does not have a full-time appointment as a faculty member.

(b) "Full-time faculty" means an individual who has a full-time appointment as a faculty member.

(c) "Tenured faculty" means an individual who has earned tenure and who does not hold an administrative post.

(d) "Nontenured faculty" means an individual who has not earned tenure.

Auditor general performance audits.

Sec. 708. The auditor general shall conduct performance audits of not fewer than 3 state universities during the fiscal year ending September 30, 2003.

Reporting requirements under crime awareness and campus security act of 1990.

Sec. 709. (1) An institution receiving funds under this act and also subject to the student right-to-know and campus security act, Public Law 101-522, 104 Stat. 2381, shall furnish by October 15, 2002 to the Michigan department of education, a copy of all material prepared pursuant to the public information reporting requirements under the crime awareness and campus security act of 1990, title II of the student right-to-know and campus security act, Public Law 101-542, 104 Stat. 2381.

(2) Each institution shall make this information available in electronic internet format on their websites.

Students receiving grants, loans, and work-study financial aid; report.

Sec. 710. By February 15, 2003, each public university that receives funds under this act shall report to the house and senate appropriations subcommittees on higher education and the house and senate fiscal agencies the aggregate dollar amount and the number and percentages of undergraduate students who receive need-based grants, merit-based scholarships and grants, loans, and work-study financial aid for the academic year 2001-2002.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 1, 2002.

[No. 145]

(SB 902)

AN ACT to amend 1909 PA 139, entitled "An act relative to the maintenance and construction of hospitals and sanatoria within the counties of this state and to provide a tax to raise moneys therefor," by amending section 5 (MCL 331.105).

The People of the State of Michigan enact:

331.105 Sanatorium; placement on approved list; report; certificate; state aid.

Sec. 5. A sanatorium established under the provisions of this act solely for the treatment of tuberculosis that has expended at least $10,000.00 in buildings and equipment, may, upon application to the department of community health, be placed upon the approved list of county sanatoriums. Once a sanatorium is entered upon the approved list, the sanatorium may remain listed and be entitled to state aid so long as the scope and character of its work are maintained in a manner that meets the approval of the department of community health. On the first day of July of each year the secretary of the board of the sanatorium on the approved list, shall report under oath to the department of community health, the character of the work done and the treatment given, the number and names of the persons employed and patients treated and on that date remaining in the sanatorium, the amount contributed by the county or counties for the support of the sanatorium, and such other matters as may be required by the department of community health. Upon the receipt of the report, if it appears that the sanatorium has been maintained in a satisfactory manner, the director of the department of community health shall make a certificate to that effect, together with the cost of maintenance for the year and the amount actually contributed by each county, and file it with the state treasurer. Upon receiving the certificate the state treasurer shall draw his or her warrant payable to the treasurer of each county contributing toward the maintenance of the sanatorium, for a sum equal to 1/2 the amount actually contributed by that county for the support of the sanatorium for the preceding year. However, the total sum paid as state aid shall not exceed the sum of $3,000.00 for any 1 sanatorium in any 1 year.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 2, 2002.

[No. 146]

(HB 5400)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 5208 (MCL 500.5208), as amended by 1984 PA 267, and by adding section 407a.

The People of the State of Michigan enact:

500.407a Noninsured benefit plan; offering and writing excess loss insurance; definition; authority of insurer not limited.

Sec. 407a. (1) An insurer authorized to write insurance described in section 602 or 606 may offer and write specific or aggregate excess loss insurance to a noninsured benefit plan. An insurer that writes excess loss insurance shall comply with the applicable policy rate and form requirements under chapters 22, 24, and 30.

(2) As used in this section, "noninsured benefit plan" means that term as defined in section 5208.

(3) This section does not limit the authority of an insurer authorized to write insurance described in section 624 to offer and write specific or aggregate excess loss insurance to a noninsured benefit plan.

500.5208 Corporate powers; limitations; applicability of prohibition; services performed in connection with noninsured benefit plan; provisions; interference with rights and obligations under collective bargaining agreement prohibited; report; liability of employee covered under noninsured benefit plan; "noninsured benefit plan" or "plan" defined.

Sec. 5208. (1) The corporate powers of an insurer incorporated in this state is limited to the issuance of policies insuring persons or property or other hazards in the state of domicile and in other states from which it has received authority to transact insurance business from the insurance department of that state, and to the provision of services of the kind it performs in the normal conduct of its insurance business whether or not those services are performed in connection with an insurance contract. This section does not apply to insurers organized in compliance with the insurance laws of this state, which cannot be properly authorized in other states, because the laws of those states do not permit the writing of the class or kind of insurance written by those insurers.

(2) For services provided under subsection (1) that are performed in connection with a noninsured benefit plan, all of the following apply:

(a) An insurer's fees for services rendered shall be on a basis that precludes cost transfers between individuals receiving those services and policyholders of the insurer.

(b) Any insurer providing services described in subsection (1) in connection with a noninsured benefit plan shall offer a program of specific or aggregate excess loss insurance.

(c) Except as provided in subdivision (d), an insurer providing the services described in subsection (1) in connection with a noninsured benefit plan shall not enter into the service contract for a plan covering a group of less than 500 individuals. However, an insurer may continue a service contract for a plan covering a group of less than 500 individuals if the contract was in existence on December 29, 1981.

(d) An insurer may enter into a service contract for a plan covering a group of less than 500 individuals if either the insurer makes arrangements for excess loss insurance or the sponsor of the plan that covers the individuals is liable for the plan's liabilities and is a sponsor of 1 or more plans covering 500 or more individuals in the aggregate. The commissioner, upon obtaining the advice of insurers, shall establish the standards for the manner and amount of the excess loss insurance required by this subdivision. It is the intent of the legislature that the excess loss insurance requirements be uniform as between insurers and other persons authorized to provide similar services.

(e) An insurer providing the services described in subsection (1) in connection with a noninsured benefit plan shall comply with section 5208a.

(f) A service contract containing an administrative services only arrangement between an insurer and a governmental entity not subject to ERISA, whose plan provides coverage under a collective bargaining agreement utilizing a policy or certificate issued by an insurer, health care corporation, dental care corporation, or health maintenance organization before the signing of the service contract, is void unless the governmental entity has provided the notice described in section 5208a(8) to the collective bargaining agent and to the members of the collective bargaining unit not less than 30 days before signing the service contract. The voiding of a service contract under this subdivision does not relieve the governmental entity of any obligations to the insurer under the service contract.

(3) Nothing in this section shall be construed to permit an actionable interference by an insurer with the rights and obligations of the parties under a collective bargaining agreement.

(4) Services provided under subsection (1) that are performed in connection with a noninsured benefit plan shall be considered a business activity that is not an insurance carrier service and are subject to tax as authorized by the single business tax act, 1975 PA 228, MCL 208.1 to 208.145.

(5) An insurer shall report with its annual statement the amount of business it has conducted as services provided under subsection (1) that are performed in connection with a noninsured benefit plan, and the commissioner shall annually transmit this information to the state commissioner of revenue.

(6) An employee covered under a noninsured benefit plan for which services are provided under a service contract authorized under subsection (1) is not liable for that portion of claims incurred and subject to payment under the plan if the service contract is entered into between an employer and insurer, unless that portion of the claim has been paid directly to the employee.

(7) As used in this section, "noninsured benefit plan" or "plan" means a benefit plan without insurance or the noninsured portion of a benefit plan that has specific or aggregate excess loss insurance.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 2, 2002.

[No. 147]

(HB 5328)

AN ACT to amend 1879 PA 237, entitled "An act to provide for the execution, acknowledgment, and recording of contracts for the sale of land," by amending section 6 (MCL 565.356), as added by 1998 PA 106.

The People of the State of Michigan enact:

565.356 Definitions.

Sec. 6. As used in this act:

(a) "Assignee" means assignee of the vendor named in a land contract, a succeeding assignee, or a land contract mortgagee who became the absolute holder of the land contract as a result of security enforcement procedures.

(b) "Grantee" means grantee of the vendor named in a land contract, a succeeding grantee, or a grantee pursuant to a mortgage foreclosure of a mortgage upon the land but subordinate to the land contract.

(c) "Land contract mortgage" means a mortgage granted by a vendor or a vendee.

(d) "Land contract mortgagee" means the holder of a land contract mortgage granted by a vendor or vendee, or his or her heirs, successors, or assigns.

(e) "Nonmortgaging vendee" means a vendee who has not entered into a land contract mortgage granted by his or her vendor.

(f) "Nonmortgaging vendor" means a vendor who has not entered into a land contract mortgage granted by his or her vendee.

(g) "Real estate mortgage" means a mortgage granted upon an interest in real property, other than a mortgage upon a vendor's or vendee's interest in a land contract unless the vendor and the vendee join in or subject their respective interests to a single mortgage. A land contract mortgage is not a real estate mortgage.

(h) "Third parties" means persons or entities other than the vendor, vendee, nonmortgaging vendor, nonmortgaging vendee, assignee, grantee, or land contract mortgagee, who have or claim an interest in or encumbrance upon real property or a vendor's or vendee's interest which is subject to a land contract mortgage.

(i) "Vendee" means the vendee named in the land contract and the vendee's heirs, successors, or assigns.

(j) "Vendor" means the vendor named in the land contract and the vendor's heirs, successors, or assigns.

This act is ordered to take immediate effect.
Approved April 1, 2002.
Filed with Secretary of State April 2, 2002.

[No. 148]

(HB 5118)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 502, 32503, and 33938 (MCL 324.502, 324.32503, and 324.33938), section 502 as amended by 1998 PA 114 and sections 32503 and 33938 as added by 1995 PA 59, and by adding sections 501a and 61505a.

The People of the State of Michigan enact:

324.501a Jurisdiction, rights, and responsibilities of Great Lakes states and provinces.

Sec. 501a. The Great Lakes are a binational public treasure and are held in trust by the Great Lakes states and provinces. Management of the water resources of the Great Lakes and the Great Lakes basin is subject to the jurisdiction, rights, and responsibilities of the Great Lakes states and provinces. Effective management of the water resources of the Great Lakes requires the in-basin exercise of such jurisdiction, rights, and responsibilities in the interest of all the people of the Great Lakes basin.

324.502 Rules; powers of department; contracts for taking and storage of mineral products; disposition and use of money; drilling operations for taking oil or gas from lake bottomlands of Great Lakes; prohibition; compliance with applicable ordinances and statutes.

Sec. 502. (1) The commission may promulgate rules, not inconsistent with law, governing its organization and procedure.

(2) The department may do 1 or more of the following:

(a) Promulgate and enforce reasonable rules concerning the use and occupancy of lands and property under its control in accordance with section 504.

(b) Provide and develop facilities for outdoor recreation.

(c) Conduct investigations it considers necessary for the proper administration of this part.

(d) Remove and dispose of forest products as required for the protection, reforestation, and proper development and conservation of the lands and property under the control of the department.

(e) Require the payment of a fee as provided by law for a daily permit or other authorization that allows the person to hunt and take waterfowl on a public hunting area managed and developed for waterfowl.

(3) Except as provided in subsection (4), the department may enter into contracts for the taking of coal, oil, gas, and other mineral products from state owned lands, upon a royalty basis or upon another basis, and upon the terms the department considers just and equitable subject to section 502a. This contract power includes authorization to enter into contracts for the storage of gas or other mineral products in or upon state owned lands, if the consent of the state agency having jurisdiction and control of the state owned land is first obtained. A contract permitted under this section for the taking of coal, oil, gas, or metallic mineral products, or for the storage of gas or other mineral products, is not valid unless the contract is approved by the state administrative board. Money received from a contract for the storage of gas or other mineral products in or upon state lands shall be transmitted to the state treasurer for deposit in the general fund of the state to be used for the purpose of defraying the expenses incurred in the administration of this act and other purposes provided by law. Other money received from a contract permitted under this subsection, except money received from lands acquired with money from the game and fish protection fund created in section 43553, shall be transmitted to the state treasurer for deposit in the Michigan natural resources trust fund created in section 35 of article IX of the state constitution of 1963 and provided for in part 19. However, the money received from the payment of service charges by a person using areas managed for waterfowl shall be credited to the game and fish protection fund and used only for the purposes provided by law. Money received from bonuses, rentals, delayed rentals, royalties, and the direct sale of resources, including forest resources, from lands acquired with money from the game and fish protection fund shall be credited to the game and fish protection trust fund created in section 43702, except as otherwise provided by law.

(4) The department shall not enter into a contract that allows drilling operations beneath the lake bottomlands of the Great Lakes, the connected bays or harbors of the Great Lakes, or the connecting waterways as defined in section 32301, for the exploration or production of oil or gas.

(5) This section does not permit a contract for the taking of gravel, sand, coal, oil, gas, or other metallic mineral products that does not comply with applicable local ordinances and state law.

324.32503 Agreements pertaining to waters over and filling in of submerged patented lands; lease or deed of unpatented lands; terms, conditions, and requirements; reservation of mineral rights; exception; riparian owner dredging or placing materials on bottomland; permit; lease or deed allowing drilling operations for exploration of oil or gas purposes; execution of agreement, lease, or deed with United States.

Sec. 32503. (1) Except as otherwise provided in this section, the department, after finding that the public trust in the waters will not be impaired or substantially affected, may enter into agreements pertaining to waters over and the filling in of submerged patented lands, or to lease or deed unpatented lands, after approval of the state administrative board. Quitclaim deeds, leases, or agreements covering unpatented lands may be issued or entered into by the department with any person, and shall contain such terms, conditions, and requirements as the department determines to be just and equitable and in conformance with the public trust. The department shall reserve to the state all mineral rights, including, but not limited to, coal, oil, gas, sand, gravel, stone, and other materials or products located or found in those lands, except where lands are occupied or to be occupied for residential purposes at the time of conveyance.

(2) A riparian owner shall obtain a permit from the department before dredging or placing spoil or other materials on bottomland.

(3) The department shall not enter into a lease or deed that allows drilling operations beneath unpatented lands for the exploration or production of oil or gas.

(4) An agreement, lease, or deed entered into under this part by the department with the United States shall be entered into and executed pursuant to the property rights acquisition act, 1986 PA 201, MCL 3.251 to 3.262.

324.33938 Removal of metallic minerals, marl, stone, rock, sand, gravel, or earth from or beneath lake bottomlands of Great Lakes; lease; drilling operations for exploration of oil or gas beneath lake bottomlands of Great Lakes; conditions; violation; liability.

Sec. 33938. (1) A person shall not remove metallic minerals, marl, stone, rock, sand, gravel, or earth from or beneath the lake bottomlands of the Great Lakes or the bays and harbors connected with the Great Lakes without first obtaining a written lease from the department granting the right to take the material.

(2) A person shall not conduct drilling operations beneath the lake bottomlands of the Great Lakes, the connected bays or harbors of the Great Lakes, or the connecting waterways as defined in section 32301, for the exploration or production of oil or gas, unless either or both of the following conditions are met:

(a) The drilling operations began prior to the effective date of the 2002 amendatory act that added this subdivision.

(b) The person holds a lease that was in effect prior to the effective date of the amendatory act that added this subdivision and that allows the drilling operations.

(3) A person who violates subsection (1) or (2) is liable to this state for an amount equal to 3 times the value of the materials taken plus an amount equal to the cost of restoring the waters, lake bottomlands, adjacent uplands, or any natural resource of the Great Lakes, the connected bays or harbors of the Great Lakes, or the connecting waterways as defined in section 32301, that is damaged as a result of the violation.

324.61505a Drilling permit for well beneath lake bottomlands for exploration or production of oil or gas; condition.

Sec. 61505a. Notwithstanding any other provision of this part or the rules promulgated under this part, beginning on the effective date of this section, the supervisor shall not issue a permit for drilling, or authorize the drilling of, a well beneath the lake bottomlands of the Great Lakes, the connected bays or harbors of the Great Lakes, or the connecting waterways as defined in section 32301, for the exploration or production of oil or gas unless the applicant holds a lease that was in effect prior to the effective date of the amendatory act that added this section that allows the well to be drilled.

This act is ordered to take immediate effect.
Filed with Secretary of State April 5, 2002.

Compiler's note: Enrolled House Bill No. 5118 was not signed by the Governor, but, having been presented to him at 3:44 p.m. on March 22, 2002, and not having been returned by him to the House of Representatives within the 14 days prescribed by Const 1963, art IV, sec 33, became law (2002 PA 148) on April 5, 2002, the Legislature having continued in session.

[No. 149]

(HB 5021)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 320a (MCL 257.320a), as amended by 2001 PA 103.

The People of the State of Michigan enact:

257.320a Recording date of conviction, civil infraction determination, or probate court disposition and number of points; formula; interview; violation committed in another state.

Sec. 320a. (1) The secretary of state, within 10 days after the receipt of a properly prepared abstract from this or another state, shall record the date of conviction, civil infraction determination, or probate court disposition, and the number of points for each, based on the following formula, except as otherwise provided in this section and section 629c:

(a) Manslaughter, negligent homicide, or a felony resulting from the operation of a motor vehicle, ORV, or snowmobile..... 6 points

(b) A violation of section 601b(2) or (3), 601c(1) or (2), or 653a(3) or (4).... 6 points

(c) A violation of section 625(1), (4), (5), or (7), section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127, or a law or ordinance substantially corresponding to section 625(1), (4), (5), or (7) or, section 81134 or 82127(1) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 and 324.82127 ..... 6 points

(d) Failing to stop and disclose identity at the scene of an accident when required by law ..... 6 points

(e) Operating a motor vehicle in violation of section 626..... 6 points

(f) Fleeing or eluding an officer ..... 6 points

(g) Violation of section 627(9) pertaining to speed in a designated work area by exceeding the lawful maximum by more than 15 miles per hour ..... 5 points

(h) Violation of any law other than the law described in subdivision (g) or ordinance pertaining to speed by exceeding the lawful maximum by more than 15 miles per hour ..... 4 points

(i) Violation of section 625(3) or (6), section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 and 324.82127, or a law or ordinance substantially corresponding to section 625(3) or (6) or, section 81135 or 82127(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 and 324.82127 .... 4 points

(j) Violation of section 626a or a law or ordinance substantially corresponding to section 626a..... 4 points

(k) Violation of section 653a(2) ..... 4 points

(*l*) Violation of section 627(9) pertaining to speed in a designated work area by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour ..... 4 points

(m) Violation of any law other than the law described in subdivision (*l*) or ordinance pertaining to speed by exceeding the lawful maximum by more than 10 but not more than 15 miles per hour or careless driving in violation of section 626b or a law or ordinance substantially corresponding to section 626b .... 3 points

(n) Violation of section 627(9) pertaining to speed in a designated work area by exceeding the lawful maximum by 10 miles per hour or less..... 3 points

(o) Violation of any law other than the law described in subdivision (n) or ordinance pertaining to speed by exceeding the lawful maximum by 10 miles per hour or less ..... 2 points

(p) Disobeying a traffic signal or stop sign, or improper passing ..... 3 points

(q) Violation of section 624a, 624b, or a law or ordinance substantially corresponding to section 624a or 624b..... 2 points

(r) Violation of section 310e(4) or (6) or a law or ordinance substantially corresponding to section 310e(4) or (6) ..... 2 points

(s) All other moving violations pertaining to the operation of motor vehicles reported under this section ..... 2 points

(t) A refusal by a person less than 21 years of age to submit to a preliminary breath test required by a peace officer under section 625a ..... 2 points

(2) Points shall not be entered for a violation of section 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.

(3) Points shall not be entered for bond forfeitures.

(4) Points shall not be entered for overweight loads or for defective equipment.

(5) If more than 1 conviction, civil infraction determination, or probate court disposition results from the same incident, points shall be entered only for the violation that receives the highest number of points under this section.

(6) If a person has accumulated 9 points as provided in this section, the secretary of state may call the person in for an interview as to the person's driving ability and record after due notice as to time and place of the interview. If the person fails to appear as provided in this subsection, the secretary of state shall add 3 points to the person's record.

(7) If a person violates a speed restriction established by an executive order issued during a state of energy emergency as provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of state shall enter points for the violation pursuant to subsection (1).

(8) The secretary of state shall enter 6 points upon the record of a person whose license is suspended or denied pursuant to section 625f. However, if a conviction, civil infraction determination, or probate court disposition results from the same incident, additional points for that offense shall not be entered.

(9) If a Michigan driver commits a violation in another state that would be a civil infraction if committed in Michigan, and a conviction results solely because of the failure of the Michigan driver to appear in that state to contest the violation, upon receipt of the abstract of conviction by the secretary of state, the violation shall be noted on the driver's record, but no points shall be assessed against his or her driver's license.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2002.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 150]

(SB 811)

AN ACT to amend 1941 PA 205, entitled "An act to provide for the construction, establishment, opening, use, discontinuing, vacating, closing, altering, improvement, and maintenance of limited access highways and facilities ancillary to those highways; to permit the acquiring of property and property rights and the closing or other treatment of intersecting roads for these purposes; to provide for the borrowing of money and for the issuing of bonds or notes payable from special funds for the acquisition, construction or improvement of such highways; and to provide for the receipt and expenditure of funds generated from the facilities," by amending section 2 (MCL 252.52), as amended by 2001 PA 47.

The People of the State of Michigan enact:

252.52 Limited access highways; establishing, opening, discontinuing, vacating, closing, altering, improving, maintaining, and providing for public use; vending machines; other commercial enterprises prohibited; liability insurance; monitoring compliance; use of facilities for sale of articles for export; operation of customs brokering facilities; lease; distribution of travel-related information; disposition of revenue; electronic devices; logo signage; exit signs indicating hospital.

Sec. 2. (1) The state transportation department, a board of county road commissioners, or a city or village, acting alone or in cooperation with each other or with a federal, state, or local agency having authority to participate in the construction and maintenance of highways, may establish, open, discontinue, vacate, close, alter, improve, maintain, and provide for the public use of limited access highways, subject to section 1(i) of 1925 PA 352, MCL 213.171.

(2) The state transportation department shall allow only the installation of vending machines at selected sites on the limited access highway system to dispense food, drink, and other articles that the state transportation department determines appropriate. The state transportation department shall allow only the installation of vending machines at selected travel information centers. Following a 2-year trial period the state transportation department shall use its discretion with the advice of the commission for the blind to allow only vending machines at other locations on the limited access highway system. The vending machines shall be operated solely by the commission for the blind, which is designated as the state licensing agency under section 2(a)(5) of chapter 638, 49 Stat. 1559, 20 U.S.C. 107a. Except as otherwise provided in this section, no other commercial enterprise shall be authorized or conducted within or on property acquired for or designated as a limited access highway. The commission for the blind shall require evidence of liability insurance and monitor compliance as it pertains to only vending machines in the designated areas, holding harmless the state transportation department.

(3) In conjunction with the exemption granted by federal law from the restrictions contained in section 111 of title 23 of the United States Code, 23 U.S.C. 111, and described in the "manual on uniform traffic control devices for streets and highways", U.S. department of transportation and federal highway administration, part 2g (LOGOS), this section does not prohibit the use of facilities located in part on the right-of-way of I-94 in the vicinity of the interchange of I-94 and I-69 business loop/I-94 business loop for the sale of only those articles which are for export and consumption outside the United States.

(4) This section does not prohibit the use of facilities located in the vicinity of the international bridge in the city of Sault Ste. Marie for the sale of only those articles which are for export and consumption outside the United States to the extent that the use is not restricted by federal law.

(5) This section does not prohibit the operation of customs brokering facilities on state owned property available for that use at the sites of the blue water bridge in Port Huron and the international bridge in Sault Ste. Marie.

(6) The state transportation department may enter into a lease for facilities described in subsection (3), (4), or (5), the revenue from which shall be deposited in the state trunk line fund if attributable to the blue water bridge site or in the fund created under section 7 of 1954 PA 99, MCL 254.227, if attributable to the international bridge site.

(7) This section does not prohibit the use of facilities located at rest areas or welcome centers to distribute, either directly or through electronic technologies, free travel related

information or assistance, or both, to the traveling public if the distribution is approved by the state transportation department.

(8) The state transportation department may enter into agreements for the activities described in subsection (7), the revenue from which shall be deposited in the state trunk line fund.

(9) The state transportation department may enter into agreements to authorize the use of property acquired for or designated as a limited access highway or acquired for or designated for ancillary purposes for the installation, operation, and maintenance of commercial or noncommercial electronic devices and related structures so long as the electronic devices and related structures are intended to assist in providing travel related information to motorists who subscribe to travel related information services, the public, or the state transportation department. All revenue generated by the agreements shall be deposited in the state trunk line fund. The state transportation department may accept facilities or in-kind services to be used for public purposes in lieu of, or in addition to, monetary compensation.

(10) This section does not prohibit the use of logo signage within the right-of-way of limited access highways. For purposes of this subsection, "logo signage" means a sign containing the trademark or other symbol that identifies a business in a manner and at locations approved by the state transportation department. The state transportation department may enter into agreements to allow logo signage, and any revenue received by the state transportation department under this subsection shall be deposited into the state trunk line fund established under section 11 of 1951 PA 51, MCL 247.661.

(11) At the request of a hospital that provides 24-hour emergency care, the state transportation department shall place and maintain signs on all limited access highways that indicate exits that are within 2 miles of that hospital. The signs shall indicate the name of the hospital or the name of the nonprofit corporation that owns or operates the hospital and the exit number of the exit that is within the 2 miles of the hospital. At least 1 sign shall be placed for each exit that is within 2 miles of a requesting hospital that provides 24-hour emergency care. The cost of placing and maintaining the sign shall be paid by the hospital requesting the signs. The state transportation department shall adopt guidelines specifying the size, shape, design, number, and placement of the signs authorized under this subsection. The state transportation department shall not remove signs on limited access highways that exist on the effective date of the amendatory act that added this subsection and that indicate exits within 10 miles of a hospital that provides 24-hour emergency care but that do not otherwise satisfy the requirements of this subsection. As used in this subsection, "hospital" means a health facility that is licensed under part 215 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21568.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 151]

(SB 812)

AN ACT to amend 1925 PA 368, entitled "An act to prohibit obstructions and encroachments on public highways, to provide for the removal thereof, to prescribe the conditions under which telegraph, telephone, power, and other public utility companies,

cable television companies and municipalities may enter upon, construct and maintain telegraph, telephone, power or cable television lines, pipe lines, wires, cables, poles, conduits, sewers and like structures upon, over, across or under public roads, bridges, streets and waters and to provide penalties for the violation of this act," by amending section 13 (MCL 247.183), as amended by 1994 PA 306, and by adding section 1a.

The People of the State of Michigan enact:

247.171a Rights-of-way, bridges, towers, and welcome centers; use to provide travel-related information through electronic technologies.

Sec. 1a. This act does not prohibit the use of rights-of-way, bridges, towers, welcome centers, and rest stops to provide through the use of electronic technologies, including electronic kiosks, travel-related information or assistance and advance traffic information systems.

247.183 Public utilities, cable television companies, and municipalities; construction and maintenance of structures; consent of governing body; construction and maintenance of utility lines and structures longitudinally within limited access highway rights-of-way; standards; charges; use of revenue; use of electronic devices within limited access and rights-of-way to provide travel-related information.

Sec. 13. (1) Telegraph, telephone, power, and other public utility companies, cable television companies, and municipalities may enter upon, construct, and maintain telegraph, telephone, or power lines, pipe lines, wires, cables, poles, conduits, sewers or similar structures upon, over, across, or under any public road, bridge, street, or public place, including, subject to subsection (2), longitudinally within limited access highway rights-of-way, and across or under any of the waters in this state, with all necessary erections and fixtures for that purpose. A telegraph, telephone, power, and other public utility company, cable television company, and municipality, before any of this work is commenced, shall first obtain the consent of the governing body of the city, village, or township through or along which these lines and poles are to be constructed and maintained.

(2) A utility as defined in 23 C.F.R. 645.105(m) may enter upon, construct, and maintain utility lines and structures longitudinally within limited access highway rights-of-way in accordance with standards approved by the state transportation commission that conform to governing federal laws and regulations. The standards shall require that the lines and structures be underground and be placed in a manner that will not increase highway maintenance costs for the state transportation department. The standards may provide for the imposition of a reasonable charge for longitudinal use of limited access highway rights-of-way. The imposition of a reasonable charge is a governmental function, offsetting a portion of the capital and maintenance expense of the limited access highway, and is not a proprietary function. The charge shall be calculated to reflect a 1-time installation permit fee that shall not exceed $1,000.00 per mile of longitudinal use of limited access highway rights-of-way with a minimum fee of $5,000.00 per permit. All revenue received under this subsection shall be used for capital and maintenance expenses incurred for limited access highways.

(3) A person engaged in the collection of traffic data or the provision of travel-related information or assistance may enter upon, construct, and maintain electronic devices and related structures within limited access and other highway rights-of-way in accordance with standards approved by the state transportation commission that conform to governing federal laws and regulations. The standards shall require that the devices and

structures be placed in a manner that will not impede traffic and will not increase maintenance costs for the state transportation department. The state transportation department may enter into agreements to authorize the use of property acquired for or designated as a highway or acquired for or designated for ancillary purposes for the installation, operation, and maintenance of commercial or noncommercial electronic devices and related structures for the collection of traffic data or to assist in providing travel-related information or assistance to motorists who subscribe to travel-related services, the public, or the department. Any revenue generated by the agreements shall be deposited in the state trunk line fund. The department may accept facilities or in-kind services to be used for public purposes in lieu of, or in addition to, monetary compensation.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 152]

(HB 5422)

AN ACT to amend 1966 PA 331, entitled "An act to revise and consolidate the laws relating to community colleges; to provide for the creation of community college districts; to provide a charter for such districts; to provide for the government, control and administration of such districts; to provide for the election of a board of trustees; to define the powers and duties of the board of trustees; to provide for the assessment, levy, collection and return of taxes therefor; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 127 (MCL 389.127), as added by 1982 PA 342.

The People of the State of Michigan enact:

389.127 Board of trustees; borrowing money and issuing obligations; purpose; pledging state appropriations; pledging full faith and credit of district; limitations; notes or obligations as first budget obligation; pledge as statutory lien; duties of state treasurer; approval of transactions to insure timely payment of note or obligation; expenses; notes or obligations subject to §§ 141.2101 to 141.2821; form, terms, and sale of notes or obligations; repayment.

Sec. 127. (1) The board of trustees may also borrow money and issue its notes or other obligations to secure funds for operating expenses or to pay previous obligations incurred for operating purposes under this or any other statute. The board may pledge state appropriations made and not yet received, federal grants or payments, allocations of fees and charges required to be paid by students enrolling in the college, or any combination of these revenues, for payment of the notes or other obligations. A note or obligation pledging a state appropriation is not state indebtedness and shall carry a statement to that effect.

(2) Subject to applicable charter, statutory, and constitutional limitations, the board may pledge the full faith and credit of the district for notes or obligations issued pursuant to this section. If the funds primarily pledged for the payment of notes or obligations to which the full faith and credit of the district has been pledged are insufficient, the notes or obligations shall be a first budget obligation of the district payable from any available funds.

(3) A pledge pursuant to this section shall constitute a statutory lien that shall be valid and binding from the time the pledge is made without any physical delivery or further act or recording, notice, or filing of any kind. If state appropriations are pledged for payment of notes or obligations issued pursuant to this section, the district may direct the state treasurer to pay all or a part of payments due to the district to a paying agent, trustee, or escrow agent for payment of the notes or obligations. The state treasurer shall comply with those instructions, but this section shall not be construed to require the state treasurer to make payment if funds are not available or at a time or in an amount other than would be payable to the district pursuant to law or to give rise to any liability of the state to holders of notes or obligations for failure of the state or the state treasurer to comply with this section.

(4) In connection with the issuance of notes or obligations pursuant to this section, the board may approve agreements, insurance contracts, lines of credit, letters of credit, commitments to purchase notes or obligations, or other transactions to insure timely payment of any note or obligation. The district may pay from the proceeds of the notes the costs incidental to the issuance of the notes and other incidental expenses, including fees or charges for transactions to provide a separate security to insure timely payment of the notes or obligations.

(5) Notes or obligations issued pursuant to this section shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The notes or obligations shall be in the form, have the terms, and be sold in a manner as determined by the board.

(6) Notes or obligations assessed pursuant to this section shall be fully repaid within the ensuing 12 months.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 153]

(SB 897)

AN ACT to amend 1946 (1st Ex Sess) PA 9, entitled "An act to create the Michigan veterans' trust fund, and to define who shall be eligible to receive assistance therefrom; to provide for the disbursement of the income thereof and surplus therein; to create a board of trustees, and to prescribe its powers and duties; to provide for county and district committees, and their powers, duties, and expenses; to prescribe penalties; and to make appropriations to carry out the provisions of this act," by amending sections 7 and 8 (MCL 35.607 and 35.608).

The People of the State of Michigan enact:

35.607 Funds; distribution by state treasurer.

Sec. 7. Funds shall be distributed to the several county treasurers by the state treasurer at the direction of the board of trustees. The funds distributed shall be credited by the county treasurer to a county veterans' trust fund and shall be disbursed by the county treasurer on vouchers drawn by the county clerk based on orders filed by the county or district committee. Allocations to district committees shall be distributed to the several county treasurers of the counties composing the district. The veterans' trust fund shall be covered by the official bond of the county treasurer.

35.608 Veterans' committees; regulation by state board of trustees; audit.

Sec. 8. The county and district committees shall be governed by the rules and regulations of the state board of trustees. The board of trustees, the veteran county or district committees, and the county treasurers shall be subject to audit in the same manner as provided under the accounting laws of this state for state departments and counties.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 154]

(SB 898)

AN ACT to amend 1911 PA 44, entitled "An act to create a state board of equalization; to prescribe its powers and duties; to provide that said board shall be furnished with certain information by the several boards of supervisors and by the state tax commission; to provide for meeting the expense authorized by this act, and to repeal all acts or parts of acts contravening the provisions of this act," by amending sections 3 and 4 (MCL 209.3 and 209.4), section 4 as amended by 2001 PA 36.

The People of the State of Michigan enact:

209.3 State board of equalization; organization; chairperson; secretary; keeping and filing record of proceedings; oath; quorum; availability of certain writings to public.

Sec. 3. (1) The board shall organize by choosing a member as chairperson. The secretary of the state tax commission shall act as secretary and shall keep a record of all the proceedings of the board. The record, when certified by the chairperson and secretary, shall be filed in the office of the state treasurer within 5 days after adjournment of the board.

(2) The members constituting the board shall take and subscribe the constitutional oath of office. The oaths shall be filed and preserved with the proceedings of the board. Three members of the board shall constitute a quorum for the transaction of business.

(3) A writing prepared, owned, used, in the possession of, or retained by the state board of equalization in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

209.4 Tabular statement showing assessed and equalized valuations; preparation; copies; session; meeting of board; determination whether relative valuation between several counties equal and uniform; equalization; certification of equalized valuation; basis for apportionment; certified transcript of determination; determining level of state equalized valuation of class of property; order.

Sec. 4. (1) After the state board of equalization has been organized, it shall proceed to examine the tabular statements and data furnished by the county boards of commissioners and state tax commission. The state board of equalization shall then prepare and print a tabular statement showing, by county in an aggregate amount, and by county for personal property and each classification of real property, the total assessed valuation, the valuation as equalized by the county board of commissioners for the current year, the valuation as equalized at the last preceding session of the state board of equalization, and the valuation recommended by the state tax commission. The state board of equalization

shall direct the secretary to forward a copy of the statement to the director of the tax or equalization department of each county in this state immediately. Except as provided in subsection (2), the state board of equalization may continue in session until the fourth Monday in May for the purpose of considering the reports from the assessing officers, county boards of commissioners, and the state tax commission. The state board of equalization shall meet in the city of Lansing on the fourth Monday in May to hear the representatives of the several counties as provided in this act. The state board of equalization shall determine whether the relative valuation between the several counties of the property within classifications used for equalization by the counties under section 34 of the general property tax act, 1893 PA 206, MCL 211.34, is equal and uniform, taking into consideration the location, soil, mineral wealth, improvements, productions, and facilities. The state board of equalization shall also determine whether the value of personal property in the several counties has been uniformly estimated and determined according to the best information that can be derived from this state or from any other source. After examination of the data and evidence furnished, if the valuation of the applicable classification of property in any county is determined to be at more or less than the true cash value of the property in that classification within the county, the state board of equalization shall equalize real and personal property in the same manner as required of county boards of commissioners under section 34 of the general property tax act, 1893 PA 206, MCL 211.34, by adding to or deducting from the applicable valuations in a county those amounts that will produce a sum that represents the proportion of true cash value established by the legislature. If equalization is required under this section according to classifications of real or personal property, or both, the state board of equalization shall retain property within the classifications established for purposes of the county equalization pursuant to section 34 of the general property tax act, 1893 PA 206, MCL 211.34. The valuation of the several counties as equalized shall be certified by the chairperson and secretary of the state board of equalization and filed in the office of the state treasurer and the state tax commission, and shall be the basis for apportionment of all state taxes until another equalization is made. The secretary of the state tax commission after the determination of the state board of equalization has been filed in his or her office, immediately shall send a certified transcript of the determination to the treasurer of each county, who shall cause the certified transcript to be placed on file in his or her office available for public inspection.

(2) Within 90 days after receiving the findings and determination of the tax tribunal pursuant to section 34(4) of the general property tax act, 1893 PA 206, MCL 211.34, the state tax commission acting as the state board of equalization shall determine whether the state equalized valuation of that class of property in the county was set at the level prescribed by law or should be revised to provide uniformity among the counties and shall enter an order consistent with the findings.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 155]

(SB 900)

AN ACT to repeal 1921 PA 358, entitled "An act authorizing the state to reimburse counties and townships to the extent of 1/2 of the amounts spent by such counties and townships in connection with the destruction of grasshoppers and similar pests, making an appropriation therefor, and providing a tax to meet the same," (MCL 286.131 to 286.135).

The People of the State of Michigan enact:

Repeal of §§ 286.131 to 286.135.

Enacting section 1. 1921 PA 358, MCL 286.131 to 286.135, is repealed.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 156]

(SB 901)

AN ACT to amend 1863 PA 140, entitled "An act to provide for the selection, care and disposition of the lands donated to the state of Michigan, by act of congress, approved July second, 1862, for the endowment of colleges for the benefit of agriculture and the mechanic arts," by amending sections 8 and 10 (MCL 322.178 and 322.180).

The People of the State of Michigan enact:

322.178 College lands; proceeds of sale; deposit; interest; use.

Sec. 8. The money received from the sale of the lands described in this act shall be paid into the state treasury, and shall be placed in the general fund, to the credit of the agricultural college fund, and the annual interest on those funds computed at 7%, shall be regularly applied to the support and maintenance of Michigan state university, where the leading object shall be, without excluding other scientific and classical studies, and including military tactics, to teach the branches of learning as are related to agriculture and mechanic arts, in order to promote the liberal and practical education of industrial classes in the several pursuits and professions of life.

322.180 College lands; examining agents; expenses; payment.

Sec. 10. Michigan state university shall certify from time to time to the state treasurer the amounts required for the services and expenses of examining agents and for the other expenses as may be necessary for the proper care and disposition of the lands described in this act and the state treasurer shall pay those amounts out of the general fund. All contracts and certificates of the board shall be signed by the treasurer of Michigan state university.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 157]

(SB 385)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the

laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 614, 617, and 1066 (MCL 380.614, 380.617, and 380.1066), section 614 as amended by 1992 PA 263, section 617 as amended by 1989 PA 268, and section 1066 as amended by 1995 PA 289.

The People of the State of Michigan enact:

380.614 Board; election of members; notice of meeting; acting chairperson and secretary; term; vacancy; nominating petition; signatures; filing petition and affidavit; ballots; filing fee; board of canvassers.

Sec. 614. (1) Except as provided in section 615, the members of the intermediate school board shall be elected biennially on the first Monday in June by a body composed of 1 member of the board of each constituent school district, who shall be designated by the board of which that person is a member. The secretary shall send a notice by certified mail of the hour and place of meeting to the secretary of the board of each constituent district at least 10 days before the meeting. The president and secretary of the intermediate school board shall act as chairperson and secretary.

(2) Except as provided in section 703, the term of office of each member elected to the intermediate school board shall be for 6 years and shall begin on July 1 following election. Not more than 2 members of the intermediate school board shall be from the same school district unless there are fewer districts than there are positions to be filled.

(3) A vacancy shall be filled by the remaining members of the intermediate school board until the next biennial election at which time the vacancy shall be filled for the balance of the unexpired term. Notice of the vacancy shall be filed with the state board within 5 days after the vacancy occurs. If the vacancy is not filled within 30 days after it occurs, the vacancy shall be filled by the state board.

(4) Subject to subsection (6), a candidate for election to the intermediate school board shall be nominated by petitions that are signed by a number of school electors of the combined constituent school districts of the intermediate school district, as follows:

(a) If the population of the intermediate school district is less than 10,000 according to the most recent federal census, a minimum of 6 and a maximum of 20.

(b) If the population of the intermediate school district is 10,000 or more according to the most recent federal census, a minimum of 40 and a maximum of 100.

(5) A school elector may sign as many petitions as there are vacancies to fill. Nominating petitions and an affidavit as provided in section 558 of the Michigan election law, 1954 PA 116, MCL 168.558, shall be filed with the secretary of the intermediate school board not later than 30 days before the date of the biennial election under subsection (1). The secretary shall determine the sufficiency of the petitions and the eligibility of the

candidates nominated. The secretary shall provide ballots for the biennial election, listing on the ballots the names of all candidates properly nominated. The chairperson of the biennial election may accept nominations for a vacancy from the floor only if no nominating petitions have been filed for the vacancy. Section 1066 applies to the form and manner of circulation of nominating petitions for a candidate for membership on the intermediate school board.

(6) Instead of filing nominating petitions, a candidate for election to the intermediate school board may pay a nonrefundable filing fee of $100.00 to the secretary of the intermediate school board. If this fee is paid by the due date for nominating petitions, the payment has the same effect under this section as the filing of nominating petitions.

(7) The president shall appoint 2 persons not members of the intermediate school board or candidates for election as a board of canvassers and they shall canvass the vote following balloting. This becomes the official canvass.

380.617 Candidate for office of board member; filing nominating petitions and affidavit; form of nominating petitions; signatures; circulation; filing fees; certification; notice; ballots; terms; vacancy.

Sec. 617. (1) Subject to subsection (4), in an intermediate school district in which sections 615 to 617 are effective, a candidate for the office of member of the intermediate school board shall be nominated by filing nominating petitions and an affidavit as provided in section 558 of the Michigan election law, 1954 PA 116, MCL 168.558, with the secretary of the board of the intermediate school district before 4 p.m. of the ninth Monday before the election.

(2) The nominating petitions shall be in the form provided in section 1066. Nominating petitions shall contain signatures of school electors who are registered to vote in the city or township in which they reside in a number as follows:

(a) If the population of the intermediate school district is less than 10,000 according to the most recent federal census, a minimum of 6 and a maximum of 20.

(b) If the population of the intermediate school district is 10,000 or more according to the most recent federal census, a minimum of 40 and a maximum of 100.

(3) Each sheet of the nominating petition shall be circulated in 1 city or township only.

(4) Instead of filing nominating petitions, a candidate for election to the intermediate school board may pay a nonrefundable filing fee of $100.00 to the secretary of the intermediate school board. If this fee is paid by the due date for nominating petitions, the payment has the same effect under this section as the filing of nominating petitions.

(5) Within 14 days after the last date for filing, the secretary of the intermediate school board shall certify the names and addresses of those candidates whose petitions are found to be sufficient to the secretaries of the boards of the constituent school districts. The secretary of the intermediate school board shall certify the number to be elected. The secretary of the intermediate school board shall notify the county clerk of the names and addresses of the candidates not later than 3 days after the last day for candidate withdrawal. However, if the third day is a Saturday, Sunday, or legal holiday, the notice may be sent on the next day that is not a Saturday, Sunday, or legal holiday.

(6) The intermediate school board shall provide ballots for the election of members of the intermediate school board and distribute the ballots to the secretaries of each of the constituent school districts not less than 20 days before the annual school elections.

(7) At the first election, 3 members of an intermediate school board shall be elected for a term of 6 years, 2 for a term of 4 years, and 2 for a term of 2 years. After the first election, their successors shall be elected biennially for terms of 6 years.

(8) The intermediate school board of an intermediate school district adopting sections 615 to 617 shall fill a vacancy in the intermediate school board's membership by appointing a member to serve until the next biennial election, at which time a member shall be elected for the balance of the unexpired term.

380.1066 Filing nominating petitions and affidavit; signing petitions; form; filing fee; canvassing petitions; noncompliance; notice; performance of secretary's duties by treasurer; withdrawal of candidate.

Sec. 1066. (1) Subject to subsection (6), to obtain the printing of the name of a candidate for member of the school board on the ballot, the candidate shall file nominating petitions and an affidavit as provided in section 558 of the Michigan election law, 1954 PA 116, MCL 168.558, with the secretary of the school board or in the office of the school board not later than 4 p.m. on the ninth Monday before the date of election. A school board holding elections in conjunction with a city election may vary the date of filing nominating petitions to conform with the filing date of the city, as provided in section 644k of the Michigan election law, 1954 PA 116, MCL 168.644k.

(2) Each petition shall be signed by a number of school electors of the school district as follows:

(a) If the population of the school district is less than 10,000 according to the most recent federal census, a minimum of 6 and a maximum of 20.

(b) If the population of the school district is 10,000 or more according to the most recent federal census, a minimum of 40 and a maximum of 100.

(3) A school elector shall not sign petitions for more candidates than are to be elected.

(4) The petition shall be substantially in the form prescribed in section 544c of the Michigan election law, 1954 PA 116, MCL 168.544c, except that the petition shall be nonpartisan and shall include the following opening paragraph:

We, the undersigned, registered and qualified voters of _____
(legal name of school district)
and residents of the _____ , the county of _____, state of
(city or township)
Michigan, nominate _____, a registered and qualified elector
(name of candidate)
of _____ _____,
(street address) (post-office address)
of the district as a member of the board of education of the school district for a term of _____ years, expiring _____, to be voted for at the election to be held on the_____ day of _____, _____.
(month) (year)

(5) A petition sheet shall not be circulated in more than 1 township or city.

(6) Instead of filing nominating petitions, a candidate for election to the school board may pay a nonrefundable filing fee of $100.00 to the secretary of the school board. If this fee is paid by the due date for nominating petitions, the payment has the same effect under this section as the filing of nominating petitions.

(7) Upon the filing of nominating petitions, the secretary of the school board shall canvass the petitions to ascertain if the petitions have been signed by the requisite number of school electors, and for the purpose of determining their validity may check doubtful

signatures against the registration records by the clerk of the political subdivision in which each petition was circulated to determine the authenticity of the signatures. If it is determined that the nominating petitions of a candidate do not comply with the requirements, including the fact that the candidate does not possess the qualifications as required by law for membership on the school board, or if for another cause the candidate is not entitled to have his or her name printed upon official election ballots, the secretary of the school board shall notify the candidate immediately. If nominating petitions are filed on behalf of the secretary of the school board, the treasurer of the school board shall perform the duties of the secretary.

(8) After a nominating petition is filed by or on behalf of a proposed candidate for membership on the school board, the candidate shall not be permitted to withdraw unless a written notice of withdrawal, signed by the candidate, is served on the secretary of the school board or an authorized agent of the secretary of the school board not later than 4 p.m. of the third day after the last day for filing the petition. The secretary of the school board shall notify the county clerk of the names and addresses of the candidates not later than 3 days after the last date for candidate withdrawal. However, if the third day is a Saturday, Sunday, or legal holiday, the notice may be made on the next day that is not a Saturday, Sunday, or legal holiday.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 158]

(SB 386)

AN ACT to amend 1966 PA 261, entitled "An act to provide for the apportionment of county boards of commissioners; to prescribe the size of the board; to provide for appeals; to prescribe the manner of election of the members of the county board of commissioners; to provide for compensation of members; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 11 (MCL 46.411), as amended by 1982 PA 504.

The People of the State of Michigan enact:

46.411 Candidate for office of county commissioner; qualifications; nomination; filing fee; eligibility.

Sec. 11. A candidate for the office of county commissioner shall be a resident and registered voter of the district that he or she seeks to represent and shall remain a resident and registered voter to hold his or her office, if elected. Nominations and elections for commissioners shall be by partisan elections. In order for the name of a candidate for nomination for the office of county commissioner to appear on the official primary ballot, a nominating petition or $100.00 filing fee shall be filed with the county clerk. The nominating petition shall have been signed by a number of qualified and registered electors residing within the district as determined under section 544f of the

Michigan election law, 1954 PA 116, MCL 168.544f. The deadline for filing nomination petitions or filing fees is the same as for a candidate for state representative. A person who has been convicted of a violation of section 12a(1) of 1941 PA 370, MCL 38.412a, is not eligible to be a county commissioner for 20 years after the conviction.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 159]

(SB 387)

AN ACT to amend 1989 PA 24, entitled "An act to provide for the establishment and maintenance of district libraries; to provide for district library boards; to define the powers and duties of certain state and local governmental entities; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 11 (MCL 397.181); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

397.181 Election of board members of district library; provisions applicable where school district is participating municipality.

Sec. 11. (1) All of the following apply to an election of board members of a district library unless a school district is a participating municipality and subsection (2) imposes a different requirement:

(a) If an agreement prescribes elected board members, the board shall consist of 7 members elected at large from the district.

(b) If an agreement prescribes elected board members, a provisional board of 7 members shall be appointed. The members of the provisional board shall hold office until their successors are elected and qualified.

(c) The first election of board members shall take place at the first general election held 140 days or more after the appointment of the first member of the provisional board. The 4 persons receiving the most votes at the first election for board members shall have 4-year terms, and the 3 remaining persons elected to the board shall have 2-year terms. After the first election, board members shall be elected at general elections for 4-year terms that begin on January 1 following the election.

(d) Board members shall be elected on nonpartisan ballots.

(e) Subject to subdivision (f), a nomination for the office of board member shall be by nonpartisan petitions signed by registered electors of the district. The number of signatures shall be as follows:

(*i*) For a district with a population of less than 10,000, not less than 6 or more than 20.

(*ii*) For a district with a population of 10,000 or more, not less than 40 or more than 100.

(f) In lieu of the nominating petition prescribed in this subsection, an individual may file a $100.00 nonrefundable fee to have his or her name placed on the ballot.

(g) A nominating petition or filing fee shall be filed with the clerk of the largest county not later than 4 p.m. of the day 110 days before the date of the election. The county clerk with whom nominating petitions or filing fees are filed shall certify the names of the candidates to the clerk of every other county in which all or part of a participating municipality is located.

(h) A vacancy in the office of a board member shall be filled until the expiration of the vacating board member's term by appointment by majority vote of the remaining board members. However, if the vacancy occurs 140 or more days or, if a school district is a participating municipality, 13 or more Mondays before the first regularly scheduled election of board members that follows the beginning of the term of the board member vacating office and that term is 4 years, all of the following apply:

(*i*) The vacancy shall be filled by appointment by majority vote of the remaining board members only until the next date on which the term of any board member expires.

(*ii*) A board member shall be elected at the regularly scheduled election of board members next following the occurrence of the vacancy to fill the vacancy for the remainder of the term of the board member vacating office.

(2) If a school district is a participating municipality, the following apply to an election of board members for a district library:

(a) The first election of board members shall take place at the same time as the first regularly scheduled election of school board members in the largest participating school district occurring on or after the thirteenth Monday following the appointment of the first member of the provisional board. The term of office of an elected member of the board shall begin at the same time as the term of a school board member elected at the same election in the largest participating school district.

(b) Subject to subdivision (c), a nomination for the office of board member shall be by a petition meeting to the extent applicable the same requirements, including filing requirements, as a nominating petition for the office of school board member in the largest participating school district. However, the petition shall be filed not later than 4 p.m. of the ninth Monday preceding the election. The number of signatures shall be as follows:

(*i*) For a district with a population of less than 10,000, not less than 6 or more than 20.

(*ii*) For a district with a population of 10,000 or more, not less than 40 or more than 100.

(c) In lieu of the nominating petition prescribed under subdivision (b), an individual may file a $100.00 nonrefundable fee to have his or her name placed on the ballot. A nominating petition or filing fee shall be filed with the secretary of the school board of the largest participating school district. The secretary of that school board shall certify the names of the candidates and the date of the election to the secretary of the school board of every other participating school district and to the election officials authorized by this act to conduct the election in each participating municipality all or a portion of which is located within a nonparticipating school district.

Effective date; repeal of § 397.180.

Enacting section 1. (1) This amendatory act takes effect January 1, 2003.

(2) Section 10 of the district library establishment act, 1989 PA 24, MCL 397.180, is repealed.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 160]

(SB 388)

AN ACT to amend 1877 PA 164, entitled "An act to authorize cities, incorporated villages, and townships to establish and maintain, or contract for the use of, free public libraries and reading rooms; and to prescribe penalties and provide remedies," by amending section 11 (MCL 397.211), as amended by 1988 PA 432.

The People of the State of Michigan enact:

397.211 Library board of city, village, or township; establishment; provisional or permanent; director; vacancy; powers of library board.

Sec. 11. (1) Immediately after a city, a village, or a township has voted to establish a free public library, a library board shall be established by the city, village, or township as prescribed in subsections (3) and (4).

(2) If a city, village, or township has a free public library which has not elected a library board, including a city library and board of directors established under sections 1 to 10, the city, village, or township shall establish a library board as prescribed in subsections (3) and (4).

(3) The legislative body of a city, village, or township described in subsection (1) or (2) shall appoint a provisional library board of 6 directors who shall hold office until the next annual or biennial city or village election, or township election, of a permanent library board.

(4) A permanent library board shall be established for a city, village, or township described in subsection (1) or (2) as follows:

(a) In a city or village holding an annual election, 6 directors shall be elected. The terms of 2 of the directors shall be 1 year; the terms of 2 of the directors shall be 2 years; and the terms of 2 of the directors shall be 3 years. Each year thereafter, 2 directors shall be elected for 3-year terms.

(b) In a city or village that holds biennial elections, 6 directors shall be elected. The terms of 2 of the directors shall be 2 years; the terms of 2 of the directors shall be 4 years; and the terms of 2 of the directors shall be 6 years. Biennially thereafter, 2 directors shall be elected for 6-year terms.

(c) In a township holding elections for township officers every 4 years, 6 directors shall be elected for 4-year terms at the primary and general elections in 1984. A term of office shall not be shortened by this subdivision. A director scheduled by this section before March 31, 1981, to be elected at a time other than 1984 shall not be elected on the date scheduled, but shall continue in office until a successor takes office pursuant to the election of 1984.

(d) The directors shall be nominated and elected on nonpartisan ballots. A candidate for city, village, or township library director shall file nonpartisan nominating petitions bearing the signatures of a number of registered and qualified electors of that city, village, or township as follows:

(*i*) For a city, village, or township having a population of 9,999 or less, not less than 6 or more than 20 signatures.

(*ii*) For a city, village, or township having a population of 10,000 or more, not less than 40 or more than 100 signatures.

(e) In lieu of the nominating petitions prescribed in subdivision (d), an individual may file with the clerk conducting an election a $100.00 nonrefundable fee to have his or her name placed on the ballot.

(f) The Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, shall govern the circulation and filing of nonpartisan nominating petitions and the conduct of nonpartisan elections under this section.

(5) A director shall hold office until a successor is elected and qualified.

(6) A library board shall fill a vacancy in a directorship by appointment of a person to hold office until the next election.

(7) A provisional or permanent library board has the powers prescribed in section 5.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 161]

(SB 1100)

AN ACT to make appropriations for community colleges and certain state purposes related to education for the fiscal year ending September 30, 2003; to make certain supplemental appropriations for the fiscal year ending September 30, 2002; to provide for the expenditure of those appropriations; to establish or continue certain funds, programs, and categories; and to prescribe the powers and duties of certain state departments, institutions, agencies, employees, and officers.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS FOR FISCAL YEAR 2002-03

Appropriations; community colleges.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for community colleges and certain other state purposes relating to education for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

COMMUNITY COLLEGES

GROSS APPROPRIATION	$	321,732,319
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	321,732,319
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total state restricted revenues		2,000,000
State general fund/general purpose	$	319,732,319

	For Fiscal Year Ending Sept. 30, 2003
Operations.	
Sec. 102. OPERATIONS	
Alpena Community College	$ 5,311,973
Bay de Noc Community College	5,129,944
Delta College	14,813,864
Glen Oaks Community College	2,485,512
Gogebic Community College	4,365,123
Grand Rapids Community College	18,633,380
Henry Ford Community College	22,708,494
Jackson Community College	12,570,441
Kalamazoo Valley Community College	12,825,971
Kellogg Community College	10,076,975
Kirtland Community College	3,058,415
Lake Michigan College	5,423,461
Lansing Community College	32,223,042
Macomb Community College	34,381,003
Mid Michigan Community College	4,586,420
Monroe County Community College	4,462,223
Montcalm Community College	3,227,530
C.S. Mott Community College	16,291,459
Muskegon Community College	9,271,134
North Central Michigan College	3,140,212
Northwestern Michigan College	9,460,166
Oakland Community College	21,687,988
St. Clair County Community College	7,264,610
Schoolcraft College	12,728,740
Southwestern Michigan College	6,832,843
Washtenaw Community College	12,937,228
Wayne County Community College	17,223,721
West Shore Community College	2,382,344
GROSS APPROPRIATION	$ 315,504,216
Appropriated from:	
State general fund/general purpose	$ 315,504,216
Grants.	
Sec. 103. GRANTS	
At-risk student success program	$ 3,692,103
Renaissance zone tax reimbursement funding	536,000
GROSS APPROPRIATION	$ 4,228,103
Appropriated from:	
State general fund/general purpose	$ 4,228,103
Financial aid.	
Sec. 104. FINANCIAL AID	
Postsecondary access student scholarship program	$ 2,000,000
GROSS APPROPRIATION	$ 2,000,000
Appropriated from:	
Special revenue funds:	
Michigan merit award trust fund	2,000,000
State general fund/general purpose	$ 0

	For Fiscal Year Ending Sept. 30, 2003

PART 1A

LINE-ITEM APPROPRIATIONS FOR FISCAL YEAR 2001-02

Appropriations; capital outlay.

Sec. 151. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for certain capital outlay projects at the various community colleges and universities for the fiscal year ending September 30, 2002, from the funds indicated in this part. The following is a summary of the appropriations in this part:

CAPITAL OUTLAY

GROSS APPROPRIATION	$	400
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	400
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total state restricted revenues		0
State general fund/general purpose	$	400

State building authority financed construction projects.

Sec. 152. STATE BUILDING AUTHORITY FINANCED CONSTRUCTION PROJECTS

Northern Michigan University - student services building, authorized for planning in 2000 PA 291, for final design and construction (total authorized cost $15,750,000; state building authority share $11,812,300; university share $3,937,500; state general fund share $200)	$	100
Northern Michigan University - fine and practical arts project, authorized for planning in 2000 PA 291, for final design and construction (total authorized cost $21,230,000; state building authority share $15,922,300; university share $5,307,500; state general fund share $200)		100
Northwestern Michigan College - west bay reconstruction project, authorized for planning in 2001 PA 81, for final design and construction (total authorized cost $16,250,000; state building authority share $8,124,000; community college share $8,125,000; state general fund share $200)		100
Southwestern Michigan College - instructional resource center, authorized for planning in 2001 PA 81, for final design and construction (total authorized cost $2,500,000; state building authority share $1,249,800; community college share $1,250,000; state general fund share $200)		100
GROSS APPROPRIATION	$	400
Appropriated from:		
State general fund/general purpose	$	400

PART 2

PROVISIONS CONCERNING APPROPRIATIONS FOR FISCAL YEAR 2002-03

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $321,732,319.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $319,732,319.00. The itemized statement below identifies appropriations from which spending to local units of government will occur:

Operations	$	315,504,216
At-risk student success program		3,692,103
Renaissance zone tax reimbursement program		536,000
TOTAL	$	319,732,319

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Reporting requirements; use of internet.

Sec. 208. Unless otherwise specified, the department of career development shall use the internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on the internet or legislative intranet site. The senate and house appropriations subcommittees and senate and house fiscal agencies shall be notified in writing of the internet or intranet site of any such report. Quarterly, the department of career development shall provide to each member of the senate and house appropriations subcommittees, the senate and house fiscal agencies, and the state budget office both an electronic and paper copy listing of the reports submitted during the most recent 3-month period, along with each report's internet or intranet site, if any.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 should not be used for the purchase of foreign goods or services, or both, if American goods or services, or both, that are competitively priced and of comparable quality are available. Preference should be given to goods or services, or both, manufactured or provided by Michigan businesses if they are competitively priced and of comparable value.

Businesses in deprived and depressed communities; contracts to provide services or supplies.

Sec. 210. The principal executive officer of each community college receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each principal executive officer shall strongly encourage firms with which the community college contracts to subcontract with certified businesses in depressed and deprived communities for services or supplies, or both.

Appropriations; payments; distributions; monthly installments.

Sec. 211. (1) The money appropriated in this act is appropriated for community colleges with fiscal years ending June 30, 2003, and shall be paid out of the state treasury and

distributed by the state treasurer to the respective community colleges in 11 monthly installments on the sixteenth of each month, or the next succeeding business day, beginning with October 16, 2002. Each community college shall accrue its July and August 2003 payments to its institutional fiscal year ending June 30, 2003. However, if a community college fails to submit all verified Michigan community colleges activities classification structure data for school year 2001-2002 to the department of career development by November 1, 2002, the monthly installments shall be withheld from that community college until those data are submitted. The department of career development shall publish the activities classification structure data book for Michigan community colleges on or before March 1, 2003, for use by the legislature during budget development for the fiscal year ending September 30, 2004. The amount from the money appropriated in part 1 that is allocated under section 103 to address the special needs of at-risk students shall be paid in full by the state treasurer by November 1, 2002. The amount distributed to a community college or department shall not exceed the net state allocation authorized by this act.

(2) Except as otherwise provided by law, each of the amounts appropriated shall be used solely for the respective purposes stated in this act. The money appropriated by this act may be used to match the cost of any available programs under the Carl D. Perkins vocational and applied technology education act, Public Law 88-210, 98 Stat. 2435, including local administration.

Audit.

Sec. 212. (1) The auditor general or an independent public accounting firm appointed by the auditor general shall audit data for the fiscal year ending on June 30, 2002, as submitted to the department of career development by 7 randomly selected community colleges. A community college shall maintain and provide those records necessary for the auditor general or certified public accountant appointed by the auditor general to determine the accuracy of the reported data. The audits shall be based upon the definitions and requirements contained in the Manual for Uniform Financial Reporting, Michigan Public Community Colleges, published by the Michigan department of career development in 2001, and the Activities Classification Structure Manual for Michigan Community Colleges, 1996 revision of the final report of the activities classification structure task force (July 1981), published by the department of education. Before the submission of a final audit report, a community college may appeal the findings of the preliminary report under an appeal process to be established by the auditor general. The auditor general shall submit a report of the findings to the house and senate appropriations committees, the department of career development, and the state budget director before June 1, 2003.

(2) The auditor general or a certified public accountant appointed by the auditor general shall conduct not less than 3 performance audits of community colleges but may conduct more if the auditor general considers it necessary.

(3) Not more than 60 days after an audit report is released by the office of the auditor general, the principal executive officer of the community college that was audited shall submit to the house and senate appropriations committees, the house and senate fiscal agencies, the department of career development, the auditor general, and the state budget director a plan to comply with audit recommendations. The plan shall contain projected dates and resources required, if any, to achieve compliance with the audit recommendations, or a documented explanation of the college's noncompliance with the audit recommendations concerning the matters on which the audited community college and office of the auditor general disagree.

(4) A community college whose audited activities classification structure data is significantly different than the data used to determine state aid under this act shall return any overappropriated money as provided in this subsection. The department of career development shall compare formula computations for the audited colleges using pre- and post-audit data. If the state allocation is 2% or more than the post-audit allocation amount, the college shall return the excess money. The returned money shall be redistributed to all 28 community colleges, prorated on the base appropriations contained in part 1.

Taxonomy review.

Sec. 213. The department of career development shall review the taxonomy of the 7 community colleges selected for the audit under section 212 that is based on the Activities Classification Structure Manual for Michigan Community Colleges, 1996 revision of the final report of the activities classification structure task force (July 1981), published by the department of education.

Class summaries, class lists, registration documents, and student transcripts.

Sec. 214. (1) A community college shall retain certified class summaries, class lists, registration documents, and student transcripts that are consistent with the taxonomy of courses. For each enrollment period during the fiscal year, these certified documents shall identify clearly by course the number of in-district and out-of-district student credit and contact hours. The class summaries and class lists shall be consistent with each other and shall include the course prefix and numbers, course title, course credit and contact hours, credit and contact hours generated by each student, and activity classifications consistent with the taxonomy. An auditable process shall be used by the community college to determine the unduplicated head count for in-district students, out-of-district students, and prisoners for each enrollment period during the fiscal year.

(2) Contracts between the community college and agencies that reimburse the community college for the costs of instruction shall be retained for audit purposes.

Annual audit.

Sec. 215. Each community college shall have an annual audit of all income and expenditures performed by an independent auditor and shall furnish the independent auditor's management letter and an annual audited accounting of all general and current funds income and expenditures including audits of college foundations to the legislature, the senate and house fiscal agencies, the auditor general, the department of career development, and the state budget director before November 15, 2002. If a community college fails to furnish the audit materials, the monthly state aid installments shall be withheld from that college until the information is submitted. All reporting shall conform to the requirements set forth in the Manual for Uniform Financial Reporting, Michigan Public Community Colleges, published by the Michigan department of career development in 2001.

Payment to public school employees' retirement system.

Sec. 216. (1) A community college shall pay the employer's contributions to the Michigan public school employees' retirement system created by the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408, as a condition of receiving money appropriated under this act. If amendments to the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408, that require prefunding of the health benefits portion of the Michigan public school employees' retirement system are enacted and take effect, those amendments apply to community colleges.

(2) A community college shall not pay an employer's contribution to more than 1 retirement fund providing benefits for an employee.

Building construction; authorization.

Sec. 217. An appropriation contained in this act shall not be used for the construction of buildings for, or operations of, a community college not expressly authorized in part 1. Money appropriated in part 1 shall not be used to pay for the construction or maintenance of a self-liquidating project.

Michigan community colleges enrollment profile; statistical report for minorities and women employees.

Sec. 218. The department of career development shall ensure that a statistical report for minorities and women employees for the most recent school year, as submitted to the federal government, be included in the Michigan Community Colleges Enrollment Profile published by the department of career development. Also included in this profile shall be a statistical report for the most recent school year that includes enrollment statistics for minorities and women from the current year as submitted to the department of career development. The department of career development shall distribute a copy of this report to the state budget director and to members of the house and senate appropriations subcommittees on community colleges and the house and senate fiscal agencies no later than March 1, 2003.

Tax revenue losses resulting from TIFA and tax abatements; report.

Sec. 219. The department of treasury shall annually collect and compile data on the tax revenue losses to community colleges resulting from tax increment financing authorities (TIFA) and tax abatements. The department of treasury shall produce a report detailing the data. The report shall be completed and presented to the house and senate appropriations subcommittees on community colleges, the department of career development, and the department of management and budget not later than February 15, 2003. The report shall include, but is not limited to, the following:

(a) Estimated revenue losses for each community college for the calendar year 2002.

(b) Confirmed revenue losses for each community college for the calendar years 2000 and 2001.

(c) Other requirements requested by the house and senate appropriations subcommittees on community colleges.

Special maintenance projects.

Sec. 220. It is the intent of the legislature that the legislature, in cooperation with the Michigan community college association, develop proposals and financing alternatives for special maintenance projects at community colleges that otherwise would not qualify for financing under the state building authority.

North American Indian students enrollment; Indian tuition waivers; report.

Sec. 221. (1) Each community college shall report the following to the department of career development, no later than November 1, 2002:

(a) The number of North American Indian students enrolled each term for the previous fiscal year, using guidelines and procedures developed by the department of career development and the Michigan commission on Indian affairs.

(b) The number of Indian tuition waivers granted each term, and the monetary value of the waivers for the previous fiscal year.

(2) Colleges shall use the criteria cited in 1976 PA 174, MCL 390.1251 to 390.1253, to determine eligibility for tuition waivers, and shall grant those waivers to individuals who meet the criteria and request tuition waivers.

(3) The department of career development shall compile the information received under subsection (1) and shall submit this compilation to the house and senate appropriations subcommittees on community colleges, the senate and house fiscal agencies, and the state budget director by January 7, 2003.

Reimbursements under Michigan renaissance zone act.

Sec. 222. From the general fund/general purpose appropriation in part 1 for renaissance zone reimbursement funding, there is allocated $536,000.00 to make reimbursement to community colleges, as provided by section 12 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2692, for property taxes levied in 2002. Reimbursements shall be made in amounts to each eligible recipient no later than 60 days after the department of treasury certifies to the state budget director that it has received all necessary information to properly determine the amounts due each eligible recipient under section 12 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2692. Excess allocations lapse to the general fund.

Academic status of students; report to Michigan high schools.

Sec. 223. (1) Upon request, a community college shall inform interested Michigan high schools of the aggregate academic status of its students for the fiscal year beginning October 1, 2002, in a manner prescribed by the Michigan community college association and in cooperation with the Michigan association of secondary school principals.

(2) Each community college shall report by December 1, 2002, to the department of career development, a summary of the information provided under subsection (1) for the prior academic year.

(3) The department of career development shall compile the information received under subsection (2) and shall submit this compilation to the house and senate appropriations subcommittees on community colleges, the house and senate fiscal agencies, and the state budget director by February 1, 2002.

Collaboration and cooperation with 4-year universities; report on steps taken.

Sec. 224. (1) Recognizing the critical importance of education in strengthening Michigan's workforce, the legislature encourages the state's public community colleges to explore ways of increasing collaboration and cooperation with 4-year universities, particularly in the areas related to training, instruction, and program articulation.

(2) Community colleges shall report by December 1, 2002 to the department of career development on steps they have taken to increase collaboration and cooperation with 4-year universities under subsection (1).

(3) The department of career development shall compile the information received under subsection (2) and shall submit this compilation to the house and senate appropriations subcommittees on community colleges and the senate and house fiscal agencies by January 7, 2003.

Access to community college services.

Sec. 225. The legislature intends that all citizens of this state have geographic and programmatic access to quality comprehensive community college services. The legislature and the Michigan community college association shall continue to review and analyze the

recommendations made by the co-terminus task force to assure geographic and programmatic access to quality and comprehensive community college services. The legislature recognizes that as of January 1, 2002, there were also public universities that provide quality comprehensive community college services for citizens of this state who are not served by a community college district.

Modification in tuition or student fees; report.

Sec. 226. Each community college shall report to the house and senate fiscal agencies, the state budget director, and the department of career development a modification in credit or contact hour tuition or mandatory non-course-related student fees not later than 30 days after the modification is established by the college governing board.

Associate degrees and certificates; report on numbers and types; compilation.

Sec. 227. (1) Each community college shall report to the department of career development the numbers and type of associate degrees and other certificates awarded during the previous fiscal year. The report shall be made not later than November 15, 2002.

(2) The department of career development shall compile the information received under subsection (1) and shall submit this compilation to the house and senate appropriations subcommittees on community colleges, the senate and house fiscal agencies, and the state budget director by January 7, 2003.

Gast-Mathieu fairness in funding formula.

Sec. 228. The legislature intends to achieve full funding of the Gast-Mathieu fairness in funding formula.

Reporting requirements under crime awareness and campus security act of 1990; compilation.

Sec. 229. (1) A community college receiving funding under this act and also subject to the student right-to-know and campus security act, Public Law 101-542, 104 Stat. 2381, shall make a copy of all material prepared in accordance with the public information reporting requirements under the crime awareness and campus security act of 1990, title II of the student right-to-know and campus security act, Public Law 101-542, 104 Stat. 2384, available in hard copy and electronic format accessible through the internet for school districts, parents, and students.

(2) The department of career development shall compile and make information received under subsection (1) available in written and electronic format accessible through the internet for school districts, parents, and students.

Health care coverage for abortion services; prohibition; repayment.

Sec. 230. (1) A community college shall not expend money appropriated under this act to provide health care coverage for community college employees or their dependents for abortion services, other than for spontaneous abortion or to prevent the death of the woman upon whom the abortion is performed. A community college shall not approve a collective bargaining agreement or enter into any other employment contract that includes health care coverage for abortion services other than spontaneous abortion or to prevent the death of the woman upon whom the abortion is performed.

(2) If a community college expends money appropriated under this act in violation of subsection (1), the community college shall repay to this state an amount equal to the amount of money spent in violation of subsection (1).

Employee benefits to unmarried partners; prohibition.

Sec. 231. In light of sections 1, 3, and 4 of 1846 RS 83, MCL 551.1, 551.3, and 551.4, and section 1 of 1939 PA 168, MCL 551.271, the legislature intends that a community college receiving funding under this act shall not use part 1 money to extend employee benefits to the unmarried partners of the community college's employees except for pre- and post-natal costs.

Payment for preventative contraceptives.

Sec. 233. Community colleges that include prescription drugs and medications as a covered health benefit for adults are encouraged to ensure that payment for preventative contraceptives are included in the insurance plan.

Equal opportunity and diversity activities.

Sec. 234. The legislature intends that each community college do all of the following:

(a) Undertake active measures to promote equal opportunities, eliminate discrimination, and foster a diverse student body and administration among all people including, but not limited to, women, minorities, seniors, veterans, and people with disabilities.

(b) Review, analyze, and eradicate activities that may tend to discriminate.

College credits earned by students through postsecondary enrollment options act; workgroup.

Sec. 235. It is the intent of the legislature that a workgroup be formed to evaluate, discuss, and make recommendations for future action regarding state university admission and enrollment policies that specifically address the acceptance and application of college credits earned by students through the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524. The workgroup shall be bipartisan and shall include the chairs of the house and senate appropriations subcommittees on higher education, community colleges, and school aid.

STATE AID - OPERATIONS

Reporting data and documenting financial needs; requirements.

Sec. 301. Unless otherwise stated, all data items used in determining state aid in this act are as defined in the Manual for Uniform Financial Reporting, Michigan Public Community Colleges, published by the Michigan department of career development in 2001, which shall be the basis for reporting data, and the Activities Classification Structure Manual for Michigan Community Colleges, 1996 revision of the final report of the activities classification structure task force (July 1981), published by the department of education, which shall be used to document financial needs of the community colleges, as amended by the department of career development.

Student incarcerated in penal institution; exclusion from enrollment data.

Sec. 302. A community college shall not include in the enrollment data reported for determining state aid under this act any student credit hours or student contact hours for a student incarcerated in a Michigan penal institution. Exclusion of these students is intended to avoid the payment of state aid under this act for the same individuals for whom reimbursement is provided by the state correctional system.

GRANTS

At-risk student success program.

Sec. 401. (1) The community college at-risk student success program is continued. The funding shall be prorated among community colleges based on the number of student contact hours for developmental and preparatory instruction reported by each community college to the department of career development for use in the Activities Classification Structure Manual for Michigan Community Colleges, 1996 revision of the final report of the activities classification structure task force (July 1981), published by the department of education. Of the amount appropriated in part 1 for the at-risk student success program, $1,120,000.00 is allocated for base grants of $40,000.00 each, to address the special needs of at-risk students at community colleges or the acquisition or upgrade of technology related equipment and software.

(2) Of the amount appropriated in part 1 for the at-risk student success program, the balance of the appropriated money shall be distributed on a proration utilizing the sum of the most recent 3 years developmental/preparatory contact hours divided by the sum of the 3-year total contact hours at each college. Each community college's percentage shall be divided by the sum of all the percentages systemwide to obtain each community college's prorated grant amount.

(3) For the fiscal year ending September 30, 2003, the at-risk student success program money is allocated as follows:

Alpena Community College	$	85,654
Bay de Noc Community College		93,194
Delta College		109,215
Glen Oaks Community College		138,528
Gogebic Community College		78,171
Grand Rapids Community College		88,959
Henry Ford Community College		163,814
Jackson Community College		113,121
Kalamazoo Valley Community College		116,085
Kellogg Community College		156,823
Kirtland Community College		169,343
Lake Michigan College		186,759
Lansing Community College		162,796
Macomb Community College		92,395
Mid Michigan Community College		138,950
Monroe County Community College		99,550
Montcalm Community College		69,465
Mott Community College		111,102
Muskegon Community College		209,919
North Central Michigan College		156,702
Northwestern Michigan College		129,025
Oakland Community College		157,358
St. Clair Community College		88,500
Schoolcraft College		152,307
Southwestern Michigan College		180,889
Washtenaw Community College		170,388
Wayne County Community College		142,398
West Shore Community College		130,693

(4) As used in this act, "at-risk students" means students who meet 1 or more of the following criteria:

(a) Are initially placed in 1 or more developmental courses as a result of standardized testing or as a result of failure to make satisfactory academic progress.

(b) Are diagnosed as learning disabled.

(c) Require English as a second language (ESL) assistance.

(5) Grant funding under this section shall be utilized to address the special needs of at-risk students or for equipment or upgrade of information technology hardware or software. Activities related to services provided to at-risk students include, but are not limited to, pretesting for academic ability, counseling contacts, and special programs. Equipment or information technology hardware or software purchased under this section need not be associated with the operation of a program designed to address the needs of at-risk students.

(6) Grant funding under this section shall not be used for indirect costs including, but not limited to, rent, utilities, or, except as provided in this section, college administration.

(7) Each community college shall report to the department of career development a summary of all accomplishments under, expenditures for, and compliance with the intent of this program, including the number of at-risk students served. The report is subject to audit as provided for in section 212(1). The report shall be submitted not later than 90 days after the end of the state's fiscal year. The department of career development shall compile the information received under this subsection and shall submit this compilation to the house and senate appropriations subcommittees on community colleges, the senate and house fiscal agencies, and the state budget director by 120 days after the end of the state's fiscal year.

(8) Each community college receiving grant money under this section shall, not more than 12 months after receipt of that money, certify to the state treasurer, the state budget director, the house and senate fiscal agencies, and the auditor general whether all the grant money is expended or encumbered.

Increased appropriations to 4-year universities; similar action for community college.

Sec. 402. The legislature intends that any executive or legislative proposal or action, subsequent to the adoption of a recommendation for appropriations for community colleges for the fiscal year ending September 30, 2003, to increase appropriations to state-supported 4-year universities in excess of the governor's original recommendation for the fiscal year ending September 30, 2003, will be accompanied by a similar action or proposal for state-supported community colleges.

Economic development job training grant; award.

Sec. 403. The legislature intends that not less than 70% of the economic development job training grant money be awarded to community colleges or a consortium of community colleges and other eligible applicants as provided in the budget that appropriated the economic development job training grant money. Further, the legislature intends that at least a portion of the total appropriation for economic development job training grants be awarded to community colleges that offer certified programs that are bureau of apprenticeship training certified. The Michigan economic development corporation shall report by November 1 of each year to the house and senate appropriations subcommittees on community colleges and the senate and house fiscal agencies the names of the community colleges awarded grant money under this section, the amount of the grants awarded, and the percentage awarded to bureau of apprenticeship training certified programs.

PASS award.

Sec. 404. (1) The Michigan postsecondary access student scholarship (PASS) program is established to provide a PASS award as calculated under this section for a student who is eligible under subsection (2), (3), or (4). The Michigan higher education assistance authority (MHEAA) shall administer the PASS program, for which there is $2,000,000.00 appropriated in part 1, and the PASS program shall comply with the requirements of this section.

(2) A student is eligible for a PASS award for the equivalent of 2 years of full-time college enrollment if the student meets all of the following:

(a) The student must be a Michigan resident enrolled in a program leading to an associate degree that was in existence as of January 1, 2000, at a Michigan public community college, Michigan public university, or Michigan independent nonprofit, degree-granting college or university.

(b) The student must be enrolled at least half-time.

(c) The student must have scored at level 1 or level 2 on the high school Michigan education assessment program (MEAP) tests in reading, writing, mathematics, and science.

(d) The student must be eligible for a federal Pell grant.

(e) Other requirements established by the MHEAA.

(3) A student who meets all the requirements of subsection (2), other than subsection (2)(c), but has taken the high school MEAP tests in reading, writing, mathematics, and science while in high school shall receive a PASS award for 1 year of college enrollment. If the student maintains satisfactory academic progress in that first year of college enrollment, the student shall receive a PASS award for a second year of college enrollment.

(4) A student who meets all the requirements of subsection (2), other than subsection (2)(c), shall receive a maximum $500.00 PASS award, not to exceed tuition and fees, for the second year of college enrollment. A student may qualify under this section whether or not the student took any of the high school MEAP tests.

(5) PASS award eligibility is limited to 2 semesters or 3 terms in any academic year.

(6) A PASS award for a student eligible under subsection (2), (3), or (4) shall be calculated by the MHEAA as the amount remaining after subtracting from the value of the student's allowable tuition and fees, as prescribed in subsection (8), all of the following state and federal financial educational assistance for which that student is eligible:

(a) Michigan competitive scholarship.

(b) Michigan tuition grant.

(c) Pell grant.

(d) Federal hope scholarship tax credit.

(7) Each higher education institution shall prepare and utilize a tax credit table, or shall notify the MHEAA that the institution chooses to have the MHEAA utilize the department of treasury's tax credit table, to impute an amount under subsection (6) for the federal hope scholarship tax credit.

(8) The value of a student's allowable tuition and fees is as follows:

(a) For a student enrolled at a Michigan community college, the value of allowable tuition and fees is the in-district tuition and fees. For a student who does not reside within a community college district, the value of allowable tuition and fees is the out-of-district tuition and fees for the community college that the student is attending.

(b) For a student enrolled at a Michigan public university, the value of allowable tuition and fees is 125% of the highest in-district tuition and fees for community colleges for the immediately preceding academic year as reported before August 1 after that academic year.

(c) For a student enrolled at a Michigan independent, nonprofit, degree-granting college or university, the value of allowable tuition and fees is 125% of the highest in-district tuition and fees for community colleges for the immediately preceding academic year as reported before August 1 after that academic year.

(9) The MHEAA shall remit an eligible student's PASS award to a higher education institution in accordance with procedures established by the MHEAA.

(10) The PASS award may be utilized by the student to pay costs of attendance as determined by the MHEAA.

(11) The PASS program shall not be applied for a student's theology or divinity courses.

(12) The MHEAA shall develop an application and eligibility determination process that ensures that all of the requirements prescribed by this section are met.

(13) Students who are expected to receive a tuition incentive program scholarship are not eligible for the PASS program.

(14) The MHEAA shall submit to the senate and house appropriations subcommittees on community colleges, the house and senate fiscal agencies, and the department of management and budget by March 1, 2003, a comprehensive report on the PASS program from December 31, 2001 to February 1, 2003, including, but not limited to:

(a) Number of PASS program recipients by college.

(b) Average PASS award per student, including minimum and maximum, by college.

(c) Total PASS program expenditures.

(d) Other applicable PASS program information, including, but not limited to, the estimated PASS program and the cost impact of removing age restrictions and of raising the income eligibility amount.

(15) The department of treasury shall advertise the PASS program on the Michigan higher education assistance authority website.

PART 2A

PROVISIONS CONCERNING APPROPRIATIONS FOR FISCAL YEAR 2001-02

GENERAL SECTIONS

Total state spending for fiscal year 2001-02; payments to local units of government.

Sec. 2201. (1) Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources for fiscal year 2001-02 is estimated at $400.00 in part 1A of this appropriation act and state spending from state sources paid to local units of government for fiscal year 2001-02 is estimated at $0.

(2) If it appears to the principal executive officer of a department or branch that state spending to local units of government will be less than the amount that was projected to be expended under subsection (1), the principal executive officer shall immediately give notice of the approximate shortfall to the state budget director.

Capital outlay projects; competitive bids.

Sec. 2202. It is the intent of the legislature that capital outlay projects for which any state funds are used be competitively bid. As used in this section, "capital outlay projects" means capital outlay as defined in section 113 of the management and budget act, 1984 PA 431, MCL 18.1113.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 162]

(SB 397)

AN ACT to designate an official fossil of this state.

The People of the State of Michigan enact:

2.401 Official state fossil.

Sec. 1. The mastodon (Mammut americanum) is designated as the official fossil of this state.

This act is ordered to take immediate effect.
Approved April 8, 2002.
Filed with Secretary of State April 8, 2002.

[No. 163]

(HB 5335)

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending sections 2, 558, 561, 590f, 691, 696, and 971 (MCL 168.2, 168.558, 168.561, 168.590f, 168.691, 168.696, and 168.971), section 2 as amended by 1999 PA 216, section 558 as amended by 1999 PA 217, section 590f as added by 1988 PA 116, and section 971 as amended by 2002 PA 91, and by adding section 560b; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

168.2 Definitions.

Sec. 2. As used in this act:

(a) "Business day" or "secular day" means a day that is not a Saturday, Sunday, or legal holiday.

(b) "Election" means an election or primary election at which the electors of this state or of a subdivision of this state choose or nominate by ballot an individual for public office or decide a ballot question lawfully submitted to them.

(c) "Name that was formally changed" means a name changed by a proceeding under chapter XI of the probate code of 1939, 1939 PA 288, MCL 711.1 to 711.3, or former 1915 PA 314, or through a similar, statutorily sanctioned procedure under the law of another state or country.

168.558 Filing nominating petition, filing fee, or affidavit of candidacy; affidavit of identity; noncompliance; selection of office to which candidacy restricted; failure to make selection.

Sec. 558. (1) When filing a nominating petition, qualifying petition, filing fee, or affidavit of candidacy for a federal, county, state, city, township, village, or school district office in any election, a candidate shall file with the officer with whom the petitions, fee, or affidavit is filed 2 copies of an affidavit of identity. A candidate nominated for a federal, state, county, city, township, or village office at a political party convention or caucus shall file an affidavit of identity within 1 business day after being nominated with the secretary of state. The affidavit of identity filing requirement does not apply to a candidate nominated for the office of president of the United States or vice president of the United States.

(2) An affidavit of identity shall contain the candidate's name, address, and ward and precinct where registered, if qualified to vote at that election; a statement that the candidate is a citizen of the United States; the candidate's number of years of residence in the state and county; other information that may be required to satisfy the officer as to the identity of the candidate; the manner in which the candidate wishes to have his or her name appear on the ballot; and a statement that the candidate either is or is not using a name, whether a given name, a surname, or otherwise, that is not a name that he or she was given at birth. If a candidate is using a name that is not a name that he or she was given at birth, the candidate shall include on the affidavit of identity the candidate's full former name.

(3) The requirement to indicate a name change on the affidavit of identity does not apply if the name in question is 1 of the following:

(a) A name that was formally changed at least 10 years before filing as a candidate.

(b) A name that was changed in a certificate of naturalization issued by a federal district court at the time the individual became a naturalized citizen at least 10 years before filing as a candidate.

(c) A name that was changed because of marriage.

(d) A name that was changed because of divorce, but only if to a legal name by which the individual was previously known.

(4) An affidavit of identity shall include a statement that as of the date of the affidavit, all statements, reports, late filing fees, and fines required of the candidate or any candidate committee organized to support the candidate's election under the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282, have been filed or paid; and a statement that the candidate acknowledges that making a false statement in the affidavit is perjury, punishable by a fine up to $1,000.00 or imprisonment for up to 5 years, or both. If a candidate files the affidavit of identity with an officer other than the county clerk or secretary of state, the officer shall immediately forward to the county clerk 1 copy of the affidavit of identity by first-class mail. The county clerk shall immediately forward 1 copy of the affidavit of identity for state and federal candidates to the secretary of state by first-class mail. An officer shall not certify to the board of election commissioners the name of a candidate who fails to comply with this section.

(5) If petitions or filing fees are filed by or in behalf of a candidate for more than 1 office, either federal, state, county, city, village, township, or school district, the terms of which run concurrently or overlap, the candidate so filing, or in behalf of whom petitions or fees were so filed, shall select the 1 office to which his or her candidacy is restricted within 3 days after the last day for the filing of petitions or filing fees unless the petitions or filing fees are filed for 2 offices that are combined or for offices that are not incompatible. Failure to make the selection disqualifies a candidate with respect to each office for which petitions or fees were so filed and the name of the candidate shall not be printed upon the ballot for those offices. A vote cast for that candidate at the ensuing primary or general election shall not be counted and is void.

168.560b Name appearing on ballot; change; appearance of given and middle name; nickname; married name; violation.

Sec. 560b. (1) A candidate required to indicate a name change on the affidavit of identity under section 558 shall be listed on the ballot with his or her current name and former name as prescribed by the secretary of state.

(2) Subject to subsections (3) and (4), both a candidate's given name and surname that he or she was given at birth, and only those names, shall appear on the ballot, except under 1 of the following circumstances:

(a) The name in question, whether a given name, a surname, or otherwise, is a name that was formally changed.

(b) The candidate is subject to subsection (1).

(c) The name in question, whether a given name, a surname, or otherwise, is 1 of the following:

(*i*) A name that was changed in a certificate of naturalization issued by a federal district court at the time the individual became a naturalized citizen at least 10 years before filing as a candidate.

(*ii*) A name that was changed because of marriage.

(*iii*) A name that was changed because of divorce, but only if to a legal name by which the individual was previously known.

(3) A candidate may specify that both his or her given name and middle name, or only a middle name, shall appear on the ballot. A candidate may specify that either an initial or a recognized diminutive for the candidate's given or middle name, or for both, shall appear on the ballot.

(4) A candidate is prohibited from specifying that a nickname that is not a recognized diminutive of the candidate's given name or middle name appear on the ballot. A married individual is prohibited from specifying that his or her spouse's given name, or an alternative for that given name otherwise permitted under subsection (3), appear on the ballot.

(5) A ballot that would violate this section shall not be produced, printed, or distributed.

168.561 Official primary election ballots; offices for which name of candidate to be included; filing request for clarifying designation of same or similar surnames; notice of determination; appeal; printing occupation, date of birth, or residence of candidate; incumbency designation; guidelines.

Sec. 561. (1) The ballots prepared by the board of election commissioners in each county for use by the electors of a political party at a primary election shall include the

name of each candidate of the political party for the office of governor, United States senator, and district offices; for the county, the name of each candidate of the political party for county offices; and for each township, the name of each candidate of the political party for township offices.

(2) If, in a district that is a county or entirely within 1 county, 2 or more candidates, including candidates for nonpartisan offices, for the same office have the same or similar surnames, a candidate may file a written request with the board of county election commissioners for a clarifying designation. The request shall be filed not later than 3 days after the last date for filing nominating petitions. Not later than 3 days after the filing of the request, the board of county election commissioners shall determine whether a similarity exists and whether a clarifying designation should be granted. In a district located in more than 1 county, the board of state canvassers shall make a determination whether to grant a clarifying designation upon the written request of a candidate who files nominating petitions with the secretary of state. The request shall be filed with the state board of canvassers not later than 5 days after the last date for filing nominating petitions. The board of state canvassers shall make its determination at the same time it makes a declaration of the sufficiency or insufficiency of nominating petitions in compliance with section 552.

(3) In each instance, the determining board shall immediately notify each candidate for the same office as the requester that a request for a clarifying designation has been made and of the date, time, and place of the hearing. The requester and each candidate for the same office shall be notified of the board's determination by first-class mail sent within 24 hours after the final date for the determination. A candidate who is dissatisfied with the determination of the board of county election commissioners may file an appeal in the circuit court of the county where the board is located. A candidate who is dissatisfied with the determination of the board of state canvassers may file an appeal in the Ingham county circuit court. The appeal shall be filed within 14 days after the final date for determination by the board. The court shall hear the matter de novo. Except as provided in subsection (4), in the case of the same surname or of a final determination by the board or by the court before the latest date that the board can arrange the ballot printing of the existence of similarity, the board shall print the occupation, date of birth, or residence of each of the candidates on the ballot or ballot labels under their respective names. The term "occupation" includes a currently held political office, even though it is not the candidate's principal occupation, but does not include reference to a previous position or occupation.

(4) If there are 2 candidates with the same or similar surnames and 1 of the candidates is entitled to an incumbency designation by section 24 of article VI of the state constitution of 1963, no other designation shall be provided for the other candidate with the same or similar surname. If there are more than 2 candidates with the same or similar surname and 1 of the candidates is entitled to an incumbency designation by section 24 of article VI of the state constitution of 1963, a clarifying designation may be given to the other candidates with the same or similar surname. Except for an incumbency designation under section 24 of article VI of the state constitution of 1963, if 2 or more candidates with the same or similar surnames are related, the board shall only print the residence or date of birth of each of the candidates as a clarifying designation. As used in this subsection, "related" means that the candidates with the same or similar surnames are related within the third degree of consanguinity.

(5) The board of state canvassers shall issue guidelines to ensure fairness and uniformity in the granting of designations and may issue guidelines relating to what constitutes the

same or similar surnames. The board of state canvassers and the boards of county election commissioners shall follow the guidelines.

168.590f Applicability of certain provisions; canvass; hearing; certification.

Sec. 590f. (1) Except as provided in subsections (2) and (3), sections 544c, 545, 552, 553, 555, 556, and 558 are applicable to a qualifying petition, a person filing a qualifying petition, and an officer receiving a qualifying petition.

(2) The board of state canvassers shall canvass a qualifying petition filed with the secretary of state and shall make an official declaration of the sufficiency or insufficiency of the qualifying petition at least 60 days before the election. A hearing under this subsection by the board of state canvassers shall be held as provided in section 552.

(3) A filing officer who receives a qualifying petition from a candidate who has met the requirements of this act shall certify to the proper board or boards of election commissioners the candidate's name, post office address, and office sought. If the election for the office is held at the general election, the filing officer shall make the certification not later than 60 days before the general election.

168.691 Official ballots; names of candidates; identification numeral; compliance.

Sec. 691. (1) Each board of election commissioners shall have printed on the ballot, or on ballot labels or slips to be placed on a voting machine, when used, the names of the candidates certified to that board under this act. A candidate's name shall not be placed or printed in more than 1 column on the ballot for the same office. A board of election commissioners for a county or city may arrange the ballots with an identification numeral placed in the same space with the name of each of the candidates. That identification numeral shall be rotated with the name of the candidate, and when rotated, shall appear in the same space with the same candidate regardless of where the candidate's name appears on the ballot.

(2) The name of a candidate appearing on a ballot shall comply with sections 560b and 561.

168.696 Printing name of candidate for federal, state, district, county, and township offices on 1 ballot; separate column; filing request for clarifying designation of same or similar surnames; notice of determination; appeal; printing occupation, date of birth, or residence of candidate; incumbency designation; guidelines.

Sec. 696. (1) The board of election commissioners in each county shall have the name of each candidate for federal, state, district, county, and township offices at an election printed on 1 ballot, separate from any other ballot. The name of each candidate of each political party shall be placed in a separate column on the ballot under the name and vignette of the party with the name of each candidate opposite the name of the office for which the candidate was certified to have been nominated.

(2) If, in a district that is a county or entirely within 1 county, 2 or more candidates nominated by the same political party or by different political parties for the same office, or nonpartisan candidates for the same office, have the same or similar surnames, a candidate may file a written request with the board of county election commissioners for a clarifying designation. The request shall be filed not later than 3 days after the certification of the relevant candidates. Not later than 3 days after the filing of the request, the board of county election commissioners shall determine whether a similarity exists and whether

a clarifying designation should be granted. In a district located in more than 1 county, the board of state canvassers shall make a determination whether to grant a clarifying designation upon the written request of a candidate who is certified by the secretary of state. The request shall be filed with the state board of canvassers not later than 3 days after the state board of canvassers completes the canvass of the primary election in compliance with section 581 and the certification of nominees in compliance with section 687. The board of state canvassers shall make its determination not later than 3 days after the request is filed.

(3) In each instance, the determining board shall immediately notify each candidate for the same office as the requester that a request for a clarifying designation has been made and of the date, time, and place of the hearing. The requester and each candidate for the same office shall be notified of the board's determination by first-class mail sent within 24 hours after the final date for the determination. A candidate who is dissatisfied with the determination of the board of county election commissioners may file an appeal in the circuit court of the county where the board is located. A candidate who is dissatisfied with the determination of the board of state canvassers may file an appeal in the Ingham county circuit court. The appeal shall be filed within 14 days after the final date for determination by the board. The court shall hear the matter de novo. Except as provided in subsection (4), in the case of the same surname or of a final determination by the board or by the court before the latest date that the board can arrange for the ballot printing of the existence of similarity, the board shall print the occupation, date of birth, or residence of each of the candidates having the same or similar surnames on the ballot or ballot labels or slips to be placed on the voting machine, when used, under their respective names. The request may not be made by a candidate of a political party whose candidate for secretary of state received less than 10% of the total vote cast in the state for all candidates for secretary of state in the most recent November election in which a secretary of state was elected. The term "occupation" includes a currently held political office, even though it is not the candidate's principal occupation, but does not include reference to a previous position or occupation.

(4) If there are 2 candidates with the same or similar surnames and 1 of the candidates is entitled to an incumbency designation by section 24 of article VI of the state constitution of 1963, no other designation shall be provided for the other candidate with the same or similar surname. If there are more than 2 candidates with the same or similar surname and 1 of the candidates is entitled to an incumbency designation by section 24 of article VI of the state constitution of 1963, a clarifying designation may be given to the other candidates with the same or similar surname. Except for an incumbency designation under section 24 of article VI of the state constitution of 1963, if 2 or more candidates with the same or similar surnames are related, the board shall only print the residence or date of birth of each of the candidates as a clarifying designation. As used in this subsection, "related" means that the candidates with the same or similar surnames are related within the third degree of consanguinity.

(5) The board of state canvassers shall issue guidelines to ensure fairness and uniformity in the granting of designations and may issue guidelines relating to what constitutes the same or similar surnames. The board of state canvassers and the boards of county election commissioners shall follow the guidelines.

168.971 Special election.

Sec. 971. (1) If the recall was successful, the officer with whom the recall petition was filed shall, within 5 days after receiving the certification, submit to the county election scheduling committee a proposed date for a special election to be held within 60 days for

the filling of the vacancy. If any primary or election is to be held in that electoral district within 4 months after the certification and at a time as will permit preparation for the election by election officials as provided by law, the election to fill the vacancy shall be held concurrently with that primary or election. The same provisions made in section 964 for calling and conducting of the recall election govern in the calling and conducting of the election to fill the vacancy created, except as otherwise provided in this section.

(2) If a petition is filed under section 959, the officer with whom the petition is filed shall not submit a proposed date to the county election scheduling committee, but shall call the special election subject to the same time limitations set out in this section.

(3) If the governor appoints a review team under the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291, to perform the functions prescribed in that act relative to a city, township, or village and an elected official of the city, township, or village was the subject of a successful recall, the officer with whom the recall petition was filed does not have the authority to propose a date for a special election. If the review team described in this subsection is appointed after the officer submits a proposed special election date or the county election scheduling committee schedules the special election as required by subsection (1), but before the election is held, the officer's or county election scheduling committee's action becomes void when the review team is appointed. Within 5 days after the review team described in this subsection reports its findings to the governor as required by section 14 of the local government fiscal responsibility act, 1990 PA 72, MCL 141.1214, the review team shall submit to the county election scheduling committee a proposed date for the special election. A special election scheduled under this subsection is subject to all of the other provisions of subsection (1). This subsection applies to any special election scheduled but not yet held before the effective date of the amendatory act that added this sentence.

Repeal of § 168.557.

Enacting section 1. Section 557 of the Michigan election law, 1954 PA 116, MCL 168.557, is repealed.

This act is ordered to take immediate effect.
Approved April 9, 2002.
Filed with Secretary of State April 9, 2002.

[No. 164]

(SB 346)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 2922a (MCL 600.2922a), as added by 1998 PA 211.

The People of the State of Michigan enact:

600.2922a Wrongful or negligent act resulting in miscarriage, stillbirth, or physical injury; liability; exceptions; "physician or other licensed health professional" defined.

Sec. 2922a. (1) A person who commits a wrongful or negligent act against a pregnant individual is liable for damages if the act results in a miscarriage or stillbirth by that individual, or physical injury to or the death of the embryo or fetus.

(2) This section does not apply to any of the following:

(a) An act committed by the pregnant individual.

(b) A medical procedure performed by a physician or other licensed health professional within the scope of his or her practice and with the pregnant individual's consent or the consent of an individual who may lawfully provide consent on her behalf or without consent as necessitated by a medical emergency.

(c) The lawful dispensation, administration, or prescription of medication.

(3) This section does not prohibit a civil action under any other applicable law.

(4) As used in this section, "physician or other licensed health professional" means a person licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

Applicability of act.

Enacting section 1. This amendatory act applies to a cause of action arising on or after May 1, 2002.

This act is ordered to take immediate effrect.
Approved April 10, 2002.
Filed with Secretary of State April 11, 2002.

[No. 165]

(SB 971)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 87c (MCL 211.87c), as amended by 1999 PA 123; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

211.87c Delinquent tax revolving fund; resolution authorizing issuance of notes; county treasurer as agent; amounts payable from surplus; limitations; pledge of delinquent taxes; segregated fund or account; disposition of note proceeds; requirements as to notes and resolution authorizing issuance; sale and award of notes; full faith and credit; designation as general obligation tax notes; provisions; payment and registration of notes; tax exemption; county under home rule charter; fee entitlement; notes secured under trust or escrow agreement; exemption from revised municipal finance act.

Sec. 87c. (1) A county that has created a fund pursuant to section 87b by resolution of its board of commissioners and without a vote of its electors may borrow money and issue its revolving fund notes to establish or continue, in whole or in part, the delinquent tax revolving fund and to pay the expenses of the borrowing.

(2) If a fund is created and a county determines to borrow pursuant to this section, the county treasurer shall be the agent for the county in connection with all transactions relative to the fund.

(3) If provided by separate resolution of the county board of commissioners for any year in which a county determines to borrow for the purposes provided in this section and subject to subsection (15), there shall be payable from the surplus in the fund an amount equal to 20% of the following amount to the county treasurer for services as agent for the county and the remainder of the following amount to the county treasurer's office for delinquent tax administration expenses:

(a) For any delinquent tax on which the interest rate before sale exceeds 1% per month, 1/27 of the interest collected per month.

(b) For any delinquent tax on which the interest rate before sale is 1% per month or less, 3/64 of the interest collected each month.

(4) The amount payable under subsection (3) to the county treasurer for services as agent for the county shall not exceed 20% of the county treasurer's annual salary, and any excess over this limitation shall be payable to the county treasurer's office for delinquent tax administration expenses. In addition, the total sum payable under subsection (3) shall not exceed 5% of the total budget of the treasurer's office for that year.

(5) In the resolution authorizing the borrowing and issuance of notes, the delinquent taxes from which the borrowing is to be repaid shall be pledged to the payment of the principal and interest of the notes, and the proceeds of the collection of the delinquent taxes pledged and the interest on the proceeds shall be placed in a segregated fund or account and shall not be used for any other purpose until the notes are paid in full, including interest. The segregated fund or account shall be established as a part of the delinquent tax revolving fund and shall be accounted for separately on the books of the county treasurer.

(6) The proceeds of the notes shall be placed in and used as the whole or part of the fund established pursuant to section 87b, after the expenses of borrowing have been deducted.

(7) The notes issued pursuant to this section shall comply with all of the following:

(a) Be in an aggregate principal amount not exceeding the aggregate amount of the delinquent taxes pledged, exclusive of interest.

(b) Bear interest not exceeding 14.5% per annum.

(c) Be in those denominations, and mature on the date not exceeding 6 years after their date of issue, as the board of commissioners by its resolution determines.

(d) May be issued at an original issue discount not to exceed 2% of the face value of the note issued.

(8) The resolution authorizing issuance of the notes may provide that all or part of the notes shall be subject to prepayment and, if subject to prepayment, shall provide the amount of call premium payable, if any, the number of days' notice of prepayment that shall be given, and whether the notice shall be written or published, or both. Otherwise, the notes shall not be subject to prepayment.

(9) The sale and award of notes shall be conducted and made by the treasurer of the county issuing them at a public or private sale. If a public sale is held, the notes shall be advertised for sale once not less than 5 days before sale in a publication printed in the English language and circulated in this state that carries as a part of its regular service notices of the sales of municipal bonds and that has been designated in the resolution as a publication complying with these qualifications. The notice of sale shall be in the form designated by the county treasurer. The notes may be sold subject to the option of the county treasurer and the county treasurer may withhold a part of the issue from delivery if, in his or her opinion, sufficient funds are available before delivery of the notes to make full delivery unnecessary to the purposes of the borrowing.

(10) The notes are full faith and credit obligations of the county issuing them and, subject to section 87d, if the proceeds of the taxes pledged are not sufficient to pay the principal and interest of the notes when due, the county shall impose a general ad valorem tax without limitation as to rate or amount on all taxable property in the county to pay the principal and interest and may reimburse itself from delinquent taxes collected.

(11) If the resolution provides and subject to section 87d, the notes may be designated general obligation tax notes.

(12) Notwithstanding any other provisions of this section and section 87d, all the following apply:

(a) Interest on the notes may be payable at any time provided in the resolution, and may be set, reset, or calculated as provided in the resolution.

(b) Notes issued under this section may have 1 or more of the following attributes:

(*i*) Made the subject of a put or agreement to repurchase by the county treasurer.

(*ii*) Secured by a letter of credit issued by a bank under an agreement entered into by the county treasurer or by any other collateral that the resolution may authorize.

(*iii*) Callable as set forth in the resolution.

(*iv*) Reissued by the county treasurer once reacquired by the county treasurer under any put or repurchase agreement.

(c) The county treasurer may by order do 1 or more of the following:

(*i*) Authorize the issuance of renewal notes.

(*ii*) Refund or refund in advance notes by the issuance of new notes, whether the notes to be refunded have or have not matured.

(*iii*) Issue notes partly to refund notes and partly for any other purposes authorized by this act.

(*iv*) Buy and sell any notes issued under this section.

(d) Renewal, refunding, or advance refunding notes shall comply with all of the following:

(*i*) Shall be sold and the proceeds applied to the purchase redemption or payment of the notes to be renewed or refunded.

(*ii*) Shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(*iii*) May be sold or resold at a public or private sale.

(*iv*) May pledge the delinquent taxes pledged in the issue to be refunded in advance after the original issue is defeased by the advance refunding issue.

(e) Notes may be issued secured by a second lien on delinquent taxes, interest, and county property tax administration fees already the subject of a first lien because of the issuance of a prior note issue.

(f) Any notes issued may be secured in whole or in part under a trust or escrow agreement, which agreement may also govern the issuance of renewal notes, refunding notes, and advance refunding notes. The agreement may authorize the trustee or escrow agent to make investments of any type authorized in the agreement.

(13) The notes issued under this section and interest on the notes shall be payable in lawful money of the United States of America and shall be exempt from all taxation by this state or a taxing authority in this state.

(14) The notes issued under this section may be made payable at a bank or trust company, or may be made registrable as to principal or as to principal and interest under the terms and conditions specified in the authorizing resolution or by the county treasurer when awarding the notes.

(15) A county treasurer elected or appointed to office after October 1, 1999 is not eligible for the payment under subsection (3) for services as agent for the county unless that county treasurer held office on October 1, 1999 and has not vacated that office after October 1, 1999.

(16) Notwithstanding 1966 PA 293, MCL 45.501 to 45.521, a county operating under a home rule charter shall not be restricted by the provisions of the home rule charter in connection with the powers granted to the county to issue notes by sections 87b and 87d and this section. The treasurer of a county described in this subsection, notwithstanding any charter provisions to the contrary, shall have all of the powers granted to county treasurers by sections 87b and 87d and this section.

(17) Notwithstanding the provisions of 1947 PA 261, MCL 45.451 to 45.457, the provisions of this section shall control the entitlement of the county treasurer to the fee provided for in this section.

(18) If the treasurer authorizes on the order authorizing the notes, any notes issued may be secured in whole or in part under a trust or escrow agreement. That agreement may authorize the trustee or escrow agent to make investments of any type authorized in the agreement.

(19) Notes issued under this act are exempt from the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Repeal of §§ 211.87e and 211.87f.

Enacting section 1. Sections 87e and 87f of the general property tax act, 1893 PA 206, MCL 211.87e and 211.87f, are repealed.

This act is ordered to take immediate effect.
Approved April 10, 2002.
Filed with Secretary of State April 11, 2002.

[No. 166]

(SB 973)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 89 (MCL 211.89), as amended by 1982 PA 503.

The People of the State of Michigan enact:

211.89 Provisions applicable for time period prescribed in subsection (2); applicability of subsection (1).

Sec. 89. (1) Notwithstanding sections 59, 60, 74, 87c, and 87d, the following provisions shall apply for the time period prescribed in subsection (2):

(a) To the extent not waived pursuant to section 59(3), there shall be added to all delinquent taxes unpaid after March 1, interest at the rate of 1.25% per month or fraction of a month from the date the taxes originally become delinquent pursuant to this act, together with a county property tax administration fee equal to 4% of the delinquent taxes or $2.00 per payment of delinquent taxes, whichever is greater, which amounts shall be paid to the county treasurer.

(b) In addition to the expenses specified in section 59, delinquent tax sales shall include a county property tax administration fee equal to 4% of the delinquent taxes, and interest computed at a rate of 1.5% per month from the date the taxes originally become delinquent under this act.

(c) The rate of interest to be paid to the treasurer under section 74 shall be computed at the rate of 1.5% per month or fraction of a month.

(d) The rate of interest to be paid to the department of treasury pursuant to section 84 shall be computed at the rate of 1.5% per month or fraction of a month.

(2) Subsection (1) shall apply as follows:

(a) In counties with a population of more than 1,500,000, it shall apply immediately except that it shall not apply to any delinquent taxes that became delinquent before March 1, 1981, or which become delinquent after February 28, 1983.

(b) In all other counties of this state it shall apply only to the 1981 delinquent taxes that become delinquent on or before March 1, 1982.

This act is ordered to take immediate effect.
Approved April 10, 2002.
Filed with Secretary of State April 11, 2002.

[No. 167]

(SB 903)

AN ACT to amend 1909 PA 269, entitled "An act to revise the laws relating to Michigan state university; and to prescribe the powers and duties of the board of trustees of Michigan state university," by amending section 20 (MCL 390.120).

The People of the State of Michigan enact:

390.120 Business manager of Michigan state university; appointment, powers, and duties.

Sec. 20. The president, subject to the direction of the board of trustees, shall appoint a business manager of Michigan state university who shall have the general charge, under the direction of the president and the board of trustees, of the financial affairs of the institution, and of any other financial matter with the administration of which the board of trustees may be charged. Money due to the institution or received in its behalf shall be collected and received by the business manager and shall be deposited with the treasurer of the board of trustees. The funds deposited shall be subject to warrants signed by the president of the university and the business manager or their authorized agents. The business manager shall render monthly a full and complete account of money received and the warrants drawn on the treasurer, as the business manager of the university, and shall file and preserve vouchers, receipts, correspondence, or other papers relating to the warrants. The business manager shall keep in the business manager's office a complete record of the financial transactions, in a manner which may be approved by the board and the state treasurer, and which shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. At the close of each fiscal year, the business manager shall make a full and detailed report of the financial affairs of the institution, together with statistical matter as may be of interest.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 168]

(SB 904)

AN ACT to amend 1931 PA 96, entitled "An act to provide for the construction and maintenance of non-trunk line roads located within the limits of a United States forest," by amending section 3 (MCL 249.33).

The People of the State of Michigan enact:

249.33 Disbursements of funds.

Sec. 3. The state treasurer is authorized to pay out money under the provisions of this act under orders of the director of the state transportation department, and the state treasurer is authorized to receive any and all money due the state of Michigan under the provisions of this act.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 169]

(SB 905)

AN ACT to amend 1859 PA 143, entitled "An act relative to the university interest fund," by amending section 1 (MCL 21.211).

The People of the State of Michigan enact:

21.211 University interest fund; interest credited; payment to university treasurer.

Sec. 1. That the state treasurer shall credit to the university interest fund interest on the entire amount received by the state for university lands sold or contracted, the state treasurer shall pay that amount to the treasurer of the university upon his or her application, from time to time, as the interest may accrue and be required for the use of the university.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 170]

(SB 906)

AN ACT to amend 1901 PA 232, entitled "An act to extend aid to the Michigan state college of agriculture and applied science," by amending section 4 (MCL 390.224); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

390.224 Appropriation; disbursement.

Sec. 4. The appropriation made by the provisions of this act shall be paid out of the general fund in the state treasury to the treasurer of the board of trustees of Michigan state university at the times and in the amounts as the general accounting laws of the state prescribe, and the disbursing officer shall render his or her accounts to the state treasurer.

Repeal of § 390.225.

Enacting section 1. Section 5 of 1901 PA 232, MCL 390.225, is repealed.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 171]

(SB 907)

AN ACT to amend 1925 PA 177, entitled "An act to protect and promote the public health and welfare, and to provide for the construction, maintenance and operation of

hospitals and sanatoriums for the treatment of tuberculosis; and to make an appropriation therefor," by amending sections 9 and 14 (MCL 332.159 and 332.164).

The People of the State of Michigan enact:

332.159 County sanatoriums; admission of residents and nonresidents; reports; reimbursement by state; payment.

Sec. 9. A sanatorium established under this act shall be maintained and operated for the benefit of the residents of the county or counties establishing and maintaining it. The board of trustees shall make regulations covering the admission and conduct of patients and may exclude any person or persons willfully violating the regulations. Any person afflicted with tuberculosis may be admitted to the sanatorium on a certificate of the health officer of the city, village, township, county, or district in which that person resides. If the facilities of the sanatorium will permit, the board of trustees may in its discretion accept patients afflicted with tuberculosis who are not residents of the county or counties establishing and maintaining the sanatorium, upon the terms and conditions as may be mutually agreed upon. On the first day of each month the board of trustees or the medical superintendent of the sanatorium, whether organized and established under the provisions of this act or any other act or acts permitting counties to erect and maintain sanatoriums for treatment of tuberculosis, shall report to the director of the department of community health the number of patients treated during the preceding month, with detailed information as the director may require. The reports shall show specifically the number of patients treated, with the compensation and aggregate number of weeks of the treatment. The report shall be verified by the medical superintendent or by the president of the board of trustees. If accepted and approved by the director of the department of community health, he or she shall certify to the state treasurer that the sanatorium in question has treated without compensation patients for an aggregate specified number of days. The state treasurer shall pay the county treasurer having the funds of the sanatorium in his or her custody an amount as will constitute compensation for such free patients on the basis of $6.00 per day each. It is the intent of the legislature that the state shall contribute towards the cost of maintaining and treating free patients the sum of $6.00 for each day of the care and treatment. All sums due any county from the state of Michigan under this act shall be a continuing obligation of the state and shall be paid out of any funds that may be appropriated by the legislature for that purpose.

332.164 Contracts with approved sanatorium; report to director of department of community health; reimbursement by state; payment.

Sec. 14. Whenever the board of supervisors of any county contracts with the management or owners of any hospital or sanatorium for the treatment of persons afflicted with tuberculosis and that hospital or sanatorium is approved by the director of the department of community health, as provided in the preceding section, the clerk of that county, or the board of county auditors in counties having such boards, or other legally designated authority, on the first day of each month, shall report to the director of the department of community health the number of patients treated at the sanatorium or hospital during the preceding month on contract with the county, with detailed information as the director may require. The reports shall show specifically the number of patients treated, any compensation paid by the county for the treatment, and the aggregate number of days of the treatment. The report shall be verified by the officer or officers making the report. Upon receipt and approval of the report by the director of the department of community health, he or she shall certify to the state treasurer that the county in question has caused to be treated, without compensation to it, patients for an

aggregate specified number of days based upon the report. The state treasurer shall pay the county treasurer of the county an amount as will constitute compensation for such patients on the basis of $6.00 per day each. It is the intent of the legislature that the state shall contribute towards the cost of maintaining and treating such patients the sum of $6.00 for each day of such care and treatment. If the sum appropriated by the legislature is not sufficient to pay all demands, then the funds appropriated shall be paid pro rata to the counties and cities entitled to the funds, and the contributions shall be made in accordance with rules and regulations promulgated by the director of the department of community health for the purpose of protecting the rights of all affected counties and cities in the fund.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 172]

(SB 908)

AN ACT to amend 1947 PA 4, entitled "An act to authorize and provide for the borrowing of $270,000,000.00 to make payments to persons who served in the military, naval, marine or coast guard forces of the United States, including women serving in auxiliary branches thereof, or to their next of kin or estates, and the issuance of certain serial bonds and serial notes for such indebtedness; to create a veterans' military pay fund and a veterans' bond redemption fund; to pledge the full faith and credit of the state; to provide for the payment of principal and interest on such serial obligations; to make appropriations therefor; and to make such serial notes and serial bonds exempt from taxation," by amending section 1 (MCL 35.901).

The People of the State of Michigan enact:

35.901 Veterans' bonds; issuance by state administrative board; interest; denominations; maturity; registration; reconversion; cancellation; execution by state treasurer; public sale; temporary bonds; proceeds to constitute veterans' military pay fund; state purchase.

Sec. 1. The people of Michigan by constitutional amendment having authorized the state to borrow not to exceed $270,000,000.00, pledge its faith and credit and issue its serial notes or serial bonds for the purpose of paying to each person, or if deceased to the surviving husband or wife, child or children, or to the surviving dependent mother, father, person standing in loco parentis, brothers and sisters, in the order named, of any person who served in the military, naval, marine or coast guard forces of the United States, including women serving in auxiliary branches, between September 16, 1940, and June 30, 1946, who served honorably and faithfully during that period, who was a resident of this state at the time of entering the service and for a period of at least 6 months prior to entering the service, and whose service continued for more than 60 days during said period, the sum of $10.00 for each month, or major fraction of a month, of service during that period in any state of the United States, and the District of Columbia, and the sum

of $15.00 for each month, or major fraction of a month, of service during that period outside any state of the United States, and the District of Columbia, but not to exceed a total payment of $500.00 to any 1 person and the payment to the surviving husband or wife, child or children, or to the surviving dependent mother, father, person standing in loco parentis, brothers and sisters, in the order named, of each person who has died or who shall hereafter die from service connected causes incurred between September 16, 1940, and June 30, 1946, a sum equal to the difference between what he or she has received and the sum of $500.00, the state administrative board is hereby authorized and directed, to borrow upon the full faith and credit of this state money in the sum of not to exceed $270,000,000.00, to issue serial bonds or serial notes of the state in a like amount, and to expend from the veterans' military pay fund created in this act a sufficient amount to cover the reasonable cost of the printing and the other expense incident to the issuance of the serial bonds or notes. The bonds shall be known as veterans' bonds and shall bear interest at a rate or rates not exceeding 2 1/2 per centum per annum, payable semi-annually, shall be in the denomination of $1,000.00 each or any multiple of that amount, shall be payable to bearer and shall mature serially in annual installments of not less than $10,800,000.00 each, beginning 1 year from their date and ending not later than 1968. The bonds may at the discretion of the state administrative board be issued at 1 time in 1 series or from time to time in 2 or more separate series with different dates of issuance for each series, and the state administrative board may from time to time determine and by resolution prescribe, the date of issue of each series, the amount of bonds to be included in the series, the maturities of the bonds so included, the maximum rate or rates of interest on the bonds so included not to exceed 2 1/2 per centum per annum, and the place or places of payment of the bonds. The bonds or any part of the bonds may be made callable prior to maturity upon the terms as may be prescribed prior to the issuance of the bonds by resolution of the state administrative board. Upon the terms and conditions as may be prescribed by resolution of the state administrative board, the bonds may be made registerable as to either principal only or as to both principal and interest or may be converted into registered bonds of the denominations as the state administrative board may authorize, which registered bonds may be reconverted into registered bonds of other denominations or reconverted into coupon bonds. All bonds so presented for conversion or reconversion or payment shall be deposited with the state treasurer, who is hereby authorized and directed forthwith to cancel by perforation and preserve the bond.

(2) The bonds shall be executed for and on behalf of the state of Michigan by the state treasurer and the secretary of state or their deputies and the seal of the state shall be affixed to the bonds by the secretary of state. Interest coupons evidencing accrued interest to the respective dates of maturity of the bonds shall bear the facsimile signature of the state treasurer. The state treasurer shall provide a bond register which shall be kept in the office of the state treasurer, in which register shall be recorded the date of each bond, its number, the person or persons to whom originally issued, and the dates of its respective maturity and cancellation.

(3) The bonds authorized in this act to be issued shall be sold by the state administrative board, at not less than par and accrued interest. The sale or sales shall be public sales held from time to time at the discretion of said state administrative board after notice by publication at least 7 days before each sale, in a publication printed in the English language and circulated in the state of Michigan, which carries as a part of its regular service, notices of the sale of municipal bonds. The bonds sold at each sale shall be awarded to the bidder whose bid in the opinion of the state administrative board would result in the lowest interest cost to the state. The state administrative board shall have the right to reject any or all bids.

(4) Pending the execution and delivery of the veterans' bonds, there are hereby authorized to be executed and delivered temporary bonds which upon the execution of the veterans' bonds shall be exchangeable for veterans' bonds of like date, tenor, denomination, interest rate and maturity. The temporary bonds shall be printed from type, on steel engraved borders, shall be numbered T1 consecutively upwards, starting with the temporary bonds of earliest maturity, shall be signed and sealed in the same manner as the definitive veterans' bonds, and shall be issued with not more than 2 interest coupons attached to them.

(5) The temporary bonds may be registered in the names of the respective holders on books kept by the state treasurer, as to both principal and interest, but not as to principal alone, the registration being noted by the state treasurer, on any bond so registered, in the registration blank to be printed on the back of the bond, after which no transfer shall be valid unless made on said books at the request of the registered holder of the bond or attorney duly authorized, and similarly noted in the registration blank, but any such temporary bond so registered may be discharged from registration by being transferred to bearer, after which it shall be transferable by delivery, and it may be again registered as before.

(6) In case any temporary bond shall be mutilated, the holder of the bond may obtain a duplicate temporary bond in the same manner and under the same terms as provided for the obtaining of duplicate definitive veterans' bonds.

(7) Except as otherwise specifically provided in this section, all the terms and conditions for the issuance of, and covenants for the security of the holders of, the veterans' bonds, shall apply to such temporary bonds.

(8) The proceeds of the sale of bonds shall be deposited in the state treasury, and shall constitute a fund to be known as "The veterans' military pay fund," hereby created in the state treasury as a special trust fund, and shall be paid out in no other manner or for any other purpose than provided by law: Provided, That if at any time it shall appear to the finance and budget committee of the state administrative board that there is money in the veterans' military pay fund that will not be needed for the payment of veterans' claims under the terms and provisions of the veterans' military pay act, 1947 PA 12, MCL 35.921 to 35.932, the committee may authorize the state treasurer to purchase Michigan veterans' bonds upon the open market and cancel the bonds if the bonds may be purchased at par or below, and may authorize the state treasurer to cancel any Michigan veterans' bonds theretofore purchased and then contained in said veterans' military pay fund, or said committee may transfer such funds to the veterans' bond redemption fund provided for in this act.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 173]

(SB 909)

AN ACT to amend 1947 PA 12, entitled "An act to provide for payments to persons who served in the armed forces of the United States between September 16, 1940, and June 30, 1946, and to beneficiaries of such persons; to provide for payments to persons entitled to benefits under section 25, article X of the constitution of this state; to prescribe

the powers and duties of the state administrative board and state officers with respect thereto; to provide for acceptance of financial and other assistance from the federal government; to provide for certain administrative expenses; to make certain appropriations; and to prescribe penalties for violations of the provisions of this act," by amending section 8 (MCL 35.928).

The People of the State of Michigan enact:

35.928 Administration of act; expenses; payment; appropriation.

Sec. 8. The expenses of the administration of this act and of 1947 PA 4, MCL 35.901 to 35.906, subsequent to the issuance of the bonds, shall be paid from the veterans' military pay fund in accordance with the accounting laws of the state. For this purpose there is hereby appropriated a sum of not to exceed $1,500,000 from said veterans' military pay fund which shall be released by the state administrative board at such time and in amounts determined and recommended by the budget director, to the adjutant general, and the state treasurer as required to carry out the provisions of this act and 1947 PA 4, MCL 35.901 to 35.906, subsequent to the issuance of the bonds.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 174]

(SB 910)

AN ACT to amend 1955 PA 8, entitled "An act to provide for payments to persons who served in the armed forces of the United States between June 27, 1950, and December 31, 1953, and to beneficiaries of such persons; to prescribe the power and duties of the state administrative board and state officers with respect thereto; to provide for acceptance of financial and other assistance from the federal government; to create the Korean veterans' military pay fund in the state treasury; to make certain appropriations; and to prescribe penalties for violations of the provisions of this act," by amending sections 7 and 9 (MCL 35.977 and 35.979).

The People of the State of Michigan enact:

35.977 Korean veterans' military pay fund; creation; payment procedure; nonassignability of claims; rejection of claim; notice; appeal.

Sec. 7. (1) Upon submission to the adjutant general of satisfactory proof that the applicant is entitled to payment under this act, the adjutant general shall compute the amount of payment due the applicant, make a record of the payment, and transmit the claim for payment directly to the state treasurer for payment upon the form as the state treasurer shall prescribe. Payment shall be made from the Korean veterans' military pay fund of 1955, which is hereby created as a special fund in the state treasury to consist of all money received from the issuance and sale of bonds pursuant to former section 26 of article 10 of the constitution of 1908, and under section 13 of schedule and temporary provision of the state constitution of 1963, and which money is hereby appropriated for that purpose and for the administration of this act: Provided, That no claim for payment under this act shall be assignable, or subject to garnishment, attachment, or levy of execution.

(2) Whenever the proof as to eligibility for payment submitted by an applicant either with or as a part of his or her initial application, or pursuant to request of the adjutant general thereafter, is not satisfactory to the adjutant general, the adjutant general shall reject the claim.

(3) Upon rejection of a claim the adjutant general shall cause to be mailed to each claimant whose claim has been rejected, a notice of rejection and the notice shall inform the claimant of his or her right to file with the adjutant general a request for appeal to the court of claims of the state of Michigan within 6 months after the mailing of the notice by the adjutant general.

(4) The notice of rejection shall also inform the claimant that a failure to file a request for appeal to the Michigan court of claims within the stipulated time shall render the determination of the adjutant general final without any further right of claimant to appeal from same.

(5) The claimant shall have 6 months from the mailing by the adjutant general of a notice of rejection of the claim in which to appeal to the court of claims from the rejection, and upon failure by the claimant to file with the adjutant general a request for appeal to the court of claims within such 6 months' period the determination by the adjutant general in the claim shall be final.

(6) Upon the filing of a request for appeal to the Michigan court of claims, and in that event only, the adjutant general shall forthwith certify the entire record of the claim to the court of claims and shall furnish to the court any additional information in or which may thereafter come into his or her possession or which may be requested by the court.

(7) Upon receipt of an order by the court of claims that a claimant whose claim has been so certified as in this act provided is entitled to payment and upon said order becoming final the claim shall be paid in the same manner as provided in this act.

(8) In each case in which the court of claims shall enter its order allowing or denying a claim, and upon the order becoming final, the files and records in that case shall be returned by the court of claims to the adjutant general, to be retained by him or her as permanent records.

35.979 Administration of act; expenses; payment; appropriation.

Sec. 9. The expenses of the administration of this act subsequent to the issuance of the bonds authorized in this act, shall be paid from the Korean veterans' military pay fund of 1955, in accordance with the accounting laws of the state. For this purpose there is hereby appropriated a sum of not to exceed $655,000.00 from said Korean veterans' military pay fund of 1955, which shall be released by the state administrative board at the time and in amounts determined and recommended by the director of the department of management and budget, to the adjutant general, and the state treasurer as required to carry out the provisions of this act, subsequent to the issuance of the bonds authorized in this act. Any necessary expense incurred by the adjutant general prior to the effective date of this act in preparation for the prompt payment of veterans' claims in administering the purposes of this act shall be refunded to the military establishment, out of the appropriation hereby made, after an itemized claim shall have been submitted to and approved by the state administrative board.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 175]

(SB 911)

AN ACT to amend 1945 PA 72, entitled "An act to prevent the importation from other states, and the spread within this state, of all serious insect pests and contagious plant diseases and to provide for their repression and control, imposing certain powers and duties on the commissioner of agriculture; to prescribe penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts," by amending section 5 (MCL 286.255).

The People of the State of Michigan enact:

286.255 Authority to enter upon premises; treatment to prevent spread of disease; owners recompensed for loss.

Sec. 5. The director of the department of agriculture and his or her inspectors, deputies, assistants, and employees may enter upon any premises in the state for the purpose of examining trees, shrubs, vines, and plants for the presence of destructive insects or diseases, and, if any such insects or diseases are found, may, under the provisions of this act, take the steps as may be necessary to exterminate them. No damage shall be awarded for the destruction of any trees, shrubs, vines, plants, or fruit or for injury to same if done by the director of the department of agriculture or his or her authorized inspectors and assistants, in accordance with the provisions of this act, and the director considers it necessary in order to suppress dangerous insects and diseases, when the trees, shrubs, vines, and plants have already been attacked by dangerous insects or diseases. Whenever any dangerous plant disease, or destructive insect, which is new to or which has not become widely prevalent or distributed through or within the state is found upon any trees, shrubs, vines, or plants, in case it is considered necessary in order to prevent the spread and the dissemination of said insect, or disease, the director of the department of agriculture may cause any tree, shrub, vine, or plant likely to be attacked by such insect or disease, and which are growing within 3,000 feet of where the dangerous insect or disease has been found, to be treated with approved remedies, or, if this is not feasible, to be destroyed. However, if it becomes necessary to destroy any trees, shrubs, vines, or plants which have not already become attacked by said new and dangerous insect or disease, the owner shall be recompensed for their actual value, the amount to be fixed by 3 parties, 1 to be selected by the owner, another by the director of the department of agriculture, and the third party to be selected by the other 2 so selected. The amount awarded, when approved by the director of the department of agriculture, shall be certified to the state treasurer, who shall draw a warrant on the state treasurer for the payment of the same from the general fund of the state.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 176]

(SB 912)

AN ACT to amend 1905 PA 311, entitled "An act with respect to the furnishing of bonds by state officers, their deputies, and officers of state institutions; to provide for the

payment of the cost of such bonds, and to prescribe the places of filing the same," by amending sections 1 and 2 (MCL 15.71 and 15.72).

The People of the State of Michigan enact:

15.71 Procurement of bonds by certain state officers; cost.

Sec. 1. Whenever a bond is required by the laws of this state to be given by the secretary of state, state treasurer, director of the department of natural resources, attorney general, or superintendent of public instruction, the deputy or deputies of those officers, any other civil or military officer of this state, or any officer of any state institution, whether elected or appointed, who is charged with the duty of being the custodian of any state or institution funds, money, or property, that state or institution officer may procure the required bond from any surety company authorized by the laws of this state to execute the bond, and the cost of the bond, not exceeding 1/2 of 1% per year, shall be paid out of the treasury of this state.

15.72 Bonds; filing; safekeeping.

Sec. 2. The various bonds referred to in section 1 shall be filed in the office of the secretary of state, any requirement in any other statute of this state to the contrary notwithstanding. However, the bond required to be furnished by the secretary of state, his or her deputy, or any employee connected with that office, required by law to file a bond, shall be filed with the state treasurer. The secretary of state and the state treasurer shall receive and make adequate provision for the safekeeping of the bonds described in this act.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 177]

(SB 913)

AN ACT to amend 1846 RS 60, entitled "Of the superintendence and disposition of the public lands," by amending section 19 (MCL 322.319).

The People of the State of Michigan enact:

322.319 University and school lands; payment of amount due; receipt.

Sec. 19. Any purchaser of university or school lands may pay to the state treasurer the amount due on his or her certificate of purchase, whether principal or interest, and for the amount so paid, the treasurer shall provide a receipt.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 178]

(SB 915)

AN ACT to amend 1933 PA 162, entitled "An act to provide for the levy of certain additional taxes in municipal school districts," by amending section 5 (MCL 211.255).

The People of the State of Michigan enact:

211.255 Rules and regulations by state treasurer.

Sec. 5. The state treasurer shall issue any rules, regulations, and instructions that he or she considers necessary to the proper administration and enforcement of this act.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 179]

(SB 916)

AN ACT to amend 1943 PA 92, entitled "An act to protect the interest of the public, acquired other than through taxation, in lands under the jurisdiction and control of the state land office board and department of conservation, and to make an appropriation therefor," by amending sections 1, 2, 3, and 4 (MCL 211.371, 211.372, 211.373, and 211.374).

The People of the State of Michigan enact:

211.371 Withholding certain land from sale; notice to state treasurer; "department" defined.

Sec. 1. (1) If the department of natural resources discovers before the execution and delivery of a deed or the execution of a contract for the sale of any land, apparent title to which vested in this state by virtue of a tax sale, that this state, or any board, officer, commission, department, public corporation, governmental subdivision, agency, municipal or quasi-municipal corporation of this state owned any parcel of land or part of a parcel or interest in a parcel prior to the apparent vesting of title to that parcel in this state, the department having jurisdiction over the land shall withhold the land or that part of land publicly owned or in which the public had an interest, from public sale, and notify the state treasurer of the withholding and the reason for the withholding.

(2) As used in this act, "department" means the department of natural resources.

211.372 Withholding certain land from sale; conveyance to grantees; delinquent taxes and special assessments; payment and certification; liens.

Sec. 2. (1) The land or part of the land withheld shall be conveyed by deed by the department to the grantee or grantees, including this state, that would have had title to the land if the apparent title had not vested in this state as a result of tax sale proceedings.

(2) If any taxes or special assessments are lawfully due upon the land because the public interest was acquired after the tax day, after the special assessments had become

a lien, or for any other reason, the taxes and special assessments shall be paid to the county treasurer and to the city treasurer if the land lies within the limits of a city collecting its own delinquent taxes and special assessments and the fact of the payment shall be certified to the department by the state treasurer prior to the execution and delivery of the conveyance. The taxes and special assessments shall be distributed and accounted for in the same manner as if paid at the time of the acquisition of the interest of the public in the land.

(3) Interest and penalties due upon the taxes and special assessments shall not be required to be computed or paid beyond the time when the public acquired an interest in the land.

(4) If the public interest in the land was less than a fee simple absolute prior to the apparent vesting of title in this state, this state or any board, officer, commission, department, public corporation, governmental subdivision, agency, municipal or quasi-municipal corporation of this state paying the valid taxes and special assessments shall have a lien on the land or interest in the land not publicly owned for the portion of the amount paid that is lawfully chargeable to the interest not owned by the public, as described in this section. The lien may be foreclosed in the circuit court for the county in which the land or any part of the land is situated. The lien shall bear interest at the rate of 6% per annum from the date of the payment.

211.373 Withholding certain lands from sale; taxes and special assessments subsequently assessed rejected by state treasurer and reassessed.

Sec. 3. Taxes and special assessments subsequently assessed upon property acquired by the public prior to the tax day shall be rejected by the state treasurer and shall be reassessed in the same manner as if the land or part of the land had not been sold at tax sale. In case a geographical part only of the land was owned by the public prior to the apparent vesting of title in this state as the result of tax sale proceedings, the remaining part of the land shall be disposed of by the department in the usual manner, and a division of the taxes and special assessments shall be made in the same manner as though the taxes had not yet become delinquent.

211.374 Withholding certain lands from sale; payment of valid taxes and special assessments when interest acquired by state; approval.

Sec. 4. (1) Payment of valid taxes and special assessments due on lands in which an interest was acquired by this state, or any board, officer, commission, department, public corporation, governmental subdivision, or agency of this state, except lands under the jurisdiction and control of the state transportation department, shall be made by the state treasurer in the usual manner.

(2) In the case of lands in which an interest was acquired by any governmental subdivision or agency of this state, the functions of which are local and for the support of which real property taxes are required or permitted to be raised locally, the valid taxes and special assessments on the land shall be paid by the governmental subdivision or agency of this state.

(3) In all cases in which payment is required to be made out of the state treasury, payment shall be made only upon the written approval of the state treasurer and the attorney general. The approval shall be filed and kept in the office of the state treasurer.

Payment shall be made by the interested municipal or quasi-municipal corporation or the state transportation department in all other cases.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 180]

(SB 918)

AN ACT to amend 1897 PA 263, entitled "An act to authorize the auditor general to accept payment of taxes and charges from the owner of any description of land held by the state as state tax lands," by amending section 1 (MCL 211.541).

The People of the State of Michigan enact:

211.541 Land held as state tax land with other land; tax application; affidavit; proportionate payment; deed.

Sec. 1. If any person, firm, or corporation, owning or claiming to own 1 or more government subdivisions of land or 1 or more lots or blocks included within the limits of any township, village, or city plat included in the assessment with other government subdivisions of land or with other lots or blocks upon the tax roll, makes an affidavit, or causes an affidavit to be made by any person having knowledge of the facts, to the state treasurer, setting forth that the person, firm, or corporation owns at the time of making the affidavit the government subdivision of land or the lot, lots, or blocks and that the government subdivision or lot, lots, or blocks have been included upon the assessment roll and have been sold and are held as state tax land with other government subdivisions of land or with other lots or blocks and that the affiant seeks to pay all the taxes assessed against the land, and upon tender by the person, firm, or corporation to the state treasurer, the proportionate amount of taxes, interest, and charges accrued against that description of land as appearing by the tax lists and records at the time the tender or payment and affidavit is made, the state treasurer shall, upon payment, issue to that person, firm, or corporation, a deed of the description or descriptions of land described in the affidavit.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 181]

(HB 5415)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for

the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1356 (MCL 380.1356), as amended by 1993 PA 312.

The People of the State of Michigan enact:

380.1356 Operating deficit; notes or bonds; determining amount of deficit; resolution; pledge of security; maturity; interest; installments; redemption; valid and binding general obligations; payment; use of proceeds; review and approval of budget.

Sec. 1356. (1) Notwithstanding section 1351, a school district that has an operating or projected operating deficit in excess of $100.00 per membership pupil may borrow and issue its negotiable interest bearing notes or bonds for the purpose of funding the deficit in accordance with this section. This authority is in addition to and not in derogation of any power granted to a school district by any other provision of this act. However, except for the purpose of funding an operating or projected operating deficit resulting from a state tax tribunal order or a court order, a school district shall not initiate the procedures to borrow money or issue notes or bonds under this section after January 1, 1994.

(2) Before a board of a school district issues notes or bonds under this section, the board shall provide by resolution for the submission of the following certified and substantiated information to the department of treasury:

(a) There exists or will exist an operating deficit in the school district in excess of $100.00 per membership pupil.

(b) During or before the fiscal year in which the application is made, the school district has made every available effort to offset the deficit, including submission of a question to the school electors of the district to increase the rate of ad valorem property taxes levied in the school district.

(c) The school district has a plan approved by the school board that outlines actions to be taken to balance future expenditures with anticipated revenues.

(3) The existence of the operating or projected operating deficit and the amount of the operating or projected operating deficit shall be determined by the department of treasury, using normal school accounting practices. If a financial audit is required to arrive at a conclusive determination as to the amount of the deficit, the state treasurer shall charge all necessary expenses for the audit, including per diem and travel expenses, to the school district, and the school district shall make payment to the state treasurer for these expenses. The determination by the department of treasury is final and conclusive as to the existence of an operating or projected operating deficit, the amount of the deficit, and the amount of the deficit per membership pupil.

(4) The notes or bonds may be issued in 1 or more series by resolution adopted by the school board, which resolution in each case shall make reference to the determination of the department of treasury. The amount of a note or bond issued shall not exceed the amount of the operating deficit as shown by the determination.

(5) The school district shall pledge as secondary security for the notes or bonds future state school aid payments, if any, and other funds of the district legally available as security.

(6) The notes or bonds shall mature serially with annual maturities not more than 10 years from their date and shall bear interest, payable annually or semiannually, at a rate or

rates not exceeding a rate determined by the school board in the school district's borrowing resolution. The first principal installment on the notes or bonds shall be due not more than 18 months from the date of the notes or bonds, and a principal installment on the notes shall not be less than 1/3 of the principal amount of a subsequent principal installment. The notes or bonds may be made subject to redemption before maturity with or without premium in a manner and at times provided in the resolution authorizing the issuance of the notes or bonds.

(7) Notes or bonds issued under this section are valid and binding general obligations of the school district, it being the intent and purpose that the notes or bonds and the interest on the notes or bonds be promptly paid when due from the first money available to the district not pledged for other indebtedness and except to the extent that the use is restricted by the state constitution of 1963 or the laws of the United States.

(8) Except as otherwise provided in this section, bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(9) The proceeds of the sale of notes authorized under this section, after payment of the costs of issuance of the notes or bonds and interest on the notes or bonds for a period not to exceed 9 months, shall be used solely for the purpose of paying necessary operating expenses of the school district, including the payment of principal of and interest on notes or bonds of the school district issued for operating purposes under this or any other act.

(10) A board of a school district that borrows pursuant to subsections (1) to (9) shall submit its budget for review and approval to the department of education. The department of education shall take necessary steps, subject to the school district's contracts and statutory obligations, to assure that the expenditures of a school district that receives money under this part shall not exceed revenues on an annual basis and that the school district maintains a balanced budget.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 182]

(HB 5421)

AN ACT to amend 1966 PA 331, entitled "An act to revise and consolidate the laws relating to community colleges; to provide for the creation of community college districts; to provide a charter for such districts; to provide for the government, control and administration of such districts; to provide for the election of a board of trustees; to define the powers and duties of the board of trustees; to provide for the assessment, levy, collection and return of taxes therefor; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 126 (MCL 389.126).

The People of the State of Michigan enact:

389.126 Board of trustees; acquiring lands or erecting or equipping buildings; financing.

Sec. 126. Notwithstanding the provisions of sections 121 and 122, the board of trustees may acquire lands or acquire or erect and equip buildings or maintain them to be used as residence halls, apartments, dining facilities, student centers, health centers, parking facilities, stadiums, athletic fields, gymnasiums, auditoriums, and other educational facilities and finance the acquisition of those by borrowing money and issuing bonds or other obligations under the terms and provisions as it considers best, and the board shall obligate

itself for the repayment of the bonds or other obligations, together with interest, solely out of the income and revenues from the facilities or other facilities acquired or any combination of these facilities or from allocations and pledges of fees and charges required to be paid by students enrolling in the college, or any combination of these. The bonds shall be for a period not to exceed 50 years, and shall never constitute a debt of this state or any political subdivision of this state. The bonds shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 23, 2002.

[No. 183]

(HB 5516)

AN ACT to amend 1999 PA 276, entitled "An act to revise and codify the laws relating to banks, out-of-state banks, and foreign banks; to provide for their regulation and supervision; to prescribe the powers and duties of banks; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties; and to repeal acts and parts of acts," (MCL 487.11101 to 487.15105) by adding section 4406.

The People of the State of Michigan enact:

487.14406 Filing transaction report with department of state police; liability.

Sec. 4406. (1) If a bank is required to file a transaction report under sections 5313 to 5318 of title 31 of the United States Code, 31 U.S.C. 5313 to 5318, the bank shall also within 24 hours file a copy of the transaction report with the department of state police.

(2) Except for a violation of sections 5313 to 5318 of title 31 of the United States Code, 31 U.S.C. 5313 to 5318, a bank or a director, officer, employee, or agent of the bank is not liable in any civil or governmental action for the filing of a copy of the transaction report as required under subsection (1) or for the failure to notify the account holder or any other person of the filing.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 24, 2002.

[No. 184]

(HB 5517)

AN ACT to amend 1925 PA 285, entitled "An act to provide for the organization, operation, and supervision of credit unions; to provide for the conversion of a state credit union into a federal credit union or a credit union organized and supervised under the laws of any other state or territory of the United States or any other federally insured

depository institution and for the conversion of a federal credit union or a credit union organized and supervised under the laws of any other state or territory of the United States or any other federally insured depository institution into a state credit union; and to provide for the merger of credit unions organized and supervised under the laws of this state, credit unions organized and supervised under the laws of any other state or territory of the United States, and federal credit unions," (MCL 490.1 to 490.31) by adding section 16c.

The People of the State of Michigan enact:

490.16c Filing transaction report with department of state police; liability.

Sec. 16c. (1) If a credit union is required to file a transaction report under sections 5313 to 5318 of title 31 of the United States Code, 31 U.S.C. 5313 to 5318, the credit union shall also within 24 hours file a copy of the transaction report with the department of state police.

(2) Except for a violation of sections 5313 to 5318 of title 31 of the United States Code, 31 U.S.C. 5313 to 5318, a credit union or a director, officer, employee, or agent of the credit union is not liable in any civil or governmental action for the filing of a copy of the transaction report as required under subsection (1) or for the failure to notify the account holder or any other person of the filing.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 24, 2002.

[No. 185]

(HB 5518)

AN ACT to amend 1980 PA 307, entitled "An act to revise and codify the laws relating to savings and loan associations; to provide for the incorporation, regulation, supervision, and internal administration of associations; to prescribe the rights, powers, and immunities of associations; to provide for voluntary and involuntary changes in the corporate structure of associations; to prescribe the powers, rights, and duties of certain state agencies in relation to associations; to require certain reports and examinations of associations; to prescribe remedies and penalties for violations of this act; and to repeal certain acts and parts of acts," (MCL 491.102 to 491.1202) by adding section 1135.

The People of the State of Michigan enact:

491.1135 Filing transaction report with department of state police; liability.

Sec. 1135. (1) If an association is required to file a transaction report under sections 5313 to 5318 of title 31 of the United States Code, 31 U.S.C. 5313 to 5318, the association shall

also within 24 hours file a copy of the transaction report with the department of state police.

(2) Except for a violation of sections 5313 to 5318 of title 31 of the United States Code, 31 U.S.C. 5313 to 5318, an association or a director, officer, employee, or agent of the association is not liable in any civil or governmental action for the filing of a copy of the transaction report as required under subsection (1) or for the failure to notify the account holder or any other person of the filing.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 24, 2002.

[No. 186]

(SB 829)

AN ACT to amend 1967 PA 55, entitled "An act relating to the management of state funds; to prescribe the powers and duties of the state treasurer and the state administrative board; and to repeal certain acts and parts of acts," by amending section 1 (MCL 12.51).

The People of the State of Michigan enact:

12.51 Transfer of cash on hand; approval; advance appropriations.

Sec. 1. In order that state obligations may be paid as they become due, the state treasurer, with the approval of the state administrative board, may transfer cash on hand and on deposit among the various funds in the state treasury in such manner as to best manage the available cash on hand. Notwithstanding the provisions of any other act to the contrary, no advance appropriations shall be made to any municipality as defined in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, without the approval of the state administrative board.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 24, 2002.

[No. 187]

(SB 830)

AN ACT to amend 1965 PA 380, entitled "An act to organize the executive and administrative agencies of state government; to establish principal departments and department heads; to define the powers and duties of the principal departments and their governing agents; to allocate executive and administrative powers, duties, functions, and

services among the principal departments; to provide for a method for the gradual implementation of the provisions of this act and for the transfer of existing funds and appropriations of the principal departments herein created and established," by repealing section 88 (MCL 16.188).

The People of the State of Michigan enact:

Repeal of § 16.188.

Enacting section 1. Section 88 of the executive organization act of 1965, 1965 PA 380, MCL 16.188, is repealed.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 24, 2002.

[No. 188]

(SB 831)

AN ACT to amend 1984 PA 431, entitled "An act to prescribe the powers and duties of the department of management and budget; to define the authority and functions of its director and its organizational entities; to authorize the department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 389 (MCL 18.1389), as amended by 1988 PA 504.

The People of the State of Michigan enact:

18.1389 Withholding of payment to municipality; purpose; report; "municipality" defined.

Sec. 389. (1) The department or the department of treasury may withhold all or part of any payment that a municipality is entitled to receive under a budget act to the extent the withholdings are a component part of a plan, developed and implemented under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for financing an outstanding obligation upon which the municipality defaulted. Amounts withheld shall be used to pay, on behalf of the municipality, unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding obligation upon which the municipality defaulted.

(2) Within 30 days after any amount is withheld from any municipality pursuant to this section, the department withholding the payment shall report in writing the name of the municipality and the amount that is being withheld from that municipality to the appropriations committees and the fiscal agencies.

(3) For purposes of this section, "municipality" means that term as defined in section 103 of the revised municipal finance act, 2001 PA 34, MCL 141.2103.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 24, 2002.

[No. 189]

(SB 832)

AN ACT to amend 1955 PA 70, entitled "An act to authorize cities to acquire and operate exhibition areas for commercial, industrial and agricultural products; to provide for the issuance of bonds to finance the cost thereof; to authorize the fixing and collecting of fees and other charges for the use of facilities therein; and to authorize the making of reasonable rules and regulations relative to the public use of facilities therein," by amending section 5 (MCL 123.655).

The People of the State of Michigan enact:

123.655 Exhibition areas; bonds; appropriation of revenues.

Sec. 5. Any city may issue bonds pledging the full faith and credit of the city for the purpose of acquiring any facility or facilities as authorized in this act when the issuance of bonds has been approved by a 3/5 vote in favor of the issuance by the electors of the city voting at any regular or special election. The issue and sale of the bonds is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The legislative body of the city shall appropriate annually for the payment of principal and interest on the bonds, sufficient of the revenues derived from the operation of the exhibition area or areas for which bonds are issued above the amount required to meet the reasonable expenses of administration, operation, and maintenance of the facilities.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 24, 2002.

[No. 190]

(SB 835)

AN ACT to amend 1980 PA 450, entitled "An act to prevent urban deterioration and encourage economic development and activity and to encourage neighborhood revitalization and historic preservation; to provide for the establishment of tax increment finance authorities and to prescribe their powers and duties; to authorize the acquisition and disposal of interests in real and personal property; to provide for the creation and imple-

mentation of development plans; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to permit the issuance of bonds and other evidences of indebtedness by an authority; to permit the use of tax increment financing; to reimburse authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state agencies and officers," by amending section 15 (MCL 125.1815), as amended by 1996 PA 271.

The People of the State of Michigan enact:

125.1815 Tax increment bonds; qualified refunding obligation.

Sec. 15. (1) By resolution of its board, the authority may authorize, issue, and sell its tax increment bonds, subject to the limitations set forth in this section, to finance a development program. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The bonds issued under this section shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The municipality by majority vote of the members of its governing body may pledge its full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 11.

(3) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 12a by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

This act is ordered to take immediate effect.
Approved April 23, 2002.
Filed with Secretary of State April 24, 2002.

[No. 191]

(SB 1107)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 6, 11, 11f, 11g, 19, 20, 22a, 22b, 24, 26a,

31a, 31d, 32a, 32b, 32c, 32d, 32f, 37, 38, 39, 41, 51a, 51c, 53a, 54, 56, 57, 61a, 62, 67, 68, 74, 81, 94, 94a, 96, 98, 99, 101, 105, 107, 108, and 147 (MCL 388.1606, 388.1611, 388.1611f, 388.1611g, 388.1619, 388.1620, 388.1622a, 388.1622b, 388.1624, 388.1626a, 388.1631a, 388.1631d, 388.1632a, 388.1632b, 388.1632c, 388.1632d, 388.1632f, 388.1637, 388.1638, 388.1639, 388.1641, 388.1651a, 388.1651c, 388.1653a, 388.1654, 388.1656, 388.1657, 388.1661a, 388.1662, 388.1667, 388.1668, 388.1674, 388.1681, 388.1694, 388.1694a, 388.1696, 388.1698, 388.1699, 388.1701, 388.1705, 388.1707, 388.1708, and 388.1747), sections 6, 11, 11f, 11g, 20, 22a, 22b, 24, 26a, 31a, 31d, 32a, 32b, 32c, 32d, 32f, 41, 51a, 51c, 53a, 54, 56, 57, 61a, 62, 67, 68, 74, 81, 94, 94a, 98, 99, 107, and 147 as amended by 2001 PA 121 and sections 19, 37, 38, 39, 101, and 105 as amended and sections 96 and 108 as added by 2000 PA 297, and by adding sections 8b, 8c, 11j, 32i, 39a, 51d, 55, 99a, and 121a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

388.1606 Additional definitions.

Sec. 6. (1) "Center program" means a program operated by a district or intermediate district for special education pupils from several districts in programs for the autistically impaired, trainable mentally impaired, severely mentally impaired, severely multiply impaired, hearing impaired, physically and otherwise health impaired, and visually impaired. Programs for emotionally impaired pupils housed in buildings that do not serve regular education pupils also qualify. Unless otherwise approved by the department, a center program either shall serve all constituent districts within an intermediate district or shall serve several districts with less than 50% of the pupils residing in the operating district. In addition, special education center program pupils placed part-time in noncenter programs to comply with the least restrictive environment provisions of section 612 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1412, may be considered center program pupils for pupil accounting purposes for the time scheduled in either a center program or a noncenter program.

(2) "District pupil retention rate" means the proportion of pupils who have not dropped out of school in the immediately preceding school year and is equal to 1 minus the quotient of the number of pupils unaccounted for in the immediately preceding school year, as determined pursuant to subsection (3), divided by the pupils of the immediately preceding school year.

(3) "District pupil retention report" means a report of the number of pupils, excluding migrant and adult, in the district for the immediately preceding school year, adjusted for those pupils who have transferred into the district, transferred out of the district, transferred to alternative programs, and have graduated, to determine the number of pupils who are unaccounted for. The number of pupils unaccounted for shall be calculated as determined by the department.

(4) "Membership", except as otherwise provided in this act, means for a district, public school academy, university school, or intermediate district the sum of the product of .8 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year, plus the product of .2 times the final audited count from the supplemental count day for the immediately preceding school year. All pupil counts used in this subsection are as determined by the department and calculated by adding the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit. The amount of the foundation allowance for a pupil in membership is determined under section 20. In making the calculation of membership, all of the following, as applicable, apply

to determining the membership of a district, public school academy, university school, or intermediate district:

(a) Except as otherwise provided in this subsection, and pursuant to subsection (6), a pupil shall be counted in membership in the pupil's educating district or districts. An individual pupil shall not be counted for more than a total of 1.0 full-time equated membership.

(b) If a pupil is educated in a district other than the pupil's district of residence, if the pupil is not being educated as part of a cooperative education program, if the pupil's district of residence does not give the educating district its approval to count the pupil in membership in the educating district, and if the pupil is not covered by an exception specified in subsection (6) to the requirement that the educating district must have the approval of the pupil's district of residence to count the pupil in membership, the pupil shall not be counted in membership in any district.

(c) A special education pupil educated by the intermediate district shall be counted in membership in the intermediate district.

(d) A pupil placed by a court or state agency in an on-grounds program of a juvenile detention facility, a child caring institution, or a mental health institution, or a pupil funded under section 53a, shall be counted in membership in the district or intermediate district approved by the department to operate the program.

(e) A pupil enrolled in the Michigan schools for the deaf and blind shall be counted in membership in the pupil's intermediate district of residence.

(f) A pupil enrolled in a vocational education program supported by a millage levied over an area larger than a single district or in an area vocational-technical education program established pursuant to section 690 of the revised school code, MCL 380.690, shall be counted only in the pupil's district of residence.

(g) A pupil enrolled in a university school shall be counted in membership in the university school.

(h) A pupil enrolled in a public school academy shall be counted in membership in the public school academy.

(i) For a new district, university school, or public school academy beginning its operation after December 31, 1994, membership for the first 2 full or partial fiscal years of operation shall be determined as follows:

(*i*) If operations begin before the pupil membership count day for the fiscal year, membership is the average number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year and on the supplemental count day for the current school year, as determined by the department and calculated by adding the number of pupils registered for attendance on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(*ii*) If operations begin after the pupil membership count day for the fiscal year and not later than the supplemental count day for the fiscal year, membership is the final audited count of the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the supplemental count day for the current school year.

(j) If a district is the authorizing body for a public school academy, then, in the first school year in which pupils are counted in membership on the pupil membership count day in the public school academy, the determination of the district's membership shall exclude

from the district's pupil count for the immediately preceding supplemental count day any pupils who are counted in the public school academy on that first pupil membership count day who were also counted in the district on the immediately preceding supplemental count day.

(k) In a district, public school academy, university school, or intermediate district operating an extended school year program approved by the superintendent, a pupil enrolled, but not scheduled to be in regular daily attendance on a pupil membership count day, shall be counted.

(*l*) Pupils to be counted in membership shall be not less than 5 years of age on December 1 and less than 20 years of age on September 1 of the school year except a special education pupil who is enrolled and receiving instruction in a special education program approved by the department and not having a high school diploma who is less than 26 years of age as of September 1 of the current school year shall be counted in membership.

(m) An individual who has obtained a high school diploma shall not be counted in membership. An individual who has obtained a general education development (G.E.D.) certificate shall not be counted in membership. An individual participating in a job training program funded under former section 107a or a jobs program funded under former section 107b, administered by the Michigan strategic fund or the department of career development, or participating in any successor of either of those 2 programs, shall not be counted in membership.

(n) If a pupil counted in membership in a public school academy is also educated by a district or intermediate district as part of a cooperative education program, the pupil shall be counted in membership only in the public school academy, and the instructional time scheduled for the pupil in the district or intermediate district shall be included in the full-time equated membership determination under subdivision (q). However, for pupils receiving instruction in both a public school academy and in a district or intermediate district but not as a part of a cooperative education program, the following apply:

(*i*) If the public school academy provides instruction for at least 1/2 of the class hours specified in subdivision (q), the public school academy shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the public school academy provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the district or intermediate district providing the remainder of the hours of instruction.

(*ii*) If the public school academy provides instruction for less than 1/2 of the class hours specified in subdivision (q), the district or intermediate district providing the remainder of the hours of instruction shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the district or intermediate district provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the public school academy.

(o) An individual less than 16 years of age as of September 1 of the current school year who is being educated in an alternative education program shall not be counted in membership if there are also adult education participants being educated in the same program or classroom.

(p) The department shall give a uniform interpretation of full-time and part-time memberships.

(q) The number of class hours used to calculate full-time equated memberships shall be consistent with section 101(3). In determining full-time equated memberships for pupils who are enrolled in a postsecondary institution, a pupil shall not be considered to be less than a full-time equated pupil solely because of the effect of his or her postsecondary enrollment, including necessary travel time, on the number of class hours provided by the district to the pupil.

(r) Full-time equated memberships for pupils in kindergarten shall be determined by dividing the number of class hours scheduled and provided per year per kindergarten pupil by a number equal to 1/2 the number used for determining full-time equated memberships for pupils in grades 1 to 12.

(s) For a district, university school, or public school academy that has pupils enrolled in a grade level that was not offered by the district, university school, or public school academy in the immediately preceding school year, the number of pupils enrolled in that grade level to be counted in membership is the average of the number of those pupils enrolled and in regular daily attendance on the pupil membership count day and the supplemental count day of the current school year, as determined by the department. Membership shall be calculated by adding the number of pupils registered for attendance in that grade level on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(t) A pupil enrolled in a cooperative education program may be counted in membership in the pupil's district of residence with the written approval of all parties to the cooperative agreement.

(u) If, as a result of a disciplinary action, a district determines through the district's alternative or disciplinary education program that the best instructional placement for a pupil is in the pupil's home, if that placement is authorized in writing by the district superintendent and district alternative or disciplinary education supervisor, and if the district provides appropriate instruction as described in this subdivision to the pupil at the pupil's home, the district may count the pupil in membership on a pro rata basis, with the proration based on the number of hours of instruction the district actually provides to the pupil divided by the number of hours specified in subdivision (q) for full-time equivalency. For the purposes of this subdivision, a district shall be considered to be providing appropriate instruction if all of the following are met:

(*i*) The district provides at least 2 nonconsecutive hours of instruction per week to the pupil at the pupil's home under the supervision of a certificated teacher.

(*ii*) The district provides instructional materials, resources, and supplies, except computers, that are comparable to those otherwise provided in the district's alternative education program.

(*iii*) Course content is comparable to that in the district's alternative education program.

(*iv*) Credit earned is awarded to the pupil and placed on the pupil's transcript.

(v) A pupil enrolled in an alternative or disciplinary education program described in section 25 shall be counted in membership in the district or public school academy that expelled the pupil.

(w) If a pupil was enrolled in a public school academy on the pupil membership count day, if the public school academy's contract with its authorizing body is revoked, and if the pupil enrolls in a district within 45 days after the pupil membership count day, the

department shall adjust the district's pupil count for the pupil membership count day to include the pupil in the count.

(x) For a public school academy that has been in operation for at least 2 years and that suspended operations for at least 1 semester and is resuming operations, membership is the sum of the product of .8 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the first pupil membership count day or supplemental count day, whichever is first, occurring after operations resume, plus the product of .2 times the final audited count from the most recent pupil membership count day or supplemental count day that occurred before suspending operations, as determined by the superintendent.

(y) For districts located in the Lower Peninsula only, if the district's membership for a particular fiscal year, as otherwise calculated under this subsection, would be less than 1,550 pupils and the district has 4.5 or fewer pupils per square mile, as determined by the department, the district's membership shall be considered to be the membership figure calculated under this subdivision. If a district educates and counts in its membership pupils in grades 9 to 12 who reside in a contiguous district that does not operate grades 9 to 12 and if 1 or both of the affected districts request the department to use the determination allowed under this sentence, the department shall include the square mileage of both districts in determining the number of pupils per square mile for each of the districts for the purposes of this subdivision. The membership figure calculated under this subdivision is the greater of the following:

(*i*) The average of the district's membership for the 3-fiscal-year period ending with that fiscal year, calculated by adding the district's actual membership for each of those 3 fiscal years, as otherwise calculated under this subsection, and dividing the sum of those 3 membership figures by 3.

(*ii*) The district's actual membership for that fiscal year as otherwise calculated under this subsection.

(z) If a public school academy that is not in its first or second year of operation closes at the end of a school year and does not reopen for the next school year, the department shall adjust the membership count of the district in which a former pupil of the public school academy enrolls and is in regular daily attendance for the next school year to ensure that the district receives the same amount of membership aid for the pupil as if the pupil were counted in the district on the supplemental count day of the preceding school year.

(5) "Public school academy" means a public school academy or strict discipline academy operating under the revised school code.

(6) "Pupil" means a person in membership in a public school. A district must have the approval of the pupil's district of residence to count the pupil in membership, except approval by the pupil's district of residence shall not be required for any of the following:

(a) A nonpublic part-time pupil enrolled in grades 1 to 12 in accordance with section 166b.

(b) A pupil receiving 1/2 or less of his or her instruction in a district other than the pupil's district of residence.

(c) A pupil enrolled in a public school academy or university school.

(d) A pupil enrolled in a district other than the pupil's district of residence under an intermediate district schools of choice pilot program as described in section 91a or former section 91 if the intermediate district and its constituent districts have been exempted from section 105.

(e) A pupil enrolled in a district other than the pupil's district of residence but within the same intermediate district if the educating district enrolls nonresident pupils in accordance with section 105.

(f) A pupil enrolled in a district other than the pupil's district of residence if the pupil has been continuously enrolled in the educating district since a school year in which the pupil enrolled in the educating district under section 105 or 105c and in which the educating district enrolled nonresident pupils in accordance with section 105 or 105c.

(g) A pupil who has made an official written complaint or whose parent or legal guardian has made an official written complaint to law enforcement officials and to school officials of the pupil's district of residence that the pupil has been the victim of a criminal sexual assault or other serious assault, if the official complaint either indicates that the assault occurred at school or that the assault was committed by 1 or more other pupils enrolled in the school the pupil would otherwise attend in the district of residence or by an employee of the district of residence. A person who intentionally makes a false report of a crime to law enforcement officials for the purposes of this subdivision is subject to section 411a of the Michigan penal code, 1931 PA 328, MCL 750.411a, which provides criminal penalties for that conduct. As used in this subdivision:

(*i*) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

(*ii*) "Serious assault" means an act that constitutes a felony violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, or that constitutes an assault and infliction of serious or aggravated injury under section 81a of the Michigan penal code, 1931 PA 328, MCL 750.81a.

(h) A pupil enrolled in a district located in a contiguous intermediate district, as described in section 105c, if the educating district enrolls those nonresident pupils in accordance with section 105c.

(i) A pupil whose district of residence changed after the pupil membership count day and before the supplemental count day and who continues to be enrolled on the supplemental count day as a nonresident in the district in which he or she was enrolled as a resident on the pupil membership count day of the same school year.

(j) A pupil enrolled in an alternative education program operated by a district other than his or her district of residence who meets 1 or more of the following:

(*i*) The pupil has been suspended or expelled from his or her district of residence for any reason, including, but not limited to, a suspension or expulsion under section 1310, 1311, or 1311a of the revised school code, MCL 380.1310, 380.1311, and 380.1311a.

(*ii*) The pupil had previously dropped out of school.

(*iii*) The pupil is pregnant or is a parent.

(*iv*) The pupil has been referred to the program by a court.

(k) A pupil enrolled in the Michigan virtual high school, for the pupil's enrollment in the Michigan virtual high school.

However, if a district that is not a first class district educates pupils who reside in a first class district and if the primary instructional site for those pupils is located within the boundaries of the first class district, the educating district must have the approval of the first class district to count those pupils in membership. As used in this subsection, "first class district" means a district organized as a school district of the first class under the revised school code.

(7) "Pupil membership count day" of a district or intermediate district means:

(a) Except as provided in subdivision (b), the fourth Wednesday in September each school year.

(b) For a district or intermediate district maintaining school during the entire school year, the following days:

(*i*) Fourth Wednesday in July.

(*ii*) Fourth Wednesday in September.

(*iii*) Second Wednesday in February.

(*iv*) Fourth Wednesday in April.

(8) "Pupils in grades K to 12 actually enrolled and in regular daily attendance" means pupils in grades K to 12 in attendance and receiving instruction in all classes for which they are enrolled on the pupil membership count day or the supplemental count day, as applicable. A pupil who is absent from any of the classes in which the pupil is enrolled on the pupil membership count day or supplemental count day and who does not attend each of those classes during the 10 consecutive school days immediately following the pupil membership count day or supplemental count day, except for a pupil who has been excused by the district, shall not be counted as 1.0 full-time equated membership. In addition, a pupil who is excused from attendance on the pupil membership count day or supplemental count day and who fails to attend each of the classes in which the pupil is enrolled within 30 calendar days after the pupil membership count day or supplemental count day shall not be counted as 1.0 full-time equated membership. Pupils not counted as 1.0 full-time equated membership due to an absence from a class shall be counted as a prorated membership for the classes the pupil attended. For purposes of this subsection, "class" means a period of time in 1 day when pupils and a certificated teacher or legally qualified substitute teacher are together and instruction is taking place.

(9) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) "The revised school code" means 1976 PA 451, MCL 380.1 to 380.1852.

(11) "School fiscal year" means a fiscal year that commences July 1 and continues through June 30.

(12) "State board" means the state board of education.

(13) "Superintendent", unless the context clearly refers to a district or intermediate district superintendent, means the superintendent of public instruction described in section 3 of article VIII of the state constitution of 1963.

(14) "Supplemental count day" means the day on which the supplemental pupil count is conducted under section 6a.

(15) "Tuition pupil" means a pupil of school age attending school in a district other than the pupil's district of residence for whom tuition may be charged. Tuition pupil does not include a pupil who is a special education pupil or a pupil described in subsection (6)(d) to (k). A pupil's district of residence shall not require a high school tuition pupil, as provided under section 111, to attend another school district after the pupil has been assigned to a school district.

(16) "State school aid fund" means the state school aid fund established in section 11 of article IX of the state constitution of 1963.

(17) "Taxable value" means the taxable value of property as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(18) "Total state aid" or "total state school aid" means the total combined amount of all funds due to a district, intermediate district, or other entity under all of the provisions of this act.

(19) "University school" means an instructional program operated by a public university under section 23 that meets the requirements of section 23.

388.1608b Public school academy district code; assignment.

Sec. 8b. (1) The department shall assign a district code to each public school academy that is authorized under the revised school code and is eligible to receive funding under this act.

(2) If the department does not assign a district code to a public school academy in a timely manner, the department of treasury may assign a temporary district code to the public school academy for the purpose of making payments under this act.

388.1608c Broadband telecommunications infrastructure information; report; form and manner; "broadband infrastructure" and "broadband services" defined.

Sec. 8c. (1) Not later than November 1, 2002, an intermediate district shall report broadband telecommunications infrastructure information under this section to the state budget director, in a form and manner approved by the state budget director, on behalf of itself and its constituent districts. This information shall include information on ownership, construction, or operation of broadband telecommunications infrastructure whether the infrastructure and services are provided under section 307 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2307, or the infrastructure and services are beyond those allowed under that section.

(2) As used in this section:

(a) "Broadband infrastructure" means all facilities, hardware, and software and other intellectual property necessary to provide broadband services in this state.

(b) "Broadband services" means those services, including, but not limited to, voice, video, and data, that provide capacity for transmission in excess of 200 kilobits per second in at least 1 direction regardless of the technology or medium used, including, but not limited to, wireless, copper wire, fiber optic cable, or coaxial cable. If voice transmission capacity is offered in conjunction with other services utilizing transmission in excess of 200 kilobits per second, the voice transmission capacity may be less than 200 kilobits per second.

388.1611 Appropriations.

Sec. 11. (1) For the fiscal year ending September 30, 2002, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of $10,990,148,200.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963 and the sum of $198,413,500.00 from the general fund. For the fiscal year ending September 30, 2003, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of $11,240,941,400.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963 and the sum of $198,413,500.00 from the general fund. However, if legislation authorizing the transfer of $79,500,000.00 from the Michigan employment security act contingent fund, penalties and interest subaccount, is not enacted and in effect on or before October 1, 2002, there is instead appropriated from the general fund

for 2002-2003 the sum of $122,656,500.00. In addition, available federal funds are appropriated for each of those fiscal years.

(2) The appropriations under this section shall be allocated as provided in this act. Money appropriated under this section from the general fund and from available federal funds shall be expended to fund the purposes of this act before the expenditure of money appropriated under this section from the state school aid fund. If the maximum amount appropriated under this section from the state school aid fund for a fiscal year exceeds the amount necessary to fully fund allocations under this act from the state school aid fund, that excess amount shall not be expended in that state fiscal year and shall not lapse to the general fund, but instead shall remain in the state school aid fund.

(3) If the maximum amount appropriated under this section and section 11f from the state school aid fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, payments under sections 11f, 11g, 22a, 31d, 51a(2), and 51c shall be made in full. In addition, for districts beginning operations after 1994-95 that qualify for payments under section 22b, payments under section 22b shall be made so that the qualifying districts receive an amount equal to the 1994-95 foundation allowance of the district in which the district beginning operations after 1994-95 is located. The amount of the payment to be made under section 22b for these qualifying districts shall be as calculated under section 22a, with the balance of the payment under section 22b being subject to the proration otherwise provided under this subsection. State payments under each of the other sections of this act from all state funding sources shall be prorated on an equal percentage basis as necessary to reflect the amount available for expenditure from the state school aid fund for that fiscal year. However, if the department of treasury determines that proration will be required under this subsection, the department of treasury shall notify the state budget director, and the state budget director shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this act because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the state budget director, the department shall not reduce any payments under this act because of proration under this subsection. The legislature may prevent proration from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the state budget director, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to fund the amount of the projected shortfall.

(4) Except for the allocation under section 26a, any general fund allocations under this act that are not expended by the end of the state fiscal year are transferred to the state school aid fund.

388.1611f Payments to non-plaintiff districts pursuant to Durant v State of Michigan; payments for fiscal years ending September 30, 2002 through September 30, 2008; submission of waiver resolution; creation of obligation or liability; offer of settlement and compromise; payment date; use of payments; appropriation under § 18.1353e; form and substance of resolution.

Sec. 11f. (1) In addition to any other money appropriated under this act, there is appropriated from the state school aid fund an amount not to exceed $32,000,000.00 each fiscal year for the fiscal year ending September 30, 2002, for the fiscal year ending September 30, 2003, and for each succeeding fiscal year through the fiscal year ending September 30, 2008. Payments under this section will cease after September 30, 2008. These appropriations are for paying the amounts described in subsection (4) to districts

and intermediate districts, other than those receiving a lump sum payment under subsection (2), that were not plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492 and that, on or before March 2, 1998, submitted to the state treasurer a board resolution waiving any right or interest the district or intermediate district has or may have in any claim or litigation based on or arising out of any claim or potential claim through September 30, 1997 that is or was similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan. The waiver resolution shall be in form and substance as required under subsection (8). The state treasurer is authorized to accept such a waiver resolution on behalf of this state. The amounts described in this subsection represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this subsection.

(2) In addition to any other money appropriated under this act, there was appropriated from the state school aid fund an amount not to exceed $1,700,000.00 for the fiscal year ending September 30, 1999. This appropriation was for paying the amounts described in this subsection to districts and intermediate districts that were not plaintiffs in the consolidated cases known as Durant v State of Michigan; that, on or before March 2, 1998, submitted to the state treasurer a board resolution waiving any right or interest the district or intermediate district had or may have had in any claim or litigation based on or arising out of any claim or potential claim through September 30, 1997 that is or was similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan; and for which the total amount listed in section 11h and paid under this section was less than $75,000.00. For a district or intermediate district qualifying for a payment under this subsection, the entire amount listed for the district or intermediate district in section 11h was paid in a lump sum on November 15, 1998 or on the next business day following that date. The amounts paid under this subsection represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this subsection.

(3) This section does not create any obligation or liability of this state to any district or intermediate district that does not submit a waiver resolution described in this section. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, are not intended to admit liability or waive any defense that is or would be available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district.

(4) The amount paid each fiscal year to each district or intermediate district under subsection (1) shall be 1/20 of the total amount listed in section 11h for each listed district or intermediate district that qualifies for a payment under subsection (1). The amounts listed in section 11h and paid in part under this subsection and in a lump sum under subsection (2) are offers of settlement and compromise to each of these districts or intermediate districts to resolve, in their entirety, any claim or claims that these districts or intermediate districts may have asserted for violations of section 29 of article IX of the state constitution of 1963 through September 30, 1997, which claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, shall not be construed to constitute an admission of liability to the districts or intermediate districts listed in section 11h or a waiver of any defense that is or would have been available to the state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district.

(5) The entire amount of each payment under subsection (1) each fiscal year shall be paid on November 15 of the applicable fiscal year or on the next business day following that date.

(6) Funds paid to a district or intermediate district under this section shall be used only for textbooks, electronic instructional material, software, technology, infrastructure or infrastructure improvements, school buses, school security, training for technology, or to pay debt service on voter-approved bonds issued by the district or intermediate district before the effective date of this section. For intermediate districts only, funds paid under this section may also be used for other nonrecurring instructional expenditures including, but not limited to, nonrecurring instructional expenditures for vocational education, or for debt service for acquisition of technology for academic support services. Funds received by an intermediate district under this section may be used for projects conducted for the benefit of its constituent districts at the discretion of the intermediate board. To the extent payments under this section are used by a district or intermediate district to pay debt service on debt payable from millage revenues, and to the extent permitted by law, the district or intermediate district may make a corresponding reduction in the number of mills levied for that debt service.

(7) The appropriations under this section are from the money appropriated and transferred to the state school aid fund from the countercyclical budget and economic stabilization fund under section 353e(2) and (3) of the management and budget act, 1984 PA 431, MCL 18.1353e.

(8) The resolution to be adopted and submitted by a district or intermediate district under this section and section 11g shall read as follows:

"Whereas, the board of _____ (name of district or intermediate district) desires to settle and compromise, in their entirety, any claim or claims that the district (or intermediate district) has or had for violations of section 29 of article IX of the state constitution of 1963, which claim or claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

Whereas, the district (or intermediate district) agrees to settle and compromise these claims for the consideration described in sections 11f and 11g of the state school aid act of 1979, 1979 PA 94, MCL 388.1611f and 388.1611g, and in the amount specified for the district (or intermediate district) in section 11h of the state school aid act of 1979, 1979 PA 94, MCL 388.1611h.

Whereas, the board of _____ (name of district or intermediate district) is authorized to adopt this resolution.

Now, therefore, be it resolved as follows:

1. The board of _____ (name of district or intermediate district) waives any right or interest it may have in any claim or potential claim through September 30, 1997 relating to the amount of funding the district or intermediate district is, or may have been, entitled to receive under the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, or any other source of state funding, by reason of the application of section 29 of article IX of the state constitution of 1963, which claims or potential claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

2. The board of _____ (name of district or intermediate district) directs its secretary to submit a certified copy of this resolution to the state treasurer no

later than 5 p.m. eastern standard time on March 2, 1998, and agrees that it will not take any action to amend or rescind this resolution.

3. The board of _____ (name of district or intermediate district) expressly agrees and understands that, if it takes any action to amend or rescind this resolution, the state, its agencies, employees, and agents shall have available to them any privilege, immunity, and/or defense that would otherwise have been available had the claims or potential claims been actually litigated in any forum.

4. This resolution is contingent on continued payments by the state each fiscal year as determined under sections 11f and 11g of the state school aid act of 1979, 1979 PA 94, MCL 388.1611f and 388.1611g. However, this resolution shall be an irrevocable waiver of any claim to amounts actually received by the school district or intermediate school district under sections 11f and 11g of the state school aid act of 1979.".

388.1611g Payments to non-plaintiff districts pursuant to Durant v State of Michigan; payments for fiscal years ending September 30, 2002 through September 30, 2013; waiver resolution; offers of settlement and compromise; creation of obligation or liability; calculation of amount; payment date; use of funds.

Sec. 11g. (1) From the general fund money appropriated in section 11, there is allocated an amount not to exceed $40,000,000.00 for the fiscal year ending September 30, 2002, for the fiscal year ending September 30, 2003, and for each succeeding fiscal year through the fiscal year ending September 30, 2013. Payments under this section will cease after September 30, 2013. These appropriations are for paying the amounts described in subsection (3) to districts and intermediate districts, other than those receiving a lump sum payment under section 11f(2), that were not plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492 and that, on or before March 2, 1998, submitted to the state treasurer a waiver resolution described in section 11f. The amounts paid under this section represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this section.

(2) This section does not create any obligation or liability of this state to any district or intermediate district that does not submit a waiver resolution described in section 11f. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, are not intended to admit liability or waive any defense that is or would be available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district regarding these claims or potential claims.

(3) The amount paid each fiscal year to each district or intermediate district under this section shall be the sum of the following:

(a) 1/30 of the total amount listed in section 11h for the district or intermediate district.

(b) If the district or intermediate district borrows money and issues bonds under section 11i, an additional amount in each fiscal year calculated by the department of treasury that, when added to the amount described in subdivision (a), will cause the net present value as of November 15, 1998 of the total of the 15 annual payments made to the district or intermediate district under this section, discounted at a rate as determined by the state treasurer, to equal the amount of the bonds issued by that district or intermediate district under section 11i and that will result in the total payments made to all districts and intermediate districts in each fiscal year under this section being no more than the amount appropriated under this section in each fiscal year.

(4) The entire amount of each payment under this section each fiscal year shall be paid on May 15 of the applicable fiscal year or on the next business day following that date. If a district or intermediate district borrows money and issues bonds under section 11i, the district or intermediate district shall use funds received under this section to pay debt service on bonds issued under section 11i. If a district or intermediate district does not borrow money and issue bonds under section 11i, the district or intermediate district shall use funds received under this section only for the following purposes, in the following order of priority:

(a) First, to pay debt service on voter-approved bonds issued by the district or intermediate district before the effective date of this section.

(b) Second, to pay debt service on other limited tax obligations.

(c) Third, for deposit into a sinking fund established by the district or intermediate district under the revised school code.

(5) To the extent payments under this section are used by a district or intermediate district to pay debt service on debt payable from millage revenues, and to the extent permitted by law, the district or intermediate district may make a corresponding reduction in the number of mills levied for debt service.

(6) A district or intermediate district may pledge or assign payments under this section as security for bonds issued under section 11i, but shall not otherwise pledge or assign payments under this section.

388.1611j School loan bond redemption fund; allocations.

Sec. 11j. From the general fund money appropriated in section 11, there is allocated an amount not to exceed $4,674,000.00 for 2002-2003 only, and from district and intermediate district payments to the school loan bond redemption fund appropriated in section 11, there is allocated an amount not to exceed $700,000.00 for 2002-2003 only, for payments to the school loan bond redemption fund in the department of treasury.

388.1619 Compliance; information to be provided for annual progress report; failure to comply with certain requirements; failure to meet accreditation standards.

Sec. 19. (1) A district shall comply with the requirements of sections 1204a, 1277, 1278, and 1280 of the revised school code, MCL 380.1204a, 380.1277, 380.1278, and 380.1280, commonly referred to as "public act 25 of 1990".

(2) Each district and intermediate district shall provide to the department, in a form and manner prescribed by the department, information necessary for the development of an annual progress report on the implementation of sections 1204a, 1277, 1278, and 1280 of the revised school code, MCL 380.1204a, 380.1277, 380.1278, and 380.1280, commonly referred to as "public act 25 of 1990". Additionally, each district and intermediate district shall provide to the department of information technology, in a form and manner prescribed by the department of information technology, on the achievement of national education goals, and information necessary for the development of other performance reports.

(3) If a district or intermediate district fails to meet the requirements of subsection (2) and sections 1204a, 1277, and 1278 of the revised school code, MCL 380.1204a, 380.1277, and 380.1278, the department shall withhold 5% of the total funds for which the district or intermediate district qualifies under this act until the district or intermediate district complies with all of those sections. If the district or intermediate district does not comply with all of those sections by the end of the fiscal year, the department shall place the amount withheld in an escrow account until the district or intermediate district complies with all of those sections.

(4) If a school in a district is not accredited under section 1280 of the revised school code, MCL 380.1280, or is not making satisfactory progress toward meeting the standards for that accreditation, the department shall withhold 5% of the total funds for which the district qualifies under this act that are attributable to pupils attending that school. The department shall place the amount withheld from a district under this subsection in an escrow account and shall not release the funds to the district until the district submits to the department a plan for achieving accreditation for each of the district's schools that are not accredited under section 1280 of the revised school code, MCL 380.1280, or are not making satisfactory progress toward meeting the standards for that accreditation.

388.1620 Foundation allowance per membership pupil; payments to districts, public school academies, and university schools; definitions.

Sec. 20. (1) For 2001-2002, the basic foundation allowance is $6,300.00 per membership pupil. For 2002-2003, the basic foundation allowance is $6,700.00 per membership pupil.

(2) The amount of each district's foundation allowance shall be calculated as provided in this section, using a basic foundation allowance in the amount specified in subsection (1).

(3) Except as otherwise provided in this section, the amount of a district's foundation allowance shall be calculated as follows, using in all calculations the total amount of the district's foundation allowance as calculated before any proration:

(a) Except as otherwise provided in this subsection, for a district that in the immediately preceding state fiscal year had a foundation allowance in an amount at least equal to the amount of the basic foundation allowance for the immediately preceding state fiscal year, the district shall receive a foundation allowance in an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance. However, for 2002-2003, the foundation allowance for a district under this subdivision is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus $200.00.

(b) For a district that in the 1994-95 state fiscal year had a foundation allowance greater than $6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of the increase in the basic foundation allowance for the current state fiscal year, as compared to the immediately preceding state fiscal year, or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b. For 2002-2003, for a district that in the 1994-95 state fiscal year had a foundation allowance greater than $6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of $200.00 or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b.

(c) For a district that has a foundation allowance that is not a whole dollar amount, the district's foundation allowance shall be rounded up to the nearest whole dollar.

(d) Beginning in 2002-2003, for a district that receives a payment under section 22c for 2001-2002, the district's 2001-2002 foundation allowance shall be considered to have been an amount equal to the sum of the district's actual 2001-2002 foundation allowance as otherwise calculated under this section plus the per pupil amount of the district's equity payment for 2001-2002 under section 22c.

(4) Except as otherwise provided in this subsection, the state portion of a district's foundation allowance is an amount equal to the district's foundation allowance or $6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district described in subsection (3)(b), the state portion of the district's foundation allowance is an amount equal to $6,962.00 plus the difference between the district's foundation allowance for the current state fiscal year and the district's foundation allowance for 1998-99, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur. The $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(5) The allocation calculated under this section for a pupil shall be based on the foundation allowance of the pupil's district of residence. However, for a pupil enrolled pursuant to section 105 or 105c in a district other than the pupil's district of residence, the allocation calculated under this section shall be based on the lesser of the foundation allowance of the pupil's district of residence or the foundation allowance of the educating district. For a pupil in membership in a K-5, K-6, or K-8 district who is enrolled in another district in a grade not offered by the pupil's district of residence, the allocation calculated under this section shall be based on the foundation allowance of the educating district if the educating district's foundation allowance is greater than the foundation allowance of the pupil's district of residence. The calculation under this subsection shall take into account a district's per pupil allocation under section 20j(2).

(6) Subject to subsection (7) and section 22b(3) and except as otherwise provided in this subsection, for pupils in membership, other than special education pupils, in a public school academy or a university school, the allocation calculated under this section is an

amount per membership pupil other than special education pupils in the public school academy or university school equal to the sum of the local school operating revenue per membership pupil other than special education pupils for the district in which the public school academy or university school is located and the state portion of that district's foundation allowance, or the sum of the basic foundation allowance under subsection (1) plus $500.00, whichever is less. However, beginning in 2002-2003, this $500.00 amount shall instead be $300.00. Notwithstanding section 101(2), for a public school academy that begins operations in 2001-2002 or 2002-2003, as applicable, after the pupil membership count day, the amount per membership pupil calculated under this subsection shall be adjusted by multiplying that amount per membership pupil by the number of hours of pupil instruction provided by the public school academy after it begins operations, as determined by the department, divided by the minimum number of hours of pupil instruction required under section 101(3). The result of this calculation shall not exceed the amount per membership pupil otherwise calculated under this subsection.

(7) If more than 25% of the pupils residing within a district are in membership in 1 or more public school academies located in the district, then the amount per membership pupil calculated under this section for a public school academy located in the district shall be reduced by an amount equal to the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils, in the school fiscal year ending in the current state fiscal year, calculated as if the resident pupils in membership in 1 or more public school academies located in the district were in membership in the district. In order to receive state school aid under this act, a district described in this subsection shall pay to the authorizing body that is the fiscal agent for a public school academy located in the district for forwarding to the public school academy an amount equal to that local school operating revenue per membership pupil for each resident pupil in membership other than special education pupils in the public school academy, as determined by the department.

(8) If a district does not receive an amount calculated under subsection (9); if the number of mills the district may levy on a homestead and qualified agricultural property under section 1211(1) of the revised school code, MCL 380.1211, is 0.5 mills or less; and if the district elects not to levy those mills, the district instead shall receive a separate supplemental amount calculated under this subsection in an amount equal to the amount the district would have received had it levied those mills, as determined by the department of treasury. A district shall not receive a separate supplemental amount calculated under this subsection for a fiscal year unless in the calendar year ending in the fiscal year the district levies 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a homestead or qualified agricultural property.

(9) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than $6,500.00 and that had fewer than 350 pupils in membership, if the district elects not to reduce the number of mills from which a homestead and qualified agricultural property are exempt and not to levy school operating taxes on a homestead and qualified agricultural property as provided in section 1211(1) of

the revised school code, MCL 380.1211, and not to levy school operating taxes on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, there is calculated under this subsection for 1994-95 and each succeeding fiscal year a separate supplemental amount in an amount equal to the amount the district would have received per membership pupil had it levied school operating taxes on a homestead and qualified agricultural property at the rate authorized for the district under section 1211(1) of the revised school code, MCL 380.1211, and levied school operating taxes on all property at the rate authorized for the district under section 1211(2) of the revised school code, MCL 380.1211, as determined by the department of treasury. If in the calendar year ending in the fiscal year a district does not levy 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a homestead or qualified agricultural property, the amount calculated under this subsection will be reduced by the same percentage as the millage actually levied compares to the 18 mills or the number of mills levied in 1993, whichever is less.

(10) For a district that is formed or reconfigured after June 1, 2002 by consolidation of 2 or more districts or by annexation, the resulting district's foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the lesser of an amount equal to the sum of the highest foundation allowance, as calculated under this section, among the original or affected districts plus $50.00 or an amount equal to $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under this section for the current state fiscal year and $5,000.00. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(11) Each fraction used in making calculations under this section shall be rounded to the fourth decimal place and the dollar amount of an increase in the basic foundation allowance shall be rounded to the nearest whole dollar.

(12) State payments related to payment of the foundation allowance for a special education pupil are not calculated under this section but are instead calculated under section 51a.

(13) To assist the legislature in determining the basic foundation allowance for the subsequent state fiscal year, each revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b, shall calculate a pupil membership factor, a revenue adjustment factor, and an index as follows:

(a) The pupil membership factor shall be computed by dividing the estimated membership in the school year ending in the current state fiscal year, excluding intermediate district membership, by the estimated membership for the school year ending in the subsequent state fiscal year, excluding intermediate district membership. If a consensus membership factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(b) The revenue adjustment factor shall be computed by dividing the sum of the estimated total state school aid fund revenue for the subsequent state fiscal year plus the estimated total state school aid fund revenue for the current state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund and excluding money transferred into that fund from the countercyclical budget and economic stabilization fund under section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, by the sum of the estimated total school aid fund revenue for the

current state fiscal year plus the estimated total state school aid fund revenue for the immediately preceding state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund. If a consensus revenue factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(c) The index shall be calculated by multiplying the pupil membership factor by the revenue adjustment factor. If a consensus index is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(14) If the principals at the revenue estimating conference reach a consensus on the index described in subsection (13)(c), the basic foundation allowance for the subsequent state fiscal year shall be at least the amount of that consensus index multiplied by the basic foundation allowance specified in subsection (1).

(15) If at the January revenue estimating conference it is estimated that pupil membership, excluding intermediate district membership, for the subsequent state fiscal year will be greater than 101% of the pupil membership, excluding intermediate district membership, for the current state fiscal year, then it is the intent of the legislature that the executive budget proposal for the school aid budget for the subsequent state fiscal year include a general fund/general purpose allocation sufficient to support the membership in excess of 101% of the current year pupil membership.

(16) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than $6,500.00, that had fewer than 7 pupils in membership in the 1993-94 state fiscal year, that has at least 1 child educated in the district in the current state fiscal year, and that levies the number of mills of school operating taxes authorized for the district under section 1211 of the revised school code, MCL 380.1211, a minimum amount of combined state and local revenue shall be calculated for the district as provided under this subsection. The minimum amount of combined state and local revenue for 1999-2000 shall be $67,000.00 plus the district's additional expenses to educate pupils in grades 9 to 12 educated in other districts as determined and allowed by the department. The minimum amount of combined state and local revenue under this subsection, before adding the additional expenses, shall increase each fiscal year by the same percentage increase as the percentage increase in the basic foundation allowance from the immediately preceding fiscal year to the current fiscal year. The state portion of the minimum amount of combined state and local revenue under this subsection shall be calculated by subtracting from the minimum amount of combined state and local revenue under this subsection the sum of the district's local school operating revenue and an amount equal to the product of the sum of the state portion of the district's foundation allowance plus the amount calculated under section 20j times the district's membership. As used in this subsection, "additional expenses" means the district's expenses for tuition or fees, not to exceed $6,500.00 as adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, plus a room and board stipend not to exceed $10.00 per school day for each pupil in grades 9 to 12 educated in another district, as approved by the department. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(17) For a district in which 7.75 mills levied in 1992 for school operating purposes in the 1992-93 school year were not renewed in 1993 for school operating purposes in the 1993-94 school year, the district's combined state and local revenue per membership pupil shall be recalculated as if that millage reduction did not occur and the district's foundation allowance shall be calculated as if its 1994-95 foundation allowance had been calculated using that recalculated 1993-94 combined state and local revenue per membership pupil as a base. A district is not entitled to any retroactive payments for fiscal years before 2000-2001 due to this subsection.

(18) For a district in which an industrial facilities exemption certificate that abated taxes on property with a state equalized valuation greater than the total state equalized valuation of the district at the time the certificate was issued or $700,000,000.00, whichever is greater, was issued under 1974 PA 198, MCL 207.551 to 207.572, before the calculation of the district's 1994-95 foundation allowance, the district's foundation allowance for 2002-2003 is an amount equal to the sum of the district's foundation allowance for 2002-2003, as otherwise calculated under this section, plus $250.00.

(19) For a district that received a grant under former section 32e for 2001-2002, the district's foundation allowance for 2002-2003 shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of the amount of the grant award to the district for 2001-2002 under former section 32e divided by the district's membership for 2001-2002. A district qualifying for a foundation allowance adjustment under this section shall use the funds resulting from this adjustment for purposes allowable under former section 32e as in effect for 2001-2002.

(20) Payments to districts, university schools, or public school academies shall not be made under this section. Rather, the calculations under this section shall be used to determine the amount of state payments under section 22b.

(21) If an amendment to section 2 of article VIII of the state constitution of 1963 allowing state aid to some or all nonpublic schools is approved by the voters of this state, each foundation allowance or per pupil payment calculation under this section may be reduced.

(22) As used in this section:

(a) "Combined state and local revenue" means the aggregate of the district's state school aid received by or paid on behalf of the district under this section and the district's local school operating revenue.

(b) "Combined state and local revenue per membership pupil" means the district's combined state and local revenue divided by the district's membership excluding special education pupils.

(c) "Current state fiscal year" means the state fiscal year for which a particular calculation is made.

(d) "Homestead" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(e) "Immediately preceding state fiscal year" means the state fiscal year immediately preceding the current state fiscal year.

(f) "Local school operating revenue" means school operating taxes levied under section 1211 of the revised school code, MCL 380.1211.

(g) "Local school operating revenue per membership pupil" means a district's local school operating revenue divided by the district's membership excluding special education pupils.

(h) "Membership" means the definition of that term under section 6 as in effect for the particular fiscal year for which a particular calculation is made.

(i) "Qualified agricultural property" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(j) "School operating purposes" means the purposes included in the operation costs of the district as prescribed in sections 7 and 18.

(k) "School operating taxes" means local ad valorem property taxes levied under section 1211 of the revised school code, MCL 380.1211, and retained for school operating purposes.

(*l*) "Taxable value per membership pupil" means taxable value, as certified by the department of treasury, for the calendar year ending in the current state fiscal year divided by the district's membership excluding special education pupils for the school year ending in the current state fiscal year.

388.1622a Allocations for 2001-2002 and 2002-2003; payments to districts, university schools, and public school academies; definitions.

Sec. 22a. (1) From the appropriation in section 11, there is allocated an amount not to exceed $7,022,000,000.00 for 2001-2002 and an amount not to exceed $6,953,000,000.00 for 2002-2003 for payments to districts, qualifying university schools, and qualifying public school academies to guarantee each district, qualifying university school, and qualifying public school academy an amount equal to its 1994-95 total state and local per pupil revenue for school operating purposes under section 11 of article IX of the state constitution of 1963. Pursuant to section 11 of article IX of the state constitution of 1963, this guarantee does not apply to a district in a year in which the district levies a millage rate for school district operating purposes less than it levied in 1994. However, subsection (2) applies to calculating the payments under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22b and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) To ensure that a district receives an amount equal to the district's 1994-95 total state and local per pupil revenue for school operating purposes, there is allocated to each district a state portion of the district's 1994-95 foundation allowance in an amount calculated as follows:

(a) Except as otherwise provided in this subsection, the state portion of a district's 1994-95 foundation allowance is an amount equal to the district's 1994-95 foundation allowance or $6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur.

(b) For a district that had a 1994-95 foundation allowance greater than $6,500.00, the state payment under this subsection shall be the sum of the amount calculated under

subdivision (a) plus the amount calculated under this subdivision. The amount calculated under this subdivision shall be equal to the difference between the district's 1994-95 foundation allowance minus $6,500.00 and the current year hold harmless school operating taxes per pupil. If the result of the calculation under subdivision (a) is negative, the negative amount shall be an offset against any state payment calculated under this subdivision. If the result of a calculation under this subdivision is negative, there shall not be a state payment or a deduction under this subdivision. The taxable values per membership pupil used in the calculations under this subdivision are as adjusted by ad valorem property tax revenue captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership.

(3) For pupils in membership in a qualifying public school academy or qualifying university school, there is allocated under this section each fiscal year for 2001-2002 and for 2002-2003 to the authorizing body that is the fiscal agent for the qualifying public school academy for forwarding to the qualifying public school academy, or to the board of the public university operating the qualifying university school, an amount equal to the 1994-95 per pupil payment to the qualifying public school academy or qualifying university school under section 20.

(4) A district, qualifying university school, or qualifying public school academy may use funds allocated under this section in conjunction with any federal funds for which the district, qualifying university school, or qualifying public school academy otherwise would be eligible.

(5) For a district that is formed or reconfigured after June 1, 2000 by consolidation of 2 or more districts or by annexation, the resulting district's 1994-95 foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the 1994-95 foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the resulting district in the state fiscal year in which the consolidation takes place who reside in the geographic area of each of the original districts. If an affected district's 1994-95 foundation allowance is less than the 1994-95 basic foundation allowance, the amount of that district's 1994-95 foundation allowance shall be considered for the purpose of calculations under this subsection to be equal to the amount of the 1994-95 basic foundation allowance.

(6) As used in this section:

(a) "1994-95 foundation allowance" means a district's 1994-95 foundation allowance calculated and certified by the department of treasury or the superintendent under former section 20a as enacted in 1993 PA 336 and as amended by 1994 PA 283.

(b) "Current state fiscal year" means the state fiscal year for which a particular calculation is made.

(c) "Current year hold harmless school operating taxes per pupil" means the per pupil revenue generated by multiplying a district's 1994-95 hold harmless millage by the district's current year taxable value per membership pupil.

(d) "Hold harmless millage" means, for a district with a 1994-95 foundation allowance greater than $6,500.00, the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property could be reduced as provided in section 1211(1) of the revised school code, MCL 380.1211, and the number of mills of school operating taxes that could be levied on all property as provided in

section 1211(2) of the revised school code, MCL 380.1211, as certified by the department of treasury for the 1994 tax year.

(e) "Homestead" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(f) "Membership" means the definition of that term under section 6 as in effect for the particular fiscal year for which a particular calculation is made.

(g) "Qualified agricultural property" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(h) "Qualifying public school academy" means a public school academy that was in operation in the 1994-95 school year and is in operation in the current state fiscal year.

(i) "Qualifying university school" means a university school that was in operation in the 1994-95 school year and is in operation in the current fiscal year.

(j) "School operating taxes" means local ad valorem property taxes levied under section 1211 of the revised school code, MCL 380.1211, and retained for school operating purposes.

(k) "Taxable value per membership pupil" means each of the following divided by the district's membership:

(*i*) For the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property may be reduced as provided in section 1211(1) of the revised school code, MCL 380.1211, the taxable value of homestead and qualified agricultural property for the calendar year ending in the current state fiscal year.

(*ii*) For the number of mills of school operating taxes that may be levied on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, the taxable value of all property for the calendar year ending in the current state fiscal year.

388.1622b Allocations for 2001-2002 and 2002-2003; discretionary nonmandated payments; administration of standardized assessment; payments for court costs; allegation of unfunded constitutional requirement; escrowed funds as work project; use; determination; review of claim by local claims review board; removal to court of appeals; payment provisions.

Sec. 22b. (1) From the appropriation in section 11, there is allocated an amount not to exceed $2,368,000,000.00 for 2001-2002 and an amount not to exceed $2,865,000,000.00 for 2002-2003 for discretionary nonmandated payments to districts under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) Subject to subsection (3), subsections (5) to (9), and section 11, the allocation to a district under this section shall be an amount equal to the sum of the amounts calculated under sections 20, 20j, 51a(2), 51a(3), and 51a(12), minus the sum of the allocations to the district under sections 22a and 51c.

(3) In order to receive an allocation under this section, each district shall administer in each grade level that it operates in grades 1 to 5 a standardized assessment approved by the department of grade-appropriate basic educational skills. A district may use the Michigan literacy progress profile to satisfy this requirement for grades 1 to 3.

(4) From the allocation in subsection (1), the department shall expend funds to pay for necessary costs associated with resolving matters pending in federal court impacting payments to districts, including, but not limited to, expert witness fees. Beginning in 2001-2002, from the allocation in subsection (1), the department shall also pay up to $1,000,000.00 in litigation costs incurred by this state associated with lawsuits filed by 1 or more districts or intermediate districts against this state. If the allocation under this section is insufficient to fully fund all payments required under this section, the payments under this subsection shall be made in full before any proration of remaining payments under this section.

(5) It is the intent of the legislature that all constitutional obligations of this state have been fully funded under sections 22a, 31d, 51a, and 51c. If a claim is made by an entity receiving funds under this act that challenges the legislative determination of the adequacy of this funding or alleges that there exists an unfunded constitutional requirement, the state budget director may escrow or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the claim before making any payments to districts under subsection (2). If funds are escrowed, the escrowed funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of litigation. The work project shall be completed upon resolution of the litigation.

(6) If the local claims review board or a court of competent jurisdiction makes a final determination that this state is in violation of section 29 of article IX of the state constitution of 1963 regarding state payments to districts, the state budget director shall use work project funds under subsection (5) or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the amount owed to districts before making any payments to districts under subsection (2).

(7) If a claim is made in court that challenges the legislative determination of the adequacy of funding for this state's constitutional obligations or alleges that there exists an unfunded constitutional requirement, any interested party may seek an expedited review of the claim by the local claims review board. If the claim exceeds $10,000,000.00, this state may remove the action to the court of appeals, and the court of appeals shall have and shall exercise jurisdiction over the claim.

(8) If payments resulting from a final determination by the local claims review board or a court of competent jurisdiction that there has been a violation of section 29 of article IX of the state constitution of 1963 exceed the amount allocated for discretionary nonmandated payments under this section, the legislature shall provide for adequate funding for this state's constitutional obligations at its next legislative session.

(9) If a lawsuit challenging payments made to districts related to costs reimbursed by federal title XIX medicaid funds is filed against this state during 2001-2002 or 2002-2003, 50% of the amount allocated in subsection (1) not previously paid out for 2002-2003 and each succeeding fiscal year is a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of the litigation. The work project shall be completed upon resolution of the litigation. In addition, this state reserves the right to terminate future federal title XIX medicaid reimbursement payments to districts if the amount or allocation of reimbursed funds is challenged in the lawsuit. As used in this subsection, "title XIX" means title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

388.1624 Allocations for 2001-2002 and 2002-2003; payments for educating students assigned by court or family independence agency.

Sec. 24. (1) Subject to subsection (2), from the appropriation in section 11, there is allocated for 2001-2002 and for 2002-2003 to the educating district or intermediate district an amount equal to 100% of the added cost each fiscal year for educating all pupils assigned by a court or the family independence agency to reside in or to attend a juvenile detention facility or child caring institution licensed by the family independence agency or the department of consumer and industry services and approved by the department to provide an on-grounds education program. The total amount to be paid under this section for added cost shall not exceed $8,400,000.00 for 2001-2002 and $8,900,000.00 for 2002-2003. For the purposes of this section, "added cost" shall be computed by deducting all other revenue received under this act for pupils described in this section from total costs, as approved by the department, for educating those pupils in the on-grounds education program or in a program approved by the department that is located on property adjacent to a juvenile detention facility or child caring institution. Costs reimbursed by federal funds are not included.

(2) A district or intermediate district educating pupils described in this section at a residential child caring institution may operate, and receive funding under this section for, a department-approved on-grounds educational program for those pupils that is longer than 181 days, but not longer than 233 days, if the child caring institution was licensed as a child caring institution and offered in 1991-92 an on-grounds educational program that was longer than 181 days but not longer than 233 days and that was operated by a district or intermediate district.

(3) Special education pupils funded under section 53a shall not be funded under this section.

388.1626a Reimbursements to districts, intermediate districts, and school aid fund pursuant to § 125.2692; adjustments.

Sec. 26a. From the general fund appropriation in section 11, there is allocated an amount not to exceed $8,800,000.00 for 2001-2002 and an amount not to exceed $10,174,000.00 for 2002-2003 to reimburse districts, intermediate districts, and the state school aid fund pursuant to section 12 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2692, for taxes levied in 2001 and 2002, respectively. This reimbursement shall be made by adjusting payments under section 22a to eligible districts, adjusting payments under section 56, 62, or 81 to eligible intermediate districts, and adjusting the state school aid fund. The adjustments shall be made not later than 60 days after the department of treasury certifies to the department and to the state budget director that the department of treasury has received all necessary information to properly determine the amounts due to each eligible recipient.

388.1631a Funding to eligible districts and public school academies; additional allowance; number of pupils meeting criteria for free breakfast, lunch, or milk; "at risk pupil" defined.

Sec. 31a. (1) From the state school aid fund money appropriated in section 11, there is allocated for 2001-2002 an amount not to exceed $314,200,000.00 and there is allocated for 2002-2003 an amount not to exceed $314,200,000.00 for payments to eligible districts and eligible public school academies under this section. Subject to subsection (11), the amount of the additional allowance under this section shall be based on the number of actual pupils in membership in the district or public school academy who met the income eligibility

criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined under the Richard B. Russell national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766a, 1769, 1769b to 1769c, and 1769f to 1769h, and reported to the department by October 31 of the immediately preceding fiscal year and adjusted not later than December 31 of the immediately preceding fiscal year. However, for a public school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year, the basis for the additional allowance under this section shall be the number of actual pupils in membership in the public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the current state fiscal year, as determined under the Richard B. Russell national school lunch act.

(2) To be eligible to receive funding under this section, other than funding under subsection (6), a district or public school academy that has not been previously determined to be eligible shall apply to the department, in a form and manner prescribed by the department, and a district or public school academy must meet all of the following:

(a) The sum of the district's or public school academy's combined state and local revenue per membership pupil in the current state fiscal year, as calculated under section 20, plus the amount of the district's per pupil allocation under section 20j(2), is less than or equal to $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and $5,000.00. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subdivision shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(b) The district or public school academy agrees to use the funding only for purposes allowed under this section and to comply with the program and accountability requirements under this section.

(3) Except as otherwise provided in this subsection, an eligible district or eligible public school academy shall receive under this section for each membership pupil in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk, as determined under the Richard B. Russell national school lunch act and as reported to the department by October 31 of the immediately preceding fiscal year and adjusted not later than December 31 of the immediately preceding fiscal year, an amount per pupil equal to 11.5% of the sum of the district's foundation allowance or public school academy's per pupil amount calculated under section 20, plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and $5,000.00, or of the public school academy's per membership pupil amount calculated under section 20 for the current state fiscal year. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00. A public school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year shall receive under this section for each membership pupil in the public school academy who met the income eligibility criteria for free breakfast, lunch, or milk, as determined under the Richard B. Russell national school lunch act and as reported to the department by October 31 of the current fiscal year and adjusted not later than December 31 of the current fiscal year, an amount per pupil equal to 11.5% of the public school academy's per membership pupil amount calculated under section 20 for the current state fiscal year.

(4) Except as otherwise provided in this section, a district or public school academy receiving funding under this section shall use that money only to provide instructional programs and direct noninstructional services, including, but not limited to, medical or counseling services, for at-risk pupils; for school health clinics; and for the purposes of subsection (5) or (6), and shall not use any of that money for administrative costs or to supplant another program or other funds, except for funds allocated to the district or public school academy under this section in the immediately preceding year and already being used by the district or public school academy for at-risk pupils. The instruction or direct noninstructional services provided under this section may be conducted before or after regular school hours or by adding extra school days to the school year and may be conducted using a tutorial method, with paraprofessionals working under the supervision of a certificated teacher. The ratio of pupils to paraprofessionals shall be between 10:1 and 15:1. Only 1 certificated teacher is required to supervise instruction using a tutorial method. As used in this subsection, "to supplant another program" means to take the place of a previously existing instructional program or direct noninstructional services funded from a funding source other than funding under this section.

(5) A district or public school academy that receives funds under this section and that operates a school breakfast program under section 1272a of the revised school code, MCL 380.1272a, shall use from the funds received under this section an amount, not to exceed $10.00 per pupil for whom the district or public school academy receives funds under this section, necessary to operate the school breakfast program.

(6) From the funds allocated under subsection (1), there is allocated for 2001-2002 an amount not to exceed $2,400,000.00 to support teen health centers. These 2001-2002 funds shall be distributed to existing teen health centers in a manner determined by the department in collaboration with the department of community health. From the funds allocated under subsection (1), there is allocated for 2002-2003 an amount not to exceed $3,743,000.00 for competitive grants to support teen health centers. These grants for 2002-2003 shall be awarded in a form and manner approved jointly by the department and the department of community health. If any funds allocated under this subsection are not used for the purposes of this subsection for the fiscal year in which they are allocated, those unused funds shall be used that fiscal year to avoid or minimize any proration that would otherwise be required under subsection (11) for that fiscal year.

(7) Each district or public school academy receiving funds under this section shall submit to the department by July 15 of each fiscal year a report, not to exceed 10 pages, on the usage by the district or public school academy of funds under this section, which report shall include at least a brief description of each program conducted by the district or public school academy using funds under this section, the amount of funds under this section allocated to each of those programs, the number of at-risk pupils eligible for free or reduced price school lunch who were served by each of those programs, and the total number of at-risk pupils served by each of those programs. If a district or public school academy does not comply with this subsection, the department shall withhold an amount equal to the August payment due under this section until the district or public school academy complies with this subsection. If the district or public school academy does not comply with this subsection by the end of the state fiscal year, the withheld funds shall be forfeited to the school aid fund.

(8) In order to receive funds under this section, a district or public school academy shall allow access for the department or the department's designee to audit all records related to the program for which it receives those funds. The district or public school academy shall reimburse the state for all disallowances found in the audit.

(9) Subject to subsections (5) and (6), any district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) exceeds the district's aggregate percentage of those pupils. Subject to subsections (5) and (6), if a district obtains a waiver from the department, the district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) is at least 60% of the district's aggregate percentage of those pupils and at least 30% of the total number of pupils enrolled in the school building. To obtain a waiver, a district must apply to the department and demonstrate to the satisfaction of the department that the class size reductions would be in the best interests of the district's at-risk pupils.

(10) A district or public school academy may use funds received under this section for adult high school completion, general education development (G.E.D.) test preparation, or adult basic education programs described in section 107.

(11) If necessary, and before any proration required under section 11, the department shall prorate payments under this section by reducing the amount of the per pupil payment under this section by a dollar amount calculated by determining the amount by which the amount necessary to fully fund the requirements of this section exceeds the maximum amount allocated under this section and then dividing that amount by the total statewide number of pupils who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding fiscal year, as described in subsection (1).

(12) Funds allocated under this section that are unexpended and unencumbered at the end of the fiscal year for which they were allocated shall be carried forward and used in subsequent fiscal years to avoid or minimize any proration that would otherwise be required under subsection (11).

(13) If a district is formed by consolidation after June 1, 1995, and if 1 or more of the original districts was not eligible before the consolidation for an additional allowance under this section, the amount of the additional allowance under this section for the consolidated district shall be based on the number of pupils described in subsection (1) enrolled in the consolidated district who reside in the territory of an original district that was eligible before the consolidation for an additional allowance under this section.

(14) A district or public school academy that does not meet the eligibility requirement under subsection (2)(a) is eligible for funding under this section if at least 1/4 of the pupils in membership in the district or public school academy met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined and reported as described in subsection (1), and at least 4,500 of the pupils in membership in the district or public school academy met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined and reported as described in subsection (1). A district or public school academy that is eligible for funding under this section because the district meets the requirements of this subsection shall receive under this section for each membership pupil in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding fiscal year, as determined and reported as described in subsection (1), an amount per pupil equal to 5.75% for 2001-2002 and 11.5% for 2002-2003 and subsequent fiscal years of the sum of the district's foundation allowance or public school academy's per pupil allocation under section 20, plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and $5,000.00. However, beginning in 2002-2003, the $6,500.00 amount

prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(15) As used in this section, "at-risk pupil" means a pupil for whom the district has documentation that the pupil meets at least 2 of the following criteria: is a victim of child abuse or neglect; is below grade level in English language and communication skills or mathematics; is a pregnant teenager or teenage parent; is eligible for a federal free or reduced-price lunch subsidy; has atypical behavior or attendance patterns; or has a family history of school failure, incarceration, or substance abuse. For pupils for whom the results of at least the applicable Michigan education assessment program (MEAP) test have been received, at-risk pupil also includes a pupil who does not meet the other criteria under this subsection but who did not achieve at least a score of moderate on the most recent MEAP reading test for which results for the pupil have been received, did not achieve at least a score of moderate on the most recent MEAP mathematics test for which results for the pupil have been received, or did not achieve at least a score of novice on the most recent MEAP science test for which results for the pupil have been received. For pupils in grades K-3, at-risk pupil also includes a pupil who is at risk of not meeting the district's core academic curricular objectives in English language, communication skills, or mathematics.

388.1631d Reimbursement to districts providing school lunch programs.

Sec. 31d. (1) From the state school aid fund appropriation in section 11, there is allocated an amount not to exceed $16,477,700.00 for 2001-2002 and an amount not to exceed $17,337,200.00 for 2002-2003, and from the general fund appropriation in section 11, there is allocated an amount not to exceed $722,300.00 for 2001-2002 and an amount not to exceed $762,800.00 for 2002-2003 for the purpose of making payments to districts, intermediate districts, and other eligible entities under this section.

(2) The amounts allocated from state sources under this section shall be used to pay the amount necessary to reimburse districts for 6.0127% of the necessary costs of the state mandated portion of the school lunch programs provided by those districts. The amount due to each district under this section shall be computed by the department using the methods of calculation adopted by the Michigan supreme court in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

(3) The payments made under this section include all state payments made to districts so that each district receives at least 6.0127% of the necessary costs of operating the state mandated portion of the school lunch program in a fiscal year.

(4) From the federal funds appropriated in section 11, there is allocated for 2002-2003 all available federal funding, estimated at $272,125,000.00, for the national school lunch program and all available federal funding, estimated at $2,506,000.00, for the emergency food assistance program.

(5) Notwithstanding section 17b, payments to intermediate districts and other eligible entities under this section shall be paid on a schedule determined by the department.

388.1632a Funding for all students achieve program (ASAP); additional funding for improving parenting skills, improving school readiness, reducing number of pupils retained in grade, and reducing number of pupils requiring special education services.

Sec. 32a. (1) From the state school aid fund appropriation in section 11, there is allocated an amount not to exceed $189,250,000.00 for 2001-2002 and an amount not to

exceed $72,600,000.00 for 2002-2003 to fund the all students achieve program (ASAP) as provided under sections 32b to 32h. In addition, from the general fund appropriations in section 11, there is allocated an amount not to exceed $2,200,100.00 for 2001-2002 and an amount not to exceed $2,200,000.00 for 2002-2003 for the purposes of sections 32b to 32f. The programs funded through this section are for the purposes of improving parenting skills, improving school readiness, reducing the number of pupils retained in grade, and reducing the number of pupils requiring special education services.

(2) Each grant recipient approved by the department shall implement department-approved data collection methods and evaluation or assessment tools to measure the impact of the proposed program.

(3) A district shall not use funds received under sections 32b to 32f to supplant any local or federal funds it currently receives. A district may use these funds in combination with other federal, local, public, or private funds to enhance existing programs with similar purposes.

388.1632b Programs to improve school readiness and positive parenting skills, enhance parent-child interaction, promote growth, and access community services; grants; data collection system; office for safe schools; duties of department and superintendent; use of funds; carrying over unexpended funds.

Sec. 32b. (1) From the state school aid fund allocation in section 32a(1), there is allocated an amount not to exceed $45,000,000.00 for 2001-2002 and $0.00 for 2002-2003 for grants to intermediate districts and districts for programs for preschool children and their parents. The purpose of these programs is to improve school readiness and foster the maintenance of stable families by encouraging positive parenting skills; enhancing parent-child interaction; providing learning opportunities to promote intellectual, physical, and social growth; and promoting access to needed community services through a community-school-home partnership that provides parents with information on child development from birth to age 5.

(2) To qualify for funding under this section, a program shall meet all of the following:

(a) The program must provide services to all families with children age 5 or younger residing within the intermediate district or district who choose to participate, including at least all of the following services:

(*i*) Home visits by parent educators trained in child development to help parents understand appropriate expectations for each stage of their child's development, to encourage learning opportunities, and to promote strong parent-child relationships.

(*ii*) Group meetings of participating families.

(*iii*) Periodic developmental screening of the child's overall development, health, hearing, and vision.

(*iv*) A community resource network that provides referrals to other state, local, and private agencies as appropriate to assist parents in preparing their children for academic success and to foster the maintenance of stable families.

(*v*) Connection with quality preschool programs.

(b) The program must be a collaborative community effort that includes at least the intermediate district or district, local multipurpose collaborative bodies, local health and welfare agencies, and private nonprofit agencies involved in programs and services for preschool children and their parents.

(3) To compete for a grant under this section, an intermediate district or district shall apply to the superintendent not later than December 1, 2000 in the form and manner

prescribed by the superintendent. To be considered for a grant under this section, a grant application must provide all of the following in a manner prescribed by the department:

(a) Provide a plan for the delivery of the program components described in subsection (2).

(b) Demonstrate an adequate collaboration of local entities involved in providing programs and services for preschool children and their parents.

(c) Provide evidence of a review and approval by the local multipurpose collaborative body of the program plan.

(d) Provide a projected budget for the program to be funded. The intermediate district shall provide at least a 20% local match from local public or private resources for the funds received under this section. Not more than 1/2 of this matching requirement, up to a total of 10% of the total project budget, may be satisfied through in-kind services provided by participating providers of programs or services. In addition, not more than 10% of the grant may be used for program administration.

(4) Each successful grant recipient shall agree to include a data collection system and an evaluation tool approved by the department to measure the impact of the program on improving school readiness, reducing the number of children needing special education programs and services, and fostering the maintenance of stable families. The data collection system shall provide a report by October 15 of each year on the number of children in families with income below 200% of the federal poverty level that received services under this program and the total number of children who received services under this program.

(5) From the general fund allocation under section 32a(1), there is allocated an amount not to exceed $100.00 for 2001-2002 and $0.00 for 2002-2003 to the department, including the office for safe schools, for implementation and evaluation of activities under this section. Further, upon receipt of the federal drug-free schools grant, the department shall allocate $200,000.00 of that grant to the office for safe schools within the department.

(6) The department and superintendent shall do all of the following:

(a) The department shall make applications available for the purposes of this section not later than October 15, 2000.

(b) The superintendent shall approve or disapprove applications and notify the applying intermediate district or district of that decision not later than February 1, 2001. Priority in awarding grants shall be given to programs that focus on reducing the percentage of children needing special education programs and services when they enter school. The superintendent shall ensure that the intermediate districts and districts receiving grants under this section are geographically and economically diverse and that not more than 10% of the total allocation under this section is paid to any 1 particular intermediate district or district.

(c) The department shall ensure that all programs funded under this section utilize the most current validated research-based methods and curriculum for providing the program components described in subsection (2).

(d) The department shall submit a report to the legislature, the state budget director, and the senate and house fiscal agencies detailing the evaluations described in subsection (4) by December 1 of each year.

(7) Except as otherwise provided in subsection (8), an intermediate district or district receiving funds under this section shall use the funds only for the program funded under this section. Subject to subsection (8), grants awarded by February 1, 2001 may be used for the following school year.

(8) A district or intermediate district receiving funds under this section may carry over any unexpended funds received under this section to subsequent fiscal years and may expend those unused funds in subsequent fiscal years. Notwithstanding any other provision of this section, funds carried over under this subsection may be used to facilitate programs that are substantially similar in purpose to those funded under this section.

388.1632c Grants for community-based collaborative prevention services; distribution of funds through joint request for proposals process; requirements; agreement.

Sec. 32c. (1) From the general fund allocation in section 32a(1), there is allocated an amount not to exceed $2,000,000.00 each fiscal year for 2001-2002 and for 2002-2003 to the department for grants for community-based collaborative prevention services designed to foster positive parenting skills; improve parent/child interaction, especially for children 0-3 years of age; promote access to needed community services; increase local capacity to serve families at risk; improve school readiness; and support healthy family environments that discourage alcohol, tobacco, and other drug use. The allocation under this section is to fund secondary prevention programs as defined by the children's trust fund for the prevention of child abuse and neglect.

(2) The funds allocated under subsection (1) shall be distributed through a joint request for proposals process established by the department in conjunction with the children's trust fund and the state's interagency systems reform workgroup. Projects funded with grants awarded under this section shall meet all of the following:

(a) Be secondary prevention initiatives and voluntary to consumers. This appropriation is not intended to serve the needs of children for whom and families in which neglect or abuse has been substantiated.

(b) Demonstrate that the planned services are part of a community's integrated comprehensive family support strategy endorsed by the local multi-purpose collaborative body.

(c) Provide a 25% local match, of which not more than 10% may be in-kind services, unless this requirement is waived by the interagency systems reform workgroup.

(3) Notwithstanding section 17b, payments under this section may be made pursuant to an agreement with the department.

388.1632d School readiness grants; evaluation; contract; report; "employment status" defined.

Sec. 32d. (1) From the state school aid fund allocation under section 32a(1), there is allocated an amount not to exceed $72,600,000.00 for 2001-2002, and from the state school aid fund money allocated under section 32a, there is allocated an amount not to exceed $72,600,000.00 for 2002-2003, for school readiness grants to enable eligible districts, as determined under section 37, to develop or expand, in conjunction with whatever federal funds may be available, including, but not limited to, federal funds under title I of the elementary and secondary education act of 1965, Public Law 89-10, 108 Stat. 3519, chapter 1 of title I of the Hawkins-Stafford elementary and secondary school improvement amendments of 1988, Public Law 89-10, 102 Stat. 140, and the head start act, subchapter B of chapter 8 of subtitle A of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, comprehensive compensatory programs designed to improve the readiness and subsequent achievement of educationally disadvantaged children as defined by the department who will be at least 4, but less than 5 years of age, as of December 1 of the school year in which the programs are offered, and who show evidence of 2 or more risk

factors as defined in the state board report entitled "children at risk" that was adopted by the state board on April 5, 1988. A comprehensive compensatory program funded under this section shall include an age-appropriate educational curriculum, nutritional services, health screening for participating children, a plan for parent and legal guardian involvement, and provision of referral services for families eligible for community social services. In addition, from the general fund allocations under section 32a(1), there is allocated an amount not to exceed $200,000.00 for 2001-2002 for the purposes of subsection (2), and from the general fund money allocated under section 32a, there is allocated an amount not to exceed $200,000.00 for 2002-2003 for the purposes of subsection (2).

(2) From the general fund allocation in subsection (1), there is allocated each fiscal year for 2001-2002 and for 2002-2003 an amount not to exceed $200,000.00 for a competitive grant to continue a longitudinal evaluation of children who have participated in the Michigan school readiness program.

(3) A district receiving a grant under this section may contract for the provision of the comprehensive compensatory program and retain for administrative services an amount equal to not more than 5% of the grant amount.

(4) A grant recipient receiving funds under this section shall report to the department no later than October 15 of each year the number of children participating in the program who meet the income or other eligibility criteria specified under section 37(3)(g) and the total number of children participating in the program. For children participating in the program who meet the income or other eligibility criteria specified under section 37(3)(g), grant recipients shall also report whether or not a parent is available to provide care based on employment status. For the purposes of this subsection, "employment status" shall be defined by the family independence agency in a manner consistent with maximizing the amount of spending that may be claimed for temporary assistance for needy families maintenance of effort purposes.

388.1632f Allocations under § 388.1632a(1); purpose; eligibility criteria; application form and manner; availability of matching funds; grant award decision; priority; report; payment schedule; carrying forward excess amount.

Sec. 32f. (1) From the state school aid fund allocation under section 32a(1), there is allocated for 2001-2002 an amount not to exceed $45,000,000.00 and for 2002-2003 $0.00, for grants under this section. From the general fund allocation under section 32a(1), there is allocated each fiscal year for 2001-2002 and for 2002-2003 $0.00 for the purposes of subsection (3).

(2) From the allocation in subsection (1), there is allocated for 2001-2002 an amount not to exceed $2,000,000.00 and for 2002-2003 $0.00, for providing grants to the 8 regional literacy centers for the purposes of expanding training programs for trainers and teachers in the use of strategies for reading instruction and assessment, including the Michigan literacy progress profile.

(3) From the general fund allocation in subsection (1), there is allocated to the department $0.00 each fiscal year for 2001-2002 and for 2002-2003 for the development and dissemination of read, educate, and develop youth (READY) kits to parents of preschool and kindergarten children to provide these parents with information about how they can prepare their children for reading success.

(4) From the general fund allocation in subsection (1), there is allocated to the department each fiscal year for 2001-2002 and 2002-2003 $0.00 for the grant review process and grant administration under this section.

(5) Except as otherwise provided in subsection (17), to be eligible for a grant under this section, a district must have had at least 1,500 pupils in membership in 1998-99, and the number of pupils in the district that have been determined to have a specific learning disability according to R 340.1713 of the Michigan administrative code, as determined in the December 1, 1998 head count required under the individuals with disabilities education act, title VI of Public Law 91-230, must equal or exceed 5% of the district's membership. In addition, a district is eligible for a grant under this section if the district had at least 1,500 pupils in membership in 1998-99 and if not more than 41% of the district's pupils who took the spring 1999 fourth grade MEAP reading test achieved a score of at least satisfactory. Except as otherwise provided in subsection (17), for a public school academy to be eligible for a grant under this section, the public school academy must be located in a district that is eligible under this subsection.

(6) From the allocation in subsection (1), there is allocated for 2001-2002 an amount not to exceed $43,000,000.00 and for 2002-2003 $0.00, for competitive grants to eligible districts, to intermediate districts, and to public school academies located within eligible districts for reading improvements programs for pupils in grades K to 4, reading disorders and reading methods programs, mentoring programs, language and literacy outreach programs, or cognitive development programs. For 2001-2002, grants under this subsection shall be paid to grant recipients in the same proportion of the total allocation under this subsection as for 2000-2001. If the legislature enacts legislation authorizing the appropriation of federal funds for reading improvement programs for 2001-2002 or for 2002-2003, then it is the intent of the legislature that these funds be used to the extent possible for the purposes of this subsection. Federal funds received for reading improvement programs that can be used for substantially similar purposes as described under this section shall be first expended for the purposes of this subsection before funds appropriated from the state school aid fund allocated under this subsection, and the expenditure of funds under this subsection from the state school aid fund shall be reduced by an amount equal to the amount of the expenditure of federal funds under this subsection. If any conflict exists between federal reading program guidelines and this section, federal law will control.

(7) Except as otherwise provided in subsection (17), to qualify for funding under this section, a proposed reading improvement program must meet all of the following:

(a) The program shall include assessment of reading skills of pupils in grades K to 4 to identify those pupils who are reading below grade level and must provide special reading assistance for these pupils.

(b) The program shall be a research-based, validated, structured reading program.

(c) The program shall include continuous assessment of pupils and individualized education plans for pupils.

(d) The program shall align learning resources to state standards.

(e) For each school building receiving funding under this section for a reading improvement program, the program shall serve at least 25% of pupils who are identified as at-risk, as determined by the Michigan literacy progress profile, of reading failure, and the amount of the grant shall not exceed $85,000.00 per school building annually.

(8) Funds allocated for programs described in subsection (7) may be used to reimburse grant recipients for funds paid by districts for up to 1/2 of the salaries and benefits for each teacher trained and certified to provide a reading improvement program.

(9) Except as otherwise provided under subsection (17), to qualify for funding under this section, a proposed mentoring program must be a research-based, validated program

or a statewide 1-to-1 mentoring program to enhance the independence and life quality of pupils who are mentally impaired by providing opportunities for mentoring and integrated employment.

(10) Except as otherwise provided under subsection (17), to qualify for funding under this section, a proposed cognitive development program must be a research-based, validated educational service program, focused on assessing and building essential cognitive and perceptual learning abilities to strengthen pupil concentration and learning.

(11) Except as otherwise provided under subsection (17), to qualify for funding under this section, a proposed structured mentoring-tutorial reading program for preschool to grade 4 pupils must be a research-based, validated program that develops individualized instructional plans based on each pupil's age, assessed needs, reading level, interests, and learning style.

(12) A program receiving funding under this section may be conducted outside of regular school hours or outside the regular school calendar.

(13) To compete for a grant under this section, an applicant shall apply to the superintendent in the form and manner prescribed by the superintendent. The department shall make applications available for this purpose. An applicant shall include in its application a projected budget for the programs. The grant recipient shall provide at least a 20% local match from local public or private resources for the funds received under this section. Not more than 1/2 of this matching requirement, up to a total of 10% of the total project budget, may be satisfied through in-kind services provided by participating providers of programs or services. In addition, not more than 10% of the grant may be used for program administration.

(14) The superintendent shall approve or disapprove applications and notify the applicant of that decision. Priority in awarding grants shall be given to programs that focus on accelerating student achievement on a cost-effective basis, reducing the number of pupils requiring special education programs and services, and improving pupil scores on standardized tests and assessments.

(15) A grant recipient receiving funds under this section shall report to the department, in the form and manner prescribed by the department, on the results achieved by the program. At a minimum, the grant recipient shall report to the department by October 15 regarding the program's impact on reducing the number of pupils requiring special education programs and services and on improving pupil scores on standardized tests and assessments, and information on the costs and benefits per unit of pupil improvement. In addition, the report shall state the number of pupils eligible for free or reduced price school lunch who received services under the program and the total number of pupils who received services under the program. Not later than November 15 of each fiscal year, the department shall submit a report to the legislature, the state budget director, and the senate and house fiscal agencies detailing the results of the programs. It is the intent of the legislature that further funding for the programs under this section will reflect the results achieved in these programs.

(16) Notwithstanding section 17b, payments under this section shall be paid on a schedule determined by the department.

(17) For a district or public school academy awarded a grant under former section 32, the determination of whether the district or public school academy is eligible for a grant under this section may be made according to the eligibility standards in effect under former section 32. Further, the district or public school academy may continue to use the grant proceeds for any use permissible under this section or former section 32 as in effect at the time the district or public school academy was awarded the grant.

(18) If the maximum amount appropriated under this section exceeds the amount necessary to fully fund allocations under this section, that excess amount shall not be expended in that state fiscal year but shall instead be carried forward to the succeeding fiscal year and added to any funds appropriated for that fiscal year for expenditure in that fiscal year.

(19) A district that received funding for 1999-2000 under former section 32 shall receive funding under this section for 2001-2002.

(20) A district or intermediate district receiving funds under this section may carry over any unexpended funds received under this section to subsequent fiscal years and may expend those unused funds in subsequent fiscal years.

388.1632i May 2002 revenue estimating conference; determination of additional revenue; effect.

Sec. 32i. If it is determined at the May 2002 revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b, that there is additional school aid fund revenue beyond that determined at the January 2002 revenue estimating conference, then it is the intent of the legislature to enact legislation to fund, to the extent that revenues are available, the same programs that were funded under sections 32b, 32f(2), and 32f(7) in 2001-2002 and under section 32d(3) in 2000-2001.

388.1637 Eligibility of district for allocation under § 388.1632d; preapplication; final application; consortium; submission of resolution showing certain risk factors.

Sec. 37. (1) A district is eligible for an allocation under section 32d if the district meets all of the requirements in subsections (2), (3), and (4).

(2) The district shall submit a preapplication, in a manner and on forms prescribed by the department, by a date specified by the department in the immediately preceding state fiscal year. The preapplication shall include a comprehensive needs assessment and community collaboration plan, and shall identify all of the following:

(a) The estimated total number of children in the community who meet the criteria of section 32d and how that calculation was made.

(b) The estimated number of children in the community who meet the criteria of section 32d and are being served by other early childhood development programs operating in the community, and how that calculation was made.

(c) The number of children the district will be able to serve who meet the criteria of section 32d including a verification of physical facility and staff resources capacity.

(d) The estimated number of children who meet the criteria of section 32d who will remain unserved after the district and community early childhood programs have met their funded enrollments. The school district shall maintain a waiting list of identified unserved eligible children who would be served when openings are available.

(3) The district shall submit a final application for approval, in a manner and on forms prescribed by the department, by a date specified by the department. The final application shall indicate all of the following that apply:

(a) The district complies with the state board approved standards of quality and curriculum guidelines for early childhood programs for 4-year-olds.

(b) The district provides for the active and continuous participation of parents or guardians of the children in the program, and describes the district's participation plan as part of the application.

(c) The district only employs for this program the following:

(*i*) Teachers possessing proper training, including, but not limited to, a valid teaching certificate and an early childhood (ZA) endorsement. This provision does not apply to a district that subcontracts with an eligible child development program. In that situation a teacher must have a valid teaching certificate and may have a child development associate credential (CDA) instead of an early childhood (ZA) endorsement.

(*ii*) Paraprofessionals possessing proper training in early childhood development or who have completed at least 1 course in an appropriate training program, including, but not limited to, a child development associate credential (CDA) or associate degree in child development or other similar program, as approved by the department.

(d) The district has submitted for approval a program budget that includes only those costs not reimbursed or reimbursable by federal funding, that are clearly and directly attributable to the early childhood readiness program, and that would not be incurred if the program were not being offered. If children other than those determined to be educationally disadvantaged participate in the program, state reimbursement under section 32d shall be limited to the portion of approved costs attributable to educationally disadvantaged children.

(e) The district has established a school readiness advisory committee consisting of, at a minimum, classroom teachers for prekindergarten, kindergarten, and first grade; parents or guardians of program participants; representatives from appropriate community agencies and organizations; the district curriculum director or equivalent administrator; and, if feasible, a school psychologist, school social worker, or school counselor. In addition, there shall be on the committee at least 1 parent or guardian of a program participant for every 18 children enrolled in the program, with a minimum of 2 parent or guardian representatives. The committee shall do all of the following:

(*i*) Ensure the ongoing articulation of the early childhood, kindergarten, and first grade programs offered by the district.

(*ii*) Review the mechanisms and criteria used to determine participation in the early childhood program.

(*iii*) Review the health screening program for all participants.

(*iv*) Review the nutritional services provided to program participants.

(*v*) Review the mechanisms in place for the referral of families to community social service agencies, as appropriate.

(*vi*) Review the collaboration with and the involvement of appropriate community, volunteer, and social service agencies and organizations in addressing all aspects of educational disadvantage.

(*vii*) Review, evaluate, and make recommendations to a local school readiness program or programs for changes to the school readiness program.

(f) The district has submitted for departmental approval a plan to conduct and report annual school readiness program evaluations using criteria approved by the department. At a minimum, the evaluations shall include assessment of the gains in educational readiness and progress through first grade of children participating in the school readiness program.

(g) More than 50% of the children participating in the program meet the income eligibility criteria for free or reduced price lunch, as determined under the Richard B. Russell national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766a, 1769, 1769b to 1769c, and 1769f to 1769h, or meet the income

and all other eligibility criteria for the family independence agency unified child day care program.

(4) A consortium of 2 or more districts shall be eligible for an allocation under section 32d if the districts designate a single fiscal agent for the allocation. A district or intermediate district may administer a consortium described in this subsection. A consortium shall submit a single preapplication and application for the children to be served, regardless of the number of districts participating in the consortium.

(5) With the final application, an applicant district shall submit to the department a resolution adopted by its board certifying the number of 4-year-old children who show evidence of risk factors as described in section 32d who meet the income eligibility criteria for free or reduced price lunch or the income and all other eligibility criteria for the family independence agency unified child day care program, and who will participate in a school readiness program funded under section 32d.

388.1638 Number of prekindergarten children in need of special readiness assistance; calculation.

Sec. 38. The maximum number of prekindergarten children construed to be in need of special readiness assistance under section 32d shall be calculated for each district in the following manner: one-half of the percentage of the district's pupils in grades 1-5 who are eligible for free lunch, as determined by the district's October count in the immediately preceding school year under the Richard B. Russell national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766a, 1769, 1769b to 1769c, and 1769f to 1769h, as reported to the department not later than December 31 of the immediately preceding fiscal year, shall be multiplied by the average kindergarten enrollment of the district on the pupil membership count day of the 2 immediately preceding years.

388.1639 Tentative allocation to eligible district under § 388.1632d; priority in funding; contingency; supplementary day care; district with 315 or more eligible pupils; additional eligible children.

Sec. 39. (1) The tentative allocation for each fiscal year to each eligible district under section 32d shall be determined by multiplying the number of children determined in section 38 or the number of children the district indicates it will be able to serve under section 37(2)(c), whichever is less, by $3,300.00 and shall be distributed among districts in decreasing order of concentration of eligible children as determined by section 38 until the money allocated in section 32d is distributed.

(2) A district that has not less than 50 eligible children shall receive priority over other eligible districts other than those districts funded under subsection (3).

(3) A district that received funds under this section in at least 1 of the 2 immediately preceding fiscal years shall receive priority in funding over other eligible districts. However, funding beyond 3 state fiscal years is contingent upon the availability of funds and documented evidence satisfactory to the department of compliance with all operational, fiscal, administrative, and other program requirements.

(4) A district that offers supplementary day care funded by funds other than those received under this section and therefore offers full-day programs as part of its early childhood development program shall receive priority in the allocation of funds under this section over other eligible districts other than those districts funded under subsection (3).

(5) For any district with 315 or more eligible pupils, the number of eligible pupils shall be 65% of the number calculated under section 38. However, none of these districts may

have less than 315 pupils for purposes of calculating the tentative allocation under section 32d.

(6) If, taking into account the total amount to be allocated to the district as calculated under this section, a district determines that it is able to include additional eligible children in the school readiness program without additional funds under this section, the district may include additional eligible children but shall not receive additional funding under this section for those children.

388.1639a Allocation of federal funds; definitions.

Sec. 39a. (1) From the appropriation in section 11, there is allocated for 2002-2003 to districts, intermediate districts, and other eligible entities all available federal funding, estimated at $634,919,400.00, for the federal programs under the no child left behind act of 2001, Public Law 107-110, 115 Stat. 1425. These funds are allocated as follows:

(a) An amount estimated at $1,666,300.00 for community service state grants, funded from DED-OESE, community service state grant funds.

(b) An amount estimated at $15,520,100.00 to provide students with drug- and violence-prevention programs and to implement strategies to improve school safety, funded from DED-OESE, drug-free schools and communities funds.

(c) An amount estimated at $22,572,000.00 for the purpose of improving teaching and learning through a more effective use of technology, funded from DED-OESE, educational technology state grant funds.

(d) An amount estimated at $104,568,800.00 for the purpose of preparing, training, and recruiting high-quality teachers and class size reduction, funded from DED-OESE, improving teacher quality funds.

(e) An amount estimated at $4,647,700.00 for programs to teach English to limited English proficient (LEP) children, funded from DED-OESE, language acquisition state grant funds.

(f) An amount estimated at $8,550,000.00 for the Michigan charter school subgrant program, funded from DED-OESE, charter school funds.

(g) An amount estimated at $247,600.00 for Michigan model partnership for character education programs, funded from DED-OESE, title X, fund for improvement of education funds.

(h) An amount estimated at $1,909,600.00 for rural and low income schools, funded from DED-OESE, rural and low income school funds.

(i) An amount estimated at $11,123,700.00 to help schools develop and implement comprehensive school reform programs, funded from DED-OESE, title I and title X, comprehensive school reform funds.

(j) An amount estimated at $401,388,600.00 to provide supplemental programs to enable educationally disadvantaged children to meet challenging academic standards, funded from DED-OESE, title I, disadvantaged children funds.

(k) An amount estimated at $8,246,600.00 for the purpose of providing unified family literacy programs, funded from DED-OESE, title I, even start funds.

(*l*) An amount estimated at $8,953,100.00 for the purpose of identifying and serving migrant children, funded from DED-OESE, title I, migrant education funds.

(m) An amount estimated at $22,779,000.00 to promote high-quality school reading instruction for grades K-3, funded from DED-OESE, title I, reading first state grant funds.

(n) An amount estimated at $11,585,100.00 for the purpose of implementing innovative strategies for improving student achievement, funded from DED-OESE, title VI, innovative strategies funds.

(o) An amount estimated at $11,161,200.00 for the purpose of providing high-quality extended learning opportunities, after school and during the summer, for children in low-performing schools, funded from DED-OESE, twenty-first century community learning center funds.

(2) From the federal funds appropriation in section 11, there is allocated for 2002-2003 to districts, intermediate districts, and other eligible entities all available federal funding, estimated at $6,495,300.00, for the following programs that are funded by federal grants:

(a) An amount estimated at $600,000.00 for acquired immunodeficiency syndrome education grants, funded from HHS-center for disease control, AIDS funding.

(b) An amount estimated at $976,000.00 for at-risk child care, funded from HHS-ACF, at-risk child care funds.

(c) An amount estimated at $1,553,500.00 for emergency services to immigrants, funded from DED-OBEMLA, emergency immigrant education assistance funds.

(d) An amount estimated at $1,468,300.00 to provide services to homeless children and youth, funded from DED-OVAE, homeless children and youth funds.

(e) An amount estimated at $400,000.00 for refugee children school impact grants, funded from HHS-ACF, refugee children school impact funds.

(f) An amount estimated at $857,500.00 for school-age child care grants, funded from HHS-ACF, dependent care block grant funds.

(g) An amount estimated at $640,000.00 for serve America grants, funded from the corporation for national and community service funds.

(3) All federal funds allocated under this section shall be distributed in accordance with federal law and with flexibility provisions outlined in Public Law 107-116 and in the education flexibility partnership act of 1999, Public Law 106-25, 113 Stat. 41. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(4) As used in this section:

(a) "DED" means the United States department of education.

(b) "DED-OBEMLA" means the DED office of bilingual education and minority languages affairs.

(c) "DED-OESE" means the DED office of elementary and secondary education.

(d) "DED-OVAE" means the DED office of vocational and adult education.

(e) "HHS" means the United States department of health and human services.

(f) "HHS-ACF" means the HHS administration for children and families.

388.1641 Bilingual instruction for pupils of limited English-speaking ability; allocation; reimbursement; use of funds.

Sec. 41. From the appropriation in section 11, there is allocated an amount not to exceed $4,212,000.00 each fiscal year for 2001-2002 and for 2002-2003 to applicant districts and intermediate districts offering programs of bilingual instruction for pupils of limited English-speaking ability under section 1153 of the revised school code, MCL 380.1153. Reimbursement shall be on a per pupil basis and shall be based on the number of pupils

of limited English-speaking ability in membership on the pupil membership count day. Funds allocated under this section shall be used solely for bilingual instruction in speaking, reading, writing, or comprehension of pupils of limited English-speaking ability.

388.1651a Allocations for reimbursement to districts and intermediate districts for special education programs, services, and personnel, certain net tuition payments, and programs for pupils eligible for special education programs; allocation of state and federal funds; reimbursement; total payment; adjustments; rights, benefits, and tenure of transferred personnel; refund; foundation allowance; order of expenditures.

Sec. 51a. (1) From the appropriation in section 11, there is allocated for 2001-2002 an amount not to exceed $796,401,900.00 from state sources and all available federal funding under sections 611 to 619 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1411 to 1419, estimated at $203,000,000.00, plus any carryover federal funds from previous year appropriations; and there is allocated for 2002-2003 an amount not to exceed $852,721,900.00 from state sources and all available federal funding, estimated at $235,000,000.00, plus any carryover federal funds from previous year appropriations. The allocations under this subsection are for the purpose of reimbursing districts and intermediate districts for special education programs, services, and special education personnel as prescribed in article 3 of the revised school code, MCL 380.1701 to 380.1766; net tuition payments made by intermediate districts to the Michigan schools for the deaf and blind; and special education programs and services for pupils who are eligible for special education programs and services according to statute or rule. For meeting the costs of special education programs and services not reimbursed under this article, a district or intermediate district may use money in general funds or special education funds, not otherwise restricted, or contributions from districts to intermediate districts, tuition payments, gifts and contributions from individuals, or federal funds that may be available for this purpose, as determined by the intermediate district plan prepared pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766. All federal funds allocated under this section in excess of those allocated under this section for 2001-2002 may be distributed in accordance with 34 C.F.R. 300.234 and section 613(a)(2)(D) of part B of title VI of the individuals with disabilities education act, Public Law 91-230, 20 U.S.C. 1413. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(2) From the funds allocated under subsection (1), there is allocated for 2001-2002 and for 2002-2003 the amount necessary, estimated at $139,200,000.00 for 2001-2002, and $149,500,000.00 for 2002-2003, for payments toward reimbursing districts and intermediate districts for 28.6138% of total approved costs of special education, excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Allocations under this subsection shall be made as follows:

(a) The initial amount allocated to a district under this subsection toward fulfilling the specified percentages shall be calculated by multiplying the district's special education pupil membership, excluding pupils described in subsection (12), times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00, or, for a special education pupil in membership in a district that is a public school academy or university school, times an

amount equal to the amount per membership pupil calculated under section 20(6). For an intermediate district, the amount allocated under this subdivision toward fulfilling the specified percentages shall be an amount per special education membership pupil, excluding pupils described in subsection (12), and shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00, and that district's per pupil allocation under section 20j(2). However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subdivision shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(b) After the allocations under subdivision (a), districts and intermediate districts for which the payments under subdivision (a) do not fulfill the specified percentages shall be paid the amount necessary to achieve the specified percentages for the district or intermediate district.

(3) From the funds allocated under subsection (1), there is allocated each fiscal year for 2001-2002 and for 2002-2003 the amount necessary, estimated at $2,000,000.00 each fiscal year, to make payments to districts and intermediate districts under this subsection. If the amount allocated to a district or intermediate district for a fiscal year under subsection (2)(b) is less than the sum of the amounts allocated to the district or intermediate district for 1996-97 under sections 52 and 58, there is allocated to the district or intermediate district for the fiscal year an amount equal to that difference, adjusted by applying the same proration factor that was used in the distribution of funds under section 52 in 1996-97 as adjusted to the district's or intermediate district's necessary costs of special education used in calculations for the fiscal year. This adjustment is to reflect reductions in special education program operations between 1996-97 and subsequent fiscal years. Adjustments for reductions in special education program operations shall be made in a manner determined by the department and shall include adjustments for program shifts.

(4) If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) is not sufficient to fulfill the specified percentages in subsection (2), then the shortfall shall be paid to the district or intermediate district during the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) exceeds the sum of the amount necessary to fulfill the specified percentages in subsection (2), then the department shall deduct the amount of the excess from the district's or intermediate district's payments under this act for the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. However, if the amount allocated under subsection (2)(a) in itself exceeds the amount necessary to fulfill the specified percentages in subsection (2), there shall be no deduction under this subsection.

(5) State funds shall be allocated on a total approved cost basis. Federal funds shall be allocated under applicable federal requirements, except that an amount not to exceed $3,500,000.00 each fiscal year may be allocated by the department for 2001-2002 and for 2002-2003 to districts or intermediate districts on a competitive grant basis for programs, equipment, and services that the department determines to be designed to benefit or improve special education on a statewide scale.

(6) From the amount allocated in subsection (1), there is allocated an amount not to exceed $2,200,000.00 each fiscal year for 2001-2002 and for 2002-2003 to reimburse 100% of the net increase in necessary costs incurred by a district or intermediate district in implementing the revisions in the administrative rules for special education that became effective on July 1, 1987. As used in this subsection, "net increase in necessary costs" means the necessary additional costs incurred solely because of new or revised requirements in the administrative rules minus cost savings permitted in implementing the revised rules. Net increase in necessary costs shall be determined in a manner specified by the department.

(7) For purposes of this article, all of the following apply:

(a) "Total approved costs of special education" shall be determined in a manner specified by the department and may include indirect costs, but shall not exceed 115% of approved direct costs for section 52 and section 53a programs. The total approved costs include salary and other compensation for all approved special education personnel for the program, including payments for social security and medicare and public school employee retirement system contributions. The total approved costs do not include salaries or other compensation paid to administrative personnel who are not special education personnel as defined in section 6 of the revised school code, MCL 380.6. Costs reimbursed by federal funds, other than those federal funds included in the allocation made under this article, are not included. Special education approved personnel not utilized full time in the evaluation of students or in the delivery of special education programs, ancillary, and other related services shall be reimbursed under this section only for that portion of time actually spent providing these programs and services, with the exception of special education programs and services provided to youth placed in child caring institutions or juvenile detention programs approved by the department to provide an on-grounds education program.

(b) Reimbursement for ancillary and other related services, as defined by R 340.1701 of the Michigan administrative code, shall not be provided when those services are covered by and available through private group health insurance carriers or federal reimbursed program sources unless the department and district or intermediate district agree otherwise and that agreement is approved by the state budget director. Expenses, other than the incidental expense of filing, shall not be borne by the parent. In addition, the filing of claims shall not delay the education of a pupil. A district or intermediate district shall be responsible for payment of a deductible amount and for an advance payment required until the time a claim is paid.

(8) From the allocation in subsection (1), there is allocated each fiscal year for 2001-2002 and for 2002-2003 an amount not to exceed $15,313,900.00 each fiscal year to intermediate districts. The payment under this subsection to each intermediate district shall be equal to the amount of the 1996-97 allocation to the intermediate district under subsection (6) of this section as in effect for 1996-97.

(9) A pupil who is enrolled in a full-time special education program conducted or administered by an intermediate district or a pupil who is enrolled in the Michigan schools for the deaf and blind shall not be included in the membership count of a district, but shall be counted in membership in the intermediate district of residence.

(10) Special education personnel transferred from 1 district to another to implement the revised school code shall be entitled to the rights, benefits, and tenure to which the person would otherwise be entitled had that person been employed by the receiving district originally.

(11) If a district or intermediate district uses money received under this section for a purpose other than the purpose or purposes for which the money is allocated, the

department may require the district or intermediate district to refund the amount of money received. Money that is refunded shall be deposited in the state treasury to the credit of the state school aid fund.

(12) From the funds allocated in subsection (1), there is allocated each fiscal year for 2001-2002 and for 2002-2003 the amount necessary, estimated at $7,200,000.00 each fiscal year, to pay the foundation allowances for pupils described in this subsection. The allocation to a district under this subsection shall be calculated by multiplying the number of pupils described in this subsection who are counted in membership in the district times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00, or, for a pupil described in this subsection who is counted in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil under section 20(6). The allocation to an intermediate district under this subsection shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00, and that district's per pupil allocation under section 20j(2). However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00. This subsection applies to all of the following pupils:

(a) Pupils described in section 53a.

(b) Pupils counted in membership in an intermediate district who are not special education pupils and are served by the intermediate district in a juvenile detention or child caring facility.

(c) Emotionally impaired pupils counted in membership by an intermediate district and provided educational services by the department of community health.

(13) After payments under subsections (2) and (12) and section 51c, the remaining expenditures from the allocation in subsection (1) shall be made in the following order:

(a) 100% of the reimbursement required under section 53a.

(b) 100% of the reimbursement required under subsection (6).

(c) 100% of the payment required under section 54.

(d) 100% of the payment required under subsection (3).

(e) 100% of the payment required under subsection (8).

(f) 100% of the payments under section 56.

(14) The allocations under subsection (2), subsection (3), and subsection (12) shall be allocations to intermediate districts only and shall not be allocations to districts, but instead shall be calculations used only to determine the state payments under section 22b.

388.1651c Reimbursement for percentage of special education and special education transportation costs.

Sec. 51c. As required by the court in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492, from the allocation under section 51a(1), there is allocated for 2001-2002 and for 2002-2003 the amount necessary, estimated at $576,100,000.00 for 2001-2002 and $621,900,000.00 for 2002-2003, for payments

to reimburse districts for 28.6138% of total approved costs of special education excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 22b in order to fully fund those calculated allocations for the same fiscal year.

388.1651d Federally funded special education programs; distribution; payment schedule; "DED-OSERS" defined.

Sec. 51d. (1) From the federal funds appropriated in section 11, there is allocated for 2002-2003 all available federal funding, estimated at $59,837,200.00, for special education programs that are funded by federal grants. All federal funds allocated under this section shall be distributed in accordance with federal law. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(2) From the federal funds allocated under subsection (1), the following amounts are allocated for 2002-2003:

(a) An amount estimated at $16,000,000.00 for handicapped infants and toddlers, funded from DED-OSERS, handicapped infants and toddlers funds.

(b) An amount estimated at $13,500,000.00 for preschool grants (Public Law 94-142), funded from DED-OSERS, handicapped preschool incentive funds.

(c) An amount estimated at $30,337,200.00 for special education programs funded by DED-OSERS, handicapped program, individuals with disabilities act funds.

(3) As used in this section, "DED-OSERS" means the United States department of education office of special education and rehabilitative services.

388.1653a Special education programs and services; reimbursement of total approved costs; limitation; costs of transportation; allocation.

Sec. 53a. (1) For districts, reimbursement for pupils described in subsection (2), reimbursement shall be 100% of the total approved costs of operating special education programs and services approved by the department and included in the intermediate district plan adopted pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766, minus the district's foundation allowance calculated under section 20, and minus the amount calculated for the district under section 20j. For intermediate districts, reimbursement for pupils described in section (2) shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00, and the amount calculated for that district under section 20j. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(2) Reimbursement under subsection (1) is for the following special education pupils:

(a) Pupils assigned to a district or intermediate district through the community placement program of the courts or a state agency, if the pupil was a resident of another intermediate district at the time the pupil came under the jurisdiction of the court or a state agency.

(b) Pupils who are residents of institutions operated by the department of community health.

(c) Pupils who are former residents of department of community health institutions for the developmentally disabled who are placed in community settings other than the pupil's home.

(d) Pupils enrolled in a department-approved on-grounds educational program longer than 180 days, but not longer than 233 days, at a residential child care institution, if the child care institution offered in 1991-92 an on-grounds educational program longer than 180 days but not longer than 233 days.

(e) Pupils placed in a district by a parent for the purpose of seeking a suitable home, if the parent does not reside in the same intermediate district as the district in which the pupil is placed.

(3) Only those costs that are clearly and directly attributable to educational programs for pupils described in subsection (2), and that would not have been incurred if the pupils were not being educated in a district or intermediate district, are reimbursable under this section.

(4) The costs of transportation shall be funded under this section and shall not be reimbursed under section 58.

(5) Not more than $14,800,000.00 each fiscal year for 2001-2002 and 2002-2003, of the allocation in section 51a(1) shall be allocated under this section.

(6) From the allocation in subsection (5), there is allocated each fiscal year for 2001-2002 and for 2002-2003 an amount not to exceed $150,000.00 to an intermediate district that received at least $1,000,000.00 for 1999-2000 under subsection (4).

388.1654 Intermediate district to receive amount for pupil attending Michigan schools for the deaf and blind.

Sec. 54. In addition to the aid received under section 52, each intermediate district shall receive an amount per pupil for each pupil in attendance at the Michigan schools for the deaf and blind. The amount shall be proportionate to the total instructional cost at each school. Not more than $1,688,000.00 each fiscal year for 2001-2002 and 2002-2003 of the allocation in section 51a(1) shall be allocated under this section.

388.1655 Allocation to west Michigan center for autism spectrum disorders at Grand Valley state university.

Sec. 55. From the state school aid fund money appropriated in section 11, there is allocated $500,000.00 for 2002-2003 to the west Michigan center for autism spectrum disorders located at Grand Valley State University for developing cooperative programs with area districts and intermediate districts to provide services to qualifying pupils. This funding is for development costs in 2002-2003 and is intended to continue to fund operational and program costs in succeeding fiscal years.

388.1656 Definitions; reimbursement to intermediate districts levying millages for special education; limitation; distribution plan; computation.

Sec. 56. (1) For the purposes of this section:

(a) "Membership" means for a particular fiscal year the total membership for the immediately preceding fiscal year of the intermediate district and the districts constituent to the intermediate district.

(b) "Millage levied" means the millage levied for special education pursuant to part 30 of the revised school code, MCL 380.1711 to 380.1743, including a levy for debt service obligations.

(c) "Taxable value" means the total taxable value of the districts constituent to an intermediate district, except that if a district has elected not to come under part 30 of the revised school code, MCL 380.1711 to 380.1743, membership and taxable value of the district shall not be included in the membership and taxable value of the intermediate district.

(2) From the allocation under section 51a(1), there is allocated an amount not to exceed $37,900,000.00 for 2001-2002 and an amount not to exceed $38,120,000.00 for 2002-2003 to reimburse intermediate districts levying millages for special education pursuant to part 30 of the revised school code, MCL 380.1711 to 380.1743. The purpose, use, and expenditure of the reimbursement shall be limited as if the funds were generated by these millages and governed by the intermediate district plan adopted pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766. As a condition of receiving funds under this section, an intermediate district distributing any portion of special education millage funds to its constituent districts shall submit for departmental approval and implement a distribution plan.

(3) Reimbursement for those millages levied in 2000-2001 shall be made in 2001-2002 at an amount per 2000-2001 membership pupil computed by subtracting from $119,200.00 the 2000-2001 taxable value behind each membership pupil and multiplying the resulting difference by the 2000-2001 millage levied. Reimbursement for those millages levied in 2001-2002 shall be made in 2002-2003 at an amount per 2001-2002 membership pupil computed by subtracting from $125,900.00 the 2001-2002 taxable value behind each membership pupil and multiplying the resulting difference by the 2001-2002 millage levied.

388.1657 Gifted and talented pupils; support services; summer institutes; development and operation of comprehensive programs.

Sec. 57. (1) From the appropriation in section 11, there is allocated an amount not to exceed $600,000.00 each fiscal year for 2001-2002 and for 2002-2003 to applicant intermediate districts that provide support services for the education of gifted and talented pupils. An intermediate district is entitled to 75% of the actual salary, but not to exceed $25,000.00 reimbursement for an individual salary, of a support services teacher approved by the department, and not to exceed $4,000.00 reimbursement for expenditures to support program costs, excluding in-county travel and salary, as approved by the department.

(2) From the appropriation in section 11, there is allocated an amount not to exceed $400,000.00 each fiscal year for 2001-2002 and for 2002-2003 to support part of the cost of summer institutes for gifted and talented students. This amount shall be contracted to applicant intermediate districts in cooperation with a local institution of higher education and shall be coordinated by the department.

(3) From the appropriation in section 11, there is allocated an amount not to exceed $4,000,000.00 each fiscal year for 2001-2002 and for 2002-2003 for the development and operation of comprehensive programs for gifted and talented pupils. An eligible district or consortium of districts shall receive an amount not to exceed $100.00 per K-12 pupil for up to 5% of the district's or consortium's K-12 membership for the immediately preceding fiscal year with a minimum total grant of $6,000.00. Funding shall be provided in the following order: the per pupil allotment, and then the minimum total grant of $6,000.00 to individual districts. An intermediate district may act as the fiscal agent for a consortium of districts. In order to be eligible for funding under this subsection, the district or

consortium of districts shall submit each year a current 3-year plan for operating a comprehensive program for gifted and talented pupils and the district or consortium shall demonstrate to the department that the district or consortium will contribute matching funds of at least $50.00 per K-12 pupil. The plan or revised plan shall be developed in accordance with criteria established by the department and shall be submitted to the department for approval. Within the criteria, the department shall encourage the development of consortia among districts of less than 5,000 memberships.

388.1661a Vocational-technical programs; added cost; reimbursement for local vocational administration, shared-time vocational administration, and career education planning district vocational-technical administration; allocation.

Sec. 61a. (1) From the appropriation in section 11, there is allocated an amount not to exceed $31,027,600.00 each fiscal year for 2001-2002 and for 2002-2003 to reimburse on an added cost basis districts, except for a district that served as the fiscal agent for a vocational education consortium in the 1993-94 school year, and secondary area vocational-technical education centers for secondary-level vocational-technical education programs, including parenthood education programs, according to rules approved by the superintendent. Applications for participation in the programs shall be submitted in the form prescribed by the department. The department shall determine the added cost for each vocational-technical program area. The allocation of added cost funds shall be based on the type of vocational-technical programs provided, the number of pupils enrolled, and the length of the training period provided, and shall not exceed 75% of the added cost of any program. With the approval of the department, the board of a district maintaining a secondary vocational-technical education program may offer the program for the period from the close of the school year until September 1. The program shall use existing facilities and shall be operated as prescribed by rules promulgated by the superintendent.

(2) Except for a district that served as the fiscal agent for a vocational education consortium in the 1993-94 school year, districts and intermediate districts shall be reimbursed for local vocational administration, shared time vocational administration, and career education planning district vocational-technical administration. The definition of what constitutes administration and reimbursement shall be pursuant to guidelines adopted by the superintendent. Not more than $800,000.00 of the allocation in subsection (1) shall be distributed under this subsection.

(3) From the allocation in subsection (1), there is allocated an amount not to exceed $388,700.00 each fiscal year to intermediate districts with constituent districts that had combined state and local revenue per membership pupil in the 1994-95 state fiscal year of $6,500.00 or more, served as a fiscal agent for a state board designated area vocational education center in the 1993-94 school year, and had an adjustment made to their 1994-95 combined state and local revenue per membership pupil pursuant to section 20d. The payment under this subsection to the intermediate district shall equal the amount of the allocation to the intermediate district for 1996-97 under this subsection.

388.1662 Definitions; vocational-technical education programs; limitation.

Sec. 62. (1) For the purposes of this section:

(a) "Membership" means for a particular fiscal year the total membership for the immediately preceding fiscal year of the intermediate district and the districts constituent to the intermediate district or the total membership for the immediately preceding fiscal year of the area vocational-technical program.

(b) "Millage levied" means the millage levied for area vocational-technical education pursuant to sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, including a levy for debt service obligations incurred as the result of borrowing for capital outlay projects and in meeting capital projects fund requirements of area vocational-technical education.

(c) "Taxable value" means the total taxable value of the districts constituent to an intermediate district or area vocational-technical education program, except that if a district has elected not to come under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, the membership and taxable value of that district shall not be included in the membership and taxable value of the intermediate district. However, the membership and taxable value of a district that has elected not to come under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, shall be included in the membership and taxable value of the intermediate district if the district meets both of the following:

(*i*) The district operates the area vocational-technical education program pursuant to a contract with the intermediate district.

(*ii*) The district contributes an annual amount to the operation of the program that is commensurate with the revenue that would have been raised for operation of the program if millage were levied in the district for the program under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690.

(2) From the appropriation in section 11, there is allocated an amount not to exceed $9,810,000.00 for 2001-2002 and an amount not to exceed $9,860,000.00 for 2002-2003 to reimburse intermediate districts and area vocational-technical education programs established under section 690(3) of the revised school code, MCL 380.690, levying millages for area vocational-technical education pursuant to sections 681 to 690 of the revised school code, MCL 380.681 to 380.690. The purpose, use, and expenditure of the reimbursement shall be limited as if the funds were generated by those millages.

(3) Reimbursement for the millages levied in 2000-2001 shall be made in 2001-2002 at an amount per 2000-2001 membership pupil computed by subtracting from $122,300.00 the 2000-2001 taxable value behind each membership pupil, and multiplying the resulting difference by the 2000-2001 millage levied. Reimbursement for the millages levied in 2001-2002 shall be made in 2002-2003 at an amount per 2001-2002 membership pupil computed by subtracting from $130,200.00 the 2001-2002 taxable value behind each membership pupil, and multiplying the resulting difference by the 2001-2002 millage levied.

388.1667 Michigan career preparation system grants; allocations; definitions.

Sec. 67. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed $350,000.00 each fiscal year for 2001-2002 and for 2002-2003 for Michigan career preparation system grants under this section.

(2) From the allocation in subsection (1), there is allocated $150,000.00 each fiscal year for 2001-2002 and for 2002-2003 to the department to identify uniform career competency standards and assessments for career clusters, to establish a statewide information system on current and anticipated employment opportunities and the required level of skills and education required for employment.

(3) From the allocation in subsection (1), there is allocated $100,000.00 each fiscal year for 2001-2002 and for 2002-2003 to the department to provide information to parents, pupils, school personnel, employers, and others regarding opportunities to receive integrated academic and technical preparation in the public schools of this state.

(4) From the allocation in subsection (1), there is allocated $100,000.00 each fiscal year for 2001-2002 and for 2002-2003 to the department to provide technical assistance to eligible education agencies and workforce development boards.

(5) As used in this section and in section 68:

(a) "Advanced career academy" means a career-technical education program operated by a district, by an intermediate district, or by a public school academy, that applies for and receives advanced career academy designation from the department. To receive this designation, a career-technical education program shall meet criteria established by the department, which criteria shall include at least all of the following:

(*i*) Operation of programs for those career clusters identified by the department as being eligible for advanced career academy status.

(*ii*) Involvement of employers in the design and implementation of career-technical education programs.

(*iii*) A fully integrated program of academic and technical education available to pupils.

(*iv*) Demonstration of an established career preparation system resulting in industry-validated career ladders for graduates of the program, including, but not limited to, written articulation agreements with postsecondary institutions to allow pupils to receive advanced college placement and credit or federally registered apprenticeships, as applicable.

(b) "Career cluster" means a grouping of occupations from 1 or more industries that share common skill requirements.

(c) "Career preparation system" is a system of programs and strategies providing pupils with opportunities to prepare for success in careers of their choice.

(d) "Department" means the department of career development.

(e) "Eligible education agency" means a district, intermediate district, or advanced career academy that participates in an approved regional career preparation plan.

(f) "FTE" means full-time equivalent pupil as determined by the department.

(g) "Workforce development board" means a local workforce development board established pursuant to the workforce investment act of 1998, Public Law 105-220, 112 Stat. 936, and the school-to-work opportunities act of 1994, Public Law 103-239, 108 Stat. 568, or the equivalent.

(h) "Strategic plan" means a department-approved comprehensive plan prepared by a workforce development board with input from local representatives, including the education advisory group, that includes career preparation system goals and objectives for the region.

388.1668 Michigan career preparation system; allocations and regional career preparation plan; review by education advisory group.

Sec. 68. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed $21,850,000.00 each fiscal year for 2001-2002 and for 2002-2003 to be used to implement the Michigan career preparation system in the corresponding school years as provided under this section. In order to receive funds under this section, an eligible education agency shall be part of an approved regional career preparation plan under subsection (2) and shall agree to expend the funds required under this section in accordance with the regional career preparation plan. Funds awarded under this section that are not expended in accordance with this section may be recovered by the department.

(2) In order to receive funding under this section, an eligible education agency shall be a part of an approved 3-year regional career preparation plan that is consistent with the workforce development board's strategic plan and is as described in this subsection. All of the following apply to a regional career preparation plan:

(a) A 3-year regional career preparation plan shall be developed under subdivisions (b), (c), and (d) for all public education agencies participating as part of a regional career preparation system within the geographical boundaries of a workforce development board, and revised annually. If an intermediate district is located within the geographical boundaries of more than 1 workforce development board, the board of the intermediate district shall choose 1 workforce development board with which to align and shall notify the department of this choice not later than October 31, 1997.

(b) The regional career preparation plan shall be developed by representatives of the education advisory group of each workforce development board in accordance with guidelines developed under former section 67(5), and in accordance with subdivisions (d) and (e). All of the following shall be represented on each education advisory group: workforce development board members, other employers, labor, districts, intermediate districts, postsecondary institutions, career/technical educators, parents of public school pupils, and academic educators. The representatives of districts, intermediate districts, and postsecondary institutions appointed to the education advisory group by the workforce development board shall be individuals designated by the board of the district, intermediate district, or postsecondary institution.

(c) By majority vote, the education advisory group may nominate 1 education representative, who may or may not be a member of the education advisory group, for appointment to the workforce development board. This education representative shall be in addition to existing education representation on the workforce development board. This education representative shall meet all workforce development board membership requirements.

(d) The components of the regional career preparation plan shall include, but are not limited to, all of the following:

(*i*) The roles of districts, intermediate districts, advanced career academies, postsecondary institutions, employers, labor representatives, and others in the career preparation system.

(*ii*) Programs to be offered, including at least career exploration activities, for middle school pupils.

(*iii*) Identification of integrated academic and technical curriculum, including related professional development training for teachers.

(*iv*) Identification of work-based learning opportunities for pupils and for teachers and other school personnel.

(*v*) Identification of testing and assessments that will be used to measure pupil achievement.

(*vi*) Identification of all federal, state, local, and private sources of funding available for career preparation activities in the region.

(e) The education advisory group shall develop a 3-year regional career preparation plan consistent with the workforce development board's strategic plan and submit the plan to the department for final approval. The submission to the department shall also include statements signed by the chair of the education advisory group and the chair of the workforce development board certifying that the plan has been reviewed by each entity. Upon department approval, all eligible education agencies designated in the

regional career preparation plan as part of the career preparation delivery system are eligible for funding under this section.

(3) Funding under this section shall be distributed to eligible education agencies for allowable costs defined in this subsection and identified as necessary costs for implementing a regional career preparation plan, as follows:

(a) The department shall rank all career clusters, including career exploration, guidance, and counseling. Rank determination will be based on median salary data in career clusters and employment opportunity data provided by the council for career preparation standards. In addition, rank determination shall be based on placement data available for prior year graduates of the programs in the career clusters either in related careers or postsecondary education. The procedure for ranking of career clusters shall be determined by the department.

(b) Allowable costs to be funded under this section shall be determined by the department. Budgets submitted by eligible education agencies to the department in order to receive funding shall identify funds and in-kind contributions from the regional career education plan, excluding funds or in-kind contributions available as a result of funding received under section 61a, equal to at least 100% of anticipated funding under this section. Eligible categories of allowable costs are the following:

(*i*) Career exploration, guidance, and counseling.

(*ii*) Curriculum development, including integration of academic and technical content, and professional development for teachers directly related to career preparation.

(*iii*) Technology and equipment determined to be necessary.

(*iv*) Supplies and materials directly related to career preparation programs.

(*v*) Work-based learning expenses for pupils, teachers, and counselors.

(*vi*) Evaluation, including career competency testing and peer review.

(*vii*) Career placement services.

(*viii*) Student leadership organizations integral to the career preparation system.

(*ix*) Up to 10% of the allocation to an eligible education agency may be expended for planning, coordination, direct oversight, and accountability for the career preparation system.

(c) The department shall calculate career preparation costs per FTE for each career cluster, including career exploration, guidance, and counseling, by dividing the allowable costs for each career cluster by the prior year FTE enrollment for each career cluster. Distribution to eligible education agencies shall be the product of 50% of career preparation costs per FTE times the current year FTE enrollment of each career cluster. This allocation shall be distributed to eligible education agencies in decreasing order of the career cluster ranking described in subdivision (a) until the money allocated for grant recipients in this section is distributed. Beginning in 2001-2002, funds shall be distributed to eligible education agencies according to workforce development board geographic area consistent with subsection (2)(a) based upon the proportion of each workforce development board area's K-12 public school membership to the total state K-12 public school membership.

(4) The department shall establish a review procedure for assessing the career preparation system in each region.

(5) An education advisory group is responsible for assuring the quality of the career preparation system. An education advisory group shall review the career preparation system in accordance with evaluation criteria established by the department.

(6) An education advisory group shall report its findings and recommendations for changes to the participating eligible education agencies, the workforce development board, and the department.

(7) The next revision of a regional career preparation plan shall take into account the findings of the education advisory group in accordance with evaluation criteria established by the department in order for the affected education agencies to receive continued funding under this section.

388.1674 School bus driver safety instruction or driver skills road tests; cost of instruction and driver compensation; nonspecial education auxiliary services transportation.

Sec. 74. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed $1,625,000.00 each fiscal year for 2001-2002 and for 2002-2003 for the purposes of subsections (2) and (3).

(2) From the allocation in subsection (1), there is allocated each fiscal year the amount necessary for payments to state supported colleges or universities and intermediate districts providing school bus driver safety instruction or driver skills road tests pursuant to sections 51 and 52 of the pupil transportation act, 1990 PA 187, MCL 257.1851 and 257.1852. The payments shall be in an amount determined by the department not to exceed 75% of the actual cost of instruction and driver compensation for each public or nonpublic school bus driver attending a course of instruction. For the purpose of computing compensation, the hourly rate allowed each school bus driver shall not exceed the hourly rate received for driving a school bus. Reimbursement compensating the driver during the course of instruction or driver skills road tests shall be made by the department to the college or university or intermediate district providing the course of instruction.

(3) From the allocation in subsection (1), there is allocated each fiscal year the amount necessary to pay the reasonable costs of nonspecial education auxiliary services transportation provided pursuant to section 1323 of the revised school code, MCL 380.1323. Districts funded under this subsection shall not receive funding under any other section of this act for nonspecial education auxiliary services transportation.

388.1681 Allocations to intermediate districts; amounts; report of adjustment and amount of increase; employment of person trained in pupil counting.

Sec. 81. (1) Except as otherwise provided in this section, from the appropriation in section 11, there is allocated each fiscal year for 2001-2002 and for 2002-2003 to the intermediate districts the sum necessary, but not to exceed $92,170,800.00 for 2001-2002 and not to exceed $95,028,100.00 for 2002-2003 to provide state aid to intermediate districts under this section. Except as otherwise provided in this section, there shall be allocated to each intermediate district for 2001-2002 an amount equal to 105% of the amount of funding actually received by the intermediate district under this subsection for 2000-2001. Except as otherwise provided in this section, there shall be allocated to each intermediate district for 2002-2003 an amount equal to 103.1% of the amount of funding actually received by the intermediate district under this subsection for 2001-2002. Funding provided under this section shall be used to comply with requirements of this act and the revised school code that are applicable to intermediate districts, and for which funding is not provided elsewhere in this act, and to provide technical assistance to districts as authorized by the intermediate school board.

(2) From the allocation in subsection (1), there is allocated to an intermediate district, formed by the consolidation or annexation of 2 or more intermediate districts or the

attachment of a total intermediate district to another intermediate school district or the annexation of all of the constituent K-12 districts of a previously existing intermediate school district which has disorganized, an additional allotment of $3,500.00 each fiscal year for each intermediate district included in the new intermediate district for 3 years following consolidation, annexation, or attachment.

(3) If an intermediate district participated in 1993-94 in a consortium operating a regional educational media center under section 671 of the revised school code, MCL 380.671, and rules promulgated by the superintendent, and if the intermediate district obtains written consent from each of the other intermediate districts that participated in the consortium in 1993-94, the intermediate district may notify the department not later than December 30 of the current fiscal year that it is electing to directly receive its payment attributable to participation in that consortium. An intermediate district making that election, and that has obtained the necessary consent, shall receive each fiscal year for 2001-2002 or for 2002-2003, as applicable, for each pupil in membership in the intermediate district or a constituent district an amount equal to the quotient of the 1993-94 allocation to the fiscal agent for that consortium under former section 83, adjusted as determined by the department to account for that election, divided by the combined total membership for the current fiscal year in all of the intermediate districts that participated in that consortium and their constituent districts. The amount allocated to an intermediate district under this subsection for a fiscal year shall be deducted from the total allocation for that fiscal year under this section to the intermediate district that was the 1993-94 fiscal agent for the consortium.

(4) During a fiscal year, the department shall not increase an intermediate district's allocation under subsection (1) because of an adjustment made by the department during the fiscal year in the intermediate district's taxable value for a prior year. Instead, the department shall report the adjustment and the estimated amount of the increase to the house and senate fiscal agencies and the state budget director not later than June 1 of the fiscal year, and the legislature shall appropriate money for the adjustment in the next succeeding fiscal year.

(5) In order to receive funding under this section, an intermediate district shall demonstrate to the satisfaction of the department that the intermediate district employs at least 1 person who is trained in pupil counting procedures, rules, and regulations.

388.1694 Technical assistance to districts for school accreditation purposes.

Sec. 94. From the general fund money appropriated in section 11, there is allocated to the department an amount not to exceed $3,000,000.00 for 2001-2002 and an amount not to exceed $2,000,000.00 for 2002-2003 to provide technical assistance to districts for school accreditation purposes as described in section 1280 of the revised school code, MCL 380.1280.

388.1694a Center for educational performance and information.

Sec. 94a. (1) There is created within the office of the state budget director in the department of management and budget the center for educational performance and information. The center shall do all of the following:

(a) Coordinate the collection of all data required by state and federal law from all entities receiving funds under this act.

(b) Collect data in the most efficient manner possible in order to reduce the administrative burden on reporting entities.

(c) Establish procedures to ensure the validity and reliability of the data and the collection process.

(d) Develop state and model local data collection policies, including, but not limited to, policies that ensure the privacy of individual student data. State privacy policies shall ensure that student social security numbers are not released to the public for any purpose.

(e) Provide data in a useful manner to allow state and local policymakers to make informed policy decisions.

(f) Provide reports to the citizens of this state to allow them to assess allocation of resources and the return on their investment in the education system of this state.

(g) Assist all entities receiving funds under this act in complying with audits performed according to generally accepted accounting procedures.

(h) Other functions as assigned by the state budget director.

(2) The state budget director shall appoint a CEPI advisory committee, consisting of the following members:

(a) One representative from the house fiscal agency.

(b) One representative from the senate fiscal agency.

(c) One representative from the office of the state budget director.

(d) One representative from the state education agency.

(e) One representative each from the department of career development and the department of treasury.

(f) Three representatives from intermediate school districts.

(g) One representative from each of the following educational organizations:

(*i*) Michigan association of school boards.

(*ii*) Michigan association of school administrators.

(*iii*) Michigan school business officials.

(h) One representative representing private sector firms responsible for auditing school records.

(i) Other representatives as the state budget director determines are necessary.

(3) The CEPI advisory committee appointed under subsection (2) shall provide advice to the director of the center regarding the management of the center's data collection activities, including, but not limited to:

(a) Determining what data is necessary to collect and maintain in order to perform the center's functions in the most efficient manner possible.

(b) Defining the roles of all stakeholders in the data collection system.

(c) Recommending timelines for the implementation and ongoing collection of data.

(d) Establishing and maintaining data definitions, data transmission protocols, and system specifications and procedures for the efficient and accurate transmission and collection of data.

(e) Establishing and maintaining a process for ensuring the accuracy of the data.

(f) Establishing and maintaining state and model local policies related to data collection, including, but not limited to, privacy policies related to individual student data.

(g) Ensuring the data is made available to state and local policymakers and citizens of this state in the most useful format possible.

(h) Other matters as determined by the state budget director or the director of the center.

(4) The center may enter into any interlocal agreements necessary to fulfill its functions.

(5) From the general fund appropriation in section 11, there is allocated an amount not to exceed $2,332,000.00 for 2001-2002 for payments to the center. From the general fund appropriation in section 11, there is allocated an amount not to exceed $4,500,000.00 for 2002-2003 to the department of management and budget to support the operations of the center. The center shall cooperate with the state education agency to ensure that this state is in compliance with federal law and is maximizing opportunities for increased federal funding to improve education in this state. In addition, from the federal funds appropriated in section 11 for 2002-2003, there is allocated the following amounts in order to fulfill federal reporting requirements:

(a) An amount estimated at $1,000,000.00 funded from DED-OESE, title I, disadvantaged children funds.

(b) An amount estimated at $284,700.00 funded from DED-OESE, title I, reading first state grant funds.

(c) An amount estimated at $46,750.00 funded from DED-OESE, title I, migrant education funds.

(d) An amount estimated at $500,000.00 funded from DED-OESE, improving teacher quality funds.

(e) An amount estimated at $526,100.00 funded from DED-OESE, drug-free schools and communities funds.

(6) Funds allocated under this section that are not expended in the fiscal year in which they were allocated may be carried forward to a subsequent fiscal year. From the funds allocated for 1999-2000 that were carried forward under this section and from the general funds appropriated under this section for 2002-2003, the center shall make grants to intermediate districts for the purpose of assisting the intermediate districts and their constituent districts in data collection required by state and federal law or necessary for audits according to generally accepted accounting procedures. Grants to each intermediate district shall be made at the rate of $2.00 per each full-time equated membership pupil times the total number of 2000-2001 pupils in membership in the intermediate district and its constituent districts. An intermediate district shall develop a plan in cooperation with its constituent districts to distribute the grants between the intermediate district and its constituent districts. These grants shall be paid to intermediate districts no later than the next regularly scheduled school aid payment after the effective date of this section.

(7) If the applicable intermediate district determines that the pupil counts submitted by a district for the February 2002 supplemental pupil count using the single record student database cannot be audited by the intermediate district pursuant to section 101, all of the following apply:

(a) The district may submit its pupil count data for the February 2002 supplemental pupil count using the education data network system.

(b) If the applicable intermediate district determines that the pupil counts submitted by the district for the 2002-2003 pupil membership count day using the single record student database cannot be audited by the intermediate district pursuant to section 101, the district may submit its pupil count data for the 2002-2003 pupil membership count day using the education data network system.

(8) As used in this section:

(a) "Center" means the center for educational performance and information created under this section.

(b) "DED-OESE" means the United States department of education office of elementary and secondary education.

(c) "State education agency" means the department.

388.1696 Golden apple awards.

Sec. 96. (1) From the state school aid fund money appropriated in section 11, there is allocated an amount not to exceed $0.00 for 2001-2002 and $1,320,000.00 for 2002-2003 for golden apple awards under this section. The awards shall be based on elementary school achievement on the fourth grade and fifth grade Michigan education assessment program (MEAP) tests.

(2) To be eligible for a golden apple award, an elementary school shall meet all of the following:

(a) Has at least 50 pupils in membership.

(b) At least 90% of the fourth and fifth grade pupils enrolled and in regular daily attendance in the school on the pupil membership count day in that school year took the applicable MEAP tests.

(c) Meets 1 or both of the following:

(*i*) The composite score for the pupils in the school who took the applicable MEAP tests increased by at least 60 points over the 2 consecutive school years immediately preceding the state fiscal year in which the award is given.

(*ii*) The test scores for the pupils in the school who took the applicable MEAP tests are among the highest elementary school scores statewide, as determined by the department of treasury, for that school year.

(3) A golden apple award under this section shall be allocated to and used by a district exclusively for the purpose of distributing funds to each eligible elementary school. Beginning in 2002-2003, the monetary amount of a golden apple award shall be $10,000.00 to be allocated to each eligible elementary school. All money allocated under this section shall be used for school improvements, as determined collectively by a majority vote of the full-time employees of the eligible elementary school.

388.1698 Michigan virtual high school; powers and duties of Michigan virtual university.

Sec. 98. (1) From the general fund money appropriated in section 11, there is allocated an amount not to exceed $1,500,000.00 for 2001-2002 and an amount not to exceed $5,000,000.00 for 2002-2003 to the department to provide a grant to the Michigan virtual university for the development, implementation, and operation of the Michigan virtual high school and to fund other purposes described in this section. In addition, from the federal funds appropriated in section 11, there is allocated each fiscal year for 2001-2002 and 2002-2003 the following amounts:

(a) An amount estimated at $3,251,800.00 from DED-OESE, title II, improving teacher quality funds.

(b) An amount estimated at $1,188,000.00 from DED-OESE, title II, educational technology grants funds.

(c) An amount estimated at $2,044,400.00 from DED-OESE, title V, innovative strategies grants funds.

(d) An amount estimated at $100,500.00 from DED-OESE, title VI, rural and low income schools grants funds.

(2) The Michigan virtual high school shall have the following goals:

(a) Significantly expand curricular offerings for high schools across this state through agreements with districts or licenses from other recognized providers. The Michigan virtual university shall explore options for providing rigorous civics curricula online.

(b) Create statewide instructional models using interactive multimedia tools delivered by electronic means, including, but not limited to, the internet, digital broadcast, or satellite network, for distributed learning at the high school level.

(c) Provide pupils with opportunities to develop skills and competencies through on-line learning.

(d) Offer teachers opportunities to learn new skills and strategies for developing and delivering instructional services.

(e) Accelerate this state's ability to respond to current and emerging educational demands.

(f) Grant high school diplomas through a dual enrollment method with districts.

(g) Act as a broker for college level equivalent courses, as defined in section 1471 of the revised school code, MCL 380.1471, and dual enrollment courses from postsecondary education institutions.

(3) The Michigan virtual high school course offerings shall include, but are not limited to, all of the following:

(a) Information technology courses.

(b) College level equivalent courses, as defined in section 1471 of the revised school code, MCL 380.1471.

(c) Courses and dual enrollment opportunities.

(d) Programs and services for at-risk pupils.

(e) General education development test preparation courses for adjudicated youth.

(f) Special interest courses.

(g) Professional development programs and services for teachers.

(4) From the allocation in subsection (1), there is allocated $3,500,000.00 for 2002-2003 for the purpose of developing innovative strategies to use wireless technology to improve student academic achievement in this state. The Michigan virtual university shall identify not more than 5 pilot project sites for these initiatives. The pilot project sites shall be geographically diverse and at least 1 of the pilot project sites shall be in the Upper Peninsula. The pilot projects shall be funded through public-private partnerships. In addition, the Michigan virtual university shall establish local fund matching requirements for the pilot project sites.

(5) The state education agency shall sign a memorandum of understanding with the Michigan virtual university regarding the DED-OESE, title II, improving teacher quality funds as provided under this subsection. To the extent allowed under federal law, the Michigan virtual university shall address the unique issues of providing educational opportunities in rural communities. The memorandum of understanding under this subsection shall require that the Michigan virtual university coordinate the following activities related to DED-OESE, title II, improving teacher quality funds in accordance with federal law:

(a) Develop, and assist districts in the development and use of, proven, innovative strategies to deliver intensive professional development programs that are both

cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(b) Encourage and support the training of teachers and administrators to effectively integrate technology into curricula and instruction.

(c) Coordinate the activities of eligible partnerships that include higher education institutions for the purposes of providing professional development activities for teachers, paraprofessionals, and principals as defined in federal law.

(6) The state education agency shall sign a memorandum of understanding with the Michigan virtual university regarding DED-OESE, title II, educational technology grants as provided under this subsection. The Michigan virtual university shall coordinate activities described in this subsection with the pilot project sites identified in subsection (4). The memorandum of understanding shall require that the Michigan virtual university coordinate the following state activities related to DED-OESE, title II, educational technology grants in accordance with federal law:

(a) Assist in the development of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies.

(b) Establish and support public-private initiatives for the acquisition of educational technology for students in high-need districts.

(7) The state education agency shall sign a memorandum of understanding with the Michigan virtual university regarding DED-OESE, title V, innovative strategies grants as provided under this subsection. The Michigan virtual university shall coordinate activities described in this subsection with the pilot project sites identified in subsection (4). The memorandum of understanding shall require the Michigan virtual university to coordinate the following state-level activities related to DED-OESE, title V, innovative strategies grants in accordance with federal law:

(a) Programs for the development or acquisition and use of instructional and educational materials, including computer software and hardware for instructional use, that will be used to improve student academic achievement as part of an overall education reform strategy.

(b) Programs and activities that expand learning opportunities through best-practice models designed to improve classroom learning and teaching.

(8) The state education agency shall sign a memorandum of understanding with the Michigan virtual university requiring that the Michigan virtual university coordinate the awarding of competitive grants to districts and state-level activities related to DED-OESE, title VI, rural and low income schools grants in accordance with federal law for the following purposes:

(a) Teacher professional development, including programs that train teachers to utilize technology, programs to improve teaching, and programs to train special needs teachers.

(b) Educational technology, including software and hardware, as described in federal law.

(9) Funds allocated under this section that are not expended in the state fiscal year for which they were allocated may be carried forward to a subsequent state fiscal year.

(10) The state education agency and the Michigan virtual university shall complete the memoranda of understanding required under this section within 60 days after the effective date of the amendatory act that added this subsection. It is the intent of the legislature that all plans or applications submitted by the state education agency to the

United States department of education relating to the distribution of federal funds under this section shall be for the purposes described in this section.

(11) As used in this section:

(a) "DED-OESE" means the United States department of education office of elementary and secondary education.

(b) "State education agency" means the department.

388.1699 Mathematics and science centers.

Sec. 99. (1) From the state school aid fund appropriation in section 11, there is allocated an amount not to exceed $9,684,300.00 each fiscal year for 2001-2002 and for 2002-2003, and from the general fund appropriation in section 11 there is allocated an amount not to exceed $548,000.00 each fiscal year for 2001-2002 and for 2002-2003, for implementing the comprehensive master plan for mathematics and science centers developed by the department and approved by the state board on February 17, 1993.

(2) Within a service area designated locally, approved by the department, and consistent with the master plan described in subsection (1), an established mathematics and science center shall address 2 or more of the following 6 basic services, as described in the master plan, to constituent districts and communities: leadership, pupil services, curriculum support, community involvement, professional development, and resource clearinghouse services.

(3) The department shall not award a grant under this section to more than 1 mathematics and science center located in a particular intermediate district unless each of the grants serves a distinct target population or provides a service that does not duplicate another program in the intermediate district.

(4) As part of the technical assistance process, the department shall provide minimum standard guidelines that may be used by the mathematics and science center for providing fair access for qualified pupils and professional staff as prescribed in this section.

(5) Allocations under this section to support the activities and programs of mathematics and science centers shall be continuing support grants to all 25 established mathematics and science centers and, subject to subsection (9), the 8 satellite extensions that were funded in 1996-97. Each established mathematics and science center that was funded in 1999-2000 shall receive an amount equal to 105.3% of the amount it received under this section in 1999-2000.

(6) In order to receive funds under this section, a grant recipient shall allow access for the department or the department's designee to audit all records related to the program for which it receives such funds. The grant recipient shall reimburse the state for all disallowances found in the audit.

(7) From the state school aid fund allocation under subsection (1), there is allocated an amount not to exceed $611,800.00 each fiscal year for 2001-2002 and for 2002-2003 for additional funding under this subsection for mathematics and science centers that have come into compliance with the comprehensive master plan described in subsection (1). These amounts are in addition to the funding determined under subsection (5) and are as follows for each of those fiscal years:

(a) $68,000.00 each to the central Michigan science, mathematics, and technology center; the Hillsdale-Lenawee-Monroe mathematics and science center; the St. Clair mathematics, science, and technology network; the Saginaw valley state university regional center; the Genesee area mathematics, science, and technology center; the Grand Traverse

area regional mathematics, science, and technology center; and the Livingston/Washtenaw mathematics and science center.

(b) $85,000.00 to the Grand valley state university regional mathematics and science center.

(c) $50,800.00 to the Seaborg center at Northern Michigan university.

(8) Not later than June 30, 2000, the department shall reevaluate and update the comprehensive master plan described in subsection (1), including any recommendations for upgrading satellite extensions to full centers.

(9) During the course of the 2000-2001 and 2001-2002 fiscal years, the department shall facilitate the conversion of the 8 existing satellite extensions to full mathematics and science centers. To this end, in 2000-2001 the department shall provide 4 satellite extensions, as selected by the department, with applications for conversion to full centers, and in 2001-2002 the department shall provide the remaining 4 satellite extensions with applications for conversion. The department shall provide the applications not later than October 15 of the applicable fiscal year; a satellite extension shall submit the application and a detail plan as prescribed by the department not later than November 15 of the applicable fiscal year; and the department shall review the applications and plans and notify the satellite extensions of their status not later than December 1 of the applicable fiscal year. The allocations under this section are sufficient to fund the conversion of the satellite extensions to full centers and to fund them as full centers.

388.1699a School health education curriculum; composition of comprehensive school education steering committee; request by parent or guardian to examine textbooks and materials.

Sec. 99a. (1) From the appropriation in section 11, there is allocated for 2002-2003 an amount not to exceed $3,180,000.00 for grants to intermediate districts and districts for providing a school health education curriculum. The curriculum provided, such as the Michigan model or another comprehensive school health curriculum, shall be in accordance with the health education goals established by the Michigan model for comprehensive school health education steering committee. This state steering committee shall be comprised of a representative from each of the following offices and departments:

(a) The department.

(b) The department of community health.

(c) The health administration in the department of community health.

(d) The bureau of mental and substance abuse services in the department of community health.

(e) The family independence agency.

(f) The department of state police.

(2) Upon written or oral request by a pupil who is at least 18 years of age or a parent or legal guardian of a pupil less than 18 years of age, school officials shall inform the pupil or parent, within a reasonable period of time after the request is made, of the content of a course in the health education curriculum and shall allow the pupil or parent to examine textbooks and other classroom materials that are provided to the pupil or materials that are presented to the pupil in the classroom. This subsection does not require a district to permit pupil or parental examination of test questions and answers, scoring keys, or other examination instruments or data used to administer an academic examination.

388.1701 Eligibility to receive state aid; filing certified and sworn copy of enrollment; failure to file; withholding state aid; falsification; minimum days and hours of pupil instruction; forfeiture; certification; strikes or teachers' conferences; rules; days not counted as days of pupil instruction; alternative scheduling program for pupils in kindergarten; waiver; certification of planned number of days and hours of pupil instruction; conditions requiring forfeiture; guidelines for providing minimum number of hours of instruction; application; waiver for alternative education program; counting professional development as pupil instruction.

Sec. 101. (1) To be eligible to receive state aid under this act, not later than the fifth Wednesday after the pupil membership count day and not later than the fifth Wednesday after the supplemental count day, each district superintendent through the secretary of the district's board shall file with the intermediate superintendent a certified and sworn copy of the number of pupils enrolled and in regular daily attendance in the district as of the pupil membership count day and as of the supplemental count day, as applicable, for the current school year. In addition, a district maintaining school during the entire year, as provided under section 1561 of the revised school code, MCL 380.1561, shall file with the intermediate superintendent a certified and sworn copy of the number of pupils enrolled and in regular daily attendance in the district for the current school year pursuant to rules promulgated by the superintendent. Not later than the seventh Wednesday after the pupil membership count day and not later than the seventh Wednesday after the supplemental count day, the intermediate district shall transmit to the department the data filed by each of its constituent districts. If a district fails to file the sworn and certified copy with the intermediate superintendent in a timely manner, as required under this subsection, the intermediate district shall notify the department and state aid due to be distributed under this act shall be withheld from the defaulting district immediately, beginning with the next payment after the failure and continuing with each payment until the district complies with this subsection. If an intermediate district fails to transmit the data in its possession in a timely and accurate manner to the department, as required under this subsection, state aid due to be distributed under this act shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If a district or intermediate district does not comply with this subsection by the end of the fiscal year, the district or intermediate district forfeits the amount withheld. A person who willfully falsifies a figure or statement in the certified and sworn copy of enrollment shall be punished in the manner prescribed by section 161.

(2) To be eligible to receive state aid under this act, not later than the twenty-fourth Wednesday after the pupil membership count day and not later than the twenty-fourth Wednesday after the supplemental count day, an intermediate district shall submit to the department, in a form and manner prescribed by the department, the audited enrollment and attendance data for the pupils of its constituent districts and of the intermediate district. If an intermediate district fails to transmit the audited data as required under this subsection, state aid due to be distributed under this act shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If an intermediate district does not comply with this subsection by the end of the fiscal year, the intermediate district forfeits the amount withheld.

(3) Except as otherwise provided in this section, each district shall provide at least 180 days of pupil instruction and a number of hours of pupil instruction at least equal to

the required minimum number of hours of pupil instruction required for 2000-2001 under section 1284 of the revised school code, MCL 380.1284. Except as otherwise provided in this act, a district failing to hold 180 days of pupil instruction shall forfeit from its total state aid allocation for each day of failure an amount equal to 1/180 of its total state aid allocation. Except as otherwise provided in this act, a district failing to comply with the required minimum hours of pupil instruction under this subsection shall forfeit from its total state aid allocation an amount determined by applying a ratio of the number of hours the district was in noncompliance in relation to the required minimum number of hours under this subsection. A district failing to meet both the 180 days of pupil instruction requirement and the minimum number of hours of pupil instruction requirement under this subsection shall be penalized only the higher of the 2 amounts calculated under the forfeiture provisions of this subsection. Not later than August 1, the board of each district shall certify to the department the number of days and hours of pupil instruction in the previous school year. If the district did not hold at least 180 days and the required minimum number of hours of pupil instruction under this subsection, the deduction of state aid shall be made in the following fiscal year from the first payment of state school aid. A district is not subject to forfeiture of funds under this subsection for a fiscal year in which a forfeiture was already imposed under subsection (7). Days or hours lost because of strikes or teachers' conferences shall not be counted as days or hours of pupil instruction. A district not having at least 75% of the district's membership in attendance on any day of pupil instruction shall receive state aid in that proportion of 1/180 that the actual percent of attendance bears to the specified percentage. The superintendent shall promulgate rules for the implementation of this subsection.

(4) The first 2 days for which pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent such days shall not be counted as days of pupil instruction.

(5) A district shall not forfeit part of its state aid appropriation because it adopts or has in existence an alternative scheduling program for pupils in kindergarten if the program provides at least the number of hours required under subsection (3) for a full-time equated membership for a pupil in kindergarten as provided under section 6(4).

(6) Upon application by the district for a particular fiscal year, the superintendent may waive the minimum number of days of pupil instruction requirement of subsection (3) for a district if the district has adopted an experimental school year schedule in 1 or more buildings in the district if the experimental school year schedule provides the required minimum number of hours of pupil instruction under subsection (3) or more and is consistent with all state board policies on school improvement and restructuring. If a district applies for and receives a waiver under this subsection and complies with the terms of the waiver, for the fiscal year covered by the waiver the district is not subject to forfeiture under this section of part of its state aid allocation for the specific building or program covered by the waiver.

(7) Not later than April 15 of each fiscal year, the board of each district shall certify to the department the planned number of days and hours of pupil instruction in the district for the school year ending in the fiscal year. In addition to any other penalty or forfeiture under this section, if at any time the department determines that 1 or more of the following has occurred in a district, the district shall forfeit in the current fiscal year beginning in the next payment to be calculated by the department a proportion of the funds due to the district under this act that is equal to the proportion below 180 days and

the required minimum number of hours of pupil instruction under subsection (3), as specified in the following:

(a) The district fails to operate its schools for at least 180 days and the required minimum number of hours of pupil instruction under subsection (3) in a school year, including days counted under subsection (4).

(b) The board of the district takes formal action not to operate its schools for at least 180 days and the required minimum number of hours of pupil instruction under subsection (3) in a school year, including days counted under subsection (4).

(8) In providing the minimum number of hours of pupil instruction required under subsection (3), a district shall use the following guidelines, and a district shall maintain records to substantiate its compliance with the following guidelines:

(a) Except as otherwise provided in this subsection, a pupil must be scheduled for at least the required minimum number of hours of instruction, excluding study halls, or at least the sum of 90 hours plus the required minimum number of hours of instruction, including up to 2 study halls.

(b) The time a pupil is assigned to any tutorial activity in a block schedule may be considered instructional time, unless that time is determined in an audit to be a study hall period.

(c) A pupil in grades 9 to 12 for whom a reduced schedule is determined to be in the individual pupil's best educational interest must be scheduled for a number of hours equal to at least 80% of the required minimum number of hours of pupil instruction to be considered a full-time equivalent pupil.

(d) If a pupil in grades 9 to 12 who is enrolled in a cooperative education program or a special education pupil cannot receive the required minimum number of hours of pupil instruction solely because of travel time between instructional sites during the school day, that travel time, up to a maximum of 3 hours per school week, shall be considered to be pupil instruction time for the purpose of determining whether the pupil is receiving the required minimum number of hours of pupil instruction. However, if a district demonstrates to the satisfaction of the department that the travel time limitation under this subdivision would create undue costs or hardship to the district, the department may consider more travel time to be pupil instruction time for this purpose.

(9) The department shall apply the guidelines under subsection (8) in calculating the full-time equivalency of pupils.

(10) Upon application by the district for a particular fiscal year, the superintendent may waive for a district the 180 days or minimum number of hours of pupil instruction requirement of subsection (3) for a department-approved alternative education program. If a district applies for and receives a waiver under this subsection and complies with the terms of the waiver, for the fiscal year covered by the waiver the district is not subject to forfeiture under this section for the specific program covered by the waiver.

(11) Beginning in 2000-2001, a district may count up to 51 hours of professional development for teachers as hours of pupil instruction. A district that elects to use this exception shall notify the department of its election.

388.1705 Counting nonresident pupils in membership; application and enrollment; procedures.

Sec. 105. (1) In order to avoid a penalty under this section, and in order to count a nonresident pupil residing within the same intermediate district in membership without the approval of the pupil's district of residence, a district shall comply with this section.

(2) Except as otherwise provided in this section, a district shall determine whether or not it will accept applications for enrollment by nonresident applicants residing within the same intermediate district for the next school year. If the district determines to accept applications for enrollment of a number of nonresidents, beyond those entitled to preference under this section, the district shall use the following procedures for accepting applications from and enrolling nonresidents:

(a) The district shall publish the grades, schools, and special programs, if any, for which enrollment may be available to, and for which applications will be accepted from, nonresident applicants residing within the same intermediate district.

(b) If the district has a limited number of positions available for nonresidents residing within the same intermediate district in a grade, school, or program, all of the following apply to accepting applications for and enrollment of nonresidents in that grade, school, or program:

(*i*) The district shall do all of the following not later than the second Friday in August:

(A) Provide notice to the general public that applications will be taken for a 15-day period from nonresidents residing within the same intermediate district for enrollment in that grade, school, or program. The notice shall identify the 15-day period and the place and manner for submitting applications.

(B) During the application period under sub-subparagraph (A), accept applications from nonresidents residing within the same intermediate district for enrollment in that grade, school, or program.

(C) Within 15 days after the end of the application period under sub-subparagraph (A), using the procedures and preferences required under this section, determine which nonresident applicants will be allowed to enroll in that grade, school, or program, using the random draw system required under subsection (13) as necessary, and notify the parent or legal guardian of each nonresident applicant of whether or not the applicant may enroll in the district. The notification to parents or legal guardians of nonresident applicants accepted for enrollment shall contain notification of the date by which the applicant must enroll in the district and procedures for enrollment.

(*ii*) Beginning on the third Monday in August and not later than the end of the first week of school, if any positions become available in a grade, school, or program due to accepted applicants failing to enroll or to more positions being added, the district may enroll nonresident applicants from the waiting list maintained under subsection (13), offering enrollment in the order that applicants appear on the waiting list. If there are still positions available after enrolling all applicants from the waiting list who desire to enroll, the district may not fill those positions until the second semester enrollment under subsection (3), as provided under that subsection, or until the next school year.

(c) For a grade, school, or program that has an unlimited number of positions available for nonresidents residing within the same intermediate district, all of the following apply to enrollment of nonresidents in that grade, school, or program:

(*i*) The district may accept applications for enrollment in that grade, school, or program, and may enroll nonresidents residing within the same intermediate district in that grade, school, or program, until the end of the first week of school. The district shall provide notice to the general public of the place and manner for submitting applications and, if the district has a limited application period, the notice shall include the dates of the application period. The application period shall be at least a 15-day period.

(*ii*) Not later than the end of the first week of school, the district shall notify the parent or legal guardian of each nonresident applicant who is accepted for enrollment that

the applicant has been accepted for enrollment in the grade, school, or program and of the date by which the applicant must enroll in the district and the procedures for enrollment.

(3) If a district determines during the first semester of a school year that it has positions available for enrollment of a number of nonresidents residing within the same intermediate district, beyond those entitled to preference under this section, for the second semester of the school year, the district may accept applications from and enroll nonresidents residing within the same intermediate district for the second semester using the following procedures:

(a) Not later than 2 weeks before the end of the first semester, the district shall publish the grades, schools, and special programs, if any, for which enrollment for the second semester may be available to, and for which applications will be accepted from, nonresident applicants residing within the same intermediate district.

(b) During the last 2 weeks of the first semester, the district shall accept applications from nonresidents residing within the same intermediate district for enrollment for the second semester in the available grades, schools, and programs.

(c) By the beginning of the second semester, using the procedures and preferences required under this section, the district shall determine which nonresident applicants will be allowed to enroll in the district for the second semester and notify the parent or legal guardian of each nonresident applicant residing within the same intermediate district of whether or not the applicant may enroll in the district. The notification to parents or legal guardians of nonresident applicants accepted for enrollment shall contain notification of the date by which the applicant must enroll in the district and procedures for enrollment.

(4) If deadlines similar to those described in subsection (2) or (3) have been established in an intermediate district, and if those deadlines are not later than the deadlines under subsection (2) or (3), the districts within the intermediate district may use those deadlines.

(5) A district offering to enroll nonresident applicants residing within the same intermediate district may limit the number of nonresident pupils it accepts in a grade, school, or program, at its discretion, and may use that limit as the reason for refusal to enroll an applicant.

(6) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based on intellectual, academic, artistic, or other ability, talent, or accomplishment, or lack thereof, or based on a mental or physical disability, except that a district may refuse to admit a nonresident applicant if the applicant does not meet the same criteria, other than residence, that an applicant who is a resident of the district must meet to be accepted for enrollment in a grade or a specialized, magnet, or intra-district choice school or program to which the applicant applies.

(7) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based on age, except that a district may refuse to admit a nonresident applicant applying for a program that is not appropriate for the age of the applicant.

(8) A nonresident applicant residing within the same intermediate district shall not be granted or refused enrollment based upon religion, race, color, national origin, sex, height, weight, marital status, or athletic ability, or, generally, in violation of any state or federal law prohibiting discrimination.

(9) A district may refuse to enroll a nonresident applicant if the applicant is, or has been within the preceding 2 years, suspended from another school or if the applicant has ever been expelled from another school.

(10) A district shall continue to allow a pupil who was enrolled in and attended the district under this section in the school year or semester immediately preceding the school year or semester in question to enroll in the district until the pupil graduates from high school. This subsection does not prohibit a district from expelling a pupil described in this subsection for disciplinary reasons.

(11) A district shall give preference for enrollment under this section over all other nonresident applicants residing within the same intermediate district to other school-age children who reside in the same household as a pupil described in subsection (10).

(12) If a nonresident pupil was enrolled in and attending school in a district as a nonresident pupil in the 1995-96 school year and continues to be enrolled continuously each school year in that district, the district shall allow that nonresident pupil to continue to enroll in and attend school in the district until high school graduation, without requiring the nonresident pupil to apply for enrollment under this section. This subsection does not prohibit a district from expelling a pupil described in this subsection for disciplinary reasons.

(13) If the number of qualified nonresident applicants eligible for acceptance in a school, grade, or program does not exceed the positions available for nonresident pupils in the school, grade, or program, the school district shall accept for enrollment all of the qualified nonresident applicants eligible for acceptance. If the number of qualified nonresident applicants residing within the same intermediate district eligible for acceptance exceeds the positions available in a grade, school, or program in a district for nonresident pupils, the district shall use a random draw system, subject to the need to abide by state and federal antidiscrimination laws and court orders and subject to preferences allowed by this section. The district shall develop and maintain a waiting list based on the order in which nonresident applicants were drawn under this random draw system.

(14) If a district, or the nonresident applicant, requests the district in which a nonresident applicant resides to supply information needed by the district for evaluating the applicant's application for enrollment or for enrolling the applicant, the district of residence shall provide that information on a timely basis.

(15) If a district is subject to a court-ordered desegregation plan, and if the court issues an order prohibiting pupils residing in that district from enrolling in another district or prohibiting pupils residing in another district from enrolling in that district, this section is subject to the court order.

(16) This section does not require a district to provide transportation for a nonresident pupil enrolled in the district under this section or for a resident pupil enrolled in another district under this section. However, at the time a nonresident pupil enrolls in the district, a district shall provide to the pupil's parent or legal guardian information on available transportation to and from the school in which the pupil enrolls.

(17) If the total number of pupils enrolled and counted in membership in a district for 2001-2002 is less than 90% of the total number of pupils residing in the district who are enrolled and counted in membership in either that district or 1 or more other districts for 2001-2002, the total amount of money allocated to that district for 2001-2002 under sections 22a and 22b shall be adjusted so that the district receives a total allocation under those sections equal to the amount the district would receive under those sections if exactly 90% of the pupils residing in the district who are enrolled and counted in either that district or 1 or more other districts were enrolled and counted in membership in that district.

(18) Beginning in 2002-2003, if the total number of pupils enrolled and counted in membership in a district for a fiscal year is less than 90% of the sum of the total number

of pupils residing in the district who are enrolled and counted in membership for the fiscal year in that district plus the total number of pupils residing in that district who are enrolled and counted in membership for the fiscal year in 1 or more other districts under this section or section 105c, the department shall calculate the total amount of money that would be allocated to that district for the fiscal year under sections 22a and 22b if exactly 90% of the sum of the total number of pupils residing in the district who are enrolled and counted in membership for the fiscal year in that district plus the total number of pupils residing in that district who are enrolled and counted in membership for the fiscal year in 1 or more other districts under this section or section 105c were enrolled and counted in membership in that district for the fiscal year. The department shall use this calculation to calculate a payment under subsection (19).

(19) Subject to subsection (20), beginning in 2002-2003, the department shall make a payment to a district described in subsection (18) in an amount equal to a percentage of the difference between the total amount of money the district would receive under sections 22a and 22b for the particular fiscal year as otherwise calculated under this act and the amount calculated under subsection (18). This percentage is as follows:

(a) For 2002-2003, 75%.

(b) For 2003-2004, 50%.

(c) For 2004-2005, 25%.

(d) For 2005-2006 and succeeding fiscal years, 0%.

(20) A district is not eligible for a payment under subsection (19) if the district receives additional funding for the applicable fiscal year due to the membership calculation under section 6(4)(y).

(21) A district may participate in a cooperative education program with 1 or more other districts or intermediate districts whether or not the district enrolls any nonresidents pursuant to this section.

(22) A district that, pursuant to this section, enrolls a nonresident pupil who is eligible for special education programs and services according to statute or rule, or who is a child with disabilities, as defined under the individuals with disabilities education act, title VI of Public Law 91-230, shall be considered to be the resident district of the pupil for the purpose of providing the pupil with a free appropriate public education. Consistent with state and federal law, that district is responsible for developing and implementing an individualized education plan annually for a nonresident pupil described in this subsection.

(23) If a district does not comply with this section, the district forfeits 5% of the total state school aid allocation to the district under this act.

(24) Upon application by a district, the superintendent may grant a waiver for the district from a specific requirement under this section for not more than 1 year.

388.1707 Allocation for adult education programs.

Sec. 107. (1) From the appropriation in section 11, there is allocated an amount not to exceed $75,000,000.00 for 2001-2002 and an amount not to exceed $77,500,000.00 for 2002-2003 for adult education programs authorized under this section.

(2) To be eligible to be a participant funded under this section, a person shall be enrolled in an adult basic education program, an adult English as a second language program, a general education development (G.E.D.) test preparation program, a job or

employment related program, or a high school completion program, that meets the requirements of this section, and shall meet either of the following, as applicable:

(a) If the individual has obtained a high school diploma or a general education development (G.E.D.) certificate, the individual meets 1 of the following:

(*i*) Is less than 20 years of age on September 1 of the school year and is enrolled in the state technical institute and rehabilitation center.

(*ii*) Is less than 20 years of age on September 1 of the school year, is not attending an institution of higher education, and is enrolled in a job or employment-related program through a referral by an employer.

(*iii*) Is enrolled in an English as a second language program.

(*iv*) Is enrolled in a high school completion program.

(b) If the individual has not obtained a high school diploma or G.E.D. certificate, is at least 20 years of age on September 1 of the school year.

(3) The amount allocated under subsection (1) shall be distributed as follows:

(a) For districts and consortia that received payments for 1995-96 under former section 107f and that received payments for 1996-97 under subsection (4) of this section as in effect in 1996-97, the amount allocated to each for 2001-2002 and for 2002-2003 shall be an amount each fiscal year equal to 36.76% of the amount the district or consortium received for 1995-96 under former section 107f.

(b) For districts and consortia that received payments under subsection (3) of this section as in effect for 1996-97, the amount allocated to each for 2001-2002 and for 2002-2003 shall be an amount each fiscal year equal to the product of the number of full-time equated participants actually enrolled and in attendance during the 1996-97 school fiscal year in the program funded under subsection (3) of this section as in effect for 1996-97 as reported to the department of career development, audited, and adjusted according to subsection (10) of this section as in effect for 1996-97, multiplied by $2,750.00.

(c) For districts and consortia that meet the conditions of both subdivisions (a) and (b), the amount allocated each fiscal year for 2001-2002 and for 2002-2003 shall be the sum of the allocations to the district or consortium under subdivisions (a) and (b).

(d) A district or consortium that received funding in 1996-97 under this section as in effect for 1996-97 may operate independently of a consortium or join or form a consortium for 2001-2002 or for 2002-2003. The allocation for 2001-2002 or for 2002-2003 to the district or the newly formed consortium under this subsection shall be determined by the department of career development and shall be based on the proportion of the amounts specified in subdivision (a) or (b), or both, that are attributable to the district or consortium that received funding in 1996-97. A district or consortium described in this subdivision shall notify the department of career development of its intention with regard to 2001-2002 or 2002-2003 by October 1 of the affected fiscal year.

(4) A district that operated an adult education program in 1996-97 and does not intend to operate a program in 2001-2002 or 2002-2003 shall notify the department of career development by October 1 of the affected fiscal year of its intention. The funds intended to be allocated under this section to a district that does not operate a program in 2001-2002 or 2002-2003 and the unspent funds originally allocated under this section to a district or consortium that subsequently operates a program at less than the level of funding allocated under subsection (3) shall instead be proportionately reallocated to the other districts described in subsection (3)(a) that are operating an adult education program in 2001-2002 or 2002-2003 under this section.

(5) The amount allocated under this section per full-time equated participant is $2,850.00 for a 450-hour program. The amount shall be proportionately reduced for a program offering less than 450 hours of instruction.

(6) An adult basic education program or an adult English as a second language program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who are determined by an appropriate assessment to be below ninth grade level in reading or mathematics, or both, or to lack basic English proficiency.

(b) The program tests individuals for eligibility under subdivision (a) before enrollment and tests participants to determine progress after every 90 hours of attendance, using assessment instruments approved by the department of career development.

(c) A participant in an adult basic education program is eligible for reimbursement until 1 of the following occurs:

(*i*) The participant's reading and mathematics proficiency are assessed at or above the ninth grade level.

(*ii*) The participant fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction.

(d) A funding recipient enrolling a participant in an English as a second language program is eligible for funding according to subsection (10) until the participant meets 1 of the following:

(*i*) The participant is assessed as having attained basic English proficiency.

(*ii*) The participant fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction. The department of career development shall provide information to a funding recipient regarding appropriate assessment instruments for this program.

(7) A general education development (G.E.D.) test preparation program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who do not have a high school diploma.

(b) The program shall administer a G.E.D. pre-test approved by the department of career development before enrolling an individual to determine the individual's potential for success on the G.E.D. test, and shall administer other tests after every 90 hours of attendance to determine a participant's readiness to take the G.E.D. test.

(c) A funding recipient shall receive funding according to subsection (10) for a participant, and a participant may be enrolled in the program until 1 of the following occurs:

(*i*) The participant passes the G.E.D. test.

(*ii*) The participant fails to show progress on 2 successive tests used to determine readiness to take the G.E.D. test after having completed at least 450 hours of instruction.

(8) A high school completion program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who do not have a high school diploma.

(b) A funding recipient shall receive funding according to subsection (10) for a participant in a course offered under this subsection until 1 of the following occurs:

(*i*) The participant passes the course and earns a high school diploma.

(*ii*) The participant fails to earn credit in 2 successive semesters or terms in which the participant is enrolled after having completed at least 900 hours of instruction.

(9) A job or employment-related adult education program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults referred by their employer who are less than 20 years of age, have a high school diploma, are determined to be in need of remedial mathematics or communication arts skills and are not attending an institution of higher education.

(b) An individual may be enrolled in this program and the grant recipient shall receive funding according to subsection (10) until 1 of the following occurs:

(*i*) The individual achieves the requisite skills as determined by appropriate assessment instruments administered at least after every 90 hours of attendance.

(*ii*) The individual fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction. The department of career development shall provide information to a funding recipient regarding appropriate assessment instruments for this program.

(10) A funding recipient shall receive payments under this section in accordance with the following:

(a) Ninety percent for enrollment of eligible participants.

(b) Ten percent for completion of the adult basic education objectives by achieving an increase of at least 1 grade level of proficiency in reading or mathematics; for achieving basic English proficiency; for passage of the G.E.D. test; for passage of a course required for a participant to attain a high school diploma; or for completion of the course and demonstrated proficiency in the academic skills to be learned in the course, as applicable.

(11) As used in this section, "participant" means the sum of the number of full-time equated individuals enrolled in and attending a department-approved adult education program under this section, using quarterly participant count days on the schedule described in section 6(7)(b).

(12) A person who is not eligible to be a participant funded under this section may receive adult education services upon the payment of tuition. In addition, a person who is not eligible to be served in a program under this section due to the program limitations specified in subsection (6), (7), (8), or (9) may continue to receive adult education services in that program upon the payment of tuition. The tuition level shall be determined by the local or intermediate district conducting the program.

(13) An individual who is an inmate in a state correctional facility shall not be counted as a participant under this section.

(14) A district shall not commingle money received under this section or from another source for adult education purposes with any other funds of the district. A district receiving adult education funds shall establish a separate ledger account for those funds. This subsection does not prohibit a district from using general funds of the district to support an adult education or community education program.

(15) The department shall work with the department of education to ensure that this section is administered in the same manner as in 1998-99.

388.1708 Adult learning programs.

Sec. 108. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed $20,000,000.00 for 2001-2002 and an amount not to exceed $20,000,000.00 for 2002-2003 for partnership for adult learning programs authorized under this section.

(2) To be eligible to be enrolled as a participant in an adult learning program funded under this section, a person shall be at least 16 years of age as of September 1 of the immediately preceding state fiscal year and shall meet the following, as applicable:

(a) If the individual has obtained a high school diploma or a general education development (G.E.D.) certificate, the individual is determined to have English language proficiency, reading, writing, or math skills below workforce readiness standards as determined by tests approved by the department of career development and is not enrolled in a postsecondary institution. An individual who has obtained a high school diploma is not eligible for enrollment in a G.E.D. test preparation program funded under this section.

(b) If the individual has not obtained a high school diploma or a G.E.D. certificate, the individual has not attended a secondary institution for at least 6 months before enrollment in an adult learning program funded under this section and is not enrolled in a post-secondary institution.

(3) From the allocation under subsection (1), an amount not to exceed $19,800,000.00 is allocated for 2001-2002 and an amount not to exceed $19,800,000.00 is allocated for 2002-2003 to local workforce development boards for the purpose of providing regional adult learning programs. An application for a grant under this subsection shall be in the form and manner prescribed by the department of career development. Subject to subsections (4), (5), and (6), the amount allocated to each local workforce development board shall be as provided in this subsection, except that an eligible local workforce development board shall not receive an initial allocation under this section that is less than $70,000.00. The maximum amount of a grant awarded to an eligible local workforce development board shall be the sum of the following components:

(a) Thirty-four percent of the allocation under this subsection multiplied by the proportion of the family independence agency caseload in the local workforce development board region to the statewide family independence agency caseload.

(b) Thirty-three percent of the allocation under this subsection multiplied by the proportion of the number of persons in the local workforce development board region over age 17 who have not received a high school diploma compared to the statewide total of persons over age 17 who have not received a high school diploma.

(c) Thirty-three percent of the allocation under this subsection multiplied by the proportion of the number of persons in the local workforce development board region over age 17 for whom English is not a primary language compared to the statewide total of persons over age 17 for whom English is not a primary language.

(4) The amount of a grant to a local workforce development board under subsection (3) shall not exceed the cost for adult learning programs needed in the local workforce development board region, as documented in a manner approved by the department of career development.

(5) Not more than 9% of a grant awarded to a local workforce development board may be used for program administration, including contracting for the provision of career and educational information, counseling services, and assessment services.

(6) In order to receive funds under this section, a local workforce development board shall comply with the following requirements in a manner approved by the department of career development:

(a) The local workforce development board shall document the need for adult learning programs in the local workforce development region.

(b) The local workforce development board shall report participant outcomes and other measurements of program performance.

(c) The local workforce development board shall develop a strategic plan that incorporates adult learning programs in the region. A local workforce development board is not eligible for state funds under this section without a strategic plan approved by the department of career development.

(d) The local workforce development board shall furnish to the department of career development, in a form and manner determined by the department of career development, the information the department of career development determines is necessary to administer this section.

(e) The local workforce development board shall allow access for the department of career development or its designee to audit all records related to adult learning programs for which it receives funds. The local workforce development board shall reimburse this state for all disallowances found in the audit in a manner determined by the department of career development.

(7) Local workforce development boards shall distribute funds to eligible adult learning providers as follows:

(a) Not less than 85% of a grant award shall be used to support programs that improve reading, writing, and math skills to workforce readiness standards; English as a second language programs; G.E.D. preparation programs; high school completion programs; or workforce readiness programs in the local workforce development board region. These programs may include the provision of career and educational information, counseling services, and assessment services.

(b) Up to 15% of a grant award may be used to support workforce readiness programs for employers in the local workforce development board region as approved by the department of career development. Employers or consortia of employers whose employees participate in these programs must provide matching funds in a ratio of at least $1.00 of private funds for each $1.00 of state funds.

(8) Local workforce development boards shall award competitive grants to eligible adult learning providers for the purpose of providing adult learning programs in the local workforce development board region. Applications shall be in a form and manner prescribed by the department of career development. In awarding grants, local workforce development boards shall consider all of the following:

(a) The ability of the provider to assess individuals before enrollment using assessment tools approved by the department of career development and to develop individual adult learner plans from those assessments for each participant.

(b) The ability of the provider to conduct continuing assessments in a manner approved by the department of career development to determine participant progress toward achieving the goals established in individual adult learner plans.

(c) The past effectiveness of an eligible provider in improving adult literacy skills and the success of an eligible provider in meeting or exceeding performance measures approved by the department of career development.

(d) Whether the program is of sufficient intensity and duration for participants to achieve substantial learning gains.

(e) Whether the program uses research-based instructional practices that have proven to be effective in teaching adult learners.

(f) Whether the program uses advances in technology, as appropriate, including computers.

(g) Whether the programs are staffed by well-trained teachers, counselors, and administrators.

(h) Whether the activities coordinate with other available resources in the community, such as schools, postsecondary institutions, job training programs, and social service agencies.

(i) Whether the provider offers flexible schedules and support services, such as child care and transportation, that enable participants, including individuals with disabilities or other special needs, to attend and complete programs.

(j) Whether the provider offers adequate job and postsecondary education counseling services.

(k) Whether the provider can maintain an information management system that has the capacity to report participant outcomes and monitor program performance against performance measures approved by the department of career development.

(*l*) Whether the provider will allow access for the local workforce development board or its designee to audit all records related to adult learning programs for which it receives funds. The adult learning provider shall reimburse the local workforce development board for all disallowances found in the audit.

(m) The cost per participant contact hour or unit of measurable outcome for each type of adult learning program for which the provider is applying.

(9) Contracts awarded by local workforce development boards to adult learning providers shall comply with the priorities established in a strategic plan approved by the department of career development.

(10) Adult learning providers that do not agree with the decisions of the local workforce development board in issuing or administering competitive grants may use the grievance procedure established by the department of career development.

(11) Local workforce development boards shall reimburse eligible adult learning providers under this section as follows:

(a) For a first-time provider, as follows:

(*i*) Fifty percent of the contract amount shall be allocated to eligible adult learning providers based upon enrollment of participants in adult learning programs. "Enrollment" means a participant enrolled in the program who received a preenrollment assessment using assessment tools approved by the department of career development and for whom an individual adult learner plan has been developed.

(*ii*) Fifty percent of the contract amount shall be allocated to eligible adult learning providers based upon the following performance standards as measured in a manner approved by the department of career development:

(A) The percentage of participants taking both a pretest and a posttest in English language proficiency, reading, writing, and math.

(B) The percentage of participants showing improvement toward goals identified in their individual adult learner plan.

(C) The percentage of participants achieving their terminal goals as identified in their individual adult learner plan.

(b) Eligible providers that have provided adult learning programs previously under this section shall be reimbursed 100% of the contract amount based upon the performance standards in subdivision (a)(*ii*) as measured in a manner determined by the department of career development.

(c) A provider is eligible for reimbursement for a participant in an adult learning program until the participant's reading, writing, or math proficiency, as applicable, is

assessed at workforce readiness levels or the participant fails to show progress on 2 successive assessments as determined by the department of career development.

(d) A provider is eligible for reimbursement for a participant in an English as a second language program until the participant is assessed as having attained basic English proficiency or the participant fails to show progress on 2 successive assessments as determined by the department of career development.

(e) A provider is eligible for reimbursement for a participant in a G.E.D. test preparation program until the participant passes the G.E.D. test or the participant fails to show progress on 2 successive assessments as determined by the department of career development.

(f) A provider is eligible for reimbursement for a participant in a high school completion program until the participant earns a high school diploma or the participant fails to show progress as determined by the department of career development.

(12) A person who is not eligible to be a participant funded under this section may receive adult learning services upon the payment of tuition or fees for service. The tuition or fee level shall be determined by the adult learning provider and approved by the local workforce development board.

(13) Adult learning providers may collect refundable deposits from participants for the use of reusable equipment and supplies and may provide incentives for program completion.

(14) A provider shall not be reimbursed under this section for an individual who is an inmate in a state correctional facility.

(15) In order to administer the partnership for adult learning system under this section, the department of career development shall do all of the following:

(a) Develop and provide guidelines to local workforce development boards for the development of strategic plans that incorporate adult learning.

(b) Develop and provide adult learning minimum program performance standards to be implemented by local workforce development boards.

(c) Identify approved assessment tools for assessing a participant's English language proficiency, reading, math, and writing skills.

(d) Approve workforce readiness standards for English language proficiency, reading, math, and writing skills that can be measured by nationally recognized assessment tools approved by the department of career development.

(16) Of the amount allocated in subsection (1), up to $200,000.00 is allocated to the department of career development for the development and administration of a standardized data collection system. Local workforce development boards and adult learning providers receiving funding under this section shall use the standardized data collection system for enrolling participants in adult learning programs, tracking participant progress, reporting participant outcomes, and reporting other performance measures.

(17) A provider is not required to use certificated teachers or certificated counselors to provide instructional and counseling services in a program funded under this section.

(18) As used in this section:

(a) "Adult education", for the purposes of complying with section 3 of article VIII of the state constitution of 1963, means a high school pupil receiving educational services in a nontraditional setting from a district or intermediate district in order to receive a high school diploma.

(b) "Adult learning program" means a program approved by the department of career development that improves reading, writing, and math skills to workforce readiness

standards; an English as a second language program; a G.E.D. preparation program; a high school completion program; or a workforce readiness program that enhances employment opportunities.

(c) "Eligible adult learning provider" means a district, public school academy, intermediate district, community college, university, community-based organization, or other organization approved by the department of career development that provides adult learning programs under a contract with a local workforce development board.

(d) "Participant" means an individual enrolled in an adult learning program and receiving services from an eligible adult learning provider.

(e) "Strategic plan" means a document approved by the department of career development that incorporates adult learning goals and objectives for the local workforce development board region and is developed jointly by the local workforce development board and the education advisory groups.

(f) "Workforce development board" means a local workforce development board established pursuant to the workforce investment act of 1998, Public Law 105-220, 112 Stat. 936, and the school-to-work opportunities act of 1994, Public Law 103-239, 108 Stat. 568, or the equivalent.

(g) "Workforce readiness standard" means a proficiency level approved by the department of career development in English language, reading, writing, or mathematics, or any and all of these, as determined by results from assessments approved for use by the department of career development.

388.1721a State education tax; costs for changing collection date.

Sec. 121a. From the general fund appropriation in section 11, there is allocated for 2002-2003 only an amount not to exceed $4,600,000.00 to the department of treasury for payments to local treasurers for the costs of changing the collection date for the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. Eligible costs to be reimbursed and the manner of reimbursement shall be determined by the department of treasury.

388.1747 Allocations to public school employees' retirement system.

Sec. 147. (1) The allocations for 2001-2002 and 2002-2003 for the public school employees' retirement system pursuant to the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408, shall be made using the entry age normal cost actuarial method and risk assumptions adopted by the public school employees retirement board and the department of management and budget. The annual level percentage of payroll contribution rate is estimated at 12.17% for the 2001-2002 state fiscal year and at 12.99% for the 2002-2003 state fiscal year. The portion of the contribution rate assigned to districts and intermediate districts for each fiscal year is all of the total percentage points. This contribution rate reflects an amortization period of 35 years for 2001-2002 and 34 years for 2002-2003. The public school employees' retirement system board shall notify each district and intermediate district by February 28 of each fiscal year of the estimated contribution rate for the next fiscal year.

(2) It is the intent of the legislature that the amortization period described in section 41(2) of the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1341, be reduced to 30 years by the end of the 2005-2006 state fiscal year by reducing the amortization period by not more than 1 year each fiscal year.

Total state spending; payments to local units of government.

Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2001 PA 121 and 2000 PA 297 from state sources for fiscal year 2001-2002 is estimated at $11,220,561,700.00 and state appropriations to be paid to local units of government for fiscal year 2001-2002 are estimated at $11,181,789,800.00; and total state spending in this amendatory act and in 2001 PA 121 and 2000 PA 297 from state sources for fiscal year 2002-2003 is estimated at $11,472,054,900.00 and state appropriations to be paid to local units of government for fiscal year 2002-2003 are estimated at $11,420,969,500.00.

Repeal of §§ 388.1632g, 388.1632h, 388.1663, 388.1695, 388.1697, and 388.1766d; repeal of §§ 388.1622c, 388.1632e, and 388.1633; effective date.

Enacting section 2. (1) Sections 32g, 32h, 63, 95, 97, and 166d of the state school aid act of 1979, 1979 PA 94, MCL 388.1632g, 388.1632h, 388.1663, 388.1695, 388.1697, and 388.1766d, are repealed.

(2) Sections 22c, 32e, and 33 of the state school aid act of 1979, 1979 PA 94, MCL 388.1622c, 388.1632e, and 388.1633, are repealed effective October 1, 2002.

Effective date of § 388.1619.

Enacting section 3. Section 19 of the state school aid act of 1979, 1979 PA 94, MCL 388.1619, as amended by this amendatory act, takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved April 25, 2002.
Filed with Secretary of State April 26, 2002.

[No. 192]

(HB 5763)

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the

provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending sections 3, 4, 4a, 10, 19, 20, 27, 29, 32, 44, 48, 54, and 54c (MCL 421.3, 421.4, 421.4a, 421.10, 421.19, 421.20, 421.27, 421.29, 421.32, 421.44, 421.48, 421.54, and 421.54c), section 4 as amended by 1996 PA 498, section 10 as amended by 1989 PA 224, section 19 as amended by 1996 PA 535, sections 20 and 54 as amended by 1994 PA 162, section 27 as amended by 1995 PA 181, section 29 as amended by 1995 PA 25, section 32 as amended by 1996 PA 503, section 44 as amended by 1996 PA 504, section 48 as amended by 1983 PA 164, and section 54c as amended by 1993 PA 277, and by adding sections 5b, 13*l*, and 32b; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

421.3 Bureau of worker's and unemployment compensation; policies; definitions.

Sec. 3. (1) The bureau of worker's and unemployment compensation shall establish policies in conformity with this act to do all of the following:

(a) Reduce and prevent unemployment.

(b) Promote the reemployment of unemployed workers throughout this state in every other way that may be feasible.

(c) Carry on and publish the results of investigations and research studies.

(d) Investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and this state, of reserves for public works to be used in times of business depression and unemployment.

(2) As used in this act:

(a) "Bureau", "commission", and "unemployment agency" mean the bureau of worker's and unemployment compensation created in section 5b.

(b) "Director" means the director of the bureau of worker's and unemployment compensation.

421.4 Rules and regulations; distribution; public hearing; notice; publication; copies furnished; effective date.

Sec. 4. (1) The bureau may promulgate rules and regulations that it determines necessary, and that are not inconsistent with this act, to carry out this act.

(2) The bureau shall cause to be printed for distribution to the public the text of this act, and all rules and regulations of the bureau, and shall make available to the public upon request statements of all informal rules or criteria of decision, administrative policies, or interpretations, which may be utilized by the bureau or any of its agents or employees in any manner.

(3) No rule or regulation shall be made or changed until after public hearing, notice of which shall first be given not less than 20 days before the hearing, by publication in at least 3 newspapers of general circulation in different parts of this state, 1 of which shall be in the Upper Peninsula. Copies of proposed rules or regulations shall be furnished by the bureau upon application by any interested parties. Rules and regulations shall become effective in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

421.4a Parking facility; approval of state administrative board.

Sec. 4a. The bureau may acquire, purchase, erect, or improve land or buildings, within funds available for that purpose, as it considers necessary for use as a parking facility in Detroit for the state administrative office. No land or buildings shall be acquired, purchased, erected, or improved until the approval of the state administrative board is obtained. Title to the land or buildings shall be in the name of this state.

421.5b Bureau of worker's and unemployment compensation; creation within department of consumer and industry services; director; transfer of powers and duties by executive order.

Sec. 5b. (1) The bureau of worker's and unemployment compensation is created within the department of consumer and industry services.

(2) The bureau shall be headed by a director who shall be appointed by the governor.

(3) All of the authority, powers, functions, duties, and responsibilities of the unemployment agency provided under this act are transferred to the bureau as provided in Executive Order No. 2002-1.

(4) All of the powers, functions, duties, and responsibilities of the director of the unemployment agency, defined as the director of employment security in Executive Order No. 1997-12, provided under this act are transferred to the director as provided in Executive Order No. 2002-1.

421.10 Administration fund; contingent fund.

Sec. 10. (1) There is created in the department of treasury a special fund to be known and designated as the administration fund (Michigan employment security act). Any balances in the administration fund at the end of any fiscal year of this state shall be carried over as a part of the administration fund and shall not revert to the general fund of this state. Except as otherwise provided in subsection (3), all money deposited into the administration fund under this act shall be appropriated by the legislature to the unemployment agency to pay the expenses of the administration of this act.

(2) The administration fund shall be credited with all money appropriated to the fund by the legislature, all money received from the United States or any agency of the United States for that purpose, and all money received by this state for the fund. All money in the administration fund that is received from the federal government or any agency of the federal government or that is appropriated by this state for the purposes of this act, except money requisitioned from the account of this state in the unemployment trust fund pursuant to a specific appropriation made by the legislature in accordance with section 903(c)(2) of title IX of the social security act, 42 U.S.C. 1103, and with section 17(3)(f), shall be expended solely for the purposes and in the amounts found necessary by the appropriate agency of the United States and the legislature for the proper and efficient administration of this act.

(3) All money requisitioned from the account of this state in the unemployment trust fund pursuant to a specific appropriation made by the legislature in accordance with section 903(c)(2) of title IX of the social security act, 42 U.S.C. 1103, and with section 17(3)(f), shall be deposited in the administration fund. Any money that remains unexpended at the close of the 2-year period beginning on the date of enactment of a specific appropriation shall be immediately redeposited with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund; or any money that for any reason cannot be expended or is not to be expended for the purpose for which appropriated before the close of this 2-year period shall be redeposited at the earliest practicable date.

(4) If any money received after June 30, 1941, from the appropriate agency of the United States under title III of the social security act, 42 U.S.C. 501 to 504, or any unencumbered balances in the administration fund (Michigan employment security act) as of that date, or any money granted after that date to this state pursuant to the Wagner-Peyser act, chapter 49, 48 Stat. 113, or any money made available by this state or its political subdivisions and matched by money granted to this state pursuant to the Wagner-Peyser act, chapter 49, 48 Stat. 113, is found by the appropriate agency of the United States, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by that agency of the United States for the proper administration of this act, the money shall be replaced by money appropriated for that purpose from the general funds of this state to the administration fund (Michigan employment security act) for expenditure as provided in this act. Upon receipt of notice of such a finding by the appropriate agency of the United States, the commission shall promptly report the amount required for replacement to the governor and the governor shall, at the earliest opportunity, submit to the legislature a request for the appropriation of that amount. This subsection shall not be construed to relieve this state of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of title III of the social security act, 42 U.S.C. 501 to 504.

(5) If any funds expended or disbursed by the commission are found by the appropriate agency of the United States to have been lost or expended for purposes other than, or in amounts in excess of, those found necessary by that agency of the United States for the proper administration of this act, and if these funds are replaced as provided in subsection (4) by money appropriated for that purpose from the general fund of this state, then the director who approved the expenditure or disbursement of those funds for those purposes or in those amounts, shall be liable to this state in an amount equal to the sum of money appropriated to replace those funds. The director shall be required by the governor to post a proper bond in a sum not less than $25,000.00 to cover his or her liability as prescribed in this section, the cost of the bond to be paid from the general fund of this state.

(6) There is created in the department of treasury a separate fund to be known as the contingent fund (Michigan employment security act) into which shall be deposited all solvency taxes collected under section 19a and all interest on contributions, penalties, and damages collected under this act. Except as otherwise provided in subsections (7) and (8), all amounts in the contingent fund (Michigan employment security act) and all earnings on those amounts are continuously appropriated without regard to fiscal year for the administration of the unemployment agency and for the payment of interest on advances from the federal government to the unemployment compensation fund under section 1201 of title XII of the social security act, 42 U.S.C. 1321, to be expended only if authorized by the unemployment agency. Money deposited from the solvency taxes collected pursuant to section 19a shall not be used for the administration of the unemployment agency, except for the repayment of loans from the state treasury and interest on loans made under section 19a(3). However, an authorization or expenditure shall not be made as a substitution for a grant of federal funds or for any portion of a grant that, in the absence of an authorization, would be available to the commission. Immediately upon receipt of administrative grants from the appropriate agency of the United States to cover administrative costs for which the commission has authorized and made expenditures from the contingent fund, those grants shall be transferred to the contingent fund to the extent necessary to reimburse the contingent fund for the amount of those expenditures. Amounts needed to refund interest, damages, and penalties erroneously collected shall be withdrawn and expended for those purposes from the contingent fund upon order of the unemployment agency. Any amount authorized to be expended for administration pursuant to this section may be transferred to the administration fund. An amount not

needed for the purpose for which authorized shall, upon order of the unemployment agency, be returned to the contingent fund. Amounts needed to refund erroneously collected solvency taxes shall be withdrawn and expended for that purpose upon order of the unemployment agency.

(7) On June 30, 2002, the unemployment agency shall authorize the withdrawal of $79,500,000.00 from the contingent fund (Michigan employment security act) for deposit into the general fund.

(8) At the close of the state fiscal year in 2002 and each year after 2002, all funds in the contingent fund (Michigan employment security act) in excess of $15,000,000.00 shall lapse to the unemployment trust fund.

421.13*l* Indian tribe or tribal unit as employer; requirements.

Sec. 13*l*. (1) An Indian tribe or tribal unit liable as an employer under section 41 shall pay reimbursements in lieu of contributions under the same terms and conditions as all other reimbursing employers liable under section 41, unless the Indian tribe or tribal unit elects to pay contributions.

(2) An Indian tribe or tribal unit that elects to make contributions shall file with the unemployment agency a written request for that election before January 1 of the calendar year in which the election will be effective or within 30 days of the effective date of the amendatory act that added this section. The Indian tribe or tribal unit shall determine if the election to pay contributions will apply to the tribe as a whole, will apply only to individual tribal units, or will apply to stated combinations of individual tribal units.

(3) An Indian tribe or tribal unit paying reimbursements in lieu of contributions shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit. An Indian tribe or tribal unit shall reimburse the fund annually within 30 calendar days after the mailing of the final billing for the immediately preceding calendar year.

(4) If an Indian tribe or tribal unit fails to make payments in lieu of contributions, including assessments of interest and penalties, within 90 calendar days after the mailing of the notice of delinquency, the Indian tribe will lose the ability to make payments in lieu of contributions immediately unless the payment in full or collection on the security is received by the unemployment agency by December 1 of that calendar year. An Indian tribe that loses the ability to make payments in lieu of contributions shall be made a contributing employer and shall not have the ability to make payments in lieu of contributions until all contributions, payments in lieu of contributions, interest, or penalties have been paid. The ability to make payments in lieu of contributions shall be reinstated effective the January 1 immediately succeeding the year in which the Indian tribe has paid in full all contributions, payments in lieu of contributions, interest, and penalties. If an Indian tribe fails to pay in full all contributions, payments in lieu of contributions, interest, and penalties within 90 calendar days of a notice of delinquency, the unemployment agency shall immediately notify the United States department of labor and the internal revenue service of the United States department of treasury of that delinquency. If that delinquency is satisfied, the unemployment agency shall immediately notify the United States department of labor and the internal revenue service of the United States department of treasury that all contributions, payments in lieu of contributions, interest, and penalties have been paid.

(5) A notice of delinquency to an Indian tribe or tribal unit shall include information that failure to make full payment within 90 days of the date of mailing of the notice of delinquency will result in the Indian tribe losing the ability to make payments in lieu of contributions until the delinquency and all contributions, payments in lieu of contributions, interest, and penalties have been paid in full.

(6) Any Indian tribe or tribal unit that makes reimbursement payments in lieu of contributions shall be required to post a security, subject to all of the following conditions:

(a) A reimbursing tribe or tribal unit must either post the security within 30 days of the effective date of the amendatory act that added this section or by November 30 of the year before the year for which the security is required.

(b) The security shall be in the form of a surety bond, irrevocable letter of credit, or other banking device that is acceptable to the unemployment agency and that provides for payment to the unemployment agency, on demand, of an amount equal to the security that is required to be posted. The required security may be posted by a third-party guarantor.

(c) The requirement for a security does not apply to an Indian tribe or tribal unit that is expected to have less than $100,000.00 per calendar year in total wage payments, as determined by the unemployment agency. An Indian tribe or tribal unit is required to provide security if the payment of gross wages in a calendar year is equal to or greater than $100,000.00. The employer shall notify the unemployment agency within 60 days from the date its payroll equals or exceeds $100,000.00. The security shall be posted within 30 days of notice by the unemployment agency of a requirement to post a security.

(d) The amount of the security required is 4.0% of the employer's estimated total annual wage payments, as determined by the unemployment agency. Indian tribes or tribal units that have a previous wage payment history shall be required to file a security that is equal to 4.0% of the gross wages paid for the 12-month period ending June 30 of the year immediately preceding the year for which the security is required or 4.0% of the employer's estimated total annual wages, whichever is greater.

(7) Any Indian tribe or tribal unit that is liable for reimbursements in lieu of contributions may form a group account with another tribe or tribal unit, in the same manner and with the same restrictions provided in section 13e(3).

(8) Notwithstanding section 41(1), after December 20, 2000, "employer" includes an Indian tribe or tribal unit for which services are performed in employment as defined in subsection (9).

(9) After December 20, 2000, "employment" includes service performed in the employ of an Indian tribe or tribal unit, if the service is excluded from employment as that term is defined in the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, solely by reason of section 3306(c)(7) of the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, and is not otherwise excluded from the definition of employment under section 43.

(10) As used in this act:

(a) "Indian tribe" means that term as defined in section 3306(u) of the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3306.

(b) "Tribal unit" includes any subdivision, subsidiary, or business enterprise, wholly owned by an Indian tribe.

421.19 Contribution rate of contributing employer; determination; reserve fund balance of reorganized employer; distressed employer; irrevocability of excess payments to experience account.

Sec. 19. (a) The commission shall determine the contribution rate of each contributing employer for each calendar year after 1977 as follows:

(1) (*i*) Except as provided in paragraph (*ii*), an employer's rate shall be calculated as described in table A with respect to wages paid by the employer in each calendar year for employment. If an employer's coverage is terminated under section 24, or at the conclusion of 8 or more consecutive calendar quarters during which the employer has not had

workers in covered employment, and if the employer becomes liable for contributions, the employer shall be considered as newly liable for contributions for the purposes of table A or table B of this subsection.

(*ii*) To provide against the high risk of net loss to the fund in such cases, an employing unit that becomes newly liable for contributions under this act in a calendar year beginning on or after January 1, 1983 in which it employs in "employment", not necessarily simultaneously but in any 1 week 2 or more individuals in the performance of 1 or more contracts or subcontracts for construction in the state of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing developments, or similar construction projects, shall be liable for contributions to that employer's account under this act for the first 4 years of operations in this state at a rate equal to the average rate paid by employers engaged in the construction business as determined by contractor type in the manner provided in table B.

(*iii*) For the calendar years 1983 and 1984, the contribution rate of a construction employer shall not exceed its 1982 contribution rate with respect to wages, paid by that employer, related to the execution of a fixed price construction contract that was entered into prior to January 1, 1983. Furthermore, that contribution rate shall be reduced, by the solvency tax rate assessed against the employer under section 19a, for the year in which the solvency tax rate is applicable. Furthermore, notwithstanding section 44, the taxable wage limit, for calendar years 1983 and 1984, with respect to wages paid under a fixed price contract, shall be the maximum amount of remuneration paid within a calendar year by an employer subject to the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, to an individual with respect to employment as defined in that act which is subject to tax under that act during that year.

Table A

Year of Contribution Liability	Contribution Rate
1	2.7%
2	2.7%
3	1/3 (chargeable benefits component) + 1.8%
4	2/3 (chargeable benefits component) + 1.0%
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

Table B

Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission
2	average construction contractor rate as determined by the commission

3	1/3 (chargeable benefits component) + 2/3 average construction contractor rate as determined by the commission
4	2/3 (chargeable benefits component) + 1/3 average construction contractor rate as determined by the commission
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

(2) With the exception of employers who are in the first 4 consecutive years of liability, each employer's contribution rate for each calendar year after 1977 shall be the sum of the following components, all of which are determined as of the computation date: a chargeable benefits component determined under subdivision (3), an account building component determined under subdivision (4), and a nonchargeable benefits component determined under subdivision (5). Each employer's contribution rate for calendar years before 1978 shall be determined by the provisions of this act in effect during the years in question.

(3) (*i*) The chargeable benefits component of an employer's contribution rate is the percentage determined by dividing: the total amount of benefits charged to the employer's experience account within the lesser of 60 consecutive months ending on the computation date or the number of consecutive months ending on the computation date with respect to which the employer has been continuously liable for contributions; by the amount of wages, subject to contributions, paid by the employer within the same period. If the resulting quotient is not an exact multiple of 1/10 of 1%, it shall be increased to the next higher multiple of 1/10 of 1%.

(*ii*) For benefit years established before the conversion date prescribed in section 75, the chargeable benefits component shall not exceed 6.0%, unless there is a statutory change in the maximum duration of regular benefit payments or the statutory ratio of regular benefit payments to credit weeks. In the event of a change in the maximum duration of regular benefit payments, the maximum chargeable benefits component shall increase by the same percentage as the statutory percentage change in the duration of regular benefit payments between computation dates. In the event of an increase in the statutory ratio of regular benefit payments to credit weeks, as described in section 27(d), the maximum chargeable benefits component determined as of the computation dates occurring after the effective date of the increased ratio shall increase by 1/2 the same percentage as the increase in the ratio of regular benefit payments to credit weeks. If the resulting increase is not already an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%. For benefit years established after the conversion date prescribed in section 75, the chargeable benefits component shall not exceed 6.0%, unless there is a statutory change in the maximum duration of regular benefit payments or the percentage factor of base period wages, which defines maximum duration, as provided in section 27(d). If there is a statutory change in the maximum duration of regular benefit payments, the maximum chargeable benefits component shall increase by the same percentage as the statutory percentage change in the duration of regular benefit payments between computation dates. If there is an increase in the statutory percentage factor of base period wages, as described in section 27(d), the maximum chargeable benefits component determined as of the computation dates occurring after the effective date of the increased ratio shall increase by 1/2 the same percentage as the increase in the

percentage factor of base period wages. If the resulting increase is not already an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%.

(4) The account building component of an employer's contribution rate is the percentage arrived at by the following calculations: (*i*) Multiply the amount of the employer's total payroll for the 12 months ending on the computation date, by the cost criterion; (*ii*) Subtract the amount of the balance in the employer's experience account as of the computation date from the product determined under (*i*); and (*iii*) if the remainder is zero or a negative quantity, the account building component of the employer's contribution rate shall be zero; but (*iv*) if the remainder is a positive quantity, the account building component of the employer's contribution rate shall be determined by dividing that remainder by the employer's total payroll paid within the 12 months ending on the computation date. The account building component shall not exceed the lesser of 1/4 of the percentage calculated or 2%. However, except as otherwise provided in this subdivision, the account building component shall not exceed the lesser of 1/2 of the percentage calculated or 3%, if on the June 30 of the preceding calendar year the balance in the unemployment compensation fund was less than 50% of an amount equal to the aggregate of all contributing employers' annual payrolls, for the 12 months ending March 31, times the cost criterion. For calendar years after 1993 and before 1996, the account building component shall not exceed the lesser of .69 of the percentage calculated, or 3%, if on the June 30 of the preceding calendar year the balance in the unemployment compensation fund was less than 50% of an amount equal to the aggregate of all contributing employers' annual payrolls, for the 12 months ending March 31, as defined in section 18(f), times the cost criterion; selected for the computation date under section 18(e). If the account building component determined under this subdivision is not an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%.

(5) The nonchargeable benefits component of employers' contribution rates is the percentage arrived at by the following calculations: (*i*) multiply the aggregate amount of all contributing employers' annual payrolls, for the 12 months ending March 31, as defined in section 18(f), by the cost criterion selected for the computation date under section 18(e); (*ii*) subtract the balance of the unemployment fund on the computation date, net of federal advances, from the product determined under (*i*); and (*iii*) if the remainder is zero or a negative quantity, the nonchargeable benefits component of employers' contribution rates shall be zero; but (*iv*) if the remainder is a positive quantity, the nonchargeable benefits component of employers' contribution rates shall be determined by dividing that remainder by the total of wages subject to contributions under this act paid by all contributing employers within the 12 months ending on March 31 and adjusting the quotient, if not an exact multiple of 1/10 of 1%, to the next higher multiple of 1/10 of 1%. The maximum nonchargeable benefits component shall be 1%. However, for calendar years after 1993, if there are no benefit charges against an employer's account for the 60 months ending as of the computation date, or for calendar years after 1995, if the employer's chargeable benefits component is less than 2/10 of 1%, the maximum nonchargeable benefit component shall not exceed 1/2 of 1%. For calendar years after 1995, if there are no benefit charges against an employer's account for the 72 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 4/10 of 1%. For calendar years after 1996, if there are no benefit charges against an employer's account for the 84 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 3/10 of 1%. For calendar years after 1997, if there are no benefit charges against an employer's account for the 96 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 2/10 of 1%. For calendar years after 1998, if there are no benefit charges against an employer's

account for the 108 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 1/10 of 1%. For calendar years after 2002, the maximum nonchargeable benefits component shall not exceed 1/10 of 1% if there are no benefit charges against an employer's account for the 60 months ending as of the computation date; 9/100 of 1% if there are no benefit charges against an employer's account for the 72 months ending as of the computation date; 8/100 of 1% if there are no benefit charges against an employer's account for the 84 months ending as of the computation date; 7/100 of 1% if there are no benefit charges against an employer's account for the 96 months ending as of the computation date; or 6/100 of 1% if there are no benefit charges against an employer's account for the 108 months ending as of the computation date. For purposes of determining a nonchargeable benefits component under this subsection, an employer account shall not be considered to have had a charge if claim for benefits is denied or determined to be fraudulent pursuant to section 54 or 54c. An employer with a positive balance in its experience account on the June 30 computation date preceding the calendar year shall receive for that calendar year a credit in an amount equal to 1/2 of the extra federal unemployment tax paid in the preceding calendar year under section 3302(c)(2) of the federal unemployment tax act, 26 U.S.C. 3302, because of an outstanding balance of unrepaid advances from the federal government to the unemployment compensation fund under section 1201 of title XII of the social security act, 42 U.S.C. 1321. However, the credit for any calendar year shall not exceed an amount determined by multiplying the employer's nonchargeable benefit component for that calendar year times the employer's taxable payroll for that year. Contributions paid by an employer shall be credited to the employer's experience account, in accordance with the provisions of section 17(5), without regard to any credit given under this subsection. The amount credited to an employer's experience account shall be the amount of the employer's tax before deduction of the credit provided in this subsection.

(6) The total of the chargeable benefits and account building components of an employer's contribution rate shall not exceed by more than 1% in the 1983 calendar year, 1.5% in the calendar year 1984, or 2% in the 1985 calendar year the higher of 4% or the total of the chargeable benefits and the account building components that applied to the employer during the preceding calendar year. For calendar years after 1985, the total of the chargeable benefits and account building components of the employer's contribution rate shall be computed without regard to the foregoing limitation provided in this subdivision. During a year in which this subdivision limits an employer's contribution rate, the resulting reduction shall be considered to be entirely in the experience component of the employer's contribution rate, as defined in section 18(d).

(7) Unless an employer's contribution rate is 1/10 of 1% for calendar years beginning after December 31, 1995, the employer's contribution rate shall be reduced by any of the following calculation methods that results in the lowest rate:

(*i*) The chargeable benefits component, the account building component, and the nonchargeable benefits component of the contribution rate calculated under this section shall each be reduced by 10% and if the resulting quotient is not an exact multiple of 1/10 of 1%, that quotient shall be increased to the next higher multiple of 1/10 of 1%. The 3 components as increased shall then be added together.

(*ii*) One-tenth of 1% shall be deducted from the contribution rate.

(*iii*) The contribution rate shall be reduced by 10% and if the resulting quotient is not an exact multiple of 1/10 of 1%, that quotient shall be increased to the next higher multiple of 1/10 of 1%.

The contribution rate reduction described in this section applies to employers who have been liable for the payment of contributions in accordance with this act for more than 4 consecutive years, if the balance of money in the unemployment compensation fund established under section 26, excluding money borrowed from the federal unemployment trust fund, is equal to or greater than 1.2% of the aggregate amount of all contributing employers' payrolls for the 12-month period ending on the computation date. If the employer's contribution rate is reduced by a 1/10 of 1% deduction in accordance with this subdivision, the employer's contributions shall be credited to each of the components of the contribution rate on a pro rata basis. As used in this subdivision:

(*i*) "Federal unemployment trust fund" means the fund created under section 904 of title IX of the social security act, 42 U.S.C. 1104.

(*ii*) "Payroll" means that term as defined in section 18(f).

(b) An employer previously liable for contributions under this act which on or after January 1, 1978 filed a petition for arrangement under the bankruptcy act of July 1, 1898, chapter 541, 30 Stat. 544, or on or after October 1, 1979 filed a petition for reorganization under title 11 of the United States Code, 11 U.S.C. 101 to 1330, pursuant to which a plan of arrangement or reorganization for rehabilitation purposes has been confirmed by order of the United States bankruptcy court, shall be considered as a reorganized employer and shall have a reserve fund balance of zero as of the first calendar year immediately following court confirmation of the plan of arrangement or reorganization, but not earlier than the calendar year beginning January 1, 1983, if the employer meets each of the following requirements:

(1) An employer whose plan of arrangement or reorganization has been confirmed as of January 1, 1983 shall, within 60 days after January 1, 1983, notify the commission of its intention to elect the status of a reorganized employer. An employer that has not had a plan of arrangement or reorganization confirmed as of January 1, 1983 shall, within 60 days after the entry by the bankruptcy court of the order of confirmation of the plan of arrangement or reorganization, notify the commission of its intention to elect the status of a reorganized employer. An employer shall not make an election under this subdivision after December 31, 1985.

(2) The employer has paid to the commission all contributions previously owed by the employer pursuant to this act for all calendar years prior to the calendar year as to which the employer elects to begin its status as a reorganized employer.

(3) More than 50% of the employer's total payroll is paid for services rendered in this state during the employer's fiscal year immediately preceding the date the employer notifies the fund administrator of its intention to elect the status of a reorganized employer.

(4) The employer, within 180 days after notifying the commission of its intention to elect the status of a reorganized employer, makes a cash payment to the commission, for the unemployment compensation fund, equal to: .20 times the first $2,000,000.00 of the employer's negative balance, .35 times the amount of the employer's negative balance above $2,000,000.00 and up to $5,000,000.00, and .50 times the amount of the negative balance above $5,000,000.00. The total amount determined by the commission shall be based on the employer's negative balance existing as of the end of the calendar month immediately preceding the calendar year in which the employer will begin its status as a reorganized employer. If the employer fails to pay the amount determined, within 180 days of electing status as a reorganized employer, the commission shall reinstate the employer's negative balance previously reduced and redetermine the employer's rate on the basis of the reinstated negative balance. The redetermined rate shall then be used to redetermine the employer's quarterly contributions for that calendar year. The redetermined

contributions shall be subject to the interest provisions of section 15 as of the date the redetermined quarterly contributions were originally due.

(5) Except as provided in subdivision (6), the employer contribution rates for a reorganized employer beginning with the first calendar year of the employer's status as a reorganized employer shall be as follows:

Year of Contribution Liability	Contribution Rate
1	2.7% of total taxable wages paid
2	2.7%
3	2.7%
4 and over	(chargeable benefits component based upon 3-year experience) plus (account building component based upon 3-year experience) plus (nonchargeable benefits component)

(6) To provide against the high risk of net loss to the fund in such cases, any reorganized employer that employs in "employment", not necessarily simultaneously but in any 1 week 25 or more individuals in the performance of 1 or more contracts or subcontracts for construction in the state of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing developments, or similar major construction projects, shall be liable beginning the first calendar year of the employer's status as a reorganized employer for contribution rates as follows:

Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission
2	average construction contractor rate as determined by the commission
3	1/3 (chargeable benefits component) + 2/3 average construction contractor rate as determined by the commission
4	2/3 (chargeable benefits component) + 1/3 average construction contractor rate as determined by the commission
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

(c) Upon application by an employer to the commission for designation as a distressed employer, the commission, within 60 days after receipt of the application, shall make a determination whether the employer meets the conditions set forth in this subsection. Upon finding that the conditions are met, the commission shall notify the legislature of the

determination and request legislative acquiescence in the determination. If the legislature approves the determination by concurrent resolution, the employer shall be considered to be a "distressed employer" as of January 1 of the year in which the determination is made. The commission shall notify the employer of that determination and notify the employer of its contribution rate as a distressed employer and the contribution rate that would apply if the employer was not a distressed employer. The distressed employer shall determine its tax contribution using the 2 rates furnished by the commission and shall pay its tax contribution based on the lower of the 2 rates. If the determination of distressed employer status is made during the calendar year, the employer shall be entitled to a credit on future quarterly installments for any excess contributions paid during that initial calendar year. The employer shall notify the commission of the difference between the amount paid and the amount that would have been paid if the employer were not determined to be a distressed employer and the difference will be owed to the unemployment compensation fund, payable in accordance with this subsection. Cumulative totals of the difference must be reported to the commission with each return required to be filed. The commission may periodically determine continued eligibility of an employer under this subsection. When the commission makes a determination that an employer no longer qualifies as a distressed employer, the commission shall notify the employer of that determination. After notice by the commission that the employer no longer qualifies as a distressed employer, the employer will be liable for contributions, beginning with the first quarter occurring after receipt of notification of disqualification, on the basis of the rate that would apply if the employer was not a distressed employer. The contribution rate for a distressed employer shall be calculated under the law in effect for the 1982 calendar year except that the rate determined shall be reduced by the applicable solvency tax rate assessed against the employer under section 19a. The taxable wage limit of a distressed employer for the 1983, 1984, and 1985 calendar years shall be the maximum amount of remuneration paid within a calendar year by a distressed employer subject to the federal unemployment tax act, 26 U.S.C. 3301 to 3311, to an individual with respect to employment as defined in that act which is subject to tax under that act during that year. Commencing with the fourth quarter of 1986, the distressed employer will pay in 10 equal annual installments the amount of the unpaid contributions owed to the unemployment compensation fund due to the application of this subsection, without interest. Each installment shall be made with the fourth quarterly return for the respective year. As used in this subsection, "distressed employer" means an employer whose continued presence in this state is considered essential to the state's economic well-being and who meets the following criteria:

(1) The employer's average annual Michigan payroll in the 5 previous years exceeded $500,000,000.00.

(2) The employer's average quarterly number of employees in Michigan in the 5 previous years exceeded 25,000.

(3) The employer's business income as defined in section 3 of the single business tax act, 1975 PA 228, MCL 208.3, has resulted in an aggregate loss of $1,000,000,000.00 or more during the 5-year period ending in the second year prior to the year for which the application is being made.

(4) The employer has received from this state loans totaling $50,000,000.00 or more or loan guarantees from the federal government in excess of $500,000,000.00, either of which are still outstanding.

(5) Failure to give an employer designation as a distressed employer would adversely impair the employer's ability to repay the outstanding loans owed to this state or that are guaranteed by the federal government.

(d) An employer may at any time make payments to that employer's experience account in the fund in excess of the requirements of this section, but these payments, when accepted by the commission, shall be irrevocable. A payment made by an employer within 30 days after mailing to the employer by the commission of a notice of the adjusted contribution rate of the employer shall be credited to the employer's account as of the computation date for which the adjusted contribution rate was computed, and the employer's contribution rate shall be further adjusted accordingly. However, a payment made more than 120 days after the beginning of a calendar year shall not affect the employer's contribution rate for that year.

421.20 Charging benefits against employer's account; benefits improperly paid; basis; separate determination of amount and duration of benefits; disqualifying act or discharge; order of charges; separating employee; limitation on charges for regular benefits; benefits based on multiemployer credit weeks; training benefits and extended benefits; notice of charges.

Sec. 20. (a) Benefits paid shall be charged against the employer's account as of the quarter in which the payments are made. If the unemployment agency determines that any benefits charged against an employer's account were improperly paid, an amount equal to the charge based on those benefits shall be credited to the employer's account and a corresponding charge shall be made to the nonchargeable benefits account as of the current period or, in the discretion of the unemployment agency as of the date of the charge. Benefits paid to an individual as a result of an employer's failure to provide the unemployment agency with separation, employment, and wage data as required by section 32 shall be considered as benefits properly paid to the extent that the benefits are chargeable to the noncomplying employer.

(b) For benefit years established before the conversion date prescribed in section 75, benefits paid to an individual shall be based upon the credit weeks earned during the individual's base period and shall be charged against the experience accounts of the contributing employers or charged to the accounts of the reimbursing employers from whom the individual earned credit weeks. If the individual earned credit weeks from more than 1 employer, a separate determination shall be made of the amount and duration of benefits based upon the total credit weeks and wages earned with each employer. Benefits paid in accordance with the determinations shall be charged against the experience account of a contributing employer or charged to the account of a reimbursing employer beginning with the most recent employer first and thereafter as necessary against other base period employers in inverse order to that in which the claimant earned his or her last credit week with those employers. If there is any disqualifying act or discharge under section 29(1) with an employer, benefits based upon credit weeks earned from that employer before the disqualifying act or discharge shall be charged only after the exhaustion of charges as provided above. Benefits based upon those credit weeks shall be charged first against the experience account of the contributing employer involved or to the account of the reimbursing employer involved in the most recent disqualifying act or discharge and thereafter as necessary in similar inverse order against other base period employers involved in disqualifying acts or discharges. The order of charges determined as of the beginning date of a benefit year shall remain fixed during the benefit year. For benefit years established after the conversion date prescribed in section 75, the claimant's full weekly benefit rate shall be charged to the account or experience account of the

claimant's most recent separating employer for each of the first 2 weeks of benefits payable to the claimant in the benefit year in accordance with the monetary determination issued pursuant to section 32. However, if the total sum of wages paid by an employer totals $200.00 or less, those wages shall be used for purposes of benefit payment, but any benefit charges attributable to those wages shall be charged to the nonchargeable benefits account. Thereafter, remaining weeks of benefits payable in the benefit year shall be paid in accordance with the monetary determination and shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. However, if the claimant did not perform services for the most recent separating employer or employing entity and receive earnings for performing the services of at least the amount a claimant must earn, in the manner prescribed in section 29(3), to requalify for benefits following a disqualification under section 29(1)(a), (b), (i), or (k) during the claimant's most recent period of employment with the employer or employing entity, then all weeks of benefits payable in the benefit year shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. If the claimant performed services for the most recent separating employing entity and received earnings for performing the services of at least the amount a claimant must earn, in the manner prescribed in section 29(3), to requalify for benefits following a disqualification under section 29(1)(a), (b), (i), or (k) during the claimant's most recent period of employment for the employing entity but the separating employing entity was not a liable employer, the first 2 weeks of benefits payable to the claimant shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. The "separating employer" is the employer that caused the individual to be unemployed as defined in section 48.

(c) For benefit years established before the conversion date prescribed in section 75, and except as otherwise provided in section 11(d) or (g) or section 46a, the charges for regular benefits to any reimbursing employer or to any contributing employer's experience account shall not exceed the weekly benefit rate multiplied by 3/4 the number of credit weeks earned by the individual during his or her base period from that employer. If the resultant product is not an even multiple of 1/2 the weekly benefit rate, the amount shall be raised to an amount equal to the next higher multiple of 1/2 the weekly benefit rate, and in the case of an individual who was employed by only 1 employer in his or her base period and who earned 34 credit weeks with that employer, the product shall be raised to the next higher multiple of the weekly benefit rate.

(d) For benefit years beginning after the conversion date prescribed in section 75, and except as otherwise provided in section 11(d) or (g) or section 46, the charges for regular benefits to any reimbursing employer's account or to any contributing employer's experience account shall not exceed either the amount derived by multiplying by 2 the weekly benefit rate chargeable to the employer in accordance with subsection (b) if the employer is the separating employer and is chargeable for the first 2 weeks of benefits, or the amount derived from the percentage of the weekly benefit rate chargeable to the employer in accordance with subsection (b), multiplied by the number of weeks of benefits chargeable to base period employers based on base period wages, to which the individual is entitled as provided in section 27(d), if the employer is a base period employer, or both of these amounts if the employer was both the chargeable separating employer and a base period employer.

(e) For benefit years beginning before the conversion date prescribed in section 75:

(1) When an individual has multiemployer credit weeks in his or her base period, and when it becomes necessary to use those credit weeks as a basis for benefit payments, a single determination shall be made of the individual's weekly benefit rate and maximum amount of benefits based on the individual's multiemployer credit weeks and the wages earned in those credit weeks. Each employer involved in the individual's multiemployer credit weeks shall be an interested party to the determination. The proviso in section 29(2) shall not be applicable to multiemployer credit weeks, nor shall the reduction provision of section 29(4) apply to benefit entitlement based upon those credit weeks.

(2) The charge for benefits based on multiemployer credit weeks shall be allocated to each employer involved on the basis of the ratio that the total wages earned during the total multiemployer credit weeks counted under section 50(b) with the employer bears to the total amount of wages earned during the total multiemployer credit weeks counted under section 50(b) with all such employers, computed to the nearest cent. However, if an adjusted weekly benefit rate is determined in accordance with section 27(f), the charge to the employer who has contributed to the financing of the retirement plan shall be reduced by the same amount by which the weekly benefit rate was adjusted under section 27(f). Benefits for a week of unemployment allocated under this subsection to a contributing employer shall be charged to the nonchargeable benefits account if the claimant during that week earns remuneration with that employer that equals or exceeds the amount of benefits allocated to that employer.

(3) Benefits paid in accordance with the determination based on multiemployer credit weeks shall be allocated to each employer involved and charged as of the quarter in which the payments are made. Notice of charges made under this subsection shall be given to each employer by means of a current listing of charges, at least weekly, or of a quarterly statement of charges. The listing or statement shall specify the weeks for which benefits were paid based on multiemployer credit weeks and the amount of benefits paid chargeable to that employer for each week. The notice shall be considered to satisfy the requirements of sections 21(a) and 32(d) that notification be given each employer of benefits charged against that employer's account by means of a copy or listing of the benefit check, and all protest and appeal rights applicable to benefit check copies or listings shall also be applicable to the notice of charges. If an employer receives both a current listing of charges and a quarterly statement of charges under this subsection, all protest and appeal rights shall only be applicable to the first notice given.

(f) For benefit years beginning after the conversion date prescribed in section 75, if benefits for a week of unemployment are charged to 2 or more base period employers, the share of the benefits allocated and charged under this section to a contributing employer shall be charged to the nonchargeable benefits account if the claimant during that week earns remuneration with that employer that equals or exceeds the amount of benefits charged to that employer.

(g) For benefit years beginning before the conversion date prescribed in section 75:

(1) Training benefits as provided in section 27(g), and extended benefits as provided in section 64, shall be allocated to each reimbursing employer involved in the individual's base period of the claim to which the benefits are related, on the basis of the ratio that the total wages earned during the total credit weeks counted under section 50(b) with a reimbursing employer bears to the total amount of wages earned during the total credit weeks counted under section 50(b) with all employers.

(2) Training benefits and extended benefits, to the extent that they are not reimbursable by the federal government and have been allocated to a reimbursing employer, shall be

charged to that reimbursing employer. A contributing employer's experience account shall not be charged with training benefits. Training benefits based on service with a contributing employer, to the extent that they are not reimbursable by the federal government, shall be charged to the nonchargeable benefits account. Extended benefits paid and based on service with a contributing employer, to the extent that they are not reimbursable by the federal government, shall be charged to that employer's experience account.

(3) If the training benefits or extended benefits are chargeable only to a single reimbursing employer, the benefits shall be charged in accordance with subsection (a). If the training benefits or extended benefits are chargeable to more than 1 reimbursing employer, or to 1 or more reimbursing employers and the nonchargeable benefits account, the benefits shall be charged as of the quarter in which the payments are made.

(4) Notice of charges made under this subsection shall be given to each employer by means of a current listing of charges, at least weekly, and subsequently by a quarterly summary statement of charges. The listing shall specify the name and social security number of each claimant paid benefits during the week, the weeks for which the benefits were paid, and the amount of benefits chargeable to that employer paid for each week. The quarterly statement of charges shall list each claimant by name and social security number and shall show total benefit payments chargeable to that employer and made to each claimant during the calendar quarter. The listing shall be considered to satisfy the requirements of sections 21(a) and 32(d) that notification be given each employer of benefits charged against that employer's account by means of a listing of the benefit check. All protest and appeal rights applicable to benefit check listings shall also be applicable to the notice of charges. If an employer receives both a current listing of charges and a quarterly statement of charges under this subsection, all protest and appeal rights shall only be applicable to the first notice given.

(h) For benefit years beginning after the conversion date prescribed in section 75:

(1) Training benefits as provided in section 27(g), and extended benefits as provided in section 64, shall be charged to each reimbursing employer in the base period of the claim to which the benefits are related, on the basis of the ratio that the total wages paid by a reimbursing employer during the base period bears to the total wages paid by all reimbursing employers in the base period.

(2) Training benefits, and extended benefits to the extent they are not reimbursable by the federal government and have been allocated to a reimbursing employer, shall be charged to that reimbursing employer. A contributing employer's experience account shall not be charged with training benefits. Training benefits based on service with a contributing employer, to the extent they are not reimbursable by the federal government, shall be charged to the nonchargeable benefits account. Extended benefits paid and based on service with a contributing employer, to the extent they are not reimbursable by the federal government, shall be charged to that employer's experience account.

(3) If the training benefits or extended benefits are chargeable only to a single reimbursing employer, the benefits shall be charged in accordance with subsection (a). If the training benefits or extended benefits are chargeable to more than 1 reimbursing employer, or to 1 or more reimbursing employers and the nonchargeable benefits account, the benefits shall be charged as of the quarter in which the payments are made.

(4) Notice of charges made under this subsection shall be given to each employer by means of a current listing of charges, at least weekly, and subsequently by a quarterly summary statement of charges. The listing shall specify the name and social security number of each claimant paid benefits in the week, the weeks for which the benefits were

paid, and the amount of benefits chargeable to that employer paid for each week. The quarterly summary statement of charges shall list each claimant by name and social security number and shall show total benefit payments chargeable to that employer and made to each claimant during the calendar quarter. The listing shall be considered to satisfy the requirements of sections 21(a) and 32(d) that notification be given to each employer of benefits charged against that employer's account by means of a listing of the benefit check. All protest and appeal rights applicable to benefit check listings shall also be applicable to the notice of charges. If an employer receives both a current listing of charges and a quarterly summary statement of charges under this subsection, all protest and appeal rights shall only be applicable to the first notice given.

(i) If a benefit year is established after the conversion date prescribed in section 75, the portion of benefits paid in that benefit year that are based on wages used to establish the immediately preceding benefit year that began before the conversion date shall not be charged to the employer or employers who paid those wages but shall be charged instead to the nonchargeable benefits account.

421.27 Payment of benefits.

Sec. 27. (a)(1) When a determination, redetermination, or decision is made that benefits are due an unemployed individual, the benefits shall become payable from the fund and continue to be payable to the unemployed individual, subject to the limitations imposed by the individual's monetary entitlement, if the individual continues to be unemployed and to file claims for benefits, until the determination, redetermination, or decision is reversed, a determination, redetermination, or decision on a new issue holding the individual disqualified or ineligible is made, or, for benefit years beginning before the conversion date prescribed in section 75, a new separation issue arises resulting from subsequent work.

(2) Benefits shall be paid in person or by mail through employment offices in accordance with rules promulgated by the commission.

(b)(1) Subject to subsection (f), the weekly benefit rate for an individual, with respect to benefit years beginning before the conversion date prescribed in section 75, shall be 67% of the individual's average after tax weekly wage, except that the individual's maximum weekly benefit rate shall not exceed $300.00. However, with respect to benefit years beginning after the conversion date as prescribed in section 75, the individual's weekly benefit rate shall be 4.1% of the individual's wages paid in the calendar quarter of the base period in which the individual was paid the highest total wages, plus $6.00 for each dependent as defined in subdivision (3), up to a maximum of 5 dependents, claimed by the individual at the time the individual files a new claim for benefits, except that the individual's maximum weekly benefit rate shall not exceed $300.00 before the effective date of the amendatory act that added section 13*l* and $362.00 for claims filed on and after the effective date of the amendatory act that added section 13*l*. The weekly benefit rate for an individual claiming benefits on and after the effective date of the amendatory act that added section 13*l* shall be recalculated subject to the $362.00 maximum weekly benefit rate. The unemployment agency shall establish the procedures necessary to verify the number of dependents claimed. If a person fraudulently claims a dependent, that person is subject to the penalties set forth in sections 54 and 54c. With respect to benefit years beginning on or after October 2, 1983, the weekly benefit rate shall be adjusted to the next lower multiple of $1.00.

(2) For benefit years beginning before the conversion date prescribed in section 75, the state average weekly wage for a calendar year shall be computed on the basis of the 12 months ending the June 30 immediately preceding that calendar year. The commission shall prepare a table of weekly benefit rates based on an "average after tax weekly wage"

calculated by subtracting, from an individual's average weekly wage as determined in accordance with section 51, a reasonable approximation of the weekly amount required to be withheld by the employer from the remuneration of the individual based on dependents and exemptions for income taxes under chapter 24 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3401 to 3406, and under section 351 of the income tax act of 1967, 1967 PA 281, MCL 206.351, and for old age and survivor's disability insurance taxes under the federal insurance contributions act, chapter 21 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3128. For purposes of applying the table to an individual's claim, a dependent shall be as defined in subdivision (3). The table applicable to an individual's claim shall be the table reflecting the number of dependents claimed by the individual under subdivision (3). The commission shall adjust the tables based on changes in withholding schedules published by the United States department of treasury, internal revenue service, and by the department of treasury. The number of dependents allowed shall be determined with respect to each week of unemployment for which an individual is claiming benefits.

(3) For benefit years beginning before the conversion date prescribed in section 75, a dependent means any of the following persons who is receiving and for at least 90 consecutive days immediately preceding the week for which benefits are claimed, or, in the case of a dependent husband, wife, or child, for the duration of the marital or parental relationship, if the relationship has existed less than 90 days, has received more than half the cost of his or her support from the individual claiming benefits:

(a) A child, including stepchild, adopted child, or grandchild of the individual who is under 18 years of age, or 18 years of age or over if, because of physical or mental infirmity, the child is unable to engage in a gainful occupation, or is a full-time student as defined by the particular educational institution, at a high school, vocational school, community or junior college, or college or university and has not attained the age of 22.

(b) The husband or wife of the individual.

(c) The legal father or mother of the individual if that parent is either more than 65 years of age or is permanently disabled from engaging in a gainful occupation.

(d) A brother or sister of the individual if the brother or sister is orphaned or the living parents are dependent parents of an individual, and the brother or sister is under 18 years of age, or 18 years of age or over if, because of physical or mental infirmity, the brother or sister is unable to engage in a gainful occupation, or is a full-time student as defined by the particular educational institution, at a high school, vocational school, community or junior college, or college or university and is less than 22 years of age.

(4) For benefit years beginning after the conversion date prescribed in section 75, a dependent means any of the following persons who received for at least 90 consecutive days immediately preceding the first week of the benefit year or, in the case of a dependent husband, wife, or child, for the duration of the marital or parental relationship if the relationship existed less than 90 days before the beginning of the benefit year, has received more than 1/2 the cost of his or her support from the individual claiming the benefits:

(a) A child, including stepchild, adopted child, or grandchild of the individual who is under 18 years of age, or 18 years of age and over if, because of physical or mental infirmity, the child is unable to engage in a gainful occupation, or is a full-time student as defined by the particular educational institution, at a high school, vocational school, community or junior college, or college or university and has not attained the age of 22.

(b) The husband or wife of the individual.

(c) The legal father or mother of the individual if that parent is either more than 65 years of age or is permanently disabled from engaging in a gainful occupation.

(d) A brother or sister of the individual if the brother or sister is orphaned or the living parents are dependent parents of an individual, and the brother or sister is under 18 years of age, or 18 years of age and over if, because of physical or mental infirmity, the brother or sister is unable to engage in a gainful occupation, or is a full-time student as defined by the particular educational institution, at a high school, vocational school, community or junior college, or college or university and is less than 22 years of age.

(5) For benefit years beginning before the conversion date prescribed in section 75, dependency status of a dependent, child or otherwise, once established or fixed in favor of an individual continues during the individual's benefit year until terminated. Dependency status of a dependent terminates at the end of the week in which the dependent ceases to be an individual described in subdivision (3)(a), (b), (c), or (d) because of age, death, or divorce. For benefit years beginning after the conversion date prescribed in section 75, the number of dependents established for an individual at the beginning of the benefit year shall remain in effect during the entire benefit year.

(6) For benefit years beginning before the conversion date prescribed in section 75, failure on the part of an individual, due to misinformation or lack of information, to furnish all information material for determination of the number of the individual's dependents when the individual files a claim for benefits with respect to a week shall be considered good cause for the issuance of a redetermination as to the amount of benefits based on the number of the individual's dependents as of the beginning date of that week. Dependency status of a dependent, child or otherwise, once established or fixed in favor of a person is not transferable to or usable by another person with respect to the same week.

For benefit years beginning after the conversion date as prescribed in section 75, failure on the part of an individual, due to misinformation or lack of information, to furnish all information material for determination of the number of the individual's dependents shall be considered good cause for the issuance of a redetermination as to the amount of benefits based on the number of the individual's dependents as of the beginning of the benefit year.

(c) Subject to subsection (f), all of the following apply to eligible individuals:

(1) Each eligible individual shall be paid a weekly benefit rate with respect to the week for which the individual earns or receives no remuneration. Notwithstanding the definition of week in section 50, if within 2 consecutive weeks in which an individual was not unemployed within the meaning of section 48 there was a period of 7 or more consecutive days for which the individual did not earn or receive remuneration, that period shall be considered a week for benefit purposes under this act if a claim for benefits for that period is filed not later than 30 days after the end of the period.

(2) Each eligible individual shall have his or her weekly benefit rate reduced with respect to each week in which the individual earns or receives remuneration at the rate of 50 cents for each whole $1.00 of remuneration earned or received during that week.

(3) An individual who receives or earns partial remuneration may not receive a total of benefits and earnings that exceeds 1-1/2 times his or her weekly benefit amount. For each dollar of total benefits and earnings that exceeds 1-1/2 times the individual's weekly benefit amount, benefits shall be reduced by $1.00.

(4) If the reduction in a claimant's benefit rate for a week in accordance with subparagraph (2) or (3) results in a benefit rate greater than zero for that week, the claimant's balance of weeks of benefit payments will be reduced by 1 week.

(5) All remuneration for work performed during a shift that terminates on 1 day but that began on the preceding day shall be considered to have been earned by the eligible individual on the preceding day.

(d) For benefit years beginning before the conversion date prescribed in section 75, and subject to subsection (f) and this subsection, the amount of benefits to which an individual who is otherwise eligible is entitled during a benefit year from an employer with respect to employment during the base period is the amount obtained by multiplying the weekly benefit rate with respect to that employment by 3/4 of the number of credit weeks earned in the employment. For the purpose of this subsection and section 20(c), if the resultant product is not an even multiple of 1/2 the weekly benefit rate, the product shall be raised to an amount equal to the next higher multiple of 1/2 the weekly benefit rate, and, for an individual who was employed by only 1 employer in the individual's base period and earned 34 credit weeks with that employer, the product shall be raised to the next higher multiple of the weekly benefit rate. The maximum amount of benefits payable to an individual within a benefit year, with respect to employment by an employer, shall not exceed 26 times the weekly benefit rate with respect to that employment. The maximum amount of benefits payable to an individual within a benefit year shall not exceed the amount to which the individual would be entitled for 26 weeks of unemployment in which remuneration was not earned or received. The limitation of total benefits set forth in this subsection does not apply to claimants declared eligible for training benefits in accordance with subsection (g). For benefit years beginning after the conversion date prescribed in section 75, and subject to subsection (f) and this subsection, the maximum benefit amount payable to an individual in a benefit year for purposes of this section and section 20(c) is the number of weeks of benefits payable to an individual during the benefit year, multiplied by the individual's weekly benefit rate. The number of weeks of benefits payable to an individual shall be calculated by taking 43% of the individual's base period wages and dividing the result by the individual's weekly benefit rate. If the quotient is not a whole or half number, the result shall be rounded down to the nearest half number. However, not more than 26 weeks of benefits or less than 14 weeks of benefits shall be payable to an individual in a benefit year. The limitation of total benefits set forth in this subsection shall not apply to claimants declared eligible for training benefits in accordance with subsection (g).

(e) When a claimant dies or is judicially declared insane or mentally incompetent, unemployment compensation benefits accrued and payable to that person for weeks of unemployment before death, insanity, or incompetency, but not paid, shall become due and payable to the person who is the legal heir or guardian of the claimant or to any other person found by the commission to be equitably entitled to the benefits by reason of having incurred expense in behalf of the claimant for the claimant's burial or other necessary expenses.

(f)(1) For benefit years beginning before the conversion date prescribed in section 75, and notwithstanding any inconsistent provisions of this act, the weekly benefit rate of each individual who is receiving or will receive a "retirement benefit", as defined in subdivision (4), shall be adjusted as provided in subparagraphs (a), (b), and (c). However, an individual's extended benefit account and an individual's weekly extended benefit rate under section 64 shall be established without reduction under this subsection unless subdivision (5) is in effect. Except as otherwise provided in this subsection, all other provisions of this act continue to apply in connection with the benefit claims of those retired persons.

(a) If and to the extent that unemployment benefits payable under this act would be chargeable to an employer who has contributed to the financing of a retirement plan

under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount equal to or larger than the claimant's weekly benefit rate as otherwise established under this act, the claimant shall not receive unemployment benefits that would be chargeable to the employer under this act.

(b) If and to the extent that unemployment benefits payable under this act would be chargeable to an employer who has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount less than the claimant's weekly benefit rate as otherwise established under this act, then the weekly benefit rate otherwise payable to the claimant and chargeable to the employer under this act shall be reduced by an amount equal to the pro rata weekly amount, adjusted to the next lower multiple of $1.00, which the claimant is receiving or will receive as a retirement benefit.

(c) If the unemployment benefit payable under this act would be chargeable to an employer who has not contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit, then the weekly benefit rate of the claimant as otherwise established under this act shall not be reduced due to receipt of a retirement benefit.

(d) If the unemployment benefit payable under this act is computed on the basis of multiemployer credit weeks and a portion of the benefit is allocable under section 20(e) to an employer who has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit, the adjustments required by subparagraph (a) or (b) apply only to that portion of the weekly benefit rate that would otherwise be allocable and chargeable to the employer.

(2) If an individual's weekly benefit rate under this act was established before the period for which the individual first receives a retirement benefit, any benefits received after a retirement benefit becomes payable shall be determined in accordance with the formula stated in this subsection.

(3) When necessary to assure prompt payment of benefits, the commission shall determine the pro rata weekly amount yielded by an individual's retirement benefit based on the best information currently available to it. In the absence of fraud, a determination shall not be reconsidered unless it is established that the individual's actual retirement benefit in fact differs from the amount determined by $2.00 or more per week. The reconsideration shall apply only to benefits as may be claimed after the information on which the reconsideration is based was received by the commission.

(4)(a) As used in this subdivision, "retirement benefit" means a benefit, annuity, or pension of any type or that part thereof that is described in subparagraph (b) that is:

(*i*) Provided as an incident of employment under an established retirement plan, policy, or agreement, including federal social security if subdivision (5) is in effect.

(*ii*) Payable to an individual because the individual has qualified on the basis of attained age, length of service, or disability, whether or not the individual retired or was retired from employment. Amounts paid to individuals in the course of liquidation of a private pension or retirement fund because of termination of the business or of a plant or department of the business of the employer involved shall not be considered to be retirement benefits.

(b) If a benefit as described in subparagraph (a) is payable or paid to the individual under a plan to which the individual has contributed:

(*i*) Less than half of the cost of the benefit, then only half of the benefit shall be treated as a retirement benefit.

(*ii*) Half or more of the cost of the benefit, then none of the benefit shall be treated as a retirement benefit.

(c) The burden of establishing the extent of an individual's contribution to the cost of his or her retirement benefit for the purpose of subparagraph (b) is upon the employer who has contributed to the plan under which a benefit is provided.

(5) Notwithstanding any other provision of this subsection, for any week that begins after March 31, 1980, and with respect to which an individual is receiving a governmental or other pension and claiming unemployment compensation, the weekly benefit amount payable to the individual for those weeks shall be reduced, but not below zero, by the entire prorated weekly amount of any governmental or other pension, retirement or retired pay, annuity, or any other similar payment that is based on any previous work of the individual. This reduction shall be made only if it is required as a condition for full tax credit against the tax imposed by the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311.

(6) For benefit years beginning after the conversion date prescribed in section 75, notwithstanding any inconsistent provisions of this act, the weekly benefit rate of each individual who is receiving or will receive a retirement benefit, as defined in subdivision (4), shall be adjusted as provided in subparagraphs (a), (b), and (c). However, an individual's extended benefit account and an individual's weekly extended benefit rate under section 64 shall be established without reduction under this subsection, unless subdivision (5) is in effect. Except as otherwise provided in this subsection, all the other provisions of this act shall continue to be applicable in connection with the benefit claims of those retired persons.

(a) If any base period or chargeable employer has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount equal to or larger than the claimant's weekly benefit rate as otherwise established under this act, the claimant shall not receive unemployment benefits.

(b) If any base period employer or chargeable employer has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount less than the claimant's weekly benefit rate as otherwise established under this act, then the weekly benefit rate otherwise payable to the claimant shall be reduced by an amount equal to the pro rata weekly amount, adjusted to the next lower multiple of $1.00, which the claimant is receiving or will receive as a retirement benefit.

(c) If no base period or separating employer has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit, then the weekly benefit rate of the claimant as otherwise established under this act shall not be reduced due to receipt of a retirement benefit.

(g) Notwithstanding any other provision of this act, an individual pursuing vocational training or retraining pursuant to section 28(2) who has exhausted all benefits available under subsection (d) may be paid for each week of approved vocational training pursued beyond the date of exhaustion a benefit amount in accordance with subsection (c), but not in excess of the individual's most recent weekly benefit rate. However, an individual shall not be paid training benefits totaling more than 18 times the individual's most recent weekly benefit rate. The expiration or termination of a benefit year shall not stop or interrupt payment of training benefits if the training for which the benefits were granted began before expiration or termination of the benefit year.

(h) A payment of accrued unemployment benefits shall not be made to an eligible individual or in behalf of that individual as provided in subsection (e) more than 6 years after the ending date of the benefit year covering the payment or 2 calendar years after the calendar year in which there is final disposition of a contested case, whichever is later.

(i) Benefits based on service in employment described in section 42(8), (9), and (10) are payable in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to this act, except that:

(1) With respect to service performed in an instructional, research, or principal administrative capacity for an institution of higher education as defined in section 53(2), or for an educational institution other than an institution of higher education as defined in section 53(3), benefits shall not be paid to an individual based on those services for any week of unemployment beginning after December 31, 1977 that commences during the period between 2 successive academic years or during a similar period between 2 regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to an individual if the individual performs the service in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform service in an instructional, research, or principal administrative capacity for an institution of higher education or an educational institution other than an institution of higher education in the second of the academic years or terms, whether or not the terms are successive.

(2) With respect to service performed in other than an instructional, research, or principal administrative capacity for an institution of higher education as defined in section 53(2) or for an educational institution other than an institution of higher education as defined in section 53(3), benefits shall not be paid based on those services for any week of unemployment beginning after December 31, 1977 that commences during the period between 2 successive academic years or terms to any individual if that individual performs the service in the first of the academic years or terms and if there is a reasonable assurance that the individual will perform the service for an institution of higher education or an educational institution other than an institution of higher education in the second of the academic years or terms.

(3) With respect to any service described in subdivision (1) or (2), benefits shall not be paid to an individual based upon service for any week of unemployment that commences during an established and customary vacation period or holiday recess if the individual performs the service in the period immediately before the vacation period or holiday recess and there is a contract or reasonable assurance that the individual will perform the service in the period immediately following the vacation period or holiday recess.

(4) If benefits are denied to an individual for any week solely as a result of subdivision (2) and the individual was not offered an opportunity to perform in the second academic year or term the service for which reasonable assurance had been given, the individual is entitled to a retroactive payment of benefits for each week for which the individual had previously filed a timely claim for benefits. An individual entitled to benefits under this subdivision may apply for those benefits by mail in accordance with R 421.210 as promulgated by the commission.

(5) Benefits based upon services in other than an instructional, research, or principal administrative capacity for an institution of higher education shall not be denied for any week of unemployment commencing during the period between 2 successive academic years or terms solely because the individual had performed the service in the first of the academic years or terms and there is reasonable assurance that the individual will perform the service for an institution of higher education or an educational institution

other than an institution of higher education in the second of the academic years or terms, unless a denial is required as a condition for full tax credit against the tax imposed by the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311.

(6) For benefit years established before the conversion date prescribed in section 75, and notwithstanding subdivisions (1), (2), and (3), the denial of benefits does not prevent an individual from completing requalifying weeks in accordance with section 29(3) nor does the denial prevent an individual from receiving benefits based on service with an employer other than an educational institution for any week of unemployment occurring between academic years or terms, whether or not successive, or during an established and customary vacation period or holiday recess, even though the employer is not the most recent chargeable employer in the individual's base period. However, in that case section 20(b) applies to the sequence of benefit charging, except for the employment with the educational institution, and section 50(b) applies to the calculation of credit weeks. When a denial of benefits under subdivision (1) no longer applies, benefits shall be charged in accordance with the normal sequence of charging as provided in section 20(b).

(7) For benefit years beginning after the conversion date prescribed in section 75, and notwithstanding subdivisions (1), (2), and (3), the denial of benefits shall not prevent an individual from completing requalifying weeks in accordance with section 29(3) nor shall the denial prevent an individual from receiving benefits based on service with another base period employer other than an educational institution for any week of unemployment occurring between academic years or terms, whether or not successive, or during an established and customary vacation period or holiday recess. However, when benefits are paid based on service with 1 or more base period employers other than an educational institution, the individual's weekly benefit rate shall be calculated in accordance with subsection (b)(1) but during the denial period the individual's weekly benefit payment shall be reduced by the portion of the payment attributable to base period wages paid by an educational institution and the account or experience account of the educational institution shall not be charged for benefits payable to the individual. When a denial of benefits under subdivision (1) is no longer applicable, benefits shall be paid and charged on the basis of base period wages with each of the base period employers including the educational institution.

(8) For the purposes of this subsection, "academic year" means that period, as defined by the educational institution, when classes are in session for that length of time required for students to receive sufficient instruction or earn sufficient credit to complete academic requirements for a particular grade level or to complete instruction in a noncredit course.

(9) In accordance with subdivisions (1), (2), and (3), benefits for any week of unemployment shall be denied to an individual who performed services described in subdivision (1), (2), or (3) in an educational institution while in the employ of an educational service agency. For the purpose of this subdivision, "educational service agency" means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing the services to 1 or more educational institutions.

(j) Benefits shall not be paid to an individual on the basis of any base period services, substantially all of which consist of participating in sports or athletic events or training or preparing to participate, for a week that commences during the period between 2 successive sport seasons or similar periods if the individual performed the services in the first of the seasons or similar periods and there is a reasonable assurance that the individual will perform the services in the later of the seasons or similar periods.

(k)(1) Benefits shall not be payable on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for the purpose of performing the services, or was permanently residing in the United States under color of law at the time the services were performed, including an alien who was lawfully present in the United States under section 212(d)(5) of the immigration and nationality act, chapter 477, 66 Stat. 182, 8 U.S.C. 1182.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are payable because of their alien status are uniformly required from all applicants for benefits.

(3) Where an individual whose application for benefits would otherwise be approved, a determination that benefits to that individual are not payable because of the individual's alien status shall not be made except upon a preponderance of the evidence.

(m)(1) An individual filing a new claim for unemployment compensation under this act, at the time of filing the claim, shall disclose whether the individual owes child support obligations as defined in this subsection. If an individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commission shall notify the state or local child support enforcement agency enforcing the obligation that the individual has been determined to be eligible for unemployment compensation.

(2) Notwithstanding section 30, the commission shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations by using whichever of the following methods results in the greatest amount:

(a) The amount, if any, specified by the individual to be deducted and withheld under this subdivision.

(b) The amount, if any, determined pursuant to an agreement submitted to the commission under section 454(19)(B)(*i*) of part D of title IV of the social security act, 42 U.S.C. 654, by the state or local child support enforcement agency.

(c) Any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to legal process, as that term is defined in section 462(e) of part D of title IV of the social security act, 42 U.S.C. 662, properly served upon the commission.

(3) The amount of unemployment compensation subject to deduction under subdivision (2) is that portion that remains payable to the individual after application of the recoupment provisions of section 62(a) and the reduction provisions of subsections (c) and (f).

(4) Any amount deducted and withheld under subdivision (2) shall be paid by the commission to the appropriate state or local child support enforcement agency.

(5) Any amount deducted and withheld under subdivision (2) shall be treated for all purposes as if it were paid to the individual as unemployment compensation and paid by the individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations.

(6) This subsection applies only if the state or local child support enforcement agency agrees in writing to reimburse and does reimburse the commission for the administrative costs incurred by the commission under this subsection that are attributable to child support obligations being enforced by the state or local child support enforcement agency. The administrative costs incurred shall be determined by the commission. The commission, in its discretion, may require payment of administrative costs in advance.

(7) As used in this subsection:

(a) "Unemployment compensation", for purposes of subdivisions (1) through (5), means any compensation payable under this act, including amounts payable by the commission pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(b) "Child support obligations" includes only obligations that are being enforced pursuant to a plan described in section 454 of part D of title IV of the social security act, 42 U.S.C. 654, that has been approved by the secretary of health and human services under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 660, and 663 to 669b.

(c) "State or local child support enforcement agency" means any agency of this state or a political subdivision of this state operating pursuant to a plan described in subparagraph (b).

(n) Subsection (i)(2) applies to services performed by school bus drivers employed by a private contributing employer holding a contractual relationship with an educational institution, but only if at least 75% of the individual's base period wages with that employer are attributable to services performed as a school bus driver.

(o)(1) For weeks of unemployment beginning after July 1, 1996, unemployment benefits based on services by a seasonal worker performed in seasonal employment shall be payable only for weeks of unemployment that occur during the normal seasonal work period. Benefits shall not be paid based on services performed in seasonal employment for any week of unemployment beginning after March 28, 1996 that begins during the period between 2 successive normal seasonal work periods to any individual if that individual performs the service in the first of the normal seasonal work periods and if there is a reasonable assurance that the individual will perform the service for a seasonal employer in the second of the normal seasonal work periods. If benefits are denied to an individual for any week solely as a result of this subsection and the individual is not offered an opportunity to perform in the second normal seasonal work period for which reasonable assurance of employment had been given, the individual is entitled to a retroactive payment of benefits under this subsection for each week that the individual previously filed a timely claim for benefits. An individual may apply for any retroactive benefits under this subsection in accordance with R 421.210 of the Michigan administrative code.

(2) Not less than 20 days before the estimated beginning date of a normal seasonal work period, an employer may apply to the commission in writing for designation as a seasonal employer. At the time of application, the employer shall conspicuously display a copy of the application on the employer's premises. Within 90 days after receipt of the application, the commission shall determine if the employer is a seasonal employer. A determination or redetermination of the commission concerning the status of an employer as a seasonal employer, or a decision of a referee or the board of review, or of the courts of this state concerning the status of an employer as a seasonal employer, which has become final, together with the record thereof, may be introduced in any proceeding involving a claim for benefits, and the facts found and decision issued in the determination, redetermination, or decision shall be conclusive unless substantial evidence to the contrary is introduced by or on behalf of the claimant.

(3) If the employer is determined to be a seasonal employer, the employer shall conspicuously display on its premises a notice of the determination and the beginning and ending dates of the employer's normal seasonal work periods. The notice shall be furnished by the commission. The notice shall additionally specify that an employee must timely apply for unemployment benefits at the end of a first seasonal work period to preserve his or her right to receive retroactive unemployment benefits in the event that

he or she is not reemployed by the seasonal employer in the second of the normal seasonal work periods.

(4) The commission may issue a determination terminating an employer's status as a seasonal employer on the commission's own motion for good cause, or upon the written request of the employer. A termination determination under this subdivision terminates an employer's status as a seasonal employer, and shall become effective on the beginning date of the normal seasonal work period that would have immediately followed the date the commission issues the determination. A determination under this subdivision is subject to review in the same manner and to the same extent as any other determination under this act.

(5) An employer whose status as a seasonal employer is terminated under subdivision (4) may not reapply for a seasonal employer status determination until after a regularly recurring normal seasonal work period has begun and ended.

(6) If a seasonal employer informs an employee who received assurance of being rehired that, despite the assurance, the employee will not be rehired at the beginning of the employer's next normal seasonal work period, this subsection shall not prevent the employee from receiving unemployment benefits in the same manner and to the same extent he or she would receive benefits under this act from an employer who has not been determined to be a seasonal employer.

(7) A successor of a seasonal employer is considered to be a seasonal employer unless the successor provides the commission, within 120 days after the transfer, with a written request for termination of its status as a seasonal employer in accordance with subdivision (4).

(8) At the time an employee is hired by a seasonal employer, the employer shall notify the employee in writing whether the employee will be a seasonal worker. The employer shall provide the worker with written notice of any subsequent change in the employee's status as a seasonal worker. If an employee of a seasonal employer is denied benefits because that employee is a seasonal worker, the employee may contest that designation in accordance with section 32a.

(9) As used in this subsection:

(a) "Construction industry" means the work activity designated in sector group 23 — construction of the North American classification system — United States office of management and budget, 1997 edition.

(b) "Normal seasonal work period" means that period or those periods of time determined pursuant to rules promulgated by the commission during which an individual is employed in seasonal employment.

(c) "Seasonal employment" means the employment of 1 or more individuals primarily hired to perform services in an industry, other than the construction industry, that does either of the following:

(1) Customarily operates during regularly recurring periods of 26 weeks or less in any 52-consecutive-week period.

(2) Customarily employs at least 50% of its employees for regularly recurring periods of 26 weeks or less within a period of 52 consecutive weeks.

(d) "Seasonal employer" means an employer, other than an employer in the construction industry, who applies to the commission for designation as a seasonal employer and who the commission determines to be an employer whose operations and business are substantially engaged in seasonal employment.

(e) "Seasonal worker" means a worker who has been paid wages by a seasonal employer for work performed only during the normal seasonal work period.

(10) If this subsection is found by the United States department of labor to be contrary to the federal unemployment tax act, chapter 23 of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, or the social security act, chapter 531, 49 Stat. 620, and if conformity with the federal law is required as a condition for full tax credit against the tax imposed under the federal unemployment tax act or as a condition for receipt by the commission of federal administrative grant funds under the social security act, this subsection shall be invalid.

(p) Benefits shall not be paid to an individual based upon his or her services as a school crossing guard for any week of unemployment that begins between 2 successive academic years or terms, if that individual performs the services of a school crossing guard in the first of the academic years or terms and has a reasonable assurance that he or she will perform those services in the second of the academic years or terms.

421.29 Disqualification from benefits.

Sec. 29. (1) An individual is disqualified from receiving benefits if he or she:

(a) Left work voluntarily without good cause attributable to the employer or employing unit. An individual who left work is presumed to have left work voluntarily without good cause attributable to the employer or employing unit. An individual claiming benefits under this act has the burden of proof to establish that he or she left work involuntarily or for good cause that was attributable to the employer or employing unit. However, if the individual has an established benefit year in effect and during that benefit year leaves unsuitable work within 60 days after the beginning of that work, the leaving does not disqualify the individual.

(b) Was suspended or discharged for misconduct connected with the individual's work or for intoxication while at work.

(c) Failed without good cause to apply for available suitable work after receiving from the employment office or the commission notice of the availability of that work.

(d) Failed without good cause while unemployed to report to the individual's former employer or employing unit within a reasonable time after that employer or employing unit provided notice of the availability of an interview concerning available suitable work with the former employer or employing unit.

(e) Failed without good cause to accept suitable work offered to the individual or to return to the individual's customary self-employment, if any, when directed by the employment office or the commission. An employer that receives a monetary determination under section 32 may notify the unemployment agency regarding the availability of suitable work with the employer on the monetary determination or other form provided by the unemployment agency. Upon receipt of the notice of the availability of suitable work, the unemployment agency shall notify the claimant of the availability of suitable work.

(f) Lost his or her job due to absence from work resulting from a violation of law for which the individual was convicted and sentenced to jail or prison. This subdivision does not apply if conviction of an individual results in a sentence to county jail under conditions of day parole as provided in 1962 PA 60, MCL 801.251 to 801.258, or if the conviction was for a traffic violation that resulted in an absence of less than 10 consecutive work days from the individual's place of employment.

(g) Is discharged, whether or not the discharge is subsequently reduced to a disciplinary layoff or suspension, for participation in either of the following:

(*i*) A strike or other concerted action in violation of an applicable collective bargaining agreement that results in curtailment of work or restriction of or interference with production.

(*ii*) A wildcat strike or other concerted action not authorized by the individual's recognized bargaining representative.

(h) Was discharged for an act of assault and battery connected with the individual's work.

(i) Was discharged for theft connected with the individual's work.

(j) Was discharged for willful destruction of property connected with the individual's work.

(k) Committed a theft after receiving notice of a layoff or discharge, but before the effective date of the layoff or discharge, resulting in loss or damage to the employer who would otherwise be chargeable for the benefits, regardless of whether the individual qualified for the benefits before the theft.

(*l*) Was employed by a temporary help firm, which as used in this section means an employer whose primary business is to provide a client with the temporary services of 1 or more individuals under contract with the employer, to perform services for a client of that firm if each of the following conditions is met:

(*i*) The temporary help firm provided the employee with a written notice before the employee began performing services for the client stating in substance both of the following:

(A) That within 7 days after completing services for a client of the temporary help firm, the employee is under a duty to notify the temporary help firm of the completion of those services.

(B) That a failure to provide the temporary help firm with notice of the employee's completion of services pursuant to sub-subparagraph (A) constitutes a voluntary quit that will affect the employee's eligibility for unemployment compensation should the employee seek unemployment compensation following completion of those services.

(*ii*) The employee did not provide the temporary help firm with notice that the employee had completed his or her services for the client within 7 days after completion of his or her services for the client.

(m) Was discharged for (*i*) Illegally ingesting, injecting, inhaling, or possessing a controlled substance on the premises of the employer, (*ii*) Refusing to submit to a drug test that was required to be administered in a nondiscriminatory manner, or (*iii*) Testing positive on a drug test, if the test was administered in a nondiscriminatory manner. If the worker disputes the result of the testing, a generally accepted confirmatory test shall be administered and shall also indicate a positive result for the presence of a controlled substance before a disqualification of the worker under this subdivision. As used in this subdivision:

(A) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(B) "Drug test" means a test designed to detect the illegal use of a controlled substance.

(C) "Nondiscriminatory manner" means administered impartially and objectively in accordance with a collective bargaining agreement, rule, policy, a verbal or written notice, or a labor-management contract.

(2) A disqualification under subsection (1) begins the week in which the act or discharge that caused the disqualification occurs and continues until the disqualified individual requalifies under subsection (3), except that for benefit years beginning before the conversion date prescribed in section 75, the disqualification does not prevent the payment of benefits if there are credit weeks, other than multiemployer credit weeks, after the most recent disqualifying act or discharge.

(3) After the week in which the disqualifying act or discharge described in subsection (1) occurs, an individual who seeks to requalify for benefits is subject to all of the following:

(a) For benefit years established before the conversion date described in section 75, the individual shall complete 6 requalifying weeks if he or she was disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*), or 13 requalifying weeks if he or she was disqualified under subsection (1)(h), (i), (j), (k), or (m). A requalifying week required under this subsection shall be each week in which the individual does any of the following:

(*i*) Earns or receives remuneration in an amount at least equal to an amount needed to earn a credit week, as that term is defined in section 50.

(*ii*) Otherwise meets all of the requirements of this act to receive a benefit payment if the individual were not disqualified under subsection (1).

(*iii*) Receives a benefit payment based on credit weeks subsequent to the disqualifying act or discharge.

(b) For benefit years established before the conversion date prescribed in section 75, if the individual is disqualified under subsection (1)(a) or (b), he or she shall requalify, after the week in which the disqualifying discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation act of another state an amount equal to, or in excess of, 7 times the individual's potential weekly benefit rate, calculated on the basis of employment with the employer involved in the disqualification, or by earning in employment for an employer liable under this act or the unemployment compensation act of another state an amount equal to, or in excess of, 40 times the state minimum hourly wage times 7, whichever is the lesser amount.

(c) For benefit years established before the conversion date prescribed in section 75, a benefit payable to an individual disqualified under subsection (1)(a) or (b), shall be charged to the nonchargeable benefits account, and not to the account of the employer with whom the individual was involved in the disqualification.

(d) For benefit years beginning after the conversion date prescribed in section 75, subsequent to the week in which the disqualifying act or discharge occurred, an individual shall complete 13 requalifying weeks if he or she was disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*), or 26 requalifying weeks if he or she was disqualified under subsection (1)(h), (i), (j), (k), or (m). A requalifying week required under this subsection shall be each week in which the individual does any of the following:

(*i*) Earns or receives remuneration in an amount equal to at least 1/13 of the minimum amount needed in a calendar quarter of the base period for an individual to qualify for benefits, rounded down to the nearest whole dollar.

(*ii*) Otherwise meets all of the requirements of this act to receive a benefit payment if the individual were not disqualified under subsection (1).

(e) For benefit years beginning after the conversion date prescribed in section 75 and beginning before the effective date of the amendatory act that added section 13*l*, if the individual is disqualified under subsection (1)(a) or (b), he or she shall requalify, after the week in which the disqualifying act or discharge occurred by earning in employment for

an employer liable under this act or the unemployment compensation law of another state at least the lesser of the following:

(*i*) Seven times the individual's weekly benefit rate.

(*ii*) Forty times the state minimum hourly wage times 7.

(f) For benefit years beginning after the conversion date prescribed in section 75 and after the effective date of the amendatory act that added section 13*l*, if the individual is disqualified under subsection (1)(a), he or she shall requalify, after the week in which the disqualifying act or discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation law of another state at least 12 times the individual's weekly benefit rate.

(g) For benefit years beginning after the conversion date prescribed in section 75 and after the effective date of the amendatory act that added section 13*l*, if the individual is disqualified under subsection (1)(b), he or she shall requalify, after the week in which the disqualifying act or discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation law of another state at least 17 times the individual's weekly benefit rate.

(h) A benefit payable to the individual disqualified or separated under disqualifying circumstances under subsection (1)(a) or (b), shall be charged to the nonchargeable benefits account, and not to the account of the employer with whom the individual was involved in the separation. Benefits payable to an individual determined by the commission to be separated under disqualifying circumstances shall not be charged to the account of the employer involved in the disqualification for any period after the employer notifies the commission of the claimant's possible ineligibility or disqualification. If a disqualifying act or discharge occurs during the individual's benefit year, any benefits that may become payable to the individual in a later benefit year based on employment with the employer involved in the disqualification shall be charged to the nonchargeable benefits account.

(4) The maximum amount of benefits otherwise available under section 27(d) to an individual disqualified under subsection (1) is subject to all of the following conditions:

(a) For benefit years established before the conversion date prescribed in section 75, if the individual is disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*) and the maximum amount of benefits is based on wages and credit weeks earned from an employer before an act or discharge involving that employer, the amount shall be reduced by an amount equal to the individual's weekly benefit rate as to that employer multiplied by the lesser of either of the following:

(*i*) The number of requalifying weeks required of the individual under this section.

(*ii*) The number of weeks of benefit entitlement remaining with that employer.

(b) If the individual has insufficient or no potential benefit entitlement remaining with the employer involved in the disqualification in the benefit year in existence on the date of the disqualifying determination, a reduction of benefits described in this subsection shall apply in a succeeding benefit year with respect to any benefit entitlement based upon credit weeks earned with the employer before the disqualifying act or discharge.

(c) For benefit years established before the conversion date prescribed in section 75, an individual disqualified under subsection (1)(h), (i), (j), (k), or (m) is not entitled to benefits based on wages and credit weeks earned before the disqualifying act or discharge with the employer involved in the disqualification.

(d) The benefit entitlement of an individual disqualified under subsection (1)(a) or (b) is not subject to reduction as a result of that disqualification.

(e) A denial or reduction of benefits under this subsection does not apply to benefits based upon multiemployer credit weeks.

(f) For benefit years established after the conversion date prescribed in section 75, if the individual is disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*), the maximum number of weeks otherwise applicable in calculating benefits for the individual under section 27(d) shall be reduced by the lesser of the following:

(*i*) The number of requalifying weeks required of the individual under this subsection.

(*ii*) The number of weeks of benefit entitlement remaining on the claim.

(g) For benefit years beginning after the conversion date prescribed in section 75, the benefits of an individual disqualified under subsection (1)(h), (i), (j), (k), or (m) shall be reduced by 13 weeks and any weekly benefit payments made to the claimant thereafter shall be reduced by the portion of the payment attributable to base period wages paid by the base period employer involved in a disqualification under subsection (1)(h), (i), (j), (k), or (m).

(5) If an individual leaves work to accept permanent full-time work with another employer and performs services for that employer, or if an individual leaves work to accept a recall from a former employer:

(a) Subsection (1) does not apply.

(b) Wages earned with the employer whom the individual last left, including wages previously transferred under this subsection to the last employer, for the purpose of computing and charging benefits, are wages earned from the employer with whom the individual accepted work or recall, and benefits paid based upon those wages shall be charged to that employer.

(c) When issuing a determination covering the period of employment with a new or former employer described in this subsection, the commission shall advise the chargeable employer of the name and address of the other employer, the period covered by the employment, and the extent of the benefits that may be charged to the account of the chargeable employer.

(6) In determining whether work is suitable for an individual, the commission shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness and prior training, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, and the distance of the available work from the individual's residence. Additionally, the commission shall consider the individual's experience and prior earnings, but an unemployed individual who refuses an offer of work determined to be suitable under this section shall be denied benefits if the pay rate for that work is at least 70% of the gross pay rate he or she received immediately before becoming unemployed.

(7) Work is not suitable and benefits shall not be denied under this act to an otherwise eligible individual for refusing to accept new work under any of the following conditions:

(a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(b) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(c) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(8) All of the following apply to an individual who seeks benefits under this act:

(a) An individual is disqualified from receiving benefits for a week in which the individual's total or partial unemployment is due to either of the following:

(*i*) A labor dispute in active progress at the place at which the individual is or was last employed, or a shutdown or start-up operation caused by that labor dispute.

(*ii*) A labor dispute, other than a lockout, in active progress or a shutdown or start-up operation caused by that labor dispute in any other establishment within the United States that is both functionally integrated with the establishment described in subparagraph (*i*) and operated by the same employing unit.

(b) An individual's disqualification imposed or imposable under this subsection is terminated if the individual performs services in employment with an employer in at least 2 consecutive weeks falling wholly within the period of the individual's total or partial unemployment due to the labor dispute, and in addition earns wages in each of those weeks in an amount equal to or greater than the individual's actual or potential weekly benefit rate with respect to those weeks based on the individual's employment with the employer involved in the labor dispute.

(c) An individual is not disqualified under this subsection if the individual is not directly involved in the labor dispute. An individual is not directly involved in a labor dispute unless any of the following are established:

(*i*) At the time or in the course of a labor dispute in the establishment in which the individual was then employed, the individual in concert with 1 or more other employees voluntarily stopped working other than at the direction of the individual's employing unit.

(*ii*) The individual is participating in, financing, or directly interested in the labor dispute that causes the individual's total or partial unemployment. The payment of regular union dues, in amounts and for purposes established before the inception of the labor dispute, is not financing a labor dispute within the meaning of this subparagraph.

(*iii*) At any time a labor dispute in the establishment or department in which the individual was employed does not exist, and the individual voluntarily stops working, other than at the direction of the individual's employing unit, in sympathy with employees in some other establishment or department in which a labor dispute is in progress.

(*iv*) The individual's total or partial unemployment is due to a labor dispute that was or is in progress in a department, unit, or group of workers in the same establishment.

(d) As used in this subsection, "directly interested" shall be construed and applied so as not to disqualify individuals unemployed as a result of a labor dispute the resolution of which may not reasonably be expected to affect their wages, hours, or other conditions of employment, and to disqualify individuals whose wages, hours, or conditions of employment may reasonably be expected to be affected by the resolution of the labor dispute. A "reasonable expectation" of an effect on an individual's wages, hours, or other conditions of employment exists, in the absence of a substantial preponderance of evidence to the contrary, in any of the following situations:

(*i*) If it is established that there is in the particular establishment or employing unit a practice, custom, or contractual obligation to extend within a reasonable period to members of the individual's grade or class of workers in the establishment in which the individual is or was last employed changes in terms and conditions of employment that are substantially similar or related to some or all of the changes in terms and conditions of employment that are made for the workers among whom there exists the labor dispute that has caused the individual's total or partial unemployment.

(*ii*) If it is established that l of the issues in or purposes of the labor dispute is to obtain a change in the terms and conditions of employment for members of the individual's grade or class of workers in the establishment in which the individual is or was last employed.

(*iii*) If a collective bargaining agreement covers both the individual's grade or class of workers in the establishment in which the individual is or was last employed and the workers in another establishment of the same employing unit who are actively participating in the labor dispute, and that collective bargaining agreement is subject by its terms to modification, supplementation, or replacement, or has expired or been opened by mutual consent at the time of the labor dispute.

(e) In determining the scope of the grade or class of workers, evidence of the following is relevant:

(*i*) Representation of the workers by the same national or international organization or by local affiliates of that national or international organization.

(*ii*) Whether the workers are included in a single, legally designated, or negotiated bargaining unit.

(*iii*) Whether the workers are or within the past 6 months have been covered by a common master collective bargaining agreement that sets forth all or any part of the terms and conditions of the workers' employment, or by separate agreements that are or have been bargained as a part of the same negotiations.

(*iv*) Any functional integration of the work performed by those workers.

(*v*) Whether the resolution of those issues involved in the labor dispute as to some of the workers could directly or indirectly affect the advancement, negotiation, or settlement of the same or similar issues in respect to the remaining workers.

(*vi*) Whether the workers are currently or have been covered by the same or similar demands by their recognized or certified bargaining agent or agents for changes in their wages, hours, or other conditions of employment.

(*vii*) Whether issues on the same subject matter as those involved in the labor dispute have been the subject of proposals or demands made upon the employing unit that would by their terms have applied to those workers.

(9) Notwithstanding subsections (1) to (8), if the employing unit submits notice to the commission of possible ineligibility or disqualification beyond the time limits prescribed by commission rule, the notice shall not form the basis of a determination of ineligibility or disqualification for a claim period compensated before the receipt of the notice by the commission.

(10) An individual is disqualified from receiving benefits for any week or part of a week in which the individual has received, is receiving, or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. If the appropriate agency of the other state or of the United States finally determines that the individual is not entitled to unemployment benefits, the disqualification described in this subsection does not apply.

421.32 Claims for benefits; examination; determination; notice.

Sec. 32. (a) Claims for benefits shall be made pursuant to regulations prescribed by the unemployment agency. The unemployment agency shall designate representatives who shall promptly examine claims and make a determination on the facts. The unemployment agency may establish rules providing for the examination of claims, the determination of the validity of the claims, and the amount and duration of benefits to be paid. The claimant

and other interested parties shall be promptly notified of the determination and the reasons for the determination.

(b)(1) For benefit years established before the conversion date prescribed in section 75, the unemployment agency may prescribe regulations for notifying and shall notify the employer, whose experience account may be charged, and the employing unit where the claimant last worked that the claimant has filed an application for benefits. The notice shall require the employer and employing unit to furnish information to the unemployment agency necessary to determine the claimant's benefit rights.

(2) Upon receipt of the employer's reports, the unemployment agency shall promptly make a determination based upon the available information. The claimant and the employer, whose experience account may be charged pursuant to the determination, shall be promptly notified of the determination. The notice shall show the name and account number of the employer whose experience account may be charged pursuant to the determination, the weekly benefit amount and the maximum number of credit weeks against which the claimant may draw benefits, and whether or not the claimant is eligible and qualified to draw benefits. An employer may designate in writing to the unemployment agency an individual or another employer or an employing unit to receive any notice required to be given by the unemployment agency to that employer or to represent that employer in any proceeding before the unemployment agency as provided in section 31.

(3) If an employer or employing unit fails to respond within 10 days after mailing of the request for information, the unemployment agency shall make a determination upon the available information. In the absence of a showing by the employer satisfying the unemployment agency that the employer reasonably could not submit the requested information, the determination shall be final as to the noncomplying employer, as to benefits paid before the week following the receipt of the employer's reply, and chargeable against the employer's experience account as a result of the employer's late reply, and the payments shall be considered to have been proper payments. The unemployment agency may require an employer who consistently fails to meet the unemployment agency's requirements, as to submission of reports covering employment of individuals, to provide the reports automatically upon the separation of individuals from employment, in the manner and within the time limits the unemployment agency prescribes by regulation necessary to carry out this section. An employer may be permitted to provide the reports automatically upon separation of individuals from employment, in the manner and within the time limits prescribed by the unemployment agency.

(4) After an application for benefits is filed, the unemployment agency's determination shall include only the most recent employer. Subsequently, as necessary, the unemployment agency shall issue determinations covering other base period employers, individually in inverse order to that in which the claimant earned his or her last credit week with the employers.

(5) For benefit years established after the conversion date prescribed in section 75, the unemployment agency shall mail to the claimant, to each base period employer or employing unit, and to the separating employer or employing unit, a monetary determination. The monetary determination shall notify each of these employers or employing units that the claimant has filed an application for benefits and the amount the claimant reported as earned with the separating employer or employing unit, and shall state the name of each employer or employing unit in the base period and the name of the separating employer or employing unit. The monetary determination shall also state the claimant's weekly benefit rate, the amount of base period wages paid by each base period employer, the maximum benefit amount that could be charged to each employer's account

or experience account, and the reason for separation reported by the claimant. The monetary determination shall also state whether the claimant is monetarily eligible to receive unemployment benefits. Except for separations under section 29(1)(a), no further reconsideration of a separation from any base period employer will be made unless the base period employer notifies the unemployment agency of a possible disqualifying separation within 30 days of the separation in accordance with this subsection. Benefits paid in accordance with the monetary determination shall be considered proper payments and shall not be changed unless the unemployment agency receives new, corrected, or additional information from the employer, within 10 calendar days after the mailing of the monetary determination, and the information results in a change in the monetary determination. New, additional, or corrected information received by the unemployment agency after the 10-day period shall be considered a request for reconsideration by the employer of the monetary determination and shall be reviewed as provided in section 32a.

(6) For the purpose of determining a claimant's nonmonetary eligibility and qualification for benefits, if the claimant's most recent base period or benefit year separation was for a reason other than the lack of work, then a determination shall be issued concerning that separation to the claimant and to the separating employer. If a claimant is not disqualified based on his or her most recent separation from employment and has satisfied the requirements of section 29, the unemployment agency shall issue a nonmonetary determination as to that separation only. If a claimant is not disqualified based on his or her most recent separation from employment and has not satisfied the requirements of section 29, the unemployment agency shall issue 1 or more nonmonetary determinations necessary to establish the claimant's qualification for benefits based on any prior separation in inverse chronological order. The unemployment agency shall consider all base period separations involving disqualifications under section 29(1)(h), (j), (*l*), or (m) in determining a claimant's nonmonetary eligibility and qualification for benefits. An employer may designate in writing to the unemployment agency an individual or another employer or an employing unit to receive any notice required to be given by the unemployment agency to that employer or to represent that employer in any proceeding before the unemployment agency as provided in section 31.

(7) If the unemployment agency requests additional monetary or nonmonetary information from an employer or employing unit and the unemployment agency fails to receive a written response from the employer or employing unit within 10 calendar days after the date of mailing the request for information, the unemployment agency shall make a determination based upon the available information at the time the determination is made. The determination shall be final and any payment made shall be considered a proper payment with respect to benefits paid before the week following the receipt of the employer's reply and chargeable against the employer's account or experience account as a result of the employer's late reply.

(c) The claimant or interested party may file an application with an office of the unemployment agency for a redetermination in accordance with section 32a.

(d) The issuance of each benefit check shall be considered a determination by the unemployment agency that the claimant receiving the check was covered during the compensable period, and eligible and qualified for benefits. A chargeable employer, upon receipt of a listing of the check as provided in section 21(a), may protest by requesting a redetermination of the claimant's eligibility or qualification as to that period and a determination as to later weeks and benefits still unpaid that are affected by the protest. Upon receipt of the protest or request, the unemployment agency shall investigate and redetermine whether the claimant is eligible and qualified as to that period. If, upon the redetermination, the claimant is found ineligible or not qualified, the unemployment

agency shall investigate and determine whether the claimant obtained benefits, for 1 or more preceding weeks within the series of consecutive weeks that includes the week covered by the redetermination, improperly as the result of administrative error, false statement, misrepresentation, or nondisclosure of a material fact. If the unemployment agency finds that the claimant has obtained benefits through administrative error, false statement, misrepresentation, or nondisclosure of a material fact, the unemployment agency shall proceed under the appropriate provisions of section 62.

(e) If a claimant commences to file continued claims through a different state claim office in this state or elsewhere, the unemployment agency promptly shall issue written notice of that fact to the chargeable employer.

(f) If a claimant refuses an offer of work, or fails to apply for work of which the claimant has been notified, as provided in section 29(1)(c) or (e), the unemployment agency shall promptly make a written determination as to whether or not the refusal or failure requires disqualification under section 29. Notice of the determination, specifying the name and address of the employing unit offering or giving notice of the work and of the chargeable employer, shall be sent to the claimant, the employing unit offering or giving notice of the work, and the chargeable employer.

421.32b Internet site; establishment; access; purpose.

Sec. 32b. (1) Not later than 6 months after the effective date of the amendatory act that added this section, the unemployment agency shall establish and provide access to a secure internet site to enable employers to determine if correspondence sent to the unemployment agency by the employer has been received.

(2) Within 10 days of receiving a request for redetermination or a protest from an employer or employing unit, the unemployment agency shall post a statement confirming receipt of the request for redetermination or protest from that employer or employing unit on the internet site required under subsection (1).

421.44 "Remuneration" and "wages" defined.

Sec. 44. (1) "Remuneration" means all compensation paid for personal services, including commissions and bonuses, and except for agricultural and domestic services, the cash value of all compensation payable in a medium other than cash. Any remuneration payable to an individual that has not been actually received by that individual within 21 days after the end of the pay period in which the remuneration was earned, shall, for the purposes of subsections (2) to (5) and section 46, be considered to have been paid on the twenty-first day after the end of that pay period. For benefit years beginning after the conversion date prescribed in section 75, if back pay is awarded to an individual and is allocated by an employer or legal authority to a period of weeks within 1 or more calendar quarters, the back pay shall be considered paid in that calendar quarter or those calendar quarters for purposes of section 46. The reasonable cash value of compensation payable in a medium other than cash shall be estimated and determined in accordance with rules promulgated by the unemployment agency. Beginning January 1, 1986, remuneration shall include tips actually reported to an employer under section 6053(a) of the internal revenue code by an employee who receives tip income. Remuneration does not include either of the following:

(a) Money paid an individual by a unit of government for services rendered as a member of the national guard of this state, or for similar services to another state or the United States.

(b) Money paid by an employer to a worker under a supplemental unemployment benefit plan under section 501(c) of the internal revenue code of 1986, regardless of whether the benefits are paid from a trust or by the employer.

(2) "Wages", subject to subsections (3) to (5), means remuneration paid by employers for employment and, beginning January 1, 1986, includes tips actually reported to an employer under section 6053(a) of the internal revenue code by an employee who receives tip income. If any provision of this subsection prevents this state from qualifying for any federal interest relief provisions provided under section 1202 of title XII of the social security act, 42 U.S.C. 1322, or prevents employers in this state from qualifying for the limitation on the reduction of federal unemployment tax act credits as provided under section 3302(f) of the federal unemployment tax act, 26 U.S.C. 3302, that provision is invalid to the extent necessary to maintain qualification for the interest relief provisions and federal unemployment tax credits.

(3) For the purpose of determining the amount of contributions due from an employer under this act, wages shall be limited by the taxable wage limit applicable under subsection (4). For this purpose, wages shall exclude all remuneration paid within a calendar year to an individual by an employing unit after the individual was paid within that year by that employing unit remuneration equal to the taxable wage limit on which unemployment taxes were paid or were payable in this state and in any other states. If an employing unit, hereinafter referred to as successor, during any calendar year becomes a transferee in a transfer of business as defined in section 22 of another, hereinafter referred to as a predecessor, and immediately after the transfer employs in his or her trade or business an individual who immediately before the transfer was employed in the trade or business of the predecessor, then for the purpose of determining whether the successor has paid remuneration with respect to employment equal to the taxable wage limit to that individual during the calendar year, any remuneration with respect to employment paid to that individual by the predecessor during the calendar year and before the transfer shall be considered as having been paid by the successor.

(4) The taxable wage limit for each calendar year shall be $8,000.00 in the 1983 calendar year, $8,500.00 in the 1984 calendar year, $9,000.00 in the 1985 calendar year, $9,500.00 in the 1986 calendar year, and $9,500.00 for calendar years after 1986 through 2002, and $9,000.00 for calendar years after 2002, or the maximum amount of remuneration paid within a calendar year by an employer subject to the federal unemployment tax act, 26 U.S.C. 3301 to 3311, to an individual with respect to employment as defined in that act that is subject to tax under that act during that year for each calendar year, whichever is greater.

(5) For the purposes of this act, the term "wages" shall not include any of the following:

(a) The amount of a payment, including an amount paid by an employer for insurance or annuities or into a fund, to provide for such a payment, made to, or on behalf of, an employee or any of the employee's dependents under a plan or system established by an employer that makes provision for the employer's employees generally, or for the employer's employees generally and their dependents, or for a class or classes of the employer's employees, or for a class or classes of the employer's employees and their dependents, on account of retirement, sickness or accident disability, medical or hospitalization expenses in connection with sickness or accident disability, or death.

(b) A payment made to an employee, including an amount paid by an employer for insurance or annuities, or into a fund, to provide for such a payment, on account of retirement.

(c) A payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for the employer.

(d) A payment made to, or on behalf of, an employee or the employee's beneficiary from or to a trust described in section 401(a) of the internal revenue code of 1986 that is exempt from tax under section 501(a) of the internal revenue code of 1986 at the time of the payment, unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust, or under or to an annuity plan which, at the time of the payment, is a plan described in section 403(a) of the internal revenue code of 1986, or under or to a bond purchase plan that at the time of the payment, is a qualified bond purchase plan described in former section 405(a) of the internal revenue code.

(e) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the federal insurance contributions act, 26 U.S.C. 3101.

(f) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business.

(g) A payment, other than vacation or sick pay, made to an employee after the month in which the employee attains the age of 65, if the employee did not work for the employer in the period for which the payment is made.

(h) Remuneration paid to or on behalf of an employee as moving expenses if, and to the extent that, at the time of payment of the remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of the internal revenue code of 1986.

(6) The amendments made to this section by amendatory act 1977 PA 155 shall apply to all remuneration paid after December 31, 1977.

(7) The amendments made in subsection (1) by the amendatory act that added this subsection shall first apply to remuneration paid after December 31, 1977.

421.48 "Unemployed" explained; amounts considered wages or remuneration; leave of absence; elected layoff.

Sec. 48. (1) An individual shall be considered unemployed for any week during which he or she performs no services and for which remuneration is not payable to the individual, or for any week of less than full-time work if the remuneration payable to the individual is less than his or her weekly benefit rate. However, any loss of remuneration incurred by an individual during any week resulting from any cause other than the failure of the individual's employing unit to furnish full-time, regular employment shall be included as remuneration earned for purposes of this section and section 27(c). The total amount of remuneration lost shall be determined pursuant to regulations prescribed by the commission. For the purposes of this act, an individual's weekly benefit rate means the weekly benefit rate determined pursuant to section 27(b).

(2) All amounts paid to a claimant by an employing unit or former employing unit for a vacation or a holiday, and amounts paid in the form of retroactive pay, pay in lieu of notice, severance payments, salary continuation, or other remuneration intended by the employing unit as continuing wages or other monetary consideration as the result of the separation, excluding SUB payments as described in section 44, shall be considered remuneration in determining whether an individual is unemployed under this section and also in determining his or her benefit payments under section 27(c), for the period

designated by the contract or agreement providing for the payment, or if there is no contractual specification of the period to which payments shall be allocated, then for the period designated by the employing unit or former employing unit. However, payments for a vacation or holiday, or the right to which has irrevocably vested, after 14 days following a vacation or holiday shall not be considered wages or remuneration within the meaning of this section.

(3) An individual shall not be considered to be unemployed during any leave of absence from work granted by an employer either at the request of the individual or pursuant to an agreement with the individual's duly authorized bargaining agent, or in accordance with law. An individual shall neither be considered not unemployed nor on a leave of absence solely because the individual elects to be laid off, pursuant to an option provided under a collective bargaining agreement or written employer plan that permits an election, if there is a temporary layoff because of lack of work and the employer has consented to the election.

421.54 Penalties.

Sec. 54. (a) A person who willfully violates or intentionally fails to comply with any of the provisions of this act, or a regulation of the commission promulgated under the authority of this act for which a penalty is not otherwise provided by this act is punishable as provided in subdivision (*i*), (*ii*), (*iii*), or (*iv*), notwithstanding any other statute of this state or of the United States:

(*i*) If the commission determines that an amount has been obtained or withheld as a result of the intentional failure to comply with this act, the commission may recover the amount obtained as a result of the intentional failure to comply plus damages equal to 3 times that amount.

(*ii*) The commission may refer the matter to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the commission has not made its own determination under subdivision (*i*), the penalty sought by the prosecutor shall include the amount described in subdivision (*i*) and shall also include 1 or more of the following penalties:

(A) If the amount obtained or withheld from payment as a result of the intentional failure to comply is less than $25,000.00, then 1 of the following:

(I) Imprisonment for not more than 1 year.

(II) The performance of community service of not more than 1 year but not to exceed 2,080 hours.

(III) A combination of (I) and (II) that does not exceed 1 year.

(B) If the amount obtained or withheld from payment as a result of the intentional failure to comply is $25,000.00 or more but less than $100,000.00, then 1 of the following:

(I) Imprisonment for not more than 2 years.

(II) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(III) A combination of (I) and (II) that does not exceed 2 years.

(C) If the amount obtained or withheld from payment as a result of the intentional failure to comply is more than $100,000.00, then 1 of the following:

(I) Imprisonment for not more than 5 years.

(II) The performance of community service of not more than 5 years but not to exceed 10,400 hours.

(III) A combination of (I) and (II) that does not exceed 5 years.

(*iii*) If the commission determines that an amount has been obtained or withheld as a result of a knowing violation of this act, the commission may recover the amount obtained as a result of the knowing violation and may also recover damages equal to 3 times that amount.

(*iv*) The commission may refer a matter under subdivision (*iii*) to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the commission has not made its own determination under subdivision (*iii*), the penalty sought by the prosecutor shall include the amount described in subdivision (*iii*) and shall also include 1 or more of the following penalties:

(A) If the amount obtained or withheld from payment as a result of the knowing violation is $100,000.00 or less, then 1 of the following:

(I) Imprisonment for not more than 1 year.

(II) The performance of community service of not more than 1 year but not to exceed 2,080 hours.

(III) A combination of (I) and (II) that does not exceed 1 year.

(B) If the amount obtained or withheld from payment as a result of the knowing violation is more than $100,000.00, then 1 of the following:

(I) Imprisonment for not more than 2 years.

(II) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(III) A combination of (I) and (II) that does not exceed 2 years.

(b) Any employing unit or an officer or agent of an employing unit, a claimant, an employee of the commission, or any other person who makes a false statement or representation knowing it to be false, or knowingly and willfully with intent to defraud fails to disclose a material fact, to obtain or increase a benefit or other payment under this act or under the unemployment compensation law of any state or of the federal government, either for himself or herself or any other person, to prevent or reduce the payment of benefits to an individual entitled thereto or to avoid becoming or remaining a subject employer, or to avoid or reduce a contribution or other payment required from an employing unit under this act or under the unemployment compensation law of any state or of the federal government, as applicable, is punishable as follows, notwithstanding any other penalties imposed under any other statute of this state or of the United States:

(*i*) If the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact is less than $500.00, the commission may recover the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact and may also recover damages equal to 2 times that amount.

(*ii*) If the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact is $500.00 or more, the commission shall attempt to recover the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact and may also recover damages equal to 4 times that amount. The commission may refer the matter to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the commission has not made its own determination under this subdivision, the penalty sought by the prosecutor shall include the amount described in

this subdivision and shall also include 1 or more of the following penalties if the amount obtained is $1,000.00 or more:

(A) If the amount obtained or withheld from payment as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact is $1,000.00 or more but less than $25,000.00, then 1 of the following:

(I) Imprisonment for not more than 1 year.

(II) The performance of community service of not more than 1 year but not to exceed 2,080 hours.

(III) A combination of (I) and (II) that does not exceed 1 year.

(B) If the amount obtained or withheld from payment as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact is $25,000.00 or more, then 1 of the following:

(I) Imprisonment for not more than 2 years.

(II) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(III) A combination of (I) and (II) that does not exceed 2 years.

(C) If the knowing false statement or representation or the knowing and willful failure to disclose a material fact made to obtain or withhold an amount from payment does not result in a loss to the commission, then a penalty shall be sought equal to 3 times the amount that would have been obtained by the knowing false statement or representation or the knowing and willful failure to disclose a material fact, but not less than $1,000.00, and 1 of the following:

(I) Imprisonment for not more than 2 years.

(II) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(III) A combination of (I) and (II) that does not exceed 2 years.

(c)(1) Any employing unit or an officer or agent of an employing unit or any other person failing to submit, when due, any contribution report, wage and employment report, or other reports lawfully prescribed and required by the commission shall be subject to the assessment of a penalty for each report not submitted within the time prescribed by the commission, as follows: In the case of contribution reports not received within 10 days after the end of the reporting month the penalty shall be 10% of the contributions due on the reports but not less than $5.00 or more than $25.00 for a report. However, if the tenth day falls on a Saturday, Sunday, legal holiday, or other commission nonwork day, the 10-day period shall run until the end of the next day which is not a Saturday, Sunday, legal holiday, or other commission nonwork day. In the case of all other reports referred to in this subsection the penalty shall be $10.00 for a report.

(2) Notwithstanding subdivision (1), any employer or an officer or agent of an employer or any other person failing to submit, when due, any quarterly wage detail report required by section 13(2) shall be subject to a penalty of $25.00 for each untimely report.

(3) When a report is filed after the prescribed time and it is shown to the satisfaction of the commission that the failure to submit the report was due to reasonable cause, a penalty shall not be imposed. The assessment of a penalty as provided in this subsection shall constitute a determination which shall be final unless the employer files with the commission an application for a redetermination of the assessment in accordance with section 32a.

(d) If any commissioner, employee, or agent of the commission or member of the appeal board willfully makes a disclosure of confidential information obtained from any employing unit or individual in the administration of this act for any purpose inconsistent with or contrary to the purposes of this act, or a person who having obtained a list of applicants for work, or of claimants or recipients of benefits, under this act shall use or permit the use of that list for a political purpose or for a purpose inconsistent with or contrary to the purposes of this act, he or she is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than 90 days, or by a fine of not more than $1,000.00, or both. Notwithstanding the preceding sentence, if any commissioner, commission employee, agent of the commission, or member of the board of review knowingly, intentionally, and for financial gain, makes an illegal disclosure of confidential information obtained under section 13(2), he or she is guilty of a felony, punishable by imprisonment for not more than 1 year and 1 day.

(e) A person who, without proper authority from the commission, represents himself or herself to be an employee of the commission to an employing unit or person for the purpose of securing information regarding the unemployment or employment record of an individual is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than 90 days, or by a fine of not more than $1,000.00, or both.

(f) A person associated with a college, university, or public agency of this state who makes use of any information obtained from the commission in connection with a research project of a public service nature, in a manner as to reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commission, or for any purpose other than use in connection with that research project, is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than 90 days, or by a fine of not more than $1,000.00, or both.

(g) As used in this section, "person" includes an individual, copartnership, joint venture, corporation, receiver, or trustee in bankruptcy.

(h) This section shall apply even if the amount obtained or withheld from payment has been reported or reported and paid by an individual involved in a violation of subsection (a) or (b).

(i) If a determination is made that an individual has violated this section, the individual is subject to the penalty provisions of this section and, where applicable, the requirements of section 62.

(j) Amounts recovered by the commission under subsection (a) or (b) shall be credited first to the unemployment compensation fund and thereafter amounts recovered that are in excess of the amounts obtained or withheld as a result of the violation of subsection (a) and (b) shall be credited to the penalty and interest account of the contingent fund. Fines and penalties recovered by the commission under subsections (c), (d), (e), and (f) shall be credited to the penalty and interest account of the contingent fund in accordance with section 10(6).

(k) The revisions in the penalties in subsections (a) and (b) provided by the 1991 amendatory act that added this subsection shall apply to conduct that began before April 1, 1992, but that continued on or after April 1, 1992, and to conduct that began on or after April 1, 1992.

421.54c Embezzlement; penalties; applicability; disposition of amounts recovered; effective date of section.

Sec. 54c. (1) An employing unit or an officer or agent of an employing unit, a claimant for unemployment benefits, an employee of the commission, or a third party that has

knowingly or willfully appropriated or converted to his, her, or its own use money to be used for the payment of benefits under this act or money received as the payment of contribution liability under this act is guilty of embezzlement punishable as follows:

(a) If the amount obtained as a result of the knowing or willful appropriation or conversion of money is less than $500.00, the commission may recover the amount obtained as a result of the knowing or willful appropriation or conversion of money and may also recover damages equal to 2 times that amount.

(b) If the amount obtained as a result of the knowing or willful appropriation or conversion of money is $500.00 or more, the commission shall attempt to recover the amount obtained as a result of the knowing or willful appropriation or conversion of money and may also recover damages equal to 4 times that amount. The commission may refer the matter to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the commission has not made its own determination under this subdivision, the penalty sought by the prosecutor shall include the amount described in this subdivision and shall also include 1 of the following applicable penalties if the amount obtained is $1,000.00 or more:

(*i*) If the amount obtained or withheld from payment as a result of the knowing or willful appropriation or conversion of money is $1,000.00 or more but less than $25,000.00, then 1 of the following:

(A) Imprisonment for not more than 1 year.

(B) The performance of community service of not more than 1 year but not to exceed 2,080 hours.

(C) A combination of (A) and (B) that does not exceed 1 year.

(*ii*) If the amount obtained or withheld from payment as a result of the knowing or willful appropriation or conversion of money is $25,000.00 or more but less than $100,000.00, then 1 of the following:

(A) Imprisonment for not more than 2 years.

(B) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(C) A combination of (A) and (B) that does not exceed 2 years.

(*iii*) If the amount obtained or withheld from payment as a result of the knowing or willful appropriation or conversion of money is $100,000.00 or more, then 1 of the following:

(A) Imprisonment for not more than 5 years.

(B) The performance of community service of not more than 5 years but not to exceed 10,400 hours.

(C) A combination of (A) and (B) that does not exceed 5 years.

(*iv*) If the knowing or willful appropriation or conversion of money made to obtain or withhold an amount from payment does not result in a loss to the commission, then a penalty shall be sought equal to 3 times the amount that would have been obtained by the knowing or willful appropriation or conversion of money, but not less than $1,000.00, and 1 of the following:

(A) Imprisonment for not more than 2 years.

(B) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(C) A combination of (A) and (B) that does not exceed 2 years.

(2) This section shall apply even if the amount obtained or withheld from payment has been reported or reported and paid by an individual involved in the embezzlement.

(3) This section applies to conduct that began before April 1, 1992 but that continued on or after April 1, 1992 and to conduct that began on or after April 1, 1992.

(4) The penalties provided in this section shall be in addition to any penalty provided in this act for a late filing.

(5) If a determination is made that an individual has violated this section, the individual is subject to the penalty provisions of this section and, where applicable, the requirements of section 62.

(6) The amount recovered by the commission pursuant to subsection (1)(a) or (b) shall be credited first to the unemployment compensation fund and thereafter amounts recovered that are in excess of the amounts obtained as a result of the embezzlement shall be credited to the penalty and interest account of the contingent fund.

(7) This section shall take effect April 1, 1992.

Repeal of § 421.3b.

Enacting section 1. Section 3b of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.3b, is repealed.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 26, 2002.

[No. 193]

(SB 966)

AN ACT to amend 1937 PA 79, entitled "An act to authorize any municipality, as herein defined, to borrow money and issue notes in anticipation of the collection of revenues other than taxes and special assessments; and to prescribe the powers and duties of certain state departments, commissions, and officials," by amending sections 2, 3, and 4 (MCL 141.222, 141.223, and 141.224), section 3 as amended by 1983 PA 50; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

141.222 Municipal borrowing; bus and street railway transportation or water supply utility purposes.

Sec. 2. Any municipality of this state that operates any public utility pursuant to law for the purpose of supplying bus or street railway transportation or water supply may, by resolution of its governing body, borrow money and issue notes for the purpose of acquiring, constructing, purchasing, owning, maintaining, or operating any public utility as described in section 1(a), as the board in charge of the utility and the governing body of the municipality may consider necessary or desirable for the purpose of supplying bus or street railway transportation or water supply to the inhabitants of the municipality and within a distance of 10 miles from any portion of its corporate limits, and as the public convenience may require, together with all the necessary equipment.

141.223 Notes subject to §§ 141.2101 to 141.2821.

Sec. 3. Notes issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

141.224 Municipal borrowing for utility purposes; limitations.

Sec. 4. Any governmental unit described in this act may borrow money and issue notes in anticipation of the collection of revenues of any utility described in this act to an amount not exceeding 10% of the total revenues of the public utility for the preceding fiscal year. The notes may be issued at any time against current revenues of the utility or the same may be issued against the revenues of any ensuing fiscal year and shall be made payable not later than the fiscal year against which revenues are pledged.

Repeal of § 141.225.

Enacting section 1. Section 5 of 1937 PA 79, MCL 141.225, is repealed.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 194]

(SB 967)

AN ACT to amend 1943 PA 143, entitled "An act to empower boards of county road commissioners to borrow money in anticipation and upon the faith and credit of future receipts of revenues, derived from certain state collected taxes, for the purpose of purchasing road machinery or equipment or for improvement of county highways or for general county road purposes," by amending sections 1 and 2 (MCL 141.251 and 141.252), section 1 as amended by 1983 PA 51; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

141.251 Borrowing money and issuing notes for county road purposes; resolution.

Sec. 1. Boards of county road commissioners are authorized and empowered, upon the adoption of a resolution, to borrow money, the sum of which shall not exceed the amount previously authorized by their respective county board of commissioners, in anticipation of and to pledge for the payment of the borrowed money, future revenues derived from state collected taxes returned to the county for county road purposes pursuant to law and to issue notes for the purpose of purchasing road machinery or equipment, for improvement of county highways, or for other general county road purposes.

(2) Notes issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

141.252 Notes; issuance; provisions.

Sec. 2. All notes issued under this act are subject to all of the following provisions:

(a) For the purpose of computing the amount that may be borrowed, a loan made under this act shall not, when payable as provided in this section, exceed that percentage of the

total aggregate revenues derived from state collected taxes returned to a county for county road purposes pursuant to law for the 5 immediately succeeding years:

(*i*) In 10 installments, 40%.

(*ii*) In 9 installments, 36%.

(*iii*) In 8 installments, 32%.

(*iv*) In 7 installments, 28%.

(*v*) In 6 installments, 24%.

(*vi*) In 5 installments, 20%.

(*vii*) In 4 installments, 16%.

(*viii*) In 3 installments, 12%.

(*ix*) In 2 installments, 8%.

(*x*) In 1 installment, 4%.

(b) A loan payable in more than 2 installments shall not be authorized for any purpose other than for the construction, improvement, maintenance, or repair of highways. At no time shall the total loans outstanding under this act exceed 40% of the sum of the revenues derived from state collected taxes returned to the county for county road purposes for the immediately preceding 5 calendar years and not specifically allocated for other purposes.

(c) The resolution authorizing the borrowing shall contain an irrevocable appropriation providing for the payment of the principal and interest from the money to be derived from state collected taxes returned to the county for county road purposes pursuant to law that have not been previously specifically allocated for other purposes.

Repeal of § 141.253.

Enacting section 1. Section 3 of 1943 PA 143, MCL 141.253, is repealed.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 195]

(SB 968)

AN ACT to amend 1969 PA 121, entitled "An act to authorize counties, cities, townships and villages to issue bonds or notes, and pledge deferred income from sale of capital assets, due and payable but which has not been received, for the payment of principal and interest thereon; and to authorize the county, city, township or village to pledge its full faith and credit for the payment of the bonds or notes," by amending sections 2 and 3 (MCL 141.382 and 141.383), section 3 as amended by 1983 PA 52.

The People of the State of Michigan enact:

141.382 Form and execution of bonds or notes; principal and interest; maximum due in one year; due dates; tax exemptions.

Sec. 2. The bonds or notes authorized to be issued under this act shall be issued in the name of the county, city, township, or village and shall be executed in the manner

provided by resolution of its legislative body. Bonds or notes issued under this act shall be negotiable instruments with the last maturity due not later than the year in which the final payment is due according to the contract of sale of capital assets. The maximum principal and interest falling due in any year shall not exceed income to be received during that year from the contract of sale of capital assets pledged for the payment of the bonds or notes plus any income due in prior years that will not be required for payment of principal or interest, or both, in prior years. The due date of principal and the first interest payment in each year shall be not less than 30 days subsequent to the estimated time of receipt of the payments on the contract for sale of capital assets pledged. The bonds and coupons and notes shall be exempt from taxation by this state or by any taxing authority within this state.

141.383 Bonds or notes subject to §§ 141.2101 to 141.2821.

Sec. 3. The bonds or notes shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 196]

(SB 969)

AN ACT to repeal 1985 PA 217, entitled "An act to establish an employee-owned corporation revolving loan fund; to prescribe the powers and duties of certain state departments and employee-owned corporations; and to make an appropriation," (MCL 450.801 to 450.815).

The People of the State of Michigan enact:

Repeal of §§ 450.801 to 450.815.

Enacting section 1. 1985 PA 217, MCL 450.801 to 450.815, is repealed.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 197]

(SB 970)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings

in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 24e (MCL 211.24e), as amended by 1995 PA 42.

The People of the State of Michigan enact:

211.24e Definitions; levying ad valorem property taxes for operating purposes; limitation; reduction; approving levy of additional millage rate; change in state equalized valuation of local governmental unit resulting from appeal; insufficiency of additional millage rate; public hearing; notice; establishing proposed additional millage rate before public hearing; calculating reductions in millage rates; amount used for substance abuse treatment programs; distribution to coordinating agency; applicability of section; effect of § 380.1211.

Sec. 24e. (1) As used in this section:

(a) "Additional millage rate" means a millage rate for operating purposes in excess of the millage rate permitted by subsection (2).

(b) "Additions" means that term as defined in section 34d.

(c) "Base tax rate" means a millage rate for a local unit of government equal to the dollar amount of taxes levied for operating purposes for the concluding fiscal year from existing property divided by the taxable value of existing property for ad valorem property tax levies for the ensuing fiscal year.

(d) "Concluding fiscal year" means the fiscal year of the taxing unit immediately preceding the fiscal year for which a limitation under this section is applied or calculated.

(e) "Ensuing fiscal year" means the fiscal year of the taxing unit for which a limitation under this section is applied or calculated.

(f) "Existing property" means all property against which ad valorem property taxes were levied by a local unit for its concluding fiscal year, minus all property that is considered losses for purposes of ad valorem property tax levies of the local unit for the ensuing fiscal year.

(g) "Local unit of government" or "taxing unit" means a city, village, township, charter township, county, charter county, local school district, intermediate school district, community college district, or authority.

(h) "Losses" means that term as defined in section 34d.

(i) "Operating purposes" means all purposes for which ad valorem property taxes are levied by the taxing unit other than the levy of ad valorem property taxes to provide local school districts revenue that is deposited in a building and site fund, or to pay principal and interest due on a bond or note if and to the extent the ad valorem taxes levied for this purpose are in addition to charter or statutory limitations, as authorized by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Except as provided by subsection (3), unless the taxing unit complies with section 16 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.436, the governing body of a taxing unit shall not levy ad valorem property taxes for operating purposes for an ensuing fiscal year of the taxing unit that yield an amount more than the sum of the taxes levied at the base tax rate on additions within the taxing unit for the ensuing fiscal year plus

an amount equal to the taxes levied for operating purposes for the concluding fiscal year on existing property. If the taxing unit is a county, for purposes of this calculation the resulting sum shall be reduced by an amount equal to the estimate of the distribution as certified by the state treasurer to be received by the county pursuant to section 10 of the state convention facility development act, 1985 PA 106, MCL 207.630, to the extent that the distribution has been appropriated by the legislature and the estimate has been certified by the state treasurer before the final date on which a county millage rate can be certified for the ensuing year. For purposes of this section, the state treasurer shall certify an amount that is an estimate of the amount to be distributed to each county pursuant to section 10 of the state convention facility development act, 1985 PA 106, MCL 207.630.

(3) Unless the taxing unit complies with section 16 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.436, a governing body of a taxing unit may approve a levy of an additional millage rate only after providing the notice required by subsections (6) and (9) and holding a public hearing of the governing body as prescribed by subsection (6). To approve the levy of the additional millage rate, the governing body shall adopt a separate resolution or ordinance.

(4) If, as a result of an appeal of county equalization or state equalization, the state equalized valuation of a unit of local government changes, and an incorrect amount of property taxes has been levied, the amount of additional tax revenue or the shortage of tax revenue shall be deducted from or added to the next regular tax levy for that unit of local government after the determination of the rate authorized pursuant to this section. If the legislature makes an appropriation to a county pursuant to section 10 of the state convention facility development act, 1985 PA 106, MCL 207.630, after the final date a county millage rate can be certified for the ensuing year, if an appropriation made pursuant to section 10 of the state convention facility development act, 1985 PA 106, MCL 207.630, is reduced by an executive order, or if the amount of a distribution pursuant to section 10 of the state convention facility development act, 1985 PA 106, MCL 207.630, varies from the estimated amount certified by the state treasurer pursuant to subsection (2), the amount of additional tax revenue or the shortage of tax revenue shall be deducted from or added to the next regularly estimated amount for purposes of the next required calculations under subsections (2) and (11).

(5) If, at any time, the taxing unit determines that the published, proposed additional millage rate or an adopted additional millage rate is insufficient, the taxing unit shall readvertise, hold another public hearing of the governing body, and, if necessary, revote.

(6) The public hearing of the governing body of a taxing unit required pursuant to subsections (3) and (5) shall be held for the purpose of receiving testimony and discussing a levy of an additional millage rate for its ensuing fiscal year. In addition to satisfying the requirements under the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, the local unit of government or taxing unit shall publish notice of this public hearing in a newspaper of general circulation within the local unit of government or taxing unit. This notice shall be published not less than 6 days before the public hearing and may be jointly published with the notice of the public hearing on the taxing unit's proposed budget as required by section 2 of 1963 (2nd Ex Sess) PA 43, MCL 141.412, if both public hearings are held jointly. This notice shall specify the time, date, and place of the public hearing and shall include, in addition to other pertinent information the local unit of government or taxing unit may elect to include, a statement indicating the proposed additional millage rate, the percentage by which this proposed additional millage rate would increase revenues for operating purposes from ad valorem property tax levies permitted by operation of subsection (2), the percentage of increased revenue from the immediately preceding year that the taxing unit would receive if the additional millage rate is not approved, and that the date and location the taxing unit plans to take action on the proposed resolution or ordinance will be announced at the public hearing. This notice shall also provide a state-

ment that the taxing unit publishing the notice has complete authority to establish the number of mills to be levied from within its authorized millage rate. The notice shall be in not less than 12-point type, shall be preceded by a headline stating "notice of a public hearing on increasing property taxes" which shall be in not less than 18-point type, shall be not less than 8 vertical column inches and 4 horizontal inches, and shall not be placed in that portion of the newspaper reserved for legal notice and classified advertisements.

(7) The proposed additional millage rate, which is required by subsection (6) to be part of the notice of the public hearing, shall be established by a resolution adopted by the governing body of the taxing unit before conducting the public hearing.

(8) Not more than 10 days after a public hearing, a taxing unit may approve the levy of an additional millage rate, but shall not approve an additional millage rate that is greater than a proposed additional millage rate that was published pursuant to subsection (6) and on which the public hearing has been held.

(9) Each local unit shall send timely written notice of the time, date, and place of a public hearing to be held pursuant to this section to all newspapers of general circulation within the local unit.

(10) This section shall not serve to extend or authorize the levy of ad valorem property taxes at a tax rate in excess of the maximum permitted by law, or to prevent the reduction of the tax rate either by action of the governing body of the taxing unit or pursuant to this act, including sections 34 and 34d. Reductions in millage rates that may be required by the compound operation of sections 34 and 34d shall be calculated independently of the tax rate limitation determined by operation of this section.

(11) If the sum of a county's operating property tax levy for the ensuing fiscal year plus the county's distribution to be received pursuant to section 10 of the state convention facility development act, 1985 PA 106, MCL 207.630, exceeds the product of the county's taxable value for the ensuing fiscal year times the greater of the county's base tax rate or concluding fiscal year's operating millage rate, then an amount equal to the lesser of 50% of the excess or 50% of the state convention facility development act distribution shall be used for substance abuse treatment programs within the county. The proceeds received by the taxing unit shall be distributed to the coordinating agency designated for that county pursuant to section 6226 of the public health code, 1978 PA 368, MCL 333.6226, and used only for substance abuse prevention and treatment programs in the county from which the proceeds originated.

(12) Except as provided in subsection (13), this section applies to a fiscal year of a taxing unit for which ad valorem property taxes are levied in 1982 or in any year after 1982. This section does not apply for the ensuing fiscal year of a local unit of government that levied ad valorem property taxes for operating purposes of 1 mill or less for its concluding fiscal year.

(13) This section does not apply to local school districts in 1994.

(14) In 1995, the calculations made pursuant to this section by local school districts shall be made without regard to the exemption provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, and the taxable value of property exempt under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, is not considered a loss.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 198]

(SB 972)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 87b (MCL 211.87b), as amended by 1994 PA 189.

The People of the State of Michigan enact:

211.87b Delinquent tax revolving fund; creation; designation; payments; recovery of delinquent taxes and interest; validation and confirmation of resolution or agreement; segregation into separate funds; county treasurer as agent; powers and duties of county treasurer; payment to local taxing unit; interest charges, penalties, and county property tax administration fee rates; transfer of surplus; borrowing money; alternative method for paying delinquent taxes.

Sec. 87b. (1) The county board of commissioners of any county may create a delinquent tax revolving fund that, at the option of the county treasurer, may be designated as the "100% tax payment fund". Upon the establishment of the fund, all delinquent taxes, except taxes on personal property, due and payable to the taxing units in the county, except those units that collect their own delinquent taxes after March 1 by charter or otherwise, are due and payable to the county. The primary obligation to pay to the county the amount of taxes and the interest on the taxes shall rest with the local taxing units and the state for the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. If the delinquent taxes that are due and payable to the county are not received by the county for any reason, the county has full right of recourse against the taxing unit or to the state for the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, to recover the amount of the delinquent taxes and interest at the rate of 1% per month or fraction of a month until repaid to the county by the taxing unit. However, if the county borrows to provide funds for those payments, the interest rate shall not exceed the highest interest rate paid on that borrowing. A resolution or agreement previously executed or adopted to this effect is validated and confirmed. For delinquent state education taxes under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, the county may offset uncollectible delinquent taxes against collections of the state education tax under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, received by the county and owed to this state under this act. The fund shall be segregated into separate funds or accounts for each year's delinquent taxes.

(2) If a delinquent tax revolving fund is established, the county treasurer shall be the agent for the county and, without further action by the county board of commissioners,

may enter into contracts with other municipalities, this state, or private persons, firms, or corporations in connection with any transaction relating to the fund or any borrowing made by the county pursuant to section 87c or 87d, including all services necessary to complete this borrowing.

(3) The county treasurer shall pay from the fund any or all delinquent taxes that are due and payable to the county and any school district, intermediate school district, community college district, city, township, special assessment district, this state, or any other political unit for which delinquent tax payments are due within 20 days after sufficient funds are deposited within the delinquent tax revolving fund or, if the county treasurer is treasurer for a county with a population greater than 1,500,000 persons, within 30 days after sufficient funds are deposited within the delinquent tax revolving fund. In a county with a delinquent tax revolving fund where the county does not borrow pursuant to section 87c or 87d, if the county treasurer does not make payment of the delinquent taxes to the local units within 10 days after the completion of county settlement with all local units under section 55, the county shall pay interest on the unpaid delinquent taxes from the date of actual county settlement at the rate of 12% per annum for the number of days involved.

(4) Except as provided in subsection (5), the county treasurer shall pay from the fund directly to a school district its share of the fund when a single school district exists within a political unit.

(5) If a local taxing unit has borrowed money in anticipation of collecting taxes for any school district or other municipality and the county treasurer has been so notified in writing, the county treasurer shall pay to the local taxing unit the shares of the fund for that school district or municipality. For purposes of this subsection, "local taxing unit" means a city, village, or township.

(6) The interest charges, penalties, and county property tax administration fee rates established under this act shall remain in effect and shall be payable to the county delinquent tax revolving fund.

(7) Any surplus in the fund may be transferred to the county general fund by appropriate action of the county board of commissioners.

(8) A county board of commissioners may borrow money to create a delinquent tax revolving fund as provided in section 87c or 87d, or both.

(9) This section shall not supersede section 87 but is an alternative method for paying delinquent taxes to local units. However, where this section is used by a county, section 87 shall not be used.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 199]

(SB 974)

AN ACT to amend 1939 PA 342, entitled "An act to authorize counties to establish and provide water, sewer, or sewage disposal improvements and services within or between cities, villages, townships, charter townships, or any duly authorized and established combinations thereof, within or without the county, and to establish and provide garbage

or rubbish collection and disposal facilities and services for such units of government or combinations thereof, and for such purposes to acquire, purchase, construct, own, maintain, or operate water mains and trunk and connecting lines, water pumping and purification plants, sewers, sewage interceptors, sewage disposal plants, settling basins, screens and meters, and incinerators and disposal grounds; to authorize counties to establish, administer, coordinate, and regulate a system or systems of water, sewer, or sewage disposal improvements and services, and garbage and rubbish collection and disposal facilities and services, within or between such units of government; to provide methods for obtaining money for the aforesaid purposes; to authorize counties to extend by laterals and connections, and to construct, improve, repair, manage, or operate water, sewer, or sewage disposal improvements and garbage and rubbish collection and disposal facilities and services of and situated within such cities, villages, townships, charter townships, or any duly authorized and established combination thereof, and provide for the loan of money to such units of government for the purposes and the repayment thereof by agreements therefor; to provide methods for collection of rates, charges, or assessments; to authorize counties to enter into contracts with any unit of government providing for the acquisition, construction, and financing of improvements or facilities and for the pledge of the full faith and credit of each unit of government for the payment of their respective shares of the cost thereof; to authorize each unit of government having power to tax to impose taxes without limitation as to rate or amount for the payment of contract obligations in anticipation of which bonds are issued; to authorize counties to issue bonds secured by the full faith and credit pledges of each unit of government; to authorize counties to pledge their full faith and credit as additional security on such bonds and to impose taxes without limitation as to rate or amount to the extent necessary for the payment of such bonds; to authorize counties to issue revenue bonds and to pledge their full faith and credit as additional security for the payment of such revenue bonds; to validate action taken and bonds issued; and to prescribe penalties and provide remedies," by amending sections 5a and 5c (MCL 46.175a and 46.175c), section 5c as amended by 1983 PA 183.

The People of the State of Michigan enact:

46.175a Contracts authorized; methods of raising funds.

Sec. 5a. As an additional or alternative method of acquiring and constructing any of the improvements or facilities authorized by this act, the county, acting through its county agency, and any unit of government may enter into contracts providing for the acquisition, construction, and financing of improvements or facilities in the manner authorized in this act. The contracts shall provide for the allocation and payment of the share of the total cost to be borne by each unit of government in annual installments for a period of not exceeding 40 years, and each contracting unit of government is authorized to pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contracts. A contract described in this section is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. For the purpose of making payment of its pledged share of the cost of the improvements or facilities, any contracting unit of government may use any, or all, or any combination of the following methods of raising funds:

(a) The levy of a tax on taxable property by a unit of government having the power to tax, which tax may be imposed without limitation as to rate or amount and in addition to any taxes that the unit of government may be authorized to levy but not more than the rate or amount sufficient for those purposes.

(b) The levy of special assessments on property benefited by the improvements, the procedures relative to the making and collection of the special assessments to conform as near as may be to applicable charter or statutory provisions.

(c) The levy and collection of rates or charges to users and beneficiaries of the service furnished by the improvement.

(d) From money received or to be received derived from the imposition of taxes by this state, except as the use of the money for that purpose is expressly prohibited by the state constitution of 1963.

(e) From any other funds that may be validly used for that purpose. The contracts may provide for any and all matters relating to the acquisition, construction, and financing of the improvements or facilities as are considered necessary, including the authority to the county agency to issue bonds secured by the full faith and credit contractual pledges of the contracting unit of government, as authorized by section 5c. The contracts may provide for appropriate remedies in case of default, including, but not limited to, the right of the contracting unit of government to authorize the state treasurer or other official charged with the disbursement of unrestricted state funds returnable to the governmental units under the state constitution of 1963, to withhold sufficient funds to make up any default or deficiency in funds.

46.175c Bonds generally.

Sec. 5c. (1) For the purpose of obtaining funds for the acquisition and construction of the improvements or facilities authorized by this act, the county after the execution of the contract or contracts authorized by sections 5a and 5b, upon resolution adopted by its county board of commissioners, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting unit of government pursuant to authorization contained in this act and the contract or contracts entered into pursuant to sections 5a and 5b. The bonds shall not be delivered until the contract or contracts become effective as provided in section 5b. The bonds shall be issued in the name of the county and shall be executed in such manner as provided in the resolution authorizing the bonds. Bonds issued under this act shall mature in a period not to exceed 40 years. The bonds and coupons shall be exempt from all taxation by this state or by any taxing authority within this state. The bonds shall not pledge the full faith and credit of the issuing county except as otherwise provided in this section. As additional security for the payment of the principal of and interest on any bonds issued under this section, any issuing county may, upon proper resolution adopted by a majority vote of the members-elect of its county board of commissioners, pledge the full faith and credit of the county for the prompt payment of the principal of and interest on the bonds. In the event the county is required to advance any money by reason of a pledge on account of the delinquency of any contracting unit of government and if provided in the contract, the county treasurer shall notify the state treasurer to deduct the amount of money advanced by the county from any unrestricted money in the state treasurer's possession belonging to the unit of government and to pay the amount to the county. The money shall be paid into the general fund of the county. The right of deduction to receive payment from the state treasurer given to the county by this statute shall not operate to limit the county's right to pursue any other legal remedies for the reimbursement of money advanced under this section. The board of commissioners of any county that has advanced any money and that has not been reimbursed may order a unit of government having taxing power and its officers to levy upon its next tax roll an amount sufficient to make the reimbursement on or before the date when its taxes become delinquent and the unit of government and its tax levying and collecting officials shall levy and collect the taxes and reimburse the

county. The resolution authorizing the issuance of the bonds shall contain the terms of the contract or contracts authorized by sections 5a and 5b. Sections 5a, 5b, and 5c shall be construed as an additional and alternative method for the acquisition, construction, and financing of the improvements or facilities contemplated by this act, and shall not affect the other provisions of this act relating to the acquisition, construction, or financing of improvements or facilities. Any improvements and facilities contemplated by this act may be acquired, constructed, and financed in part under the provisions of sections 5a, 5b, and 5c and in part under other sections of this act. This act shall not validate any drain orders or bonds issued prior to April 30, 1954.

(2) Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 200]

(SB 975)

AN ACT to amend 1965 PA 261, entitled "An act to authorize the creation and to prescribe the powers and duties of county and regional parks and recreation commissions; and to prescribe the powers and duties of county boards of commissioners with respect to county and regional parks and recreation commissions," by amending section 17 (MCL 46.367), as amended by 1983 PA 177.

The People of the State of Michigan enact:

46.367 Park and recreational places; revenue bonds; resolution; issuance of bonds or notes; negotiability; interest; tax exemption; limitations; applicable law; amount of borrowings.

Sec. 17. (1) Any county operating under this act, by resolution adopted by a majority of the members elect of its governing body, and with a vote of the majority of the electors of the county voting on the question, may borrow money, pledge its full faith and credit for repayment, and issue its bonds or notes to pay all or part of the cost of acquiring, planning, and developing park and recreational places, and constructing, reconstructing, altering, or renewing buildings and other structures related to said park and recreational places.

(2) The revenue bonds shall be issued pursuant to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or any other applicable act.

(3) Bonds or notes shall be authorized by a resolution adopted by a majority of the members elect of the governing body of the county operating under this act. The full faith and credit of the county may be pledged for the prompt payment of the principal and interest on any borrowing by a county pursuant to this act. The county's full faith and credit may be pledged to the payment of principal and interest of revenue bonds notwithstanding any provision of law. Any bonds or notes shall be issued in the name of the county operating under this act and shall be executed by the chairperson of the county board of commissioners and the county clerk, who shall also cause their facsimile signatures to be affixed to any interest coupons to be attached to any bonds. The county clerk

shall affix to the bonds or notes the seal of the county. Bonds or notes issued under this act are negotiable instruments and shall mature in not more than 40 years from the date of issue. The bonds or notes and the interest on the bonds and notes are exempt from taxation by this state or by any taxing authority within this state.

(4) The issuance of bonds or notes under this act is subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The amount of borrowings by a county pursuant to this act shall not be subject to any limitations or provisions contained in any law applicable to the county except that a county may not borrow pursuant to this act in an amount which taken together with other indebtedness of the county will exceed 10% of the assessed valuation of the county as last equalized by the state.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 201]

(SB 976)

AN ACT to amend 1909 PA 279, entitled "An act to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; to prescribe penalties and provide remedies; and to repeal acts and parts of acts on specific dates," by amending sections 3, 4a, 5, and 5f (MCL 117.3, 117.4a, 117.5, and 117.5f), section 3 as amended by 1999 PA 260, section 4a as amended by 1994 PA 324, section 5 as amended by 1988 PA 268, and section 5f as amended by 1990 PA 231.

The People of the State of Michigan enact:

117.3 Mandatory charter provisions.

Sec. 3. Each city charter shall provide for all of the following:

(a) The election of a mayor, who shall be the chief executive officer of the city, and of a body vested with legislative power, and for the election or appointment of a clerk, a treasurer, an assessor or board of assessors, a board of review, and other officers considered necessary. The city charter may provide for the selection of the mayor by the legislative body. Elections may be by a partisan, nonpartisan, or preferential ballot, or by any other legal method of voting. Notwithstanding any other law or charter provision to the contrary, a city having a 1970 official population of more than 150,000, whose charter provides for terms of office of less than 4 years, and in which the term of office for the mayor and the governing body are of the same length, may provide by ordinance for a term of office of up to 4 years for mayor and other elected city officials. The ordinance shall provide that the ordinance shall take effect 60 days after it is enacted unless within the 60 days a petition is submitted to the city clerk signed by not less than 10% of the registered electors of the city requesting that the question of approval of the ordinance be submitted to the electors at the next regular election or a special election called for the purpose of approving or disapproving the ordinance.

(b) The nomination of elective officers by partisan or nonpartisan primary, by petition, or by convention.

(c) The time, manner, and means of holding elections and the registration of electors.

(d) The qualifications, duties, and compensation of the city's officers. If the city has an appointed chief administrative officer, the legislative body of the city may enter into an employment contract with the chief administrative officer extending beyond the terms of the members of the legislative body unless the employment contract is prohibited by the city charter. An employment contract with a chief administrative officer shall be in writing and shall specify the compensation to be paid to the chief administrative officer, any procedure for changing the compensation, any fringe benefits, and any other conditions of employment. The contract shall state if the chief administrative officer serves at the pleasure of the legislative body, and the contract may provide for severance pay or other benefits in the event the chief administrative officer's employment is terminated at the pleasure of the legislative body.

(e) The establishment of 1 or more wards, and if the members of the city's legislative body are chosen by wards, for equal representation for each ward in the legislative body.

(f) That the subjects of taxation for municipal purposes are the same as for state, county, and school purposes under the general law.

(g) The annual laying and collecting taxes in a sum, except as otherwise provided by law, not to exceed 2% of the taxable value of the real and personal property in the city. Unless the charter provides for a different tax rate limitation, the governing body of a city may levy and collect taxes for municipal purposes in a sum not to exceed 1% of the taxable value of the real and personal property in the city. As used in this subdivision, "taxable value" is that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(h) An annual appropriation of money for municipal purposes.

(i) The levy, collection, and return of state, county, and school taxes in conformance with the general laws of this state, except that the preparation of the assessment roll, the meeting of the board of review, and the confirmation of the assessment roll may be at the times provided in the city charter.

(j) The public peace and health and for the safety of persons and property. In providing for the public peace, health, and safety, a city may expend funds or enter into contracts with a private organization, the federal or state government, a county, village, or township, or another city for services considered necessary by the legislative body. Public peace, health, and safety services may include the operation of child guidance and community mental health clinics, the prevention, counseling, and treatment of developmental disabilities, the prevention of drug abuse, and the counseling and treatment of drug abusers.

(k) Adopting, continuing, amending, and repealing the city ordinances and for the publication of each ordinance before it becomes operative. Whether or not provided in its charter, instead of publishing a true copy of an ordinance before it becomes operative, the city may publish a summary of the ordinance. If the city publishes a summary of the ordinance, the city shall include in the publication the designation of a location in the city where a true copy of the ordinance can be inspected or obtained. Any charter provision to the contrary notwithstanding, a city may adopt an ordinance punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days. Whether or not provided in its charter, a city may adopt a provision of any state statute for which the maximum period of imprisonment

is 93 days, the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a law, code, or rule that has been promulgated and adopted by an authorized agency of this state pertaining to fire, fire hazards, fire prevention, or fire waste, and a fire prevention code, plumbing code, heating code, electrical code, building code, refrigeration machinery code, piping code, boiler code, boiler operation code, elevator machinery code, or a code pertaining to flammable liquids and gases or hazardous chemicals, that has been promulgated by this state, by a department, board, or other agency of this state, or by an organization or association that is organized and conducted for the purpose of developing the code, by reference to the law, code, or rule in an adopting ordinance and without publishing the law, code, or rule in full. The law, code, or rule shall be clearly identified in the ordinance and its purpose shall be published with the adopting ordinance. Printed copies of the law, code, or rule shall be kept in the office of the city clerk, available for inspection by, and distribution to, the public at all times. The publication shall contain a notice stating that a complete copy of the law, code, or rule is made available to the public at the office of the city clerk in compliance with state law requiring that records of public bodies be made available to the general public. A city shall not enforce any provision adopted by reference for which the maximum period of imprisonment is greater than 93 days.

(*l*) That the business of the legislative body shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. All records of the municipality shall be made available to the general public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(m) Keeping in the English language a written or printed journal of each session of the legislative body.

(n) A system of accounts that conforms to a uniform system of accounts as required by law.

117.4a Borrowing money and issuing bonds; net indebtedness; limitation; computation; borrowing in case of fire, flood, or other calamity; incurring obligation for construction, renovation, or modernization of hospital; bonds as obligation of special assessment district and city; validation of bonds issued and obligations incurred before July 31, 1973.

Sec. 4a. (1) Each city in its charter may provide for the borrowing of money on the credit of the city and issuing bonds for the borrowing of money, for any purpose within the scope of the powers of the city.

(2) Notwithstanding a charter provision to the contrary, the net indebtedness incurred for all public purposes shall not exceed the greater of the following:

(a) Ten percent of the assessed value of all the real and personal property in the city.

(b) Fifteen percent of the assessed value of all the real and personal property in the city if that portion of the total amount of indebtedness incurred which exceeds 10% is or has been used solely for the construction or renovation of hospital facilities.

(3) In case of fire, flood, or other calamity, the legislative body may borrow for the relief of the inhabitants of the city and for the preservation of municipal property, a sum not to exceed 3/8 of 1% of the assessed value of all the real and personal property in the city, due in not more than 5 years, even if the loan would cause the indebtedness of the city to exceed the limit established by this section.

(4) In computing the net indebtedness, all of the following shall be excluded:

(a) Bonds issued in anticipation of the payment of special assessments, even though they are also a general obligation of the city.

(b) Mortgage bonds that are secured only by a mortgage on the property or franchise of a public utility.

(c) Bonds issued to refund money advanced or paid on special assessments for water main extensions.

(d) Motor vehicle highway fund bonds, even though they are also a general obligation of the city.

(e) Revenue bonds.

(f) Bonds issued or contract or assessment obligations incurred to comply with an order of the water resources commission or a court of competent jurisdiction.

(g) Obligations incurred before January 9, 1973 for water supply, sewage, drainage, or refuse disposal, or resource recovery projects, or incurred after January 8, 1973 for projects necessary to protect the public health by abating pollution. A certification by the county, district, or state health department shall be sufficient proof that the project is necessary to protect the public health by abating pollution.

(h) Bonds issued to acquire housing for which rent subsidies will be received by the city or an agency of the city under a contract with the United States government and used by the city to operate and maintain the housing and pay principal and interest on the bonds.

(i) Obligations entered into under an intergovernmental self-insurance contract section 5 of 1951 PA 35, MCL 124.5, or issued to pay premiums or to establish funds to self-insure for losses under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(j) Bonds issued or assessments or contract obligations incurred for the construction, improvement, or replacement of a combined sewer overflow abatement facility. As used in this subdivision:

(*i*) "Combined sewer overflow" means a discharge from a combined sewer system that occurs when the flow capacity of the combined sewer system is exceeded.

(*ii*) "Combined sewer overflow abatement facility" means any works, instrumentalities, or equipment necessary or appropriate to abate combined sewer overflows.

(*iii*) "Combined sewer system" means a sewer designed and used to convey both storm water runoff and sanitary sewage, and which contains lawfully installed regulators and control devices that allow for delivery of sanitary flow to treatment during dry weather periods and divert storm water and sanitary sewage to surface waters during storm flow periods.

(*iv*) "Construction" means any action taken in the designing or building of a combined sewer overflow abatement facility. This term includes, but is not limited to, all of the following:

(A) Engineering services.

(B) Legal services.

(C) Financial services.

(D) Design of plans and specifications.

(E) Acquisition of land or structural components, or both.

(F) Building, erection, alteration, remodeling, or extension of a combined sewer overflow abatement facility.

(G) City supervision of the project activities described in sub-subparagraphs (A) to (F).

(*v*) "Improvement" means any action taken to expand, rehabilitate, or restore a combined sewer overflow abatement facility.

(*vi*) "Replacement" means any action taken to obtain and install equipment, accessories, or appurtenances during the useful life of a combined sewer overflow abatement facility necessary to maintain the capacity and performance for which the equipment, accessories, or appurtenances are designed and constructed.

(5) The resources of the sinking fund pledged for the retirement of any outstanding bonds shall also be deducted from the amount of the indebtedness.

(6) An obligation for the construction, renovation, or modernization of a hospital under subsection (2)(b) shall not be incurred after July 1, 1978 unless the construction, renovation, or modernization has been approved in accordance with any applicable act or unless the obligation is to refinance a previous obligation.

(7) Each city may provide in its charter for the borrowing of money and issuing bonds for the borrowing of money in anticipation of the payment of special assessments, which bonds may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the city.

(8) Bonds issued and obligations incurred before July 31, 1973 are validated.

(9) In computing the net indebtedness for the purposes of subsection (2), there may be added to the assessed value of real and personal property in a city for a fiscal year an amount equal to the assessed value equivalent of certain city revenues as determined under this subsection. The assessed value equivalent shall be calculated by dividing the sum of the following amounts by the city's millage rate for the fiscal year:

(a) The amount paid or the estimated amount required to be paid by the state to the city during the city's fiscal year for the city's use under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. The department of treasury shall certify the amount upon request.

(b) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under 1974 PA 198, MCL 207.551 to 207.572.

(c) The amount levied by the city for its own use during the city's fiscal year from the specific tax levied under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668.

117.5 Prohibited powers.

Sec. 5. A city does not have power:

(a) To increase the rate of taxation now fixed by law, unless the authority to do so is given by a majority of the electors of the city voting at the election at which the proposition is submitted, but the increase in any case shall not be in an amount as to cause the rate to exceed 2%, except as provided by law, of the assessed value of the real and personal property in the city.

(b) To submit to the electors a charter more often than once in every 2 years, nor unless the charter is filed with the city clerk 60 days before the election, but this provision shall not apply to the submission and resubmission of charters of cities that may be incorporated under this act until they shall have first adopted a charter. Where a city submits to the electors a charter and the charter is adopted by the electors, and the city has operated under the charter, which charter has not, at the time it is adopted, been on

file with the city clerk 60 days, then the legislative body of the city, upon its giving the notice of election as provided in the charter, may resubmit to the electors, at a special or general election, the charter, which, if adopted by the electors, shall be considered operative and effective as of the date of the first submission and adoption. The charter shall not be resubmitted unless 60 days have elapsed between the date of the filing of the charter and the date of the election at which the charter is resubmitted.

(c) To call more than 2 special elections within 1 year. This prohibition does not apply to elections that may be held in the submission and resubmission of charters of cities that may be incorporated under this act until they have first adopted a charter, and does not apply to elections that may be held in the resubmission of a charter once adopted as provided in subdivision (b).

(d) To decrease the salary of a municipal judge after his or her election or appointment, or during the judge's term of office, notwithstanding any charter provision to the contrary. The term of a public official shall not be shortened or extended beyond the period for which the official is elected or appointed, unless he or she resigns or is removed for cause, if the office is held for a fixed term.

(e) To adopt a charter or an amendment to the charter unless approved by a majority of the electors voting on the question; to sell a park, cemetery, or any part of a park or cemetery, except where the park is not required under an official master plan of the city; to engage in a business enterprise requiring an investment of money in excess of 10 cents per capita; or to authorize an issue of bonds except bonds issued in anticipation of the collection of taxes actually levied and uncollected or for which an appropriation has been made; bonds that the city is authorized by its charter to issue as part of its budget system, to an amount that in any year, together with the taxes levied for the same year, will not exceed the limit of taxation authorized by law; special assessment bonds; bonds for the city's portion of local improvements; refunding bonds; emergency bonds as defined by this act; and bonds that the legislative body is authorized by specific statute to issue without vote of the electors, unless approved by a majority of the electors voting on the question at a general or special election. In addition, a city that now has, or may subsequently have, a population of 750,000 persons or more may issue bonds, upon resolution of its governing body, without prior approval of the electors, which the city is authorized by its charter to issue as part of its budget system, to an amount that in any year, together with the ad valorem taxes levied for the same year, exclusive of debt service taxes or taxes levied pursuant to other laws, will not exceed 2-1/2% of the assessed value of the real and personal property in the city, this limitation to supersede and take the place of any contrary language in any existing city charter. For the purposes of this subdivision only, the assessed value of real and personal property in any city shall include the assessed value equivalent of money received during the city's fiscal year under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. The assessed value equivalent shall be calculated by dividing the money received by the city's millage rate for the fiscal year. Notwithstanding the former provisions of this subdivision requiring approval by 3/5 of the electors voting on the question as a prerequisite to the exercise of certain powers, these powers may be exercised if approved by a majority of the electors voting on the question at a general or special election held on or after April 1, 1966.

(f) To make a contract with, or give an official position to, one who is in default to the city.

(g) To issue bonds without providing a sinking fund to pay them at maturity, except as provided in section 4g(1), but sinking funds shall not be required in the case of serial bonds that fall due annually. Bonds, whether authorized under this act or any other act,

except refunding bonds, revenue bonds, motor vehicle highway fund bonds, rehabilitation bonds, judgment bonds, bonds or other obligations issued to fund an operating deficit of a city, bonds or other obligations to pay premiums or to establish funds to self-insure for losses as authorized by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, bonds the issuance of which has been approved by the voters, and bonds issued to comply with an order of a court of competent jurisdiction shall not be issued by a city unless notice of the issuance of the bonds is published once in a newspaper of general circulation in the city at least 45 days before the issuance of the bonds, within which period a petition may be filed with the legislative body signed by not less than 10% or 15,000 of the registered electors in the city, whichever is less, in which event the legislative body shall submit the question of the issuance of the bonds to the electors of the city, at a regular or special election in the city. The bonds shall not be issued unless a majority vote of the electors voting on the issuance vote in favor of issuing the bonds. The notice of intent to issue bonds shall state the maximum amount of the bond issue, the purpose of the bond issuance, source of payment, right of referendum on the issuance of the bonds, and other information as the legislative body determines to be necessary to adequately inform the electors and all other interested persons of the nature of the issue and of their rights with respect to the issue.

(h) To repudiate a debt by a change in its charter or by consolidation with any other municipality.

(i) To submit a franchise to the electors at a special election, unless the expense of holding the election, as determined by the legislative body, is paid in advance to the city treasurer by the grantee in the franchise.

117.5f Energy conservation improvements; resolution; payment; scope of improvements; acquisition of improvements by contracts or notes; reports; forms.

Sec. 5f. (1) The legislative body of a city may provide by resolution for energy conservation improvements to be made to city facilities and may pay for the improvements from the general fund of the city or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air conditioning controls, and entrance or exit way closures.

(2) The legislative body of a city may acquire 1 or more of the energy conservation improvements described in subsection (1) by installment contract or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract or notes issued pursuant to this subsection shall extend for a period of time not to exceed 10 years. Notes issued pursuant to this subsection shall be full faith and credit, tax limited obligations of the city, payable from tax levies and the general fund as pledged by the legislative body of the city. The notes shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. This subsection does not limit in any manner the borrowing or bonding authority of a city as provided by law.

(3) If energy conservation improvements are made as provided in this section, the legislative body of a city shall report the following information to the Michigan public service commission within 60 days of the completion of the improvements:

(a) Name of each facility to which an improvement is made and a description of the conservation improvement.

(b) Actual energy consumption during the 12-month period before completion of the improvement.

(c) Project costs and expenditures.

(d) Estimated annual energy savings.

(4) If energy conservation improvements are made as provided in this section, the legislative body of a city shall report to the Michigan public service commission, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the Michigan public service commission.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 202]

(SB 978)

AN ACT to amend 1945 PA 344, entitled "An act to authorize counties, cities, villages and townships of this state to adopt plans to prevent blight and to adopt plans for the rehabilitation of blighted areas; to authorize assistance in carrying out such plans by the acquisition of real property, the improvement of such real property and the disposal of real property in such areas; to prescribe the methods of financing the exercise of these powers; and to declare the effect of this act," by amending sections 7a and 7b (MCL 125.77a and 125.77b), section 7a as amended by 1983 PA 32 and section 7b as amended by 1986 PA 320.

The People of the State of Michigan enact:

125.77a Municipal bonds or notes.

Sec. 7a. A municipality may issue bonds or notes from time to time in its discretion to finance the undertaking of any project authorized by this act including, but not limited to, the payment of principal and interest on advances or loans made for surveys and plans for projects authorized by this act. The bonds or notes shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from or held in connection with its undertaking and carrying out of projects under this act. Payment of the bonds or notes both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution due or to become due from the federal government or other source in aid of projects of the municipality under this act. Bonds or notes issued under this section shall not constitute an indebtedness within the meaning of constitutional, statutory, or charter debt limitations or restrictions, and may be issued without vote of the electors of the municipality. Bonds or notes issued under this section are declared to be issued for an essential public and governmental purpose, and, together with interest thereon and income therefrom, shall be exempted from all taxes. Bonds or notes issued under this section shall be authorized by resolution or ordinance of the legislative body of the municipality. Bonds and notes issued

under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

125.77b General obligation bonds of municipality; purpose; resolution; pledge of full faith and credit; "cost of any project" and "net project cost" defined; issuance and sale of bonds; maximum amount; designation and approval of bonds; legislative determination; assessed value of real and personal property; validation of actions and bonds; limitation on time of sale; provisions governing bonds.

Sec. 7b. (1) For the purpose of providing funds to pay all or part of the cost of any project undertaken under this act or the net project cost of any project undertaken under this act with federal financial assistance, a municipality may provide by resolution duly adopted by its legislative body and without vote of the electors of the municipality for borrowing money and issuing general obligation bonds of the municipality, which bonds shall pledge the full faith and credit of the municipality.

(2) As used in this section:

(a) "Cost of any project" means any or all of the following items: Cost of land acquisition, demolition of buildings, land and site improvements, plans, surveys, appraisals, and all other costs relating to the acquisition, rehabilitation, financing, and disposal of any project or any part of a project under the terms of this act.

(b) "Net project cost" means that term as defined in former section 110 of the housing act of 1949, 42 U.S.C. 1460.

(3) The bonds may be issued and sold from time to time during the progress of any project undertaken under this act, in which event the maximum amount of bonds issued shall not exceed the estimated cost of any project undertaken under this act or the estimated net cost of any project undertaken under this act with federal assistance. The legislative body in the resolution authorizing issuance of the bonds shall set forth the estimate or the bonds may be issued when any project has been completed. Bonds issued under this section shall be designated "rehabilitation bonds". All bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. It being the determination of this legislature that urban blight constitutes a serious menace to public health, welfare, and safety of municipalities and their inhabitants and that the financing of projects designed to prevent or eliminate urban blight is necessary for the public health, welfare, and safety, the bonds authorized to be issued under this section are declared to be issued for an essential public and governmental purpose. The maximum principal amount of bonds that may be authorized under this section in any year shall not exceed an amount equal to 5% of the assessed value of the real and personal property in the municipality less the taxes actually levied for the year exclusive of debt service tax levies and taxes levied under other laws, and less budget bonds authorized for the year issued or authorized to be issued and less any bonds authorized in the year to be issued under sections 6a and 6b of 1949 PA 208, MCL 125.946a and 125.946b. For the purposes of this section, the assessed value of real and personal property in the municipality shall include the assessed value equivalent of money received during the municipality's fiscal year under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. All actions previously taken by a municipality authorizing the issuance of bonds and all bonds previously issued by a municipality are validated. Any bonds authorized to be issued under this section shall be sold not later than 3 full fiscal years from the end of the fiscal year in which the bonds are authorized to be issued. The maximum amount of bonds issued under this section that may be outstanding

at any one time shall not, together with other outstanding indebtedness of the municipality, exceed the maximum limitations on bonded indebtedness of the municipality imposed by law.

(4) Except as otherwise provided in this act, the bonds shall not be subject to the provisions of any other law or charter provision relating to their issuance or sale.

(5) The legislative body of any municipality issuing bonds under this section in the resolution authorizing issuance of the bonds shall estimate the period of usefulness of the planned improvements to be installed in the development area after the project is completed.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 203]

(SB 979)

AN ACT to amend 1943 PA 183, entitled "An act to provide for the establishment in portions of counties lying outside the limits of incorporated cities and villages of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and for which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that are required for, and the maximum number of families that may be housed in dwellings, buildings, and structures that are erected or altered; to designate the use of certain state licensed residential facilities; to provide for a method for the adoption of ordinances and amendments to ordinances; to provide for emergency interim ordinances; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise, of property that does not conform to the requirements of the zoning districts so provided; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances, or regulations; to provide sanctions for violations; to provide for the assessment, levy, and collection of taxes; to provide for referenda; to provide for appeals; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; to provide for special assessments; and to prescribe penalties and provide remedies," by amending section 33 (MCL 125.233), as added by 1996 PA 569.

The People of the State of Michigan enact:

125.233 Financing of PDR program; sources; borrowing money and issuing bonds or notes; pledge; lien; exemption from taxation; investment; disposition; special assessments.

Sec. 33. (1) A PDR program may be financed through 1 or more of the following sources:

(a) General appropriations by the county.

(b) Proceeds from the sale of development rights by the county subject to section 32(3).

(c) Grants.

(d) Donations.

(e) Bonds or notes issued under subsections (2) to (5).

(f) General fund revenue.

(g) Special assessments under subsection (6).

(h) Other sources approved by the county board of commissioners and permitted by law.

(2) The county board of commissioners may borrow money and issue bonds or notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, subject to the general debt limit applicable to the county. The bonds or notes may be revenue bonds or notes; general obligation limited tax bonds or notes; or, subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes.

(3) The county board of commissioners may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the county board of commissioners is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the county, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.

(6) A development rights ordinance may authorize the county board of commissioners to finance a PDR program by special assessments. In addition to meeting the requirements of section 32, the development rights ordinance shall include in the procedure to approve and establish a special assessment district both of the following:

(a) The requirement that there be filed with the county board of commissioners a petition containing all of the following:

(*i*) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.

(*ii*) A description of the proposed special assessment district.

(*iii*) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.

(*iv*) The amount and duration of the proposed special assessments.

(b) The requirement that the county board of commissioners specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 204]

(SB 980)

AN ACT to amend 1943 PA 184, entitled "An act to provide for the establishment in townships of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and for which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings, and structures, including tents and trailer coaches, that are erected or altered; to designate the use of certain state licensed residential facilities; to provide for a method for the adoption of ordinances and amendments to ordinances; to provide for emergency interim ordinances; to provide for the acquisition by purchase, condemnation, or otherwise of nonconforming property; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances, or regulations; to provide sanctions for violations; to provide for the assessment, levy, and collection of taxes; to provide for the collection of fees for building permits; to provide for petitions, public hearings, and referenda; to provide for appeals; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; to provide for special assessments; and to prescribe penalties and provide remedies," by amending section 33 (MCL 125.303), as added by 1996 PA 570.

The People of the State of Michigan enact:

125.303 Financing of PDR program; sources; borrowing money and issuing bonds or notes; pledge; lien; exemption from taxation; investment; disposition; special assessments.

Sec. 33. (1) A PDR program may be financed through 1 or more of the following sources:

(a) General appropriations by the township.

(b) Proceeds from the sale of development rights by the township subject to section 32(3).

(c) Grants.

(d) Donations.

(e) Bonds or notes issued under subsections (2) to (5).

(f) General fund revenue.

(g) Special assessments under subsection (6).

(h) Other sources approved by the township board and permitted by law.

(2) The township board may borrow money and issue bonds or notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, subject to the general debt limit applicable to the township. The bonds or notes may be revenue bonds or notes; general obligation limited tax bonds or notes; or, subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes.

(3) The township board may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the township board is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the township, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.

(6) A development rights ordinance may authorize the township board to finance a PDR program by special assessments. In addition to meeting the requirements of section 32, the development rights ordinance shall include in the procedure to approve and establish a special assessment district both of the following:

(a) The requirement that there be filed with the township board a petition containing all of the following:

(*i*) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.

(*ii*) A description of the proposed special assessment district.

(*iii*) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.

(*iv*) The amount and duration of the proposed special assessments.

(b) The requirement that the township board specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 205]

(HB 5182)

AN ACT to amend 1956 PA 217, entitled "An act to safeguard persons and property; to provide for licensing and regulation of electricians and electrical contractors concerning the construction, alteration, installation of electrical wiring and equipment and for the inspection of electrical wiring; to create an electrical administrative board; to create certain committees for certain purposes; to provide certain powers and duties for certain departments; to provide for the assessment of certain fees and for the promulgation of rules; and to prescribe penalties for violations of this act," by amending section 7 (MCL 338.887), as amended by 1992 PA 130.

The People of the State of Michigan enact:

338.887 Electrical contractor's license requirements; exceptions.

Sec. 7. (1) Except as otherwise provided in this act or in subsection (3), a person, firm, or corporation shall not engage in the business of electrical contracting unless the person, firm, or corporation has received from the board or from the appropriate municipality an electrical contractor's license.

(2) Except as otherwise provided in this act or in subsection (3), a person, other than a person licensed under this act and employed by and working under the direction of a holder of an electrical contractor's license, shall not in any manner undertake to execute any electrical wiring.

(3) A license under this act is not required in the execution of the following classes of work:

(a) Minor repair work, as defined in section 1.

(b) The installation, alteration, repairing, rebuilding, or remodeling of elevators, dumbwaiters, escalators, or man lifts performed under a permit issued by an elevator inspection agency of the state of Michigan or political subdivision of the state of Michigan.

(c) The installation, alteration, or repair of electrical equipment and its associated wiring installed on the premises of consumers or subscribers by or for electrical energy supply or communication agencies for use by such agencies in the generation, transmission, distribution, or metering of electrical energy or for the operation of signals or transmission of intelligence.

(d) The installation, alteration, or repair of electric wiring for the generation and primary distribution of electric current, or the secondary distribution system up to and including the meters, where such work is an integral part of the system owned and operated by an electric light and power utility in rendering its duly authorized service.

(e) Any work involved in the manufacture of electric equipment, including the testing and repairing of such manufactured equipment.

(f) The installation, alteration, or repair of equipment and its associated wiring for the generation or distribution of electric energy for the operation of signals or transmission of intelligence where such work is in connection with a communication system owned or operated by a telephone or telegraph company in rendering its authorized service as a telephone or telegraph company.

(g) Any installation, alteration, or repair of electrical equipment by a homeowner in a single family home and accompanying outbuildings owned and occupied or to be occupied by the person performing the installation, alteration, or repair of electrical equipment.

(h) Any work involved in the use, maintenance, operation, dismantling, or reassembling of motion picture and theatrical equipment used in any building with approved facilities for entertainment or educational use and which has the necessary permanent wiring and floor and wall receptacle outlets designed for the proper and safe use of such theatrical equipment, but not including any permanent wiring.

(i) Work performed by mechanical contractors licensed in classifications listed in section 6(3)(a), (b), (d), (e), and (f) of the Forbes mechanical contractors act, 1984 PA 192, MCL 338.976, plumbing contractors licensed under 1929 PA 266, MCL 338.901 to 338.917, and employees of persons licensed under those acts while performing maintenance, service, repair, replacement, alteration, modification, reconstruction, or upgrading of control wiring circuits and electrical component parts within existing mechanical systems defined in the mechanical and plumbing codes provided for in the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531, including, but not limited to, energy management systems, relays and controls on boilers, water heaters, furnaces, air conditioning compressors and condensers, fan controls, thermostats and sensors, and all interconnecting wiring associated with the mechanical systems in buildings which are on the load side of the unit disconnect, which is located on or immediately adjacent to the equipment, except for life safety systems wiring.

(j) Electrical wiring associated with the installation, removal, alteration, or repair of a water well pump on a single family dwelling to the first point of attachment in the house from the well, by a registered pump installer under part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771.

(k) The installation, maintenance, or servicing of burglar alarm systems within a building or structure.

(*l*) The installation, maintenance, or servicing of listed residential and commercial lawn irrigation equipment, except any permanent wired connections exceeding 30 volts.

(m) The installation, maintenance, or servicing of listed landscape lighting systems and equipment, except any permanent wired connections exceeding 30 volts.

(n) The installation, alteration, maintenance, or repair of electric signs and related wiring by an unlicensed individual under the direct supervision of a licensed sign specialist except that the ratio of unlicensed individuals engaged in this activity shall not exceed 2 unlicensed individuals to 1 licensed sign specialist. An enforcing agency shall enforce this ratio on a jobsite basis.

(o) The construction, installation, maintenance, repair, and renovation of telecommunications equipment and related systems by a person, firm, or corporation primarily engaged in the telecommunications and related information systems industry. This exemption does not include the construction, installation, maintenance, repair, and renovation of a fire alarm system.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 206]

(HB 5576)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as

to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 15 of chapter XVII (MCL 777.15), as amended by 2001 PA 152, and by adding sections 15a, 15b, 15d, 15f, and 15g.

The People of the State of Michigan enact:

CHAPTER XVII

777.15 Chapters 500 to 749 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15. This chapter applies to the following felonies enumerated in chapters 500 to 749 of the Michigan Compiled Laws as set forth in sections 15a to 15g of this chapter.

777.15a Chapters 500 to 550 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15a. This chapter applies to the following felonies enumerated in chapters 500 to 550 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
500.1325(3)	Pub trst	E	Insurance code — knowingly misrepresenting false financial condition	5
500.1371	Pub trst	H	Holding companies — violation	2
500.1505(2)	Pub trst	C	Insurance code — license and regulatory violations	15
500.4511(1)	Pub trst	F	Insurance code — fraudulent insurance act	4
500.4511(2)	Pub trst	D	Insurance fraud — agreement or conspiracy to commit	10
500.5252(4)	Property	G	Insurance — improper personal interest in transactions	5
500.7034(2)	Pub trst	E	Officer of a MEWA knowingly receive valuables for sale property or loan	10
500.8197(2)	Pub trst	C	Insurance — knowing or willful false statements in application for insurance	15
500.8197(3)	Property	E	Consolidation merger — compensation otherwise than expressed in contract	5

777.15b Chapters 551 to 570 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15b. This chapter applies to the following felonies enumerated in chapters 551 to 570 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
551.102(2)	Pub trst	F	Unauthorized disclosure of social security number — subsequent offense	4

554.836	Property	E	Real and property — living care disclosure act	7
565.371	Property	G	Fraudulent conveyances — recording with intent to deceive	3
565.827	Pub trst	E	Land sales act — false or fraudulent statement	10
570.152	Property	G	Contractor — fraudulent use of building contract fund	3
570.1110(c)	Property	E	Contractor — false sworn statement involving $1,000 to $20,000 or with prior convictions	5
570.1110(d)	Property	D	Contractor — false sworn statement involving $20,000 or more or with prior convictions	10
570.1207	Property	G	Construction liens — false information	4

777.15d Chapter 600 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15d. This chapter applies to the following felonies enumerated in chapter 600 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
600.908(8)	Pub trst	E	Immunity to witness — committing perjury	15
600.2136	Pub trst	E	Library record, book, paper — false certification in court	15
600.2907a	Property	G	Recording documents affecting property without lawful cause	3
600.2916	Pub saf	G	Revised judicature act — lethal gases for fumigation	4
600.8713	Pub trst	G	Revised judicature act — false statement by authorized local officials	15
600.8813	Pub trst	E	Law enforcement officer — knowingly making false statement in a citation	15

777.15f Chapters 700 to 720 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15f. This chapter applies to the following felonies enumerated in chapters 700 to 720 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
710.54(11)	Pub trst	F	Offer to give other consideration — adoption — subsequent violation	4
710.55(1)	Pub trst	F	Adoption — persons not authorized placing child — subsequent violation	4
710.69	Person	F	Michigan adoption law — subsequent offense	4

711.1(8)	Pub trst	E	Intentional false statement in petition for name change	15
712A.6b(3)	Pub ord	G	Violation of court order — subsequent conviction	2

777.15g Chapters 721 to 730 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 15g. This chapter applies to the following felonies enumerated in chapters 721 to 730 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
722.633(5)(b)	Person	F	Intentional false report of child abuse constituting a felony	4
722.675	Pub ord	E	Distributing obscene matter to children	2
722.857	Person	E	Surrogate parenting act — contracts involving minors, mentally retarded, etc.	5
722.859(3)	Person	E	Surrogate parenting act — contracts for compensation	5

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 207]

(HB 5480)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding section 297f.

The People of the State of Michigan enact:

750.297f "Halal" defined; prohibited acts; violation as misdemeanor; presumption; additional prohibited acts; investigation and inspection by department of agriculture; rules.

Sec. 297f. (1) As used in this section, "halal" means prepared or processed in accordance with Islamic religious requirements.

(2) A person who, with intent to defraud, does any of the following is guilty of a misdemeanor:

(a) Sells or exposes for sale in any place where food products are sold for consummation on or off the premises any meat, meat preparation, article of food, or food product,

and falsely represents it to be halal, whether the meat, or meat preparation, article of food, or food product is raw or prepared for human consumption, either by direct statement orally, or in writing, which is reasonably calculated to deceive or lead a reasonable person to believe that a representation is being made that that food is halal.

(b) Falsely represents any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed on the package or container the word "halal" in English.

(c) Exposes for sale in any show window or place of business both halal and nonhalal meat or meat preparations, or halal and nonhalal food or food products, either raw or prepared for human consumption, and who fails to identify each kind of meat or meat preparation as "halal meat" or "halal food".

(d) Displays on his or her window, door, or in his or her place of business, or in handbills or other printed matter distributed inside or outside of his or her place of business, words or letters in Arabic characters other than the word "halal", or any sign, emblem, insignia, symbol, or mark in simulation of same, without also displaying in English letters of at least the same size as such characters, signs, emblems, insignia, symbols, or marks, the words "we sell halal meat and food only" or "we sell nonhalal meat and food only", or "we sell both halal and nonhalal meat and food".

(3) Possession of nonhalal food, in any place of business advertising the sale of halal food only, is presumptive evidence that the person in possession exposes the nonhalal meat and food for sale with intent to defraud.

(4) A person who does any of the following is guilty of a misdemeanor:

(a) Willfully marks, stamps, tags, brands, labels, or in any other way or by any other means of identification represents or causes to be marked, stamped, tagged, branded, labeled, or represented as halal food or food products not halal or not so prepared.

(b) Willfully removes, defaces, obliterates, covers, alters, or destroys, or causes to be removed, defaced, obliterated, covered, altered, or destroyed the original slaughterhouse plumba or any other mark, stamp, tag, brand, label, or any other means of identification affixed to foods or food products to indicate that those foods or food products are halal.

(c) Knowingly sells, disposes of, or has in his or her possession, for the purpose of resale to any person as halal, any food or food products not having affixed to the food or food product the original slaughterhouse plumba or any other mark, stamp, tag, brand, label, or other means of identification employed to indicate that that food or food product is halal or any food or food products to which such plumba, mark, stamp, tag, brand, label, or other means of identification has been fraudulently affixed.

(5) The department of agriculture shall investigate and inspect the sale of halal food products and shall enforce this act. The department of agriculture may promulgate rules for the enforcement and administration of this section under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 208]

(HB 5525)

AN ACT to amend 1964 PA 283, entitled "An act to regulate and provide standards for weights and measures, and the packaging and advertising of certain commodities; to

provide for a state director and other officials and to prescribe their powers and duties; to provide a fee system for certain inspections and tests; to provide penalties for fraud and deception in the use of false weights and measures and other violations; and to repeal certain acts and parts of acts," by amending sections 1, 2, 8, 10a, 10b, and 31 (MCL 290.601, 290.602, 290.608, 290.610a, 290.610b, and 290.631), sections 2 and 8 as amended by 1982 PA 260 and section 31 as amended by 1986 PA 194, and by adding sections 9a, 9b, 28c, and 31a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

290.601 Short title.

Sec. 1. This act shall be known and may be cited as the "weights and measures act".

290.602 Definitions.

Sec. 2. As used in this act:

(a) "Automatic checkout system" means an electronic device, computer, or machine that determines the price of a consumer item by using a product identity code and may, but is not required to, include an optical scanner.

(b) "Barrel", when used in connection with fermented liquor, means a unit of 31 gallons.

(c) "Certificate of conformance" means a document issued by the NCWM based on testing by a participating laboratory that constitutes evidence of conformance of a type.

(d) "Commodity in package form" means a commodity put up or packaged in any manner in advance of sale in units suitable for either wholesale or retail sale including an individual item or lot of any commodity not in a form as described in this subdivision but upon which there is marked a selling price based on an established price per unit of weight or of measure. Commodity in package form does not include an auxiliary shipping container enclosing packages that conform to the requirements of this act.

(e) "Consumer package" means a commodity in package form that is customarily produced or distributed for consumption by individuals or for use by individuals for the purposes of personal care or in performance of services ordinarily rendered in or about the household or in connection with personal possessions and that usually is consumed or expended in the course of that consumption or use.

(f) "Cord", when used in connection with wood intended for fuel purposes or for pulpwood, means the amount of wood that is contained in a space of 128 cubic feet when the wood is ranked and well stowed.

(g) "Department" means the Michigan department of agriculture.

(h) "Director" means the director of the Michigan department of agriculture or his or her designee.

(i) "Inspector" means an employee or agent of the department authorized to enforce this act.

(j) "NCWM" means the national conference on weights and measures.

(k) "NIST" means the United States department of commerce, national institute of standards and technology.

(*l*) "NTEP" means the national type evaluation program administered by the NCWM, in cooperation with the states, the private sector, and the NIST for determining on a uniform basis conformance of a type.

(m) "Nonconsumer package" means any commodity in package form other than a consumer package and includes, but is not limited to, a package designed solely for industrial or institutional use or for only wholesale distribution.

(n) "Participating laboratory" means a state measurement laboratory that has been accredited by NCWM to conduct a type evaluation under the NTEP and determined otherwise acceptable to the director.

(o) "Placed-in-service report" means the approved form issued to registered service persons and registered service agencies for their use in accordance with the requirements of section 9b.

(p) "Registered service agency" means any agency, firm, company, or corporation that installs, services, repairs, or reconditions commercial weights and measures and that holds a registration issued by the director.

(q) "Registered service person" means an individual who installs, services, repairs, or reconditions commercial weights and measures and who holds a registration issued by the director.

(r) "Rule" means an administrative rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(s) "Sell" or "sale" means sale, barter, or exchange.

(t) "Ton" means a unit of 2,000 pounds avoirdupois weight.

(u) "Type" means a model of a particular measurement system, instrument, element, or a field standard that positively identifies the design and that may vary in its measurement ranges, size, performance, and operating characteristics as specified in the certificate of conformance.

(v) "Type evaluation" means the testing, examination, and evaluation of a type by a participating laboratory.

(w) "Weight", in connection with any commodity, means net weight.

(x) "Weights and measures" means weights and measures of every kind, instruments and devices for weighing and measuring, grain moisture meters, and any appliances and accessories associated with any or all of those instruments and devices. Weights and measures include automatic checkout systems. Weights and measures do not include meters for the measurement of electricity, natural or manufactured gas, water, or the usage of communications services when any of these meters are regulated and tested as part of a public utilities system.

290.608 Rules; exemptions.

Sec. 8. (1) The director may promulgate rules necessary to administer and enforce this act. These rules may include any of the following:

(a) Standards of net weight, measure, or count.

(b) Technical and reporting procedures and the report and record forms and marks of approval and rejection to be used by inspectors in the discharge of their official duties.

(c) Exemptions from the sealing or marking requirements of section 14 with respect to weights and measures of the character or size that the sealing or marking would be inappropriate, impractical, or damaging to the apparatus in question.

(d) With respect to classes of weights and measures determined by the director to be of a character that frequent retesting is unnecessary to continued accuracy, exemptions from the requirements of sections 9 and 10 for testing and schedules fixing the frequency of required retests for classes of devices so exempted.

(e) The voluntary regulation and registration of registered service persons and registered service agencies.

(f) Standards for automatic checkout systems.

(2) The director shall promulgate rules that provide for specifications, tolerances, and regulations for weights and measures specified in section 10 that are designed to eliminate from use, without prejudice to apparatuses that conform as closely as practicable to the official standards, those apparatuses that are not accurate, that are of such construction so as not to be reasonably permanent in their adjustment or will not repeat their indications correctly, or that facilitate the perpetration of fraud. The specifications, tolerances, and regulations for commercial weights and measures, together with amendments to those specifications, tolerances, and regulations, as described in section 28c, shall be the specifications and tolerances for commercial weights and measures of this state except as specifically supplemented, updated, modified, amended, or rejected by a rule of the director. For the purposes of this act, an apparatus shall be considered to be correct when it conforms to all applicable rules adopted as specified in this section. An apparatus is considered to be incorrect if it does not conform to all applicable standards incorporated by reference in section 28c and rules adopted under this section.

(3) The director may grant exemptions to the specifications published in the standards, incorporated by reference in section 28c, if a written request for an exemption is submitted stating the reason an exemption is required or desirable. The term of any granted exemption shall be set by the director with the exemption subject to revocation if the terms of the exemption agreement are not met.

290.609a Weighing device; measuring device; certificates of conformance; participating laboratory.

Sec. 9a. (1) A weighing device manufactured or placed in service after January 1, 1988 shall have valid certificates of conformance before use for commercial purposes or law enforcement purposes.

(2) A measuring device manufactured or placed in service 6 months after the effective date of the amendatory act that added this section shall have valid certificates of conformance before use for commercial purposes or law enforcement purposes.

(3) The director may operate a participating laboratory as part of NTEP. The director may charge and collect fees pursuant to section 10b for services rendered by the participating laboratory.

290.609b Services persons and agencies; registration requirements; denial, suspension, or revocation of registration.

Sec. 9b. (1) The director shall issue a registration for service persons and service agencies seeking registration under this section in accordance with the standards described in section 28c. Registration with the director under this section is voluntary.

(2) A person may apply for initial and renewal registration as a service person or service agency in competency areas. Competence in a subject matter area may be demonstrated by either submitting a certificate of completion of the NCWM training module described in section 28c for that area or by scoring at least 80% on a department-approved competency test for that area in compliance with the standards described in section 28c. Documentation of competency is not required for renewal unless documentation of competency is required as a result of changes in the NCWM training module and those changes are adopted by rule of the director or as otherwise required by law.

(3) The term of registration is 2 years from the date of issuance. A registration may be transferred to a different service agency if the registration is retained by the original service person and the new service agency pays the service agency registration fee.

(4) Subject to section 10b(1), the fee for registration under this section is $150.00 per service agency and $50.00 per service person.

(5) Certification of standards used by the registered service person or registered service agency shall be accomplished by the registrant at least biannually. The certification of standards may be done at any participating laboratory. The registrant shall submit documentation of NIST accreditation with the registration or renewal application.

(6) The director may deny, suspend, or revoke a registration for a violation of this act or rules adopted under this act. Enforcement actions include, but are not limited to, the following:

(a) Written warning.

(b) Conference with the director.

(c) Suspension of the registration.

(d) Revocation of the registration.

(7) Before the suspension or revocation of a registration, the director shall notify the registrant in writing stating the reasons for the registration being subject to suspension or revocation and advising that the registration shall be suspended or revoked 15 days after the sending of the notice unless the registrant files a request for a hearing with the department within that 15-day period. If a written request for a hearing is not filed within the 15-day period, the department shall suspend or revoke the registration.

(8) A notice under subsection (7) is considered properly served when it is personally delivered to the registrant or when it is sent by registered or certified mail, return receipt requested, to the registrant's last known address.

(9) Except as otherwise provided for in this act, the director may initiate enforcement action against a registered service person or registered service agency for any or all of the following:

(a) Failure of a weighing and measuring device during an official inspection within 30 days after being placed in service following an initial installation or following a major overhaul or repair, as the result of an official condemnation.

(b) The return to commercial use of a device tagged "not sealed".

(c) Placing a device in service with improper or insufficient standards.

(d) Falsifying a placed-in-service report or test report.

(e) Placing in service or allowing to remain in service, without notifying the director, an incorrect weighing or measuring device. Within 5 business days after a device is restored to service or placed in service, the original of a properly executed placed-in-service report, together with any official rejection tag removed from the device, shall be mailed to the director.

290.610a Inspection fee; fees and expenses for special services; disposition of moneys.

Sec. 10a. (1) A fee shall not be charged for the regular inspection of any weights and measures or commodity subject to this act. A fee shall be charged to the owner or responsible party of any weights and measures or commodity subject to this act under either of the following circumstances:

(a) The inspection is a reinspection of any weights and measures or a lot sample of a commodity subject to this act that has been tested and found incorrect.

(b) The inspection is performed at the request of the owner or responsible party.

(2) The department shall fix the fees and expenses for special services, including fees for voluntary registration and type evaluation. Money collected by the department for special services, fees, and penalties shall be paid into the general fund and credited to the department of agriculture for weights and measures programs.

290.610b Fee schedules.

Sec. 10b. (1) The department may annually adjust the schedule of fees for reinspections, voluntary registrations, type evaluations, special weights and measures inspections, and other special services requested of the department to provide that each category of fee charged is sufficient to cover the cost of the activities and that the aggregate of fees collected is sufficient to pay for all salaries and other expenses connected with the activities described in this subsection.

(2) An owner or operator of weights and measures that are assessed an administrative fine, civil fine, or a fee as described in this section or section 10a, or any combination of administrative fine, civil fine, or fee, who does not pay the administrative fine, civil fine, or fee within 60 days after written notice of the assessment is sent may be subject to a stop use order, issued by the director, for those weights and measures.

290.628c Commodity sale; method; packaging and labeling requirements; certificate of conformance; compliance standards; registration for service persons and agents.

Sec. 28c. (1) The method of sale of a commodity sold in Michigan shall conform to the "uniform regulation for the method of sale of commodities" published in the 2002 edition of the NIST handbook 130, incorporated by reference, except where modified by rule.

(2) The packaging and labeling requirements for commodities sold in Michigan shall conform to the "uniform packaging and labeling regulation" published in the 2002 edition of the NIST handbook 130, incorporated by reference, except for section 13 of that publication or except as otherwise modified by rule.

(3) A certificate of conformance for a type shall comply with the requirements of NCWM publication 14, "national type evaluation program technical policy, checklists and test procedures" and the 2002 edition of the NIST handbook 44, "specifications, tolerances, and other technical requirements for weighing and measuring devices", incorporated by reference.

(4) The determination for a uniform basis conformance for a type shall comply with NCWM publication 14, "national type evaluation program technical policy, checklists and test procedures" and the 2002 edition of the NIST handbook 44, "specifications, tolerances, and other technical requirements for weighing and measuring devices", incorporated by reference.

(5) The specifications, tolerances, and regulations for commercial weights and measures shall be in compliance with the standards contained in the 2002 edition of the NIST handbook 44, incorporated by reference.

(6) Registration for service persons and service agencies and competency tests shall be in compliance with the standards contained in the 2002 edition of the NIST handbook 130, "Uniform regulation for the voluntary registration of service persons and service agencies for commercial weighing and measuring devices", incorporated by reference, and the NIST handbook 44, incorporated by reference.

290.631 Prohibited acts.

Sec. 31. (1) A person who, by himself or herself or by the person's servant or agent, or as the servant or agent of another person, engages in any of the following acts is guilty of a misdemeanor and may be fined not less than $1,000.00 or not more than $10,000.00, or imprisoned for not more than 1 year, or both:

(a) Use or have in possession for the purpose of using for any commercial purpose specified in section 10, sell, offer, expose for sale or hire, or have in possession for the purpose of selling or hiring, incorrect weights and measures or any device or instrument used or calculated to falsify any weights and measures.

(b) Use or have in possession for current use in the buying or selling of any commodity or thing, for hire or award, or in the computation of any basic charge or payment for services rendered on the basis of weights and measures or in the determination of weights and measures, when a charge is made for the determination, weights and measures that have not been tested and sealed by the appropriate authority, unless 1 or more of the following conditions are met:

(*i*) A properly executed and completed placed-in-service report has been delivered to the director as notification that the weights and measures have been placed in service by a registered serviceperson.

(*ii*) Permission to use the weights and measures has been received from the appropriate authority.

(*iii*) The weights and measures have been exempted from sealing or testing requirements by section 10 or by rule of the director issued under section 8.

(c) Dispose of rejected or condemned weights and measures in a manner contrary to law or rule.

(d) Remove from weights and measures, contrary to law or rule, a tag, seal, or mark placed on the weights and measures by the appropriate authority.

(e) Sell, offer, or expose for sale less than the quantity he or she represents of a commodity, thing, or service.

(f) Take more than the quantity he or she represents of a commodity, thing, or service when, as buyer, he or she furnishes the weight of the commodity, thing, or service or the measure of the commodity, thing, or service by means of which the amount of the commodity, thing, or service is determined.

(g) Advertise, offer, expose for sale, or sell a commodity, thing, or service in a condition or manner contrary to law.

(h) Use in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, weights and measures that are not so positioned that their indications may be accurately read and the weighing or measuring operation observed from some position which may reasonably be occupied by a customer.

(i) Violate a provision of this act or of the rule promulgated under this act for which a specific penalty has not been prescribed.

(j) Sell, offer, or expose for sale to licensed wholesale distributors and dealers gasoline or any middle distillate petroleum product on any basis other than a U.S. gallon of 231 cubic inches or metric equivalent unless freely requested to do so in writing by a licensed wholesale distributor, dealer, or end user for an annual period of time or for the length of the contract. This subdivision does not apply to the sale or offer for sale of number 4, 5, or 6 petroleum fuels as described as having American petroleum institute gravity at 60°F

of 28 or less, a specific gravity greater than .8871 and does not apply to the sale or exchange of gasoline or any middle distillate petroleum product among petroleum refiners.

(k) Deliver or issue a weight quantity determination or a measure quantity determination upon which a commercial transaction is, or is intended to be, computed without the use of weights and measures.

(*l*) Fail to pay a fee or fine imposed under this act.

(2) A person who, by himself or herself or by the person's servant or agent, or as a servant or agent of another person, fails to disclose to the department any knowledge of information relating to, or observation of, any device or instrument added to or modifying any weight or modifying any measure for the purpose of selling, offering, or exposing for sale less than the quantity represented of a commodity or calculated to falsify the weight or measure, if the person is an owner or employee of an entity involved in the installation, repair, sale, or inspection of weights and measures, is guilty of a misdemeanor and may be fined not more than $1,000.00, or imprisoned for not more than 90 days, or both.

(3) A person who, by himself or herself or by the person's servant or agent, or as a servant or agent of another person, performs any of the following acts is guilty of a felony and may be fined not less than $1,000.00 or not more than $20,000.00, by a fine of not more than twice the amount of any money gained for each day on which a violation has been found, by imprisonment for not more than 5 years, or by all of these penalties:

(a) Adds to or modifies commercial weights and measures by the addition of a device or instrument that would allow the sale, or the offering or exposure for sale, of less than the quantity represented of a commodity or the falsification of the weights and measures.

(b) Intentionally commits any of the acts listed in subsection (1) or (2).

(c) Violates a prohibited act as listed in this section within 24 months after 2 previous violations of this section that resulted in convictions.

(4) When a violation results in a conviction under this act, the court may assess against the defendant or his or her agent the costs of investigation and the money shall be paid to the agency that incurred the expense.

290.631a Consent agreement; proceeding; fines.

Sec. 31a. (1) The director, upon determination that a person who, by himself or herself, his or her agent or employee, or as the agent or employee of another, has violated this act or rules promulgated under this act, may enter into a consent agreement for the assessment of a civil fine as follows:

(a) For a first violation, not less than $50.00 and not more than $1,000.00 plus the amount of any economic benefit associated with the violation.

(b) For a second violation within 2 years of the first violation, not less than $100.00 or not more than $5,000.00 plus actual costs of the investigation and the amount of any economic benefit associated with the violation.

(c) For a third violation within 2 years from the date of the first violation, not less than $500.00 or not more than $10,000.00 plus actual costs of the investigation and the amount of any economic benefit associated with the violation.

(2) If a person alleged to have violated this act or rules promulgated under this act does not enter into a written consent agreement as described in subsection (1), the director may do either of the following:

(a) Initiate a criminal prosecution.

(b) Commence an administrative hearing conducted pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in the case of a person holding a registration under this act, or commence a civil violation proceeding in a court of competent jurisdiction regarding any other person.

(3) Upon finding a violation of any provision of this act or rules promulgated under this act as a result of the commencement of an action under subsection (2)(b), the director shall assess an administrative fine or a civil fine of not more than $10,000.00 plus actual costs of the investigation and the amount of any economic benefit associated with the violation.

(4) The decision of the director pursuant to a proceeding under this section is subject to appropriate judicial review as provided by law.

(5) The director shall advise the attorney general of the failure of any person to pay an administrative fine or civil fine imposed under this section. The attorney general shall bring an action in a court of competent jurisdiction to recover the fine.

(6) Any civil fines or recovery of any economic benefits associated with a violation of this act and collected under this section shall be paid to the general fund and credited to the department for the enforcement of this act.

Repeal of §§ 289.271 to 289.276.

Enacting section 1. 1972 PA 315, MCL 289.271 to 289.276, is repealed.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 209]

(HB 5136)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9948) by adding section 2973.

The People of the State of Michigan enact:

600.2973 Field crop produced for crop research or testing; intentional damage or destruction; damage award; definitions.

Sec. 2973. (1) A person who intentionally damages or destroys all or part of a field crop belonging to another person produced for crop research or testing purposes is liable in a civil action for damages and costs and fees as further described in subsection (2).

(2) The court shall award damages as well as costs and fees associated with an action brought under subsection (1) to a prevailing plaintiff in the following amounts:

(a) Twice the market value of the field crop damaged or destroyed.

(b) If applicable, the value of the crop research or testing.

(3) As used in this section:

(a) "Costs and fees" means the normal costs incurred in being a party in a civil action after an action has been filed with the court, those provided by law or court rule, and the following:

(*i*) The reasonable and necessary expenses of expert witnesses as determined by the court.

(*ii*) The reasonable cost of any study, analysis, engineering report, test, or project that is determined by the court to have been necessary for the preparation of the party's case.

(*iii*) Reasonable attorney fees.

(b) "Crop research or testing" means a crop produced in conjunction with or as part of a private research or testing program or facility or a research or testing program funded by a federal, state, or local governmental agency.

(c) "Field crop" means plants that include, but are not limited to, those considered and grown as production crops, ornamentals, vegetables, fruit, turf, horticultural crops, industrial crops, plants grown for the production of pharmaceuticals or similar use, seed production crops, livestock crops, and animal feed crops.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 210]

(SB 1032)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 409 (MCL 750.409).

The People of the State of Michigan enact:

Repeal of § 750.409.

Enacting section 1. Section 409 of the Michigan penal code, 1931 PA 328, MCL 750.409, is repealed.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 211]

(SB 1027)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to

provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 41 (MCL 750.41).

The People of the State of Michigan enact:

Repeal of § 750.41.

Enacting section 1. Section 41 of the Michigan penal code, 1931 PA 328, MCL 750.41, is repealed.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 212]

(HB 5102)

AN ACT to amend 1953 PA 232, entitled "An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act," (MCL 791.201 to 791.283) by adding section 1a.

The People of the State of Michigan enact:

791.201a Short title.

Sec. 1a. This act shall be known and may be cited as the "corrections code of 1953".

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 213]

(HB 5623)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the

environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 4307 (MCL 324.4307).

The People of the State of Michigan enact:

324.4307 Sewage system, solid waste facility, or waterworks system; bonds generally.

Sec. 4307. (1) In accordance with and to the extent authorized by law, when the department, the department of public health, or a court of competent jurisdiction in this state has ordered, or when the department has issued a permit for, the installation, construction, alteration, improvement, or operation of a sewage system, solid waste facility, or waterworks system in a local unit of government, and the plans for the facility or system have been prepared and approved by the state department or commission having the authority by law to grant the approval, the legislative body or the respective legislative bodies of the local unit or units of government may issue and sell the necessary bonds for the construction, installation, alteration, operation, or improvement, including the treatment works, and other facilities as may be ordered or set forth in the permit as being necessary to provide for the effective operation of the system. This provision shall be construed to allow a local unit of government the option of selling bonds under a department order or permit, or of taking or permitting the matter to go into court and selling bonds under a court order. The legislative body or the respective legislative bodies shall determine the denomination of the bonds and the date, time, and manner of payment. The amount of the bonds either issued or outstanding shall not be included in the amount of bonds that the local unit or units of government are authorized to issue under any statutes of this state or charters. Local units of government issuing bonds under this section may raise a sum annually by taxation as the legislative body or respective legislative bodies consider necessary to pay interest on the bonds, and to pay the principal as it falls due. The annual amount may be in excess of the authorized annual tax rate fixed by statute or charter.

(2) Except as otherwise provided in this part, all bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Court ordered bonds do not require approval of the electors and are not subject to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5, as to publication of notice, petition, and referendum. Bonds other than court ordered bonds issued under this part require approval of the electors at a general or special election only if an appropriate petition is filed as provided by law.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 214]

(HB 5625)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to

the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 4709 (MCL 324.4709).

The People of the State of Michigan enact:

324.4709 Sewage disposal and water supply districts; contracts with municipalities; construction, improvement, enlargement, extension, operation, and financing; pledge of payment; resolution; approval by electors; issuance of bonds.

Sec. 4709. (1) The district may enter into contracts with any municipality located within its territorial limits providing for the acquisition, construction, improvement, enlargement, extension, operation, and financing of a sewage disposal system or water supply system. A contract shall provide for the allocation and payment of the share of the total cost to be borne by the municipality in annual installments for a period not exceeding 40 years. Each contracting municipality may pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contract. The district shall make a reasonable charge for its services that it renders to the users in order to cover the retirement of outstanding indebtedness, costs of operation, maintenance, and replacement of its plants and reserves for capital improvements. If there is excess money in the treasury of the district after all of the contingencies have been met, the excess shall be rebated to the contracting municipalities in proportion to the total amount that the municipality paid for services it has received from the district. No limitation in any statute or charter shall prevent the levy and collection by each of the contracting municipalities of the full amount of taxes necessary for the payment of the contractual obligation. These funds may be raised by each contracting municipality by the use of 1 or more of the following methods:

(a) The levy of special assessments on property benefited by the sewage disposal system or water supply system. The procedures relative to the levying and collection of the special assessments shall conform as near as may be to applicable charter or statutory provisions.

(b) The levy and collection of rates or charges to users and beneficiaries of the service or services furnished by the sewage disposal system or water supply system.

(c) From money received, or to be received, derived from the imposition of taxes by this state, unless the money for this purpose is expressly prohibited by the state constitution of 1963.

(d) From any other fund or funds that may be validly used for the purpose. The contract may provide for any and all matters relating to the acquisition, construction, operation, and financing of the sewage disposal system or water supply system as are considered necessary, including authorization to the district to issue bonds secured by the full faith and credit pledges of the contracting municipalities, as authorized in this part. The contract may provide for appropriate remedies in case of default, including, but not limited to, the right of the municipalities to authorize the county treasurer or other official charged with the disbursement of funds derived from the state sales tax levy under the

general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, to withhold sufficient funds to make up any default or deficiency in funds.

(2) A municipality desiring to enter into a contract with the district under this section shall authorize, by resolution of its governing body, the execution of the contract. The resolution shall be published in 1 or more newspapers of general circulation within the municipality, and the contract may be executed without a vote of the electors upon the expiration of 30 days after the date of the publication unless, within the 30-day period, a petition signed by not less than 10% of the registered electors residing within the limits of the municipality is filed with the clerk of the municipality requesting a referendum upon the execution of the contract. If this occurs, the contract shall not be executed until approval by the vote of a majority of the electors of the municipality qualified to vote and voting at a general or special election to be held not more than 90 days after the filing of the petition. A special election called for this purpose shall not be included in any statutory or charter limitation as to the number of special elections to be called within any period of time. Signatures on any petition shall be verified by some person under oath, as the actual signatures of the persons whose names are signed on the petition, and the clerk of the municipality has the same power to reject signatures as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in a municipality is determined by the registration books as of the date of the filing of the petition.

(3) To obtain funds to acquire, construct, improve, enlarge, or extend the sewage disposal system or water supply system authorized by this part, the district, after the execution of the contract or contracts authorized by this part, upon ordinance or resolution adopted by the district, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting municipality pursuant to authorization contained in this part and the contracts entered into pursuant to this part. Except as otherwise provided in this part, bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The ordinance or resolution authorizing the issuance of the bonds shall include the terms of the contracts.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 215]

(HB 5626)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 30705 (MCL 324.30705), as added by 1995 PA 59.

The People of the State of Michigan enact:

324.30705 Special assessment bonds; lake level orders; proceedings; issuance of notes; full faith and credit.

Sec. 30705. (1) The special assessment district may issue bonds or lake level orders in anticipation of special assessments. All proceedings relating to the making, levying, and collection of special assessments authorized by this part and the issuance of bonds or lake level orders in anticipation of the collection of bonds or orders shall conform as nearly as possible to the proceedings for levying special assessments and issuing special assessment bonds or lake level orders as set forth in the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

(2) The special assessment district may issue notes in anticipation of special assessments made against lands in the special assessment district or public corporation at large. The final maturity of the notes shall be not later than 10 years from their date. The notes are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) A county board by a vote of 2/3 of its members may pledge the full faith and credit of a county for payment of bonds or notes issued by a special assessment district.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 216]

(HB 5627)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 30716 (MCL 324.30716), as added by 1995 PA 59.

The People of the State of Michigan enact:

324.30716 Bonds and notes; issuance.

Sec. 30716. With approval of the county board and subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, the district may issue bonds or notes that shall be payable by special assessments under this part. Bonds or notes shall not be issued exceeding the cost of the lake level project that is being financed.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 217]

(HB 5628)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 30717 (MCL 324.30717), as added by 1995 PA 59.

The People of the State of Michigan enact:

324.30717 Acceptance and repayment of advance.

Sec. 30717. The delegated authority may accept the advance of work, material, or money in connection with a normal level project. The obligation to repay an advance out of special assessments under this part may be evidenced by a note or contract. Notes and contracts issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 218]

(HB 5629)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 30922 (MCL 324.30922), as added by 1995 PA 59.

The People of the State of Michigan enact:

324.30922 Borrowing; issuance of lake level orders and bonds.

Sec. 30922. The lake board may borrow money and issue lake level orders or the bonds of the special assessment district in anticipation of the collection of special assessments to defray the cost of any improvement made under this part after the special assessment roll has been confirmed. The bonds or lake level orders shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued. Collections on special assessments to the extent pledged for the payment of bonds or lake level orders shall be set aside in a special fund for the payment of the bonds or lake level orders. The issuance of special assessments bonds or lake level orders shall be governed by the general

laws of this state applicable to the issuance of special assessments bonds or lake level orders and in accordance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Bonds or lake level orders may be issued in anticipation of the collection of special assessments levied in respect to 2 or more public improvements, but no special assessment district shall be compelled to pay the obligation of any other special assessment district. The local governing body may pledge the full faith and credit of a local unit of government for the prompt payment of the principal of and interest on the bonds or lake level orders as they become due. The pledge of full faith and credit of the local unit of government shall be included within the total limitation prescribed by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Bonds and lake level orders issued under this part shall be executed by the chairperson and secretary of the lake board, and the interest coupons to be attached to the bonds and orders shall be executed by the officials causing their facsimile signatures to be affixed to the bonds and orders.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 219]

(HB 5630)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 33707 (MCL 324.33707), as added by 1995 PA 59.

The People of the State of Michigan enact:

324.33707 Contracts; borrowing funds from federal government.

Sec. 33707. Contracts entered into under this part involving the financial ability of the incorporated city, incorporated village, township, or county to meet all obligations and liabilities imposed by the contracts as to cost of lands, easements, rights-of-way, construction, or the maintenance and operation costs of the project or projects are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Any incorporated city, incorporated village, or township, or the board of county road commissioners of any county when directed by the county board of commissioners, authorized to contract with the federal government or any agency of the federal government under this part, may borrow funds from the federal government or any agency of the federal government to implement this part, which borrowings shall be subject to existing statutes and charter limitations that are applicable to the borrowing. The revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, applies to those borrowings.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 220]

(HB 5631)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 34141 (MCL 324.34141), as added by 1995 PA 59.

The People of the State of Michigan enact:

324.34141 Advancement of money to pay costs; reimbursement by irrigation special assessment district; obligations.

Sec. 34141. Any person may advance money for the payment of any part of the cost of a project and shall be reimbursed by the irrigation special assessment district, with or without interest as may be agreed, when funds are available for that purpose. The obligation of the irrigation special assessment district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the irrigation special assessment district and may be made payable out of the assessments made against properties in the irrigation special assessment district, out of the proceeds of bonds issued by the irrigation special assessment district pursuant to this part, or out of any other available funds, but the contract or note is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 221]

(HB 5632)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 34146 (MCL 324.34146), as added by 1995 PA 59.

The People of the State of Michigan enact:

324.34146 Borrowing money; issuing bonds; anticipating collection of special assessments; amount; applicability of law.

Sec. 34146. The irrigation board may borrow money and issue the bonds of the special assessment district for that money in anticipation of the collection of special assessments to defray the cost of any improvement made under this part after the special assessment roll has been confirmed. The bonds shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued. The issuance of special assessment bonds shall be governed by the general laws of this state applicable to the issuance of special assessment bonds and in accordance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Bonds may be issued in anticipation of the collection of special assessments levied in respect to 2 or more public improvements, but no special assessment district shall be compelled to pay the obligation of any other special assessment district.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 222]

(HB 5633)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 50162 (MCL 324.50162), as added by 1995 PA 57.

The People of the State of Michigan enact:

324.50162 Adoption of bonds by resolution of majority of board; bonds subject to revised municipal finance act.

Sec. 50162. The bonds of a district shall be authorized by resolution adopted by a majority of the board. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved April 26, 2002.
Filed with Secretary of State April 29, 2002.

[No. 223]

(SB 842)

AN ACT to repeal 1998 PA 379, entitled "An act to authorize municipalities to collect delinquent property taxes and other delinquent assessments and charges by selling the

liens related to delinquent property taxes and other delinquent assessments and charges; to authorize municipalities to establish procedures for collecting delinquent taxes and enforcing tax liens; to authorize the imposition of fees, charges, interest, and penalties upon delinquent property taxes and other delinquent assessments and charges; to authorize municipalities to create certain entities or to utilize certain existing entities to facilitate the sale and purchase of liens related to delinquent property taxes and other delinquent assessments and charges; to authorize municipalities to issue certain obligations secured by liens related to delinquent property taxes and other delinquent assessments and charges; to provide for the issuance of, and terms and conditions for, obligations secured by liens related to delinquent property taxes and other delinquent assessments and charges; and to exempt the property, income, bonds, notes, and interest on bonds and notes of certain entities from certain taxes," (MCL 211.921 to 211.941).

The People of the State of Michigan enact:

Repeal of §§ 211.921 to 211.941.

Enacting section 1. The Michigan tax lien sale and collateralized securities act, 1998 PA 379, MCL 211.921 to 211.941, is repealed.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 224]

(SB 843)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 6097 (MCL 600.6097), as amended by 1984 PA 393.

The People of the State of Michigan enact:

600.6097 Judgment against municipality; issuance of certificates of indebtedness or bonds to pay judgment; amount; interest; sale; duration; bonds not subject to § 117.5; "municipality" defined.

Sec. 6097. (1) If a judgment of a court or administrative agency is rendered against any municipality, the legislative body of that municipality, unless otherwise provided, may issue certificates of indebtedness or bonds of that municipality for the purpose of raising money to pay the judgment, in an amount not exceeding the sum of the judgment, the costs and interest on the judgment, and all cost in connection with issuing the certificates of indebtedness or bonds. The certificates of indebtedness or bonds shall be sold and issued in accordance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that they may be issued for a period of up to 15 years.

(2) The authorization, issuance, and selling of the bonds are not subject to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5.

(3) As used in this section, "municipality" means a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district established under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, or another governmental authority or agency in this state which has the power to levy ad valorem property taxes.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 225]

(SB 844)

AN ACT to repeal 1992 PA 275, entitled "An act to create incentives for the federal government to locate federal facilities within this state; to create certain funds; to authorize expenditures from the funds; to authorize the use of bonds, obligations, and other evidence of indebtedness; to finance the development of facilities and of public improvements or related facilities; to provide for appropriations; and to prescribe the powers and duties of certain state officials," (MCL 3.931 to 3.940); 1993 PA 126, entitled "An act to create incentives for the federal government to locate and maintain federal data facilities within this state; to create certain funds; to authorize expenditures from the funds; to authorize the issuance, use, and payment of bonds, obligations, and other evidences of indebtedness; to finance the development of facilities and of public improvements or related facilities; to provide for appropriations; to prescribe the powers and duties of certain state officials; and to repeal this act on a specific date," (MCL 3.951 to 3.961); and section 483 of 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," (MCL 206.483).

The People of the State of Michigan enact:

Repeal of §§ 3.931 to 3.940, 3.951 to 3.961 and 206.483.

Enacting section 1. (1) The federal facility development act, 1992 PA 275, MCL 3.931 to 3.940, is repealed.

(2) The federal data facility act, 1993 PA 126, MCL 3.951 to 3.961, is repealed.

(3) Section 483 of the income tax act of 1967, 1967 PA 281, MCL 206.483, is repealed.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 226]

(SB 845)

AN ACT to amend 1846 RS 16, entitled "Of the powers and duties of townships, the election and duties of township officers, and the division of townships," by amending section 75b (MCL 41.75b), as amended by 1990 PA 230.

The People of the State of Michigan enact:

41.75b Energy conservation improvements; payment; acquisition by contracts or notes; requirements; reports; forms.

Sec. 75b. (1) A township board may provide for energy conservation improvements to be made to township facilities and may pay for the improvements from operating funds of the township or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air conditioning controls, and entrance or exit way closures.

(2) The township board may acquire 1 or more of the energy conservation improvements described in subsection (1) by installment contract or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract or notes issued pursuant to this subsection shall extend for a period of time not to exceed 10 years. Notes issued pursuant to this subsection shall be full faith and credit, tax limited obligations of the township, payable from tax levies and the general fund as pledged by the township board. The notes are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. This subsection does not limit in any manner the borrowing or bonding authority of a township as provided by law.

(3) If energy conservation improvements are made as provided in this section, the township board shall report the following information to the Michigan public service commission within 60 days of the completion of the improvements:

(a) Name of each facility to which an improvement is made and a description of the conservation improvement.

(b) Actual energy consumption during the 12-month period before completion of the improvement.

(c) Project costs and expenditures.

(d) Estimated annual energy savings.

(4) If energy conservation improvements are made as provided in this section, the township board shall report to the Michigan public service commission, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the Michigan public service commission.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 227]

(SB 847)

AN ACT to amend 1941 PA 107, entitled "An act to authorize township water supply and sewage disposal services and facilities; to provide for financing of those services and facilities; to prescribe the powers and duties of township boards with respect to those services and facilities; and to prescribe penalties and provide remedies," by amending sections 8, 20m, and 20o (MCL 41.338, 41.350m, and 41.350o), section 8 as amended and sections 20m and 20o as added by 1989 PA 83.

The People of the State of Michigan enact:

41.338 Installation of improvement by township board; loan.

Sec. 8. If a sufficient number of private connection rights are timely paid for in accordance with the terms of the plan provided for by section 5, the township board shall immediately proceed to make and install the improvement petitioned for under section 1 and may, by resolution, do what is necessary to accomplish the purposes of the plan. The board may borrow all or part of the amount to be appropriated from the contingent fund under section 3 if, in the judgment of the board, the contingent fund will, by such appropriation, be depleted to such extent as may hamper general township operations. The loan shall conform to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

41.350m Acquisition and installation of water supply facilities; borrowing money and issuing notes.

Sec. 20m. A township board may borrow money and issue notes for money necessary for acquisition and installation by the township of water supply facilities, including water mains and elevated water tanks, which are required of the township by the terms of a water supply contract authorized by section 20*l*.

41.350o Notes issued under § 41.350m.

Sec. 20o. Notes issued under section 20m are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 228]

(SB 849)

AN ACT to amend 1905 PA 157, entitled "An act to provide for the acquisition, maintenance, management, and control of township parks, resorts, bathing beaches, and places of recreation; to provide for the creation of a township park commission; to provide for a board of commissioners to provide for the issuance of bonds and the levy of taxes; to provide for the transfer of certain real property for parks; to authorize cities and villages to appropriate money for park purposes; to provide for the acquisition, construction, and use of wharves, piers, docks, and landing places in townships; to provide the powers and

duties of certain local units of government and certain officials; and to prescribe penalties and provide remedies," by amending section 6d (MCL 41.426d), as added by 1989 PA 79.

The People of the State of Michigan enact:

41.426d Township bonds; acquisition of lands for parks and places of recreation; payment.

Sec. 6d. The township park commission may request that the township board submit to the voters of the township the question of the issuance of township bonds, the proceeds of which shall be used in the acquisition of lands for township parks and places of recreation. A majority vote of the qualified voters voting shall authorize the issuance of township bonds. The issuance of township bonds shall be governed by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. However, if the township has no outstanding indebtedness, bonded or otherwise, and the amount of the total proposed acquisition cost is less than 1 per cent of the assessed valuation of the township, the township board may authorize and direct the township park commission to purchase or condemn designated lands for township parks and places of recreation and may pay annually to the township park commission the available portions of contingent funds of the township necessary to pay for the acquisition of the lands. The township board shall determine the maximum amount to be paid for these lands and if acquisition is made by purchase instead of condemnation, shall also prescribe the terms of payment.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 229]

(SB 850)

AN ACT to amend 1954 PA 188, entitled "An act to provide for the making of certain improvements by townships; to provide for paying for the improvements by the issuance of bonds; to provide for the levying of taxes; to provide for assessing the whole or a part of the cost of improvements against property benefited; and to provide for the issuance of bonds in anticipation of the collection of special assessments and for the obligation of the township on the bonds," by amending section 15 (MCL 41.735).

The People of the State of Michigan enact:

41.735 Bonds.

Sec. 15. The township board may borrow money and issue the bonds of the township in anticipation of the collection of special assessments to defray all or any part of the cost of any improvement made under this act after the special assessment roll is confirmed. Bonds issued under this section shall not exceed the amount of the special assessments in anticipation of the collection of which they are issued. Bonds may be issued in anticipation of the collection of special assessments levied in respect to 1 or more public improvements, but no special assessment district shall be compelled to pay the obligation of any other special assessment district. The township board may pledge the full faith and credit of the

township for the prompt payment of the principal of and interest on the bonds authorized under this section. The issuance of bonds under this section is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 230]

(SB 851)

AN ACT to amend 1947 PA 359, entitled "An act to authorize the incorporation of charter townships; to provide a municipal charter therefor; to prescribe the powers and functions thereof; and to prescribe penalties and provide remedies," by amending section 14a (MCL 42.14a), as amended by 1995 PA 212.

The People of the State of Michigan enact:

42.14a Bonds for public improvements; issuance; approval required; exceptions; limitation on net indebtedness; computation of net indebtedness; bonds subject to §§ 141.2101 to 141.2821.

Sec. 14a. (1) The township may borrow money and issue bonds on the credit of the township for the purpose of constructing or otherwise acquiring a public improvement that the township is authorized to construct or otherwise acquire by law.

(2) Bonds shall not be issued, except special assessment bonds, bonds for the township portion of local improvements, and bonds that the township board is authorized by specific statute to issue without vote of the electors, unless approved by a majority of the electors voting on the bonds at a general or special election.

(3) The net indebtedness of the township incurred for all public purposes shall not exceed 10% of the assessed value of all real and personal property in the township. In computing the net indebtedness all of the following shall be deducted:

(a) Bonds issued in anticipation of the collection of special assessments, even though they are general obligations of the township.

(b) Revenue bonds, even though they are general obligations of the township.

(c) Bonds issued to comply with an order of the former water resources commission, the department of environmental quality, or a court of competent jurisdiction, even though they are a general obligation of the township.

(d) Bonds issued, or contract or assessment obligations incurred, for water supply, sewerage, drainage, solid waste disposal, and steam generation and distribution necessary to protect the public health by abating pollution, even though they are a general obligation of the township.

(e) Bonds issued or contract or assessment obligations incurred for the construction, improvement, or replacement of a combined sewer overflow abatement facility. As used in this subdivision:

(*i*) "Combined sewer overflow" means a discharge from a combined sewer system that occurs when the flow capacity of the combined sewer system is exceeded.

(*ii*) "Combined sewer overflow abatement facility" means any works, instrumentalities, or equipment necessary or appropriate to abate combined sewer overflows.

(*iii*) "Combined sewer system" means a sewer designed and used to convey both storm water runoff and sanitary sewage, and which contains lawfully installed regulators and control devices that allow for delivery of sanitary flow to treatment during dry weather periods and divert storm water and sanitary sewage to surface waters during storm flow periods.

(*iv*) "Construction" means any action taken in the designing or building of a combined sewer overflow abatement facility. Construction includes, but is not limited to, all of the following:

(A) Engineering services.

(B) Legal services.

(C) Financial services.

(D) Design of plans and specifications.

(E) Acquisition of land or structural components, or both.

(F) Building, erection, alteration, remodeling, or extension of a combined sewer overflow abatement facility.

(G) Township supervision of the project activities described in sub-subparagraphs (A) to (F).

(*v*) "Improvement" means any action taken to expand, rehabilitate, or restore a combined sewer overflow abatement facility.

(*vi*) "Replacement" means any action taken to obtain and install equipment, accessories, or appurtenances during the useful life of a combined sewer overflow abatement facility necessary to maintain the capacity and performance for which the equipment, accessories, or appurtenances are designed and constructed.

(4) The resources of the sinking fund or debt retirement fund pledged for retirement of outstanding bonds shall also be deducted from the amount of the indebtedness.

(5) Bonds are issued subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 231]

(SB 855)

AN ACT to amend 1895 PA 215, entitled "An act to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by cities; to define the application of this act and provide for its amendment by cities subject thereto; to validate such prior amendments and certain prior actions taken and bonds issued by such cities; and to prescribe

penalties and provide remedies," by amending sections 10 and 25 (MCL 107.10 and 110.25), section 10 as amended by 1983 PA 45.

The People of the State of Michigan enact:

107.10 Repairs, alterations, and extensions; title retention contract providing for payment from available net revenues; construction.

Sec. 10. Repairs, alterations, and extensions may also be provided by the city council by contract for the making and installation of repairs, alterations, and extensions, which contract shall not impose a general obligation on the city, but which may provide for payment out of the net revenues, after payment of obligations due, provision for payment of obligations to become due, and payment of legitimate and necessary operating and other expenses, as shall become available from the operation of the works after completion of the repairs, alterations, or extensions and for retention of title to materials furnished in the seller until paid for in full. However, a contract made pursuant to this section shall not be construed to deprive the people of the city of any right vested in them by the constitution or the laws of this state, to constitute the granting of any franchise or its operating equivalent, or to convey title to property to any person not possessed of the title prior to the execution of the title retaining contract.

110.25 Loans; limitation; bonds.

Sec. 25. Loans shall not be made by the council, or by its authority, in any year exceeding the amounts prescribed in this act. For any loans lawfully made, the bonds of the city may be issued, subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, the bonds shall be executed in a manner as the council directs. Bonds previously issued or indebtedness previously incurred by any city are hereby validated.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 232]

(SB 857)

AN ACT to amend 1994 PA 425, entitled "An act to provide for the creation of community swimming pool authorities; to provide powers and duties of the authorities; to provide for the levy of a tax by the authorities; and to provide for the collection and distribution of the tax," by amending sections 9 and 11 (MCL 123.1069 and 123.1071).

The People of the State of Michigan enact:

123.1069 Authority; general powers.

Sec. 9. (1) An authority has all the powers necessary to own or operate a community swimming pool, including, but not limited to, the following:

(a) Acquire and hold, by purchase, lease with or without option to purchase, grant, gift, devise, land contract, installment purchase contract, bequest, or other legal means, real

and personal property inside or outside the boundaries of the district. The property may include franchises, easements, or rights of way on, under, or above any property. The authority may pay for the property from, or pledge for the payment of the property, revenue of the authority.

(b) Apply for and accept grants or contributions from individuals, the federal government or any of its agencies, this state, a municipality, or other public or private agencies to be used for any of the purposes of this act.

(c) Retain full-time or part-time employees.

(d) Provide for the maintenance of all of the real and personal property of the authority.

(e) Assess and collect fees for its services and expenses.

(f) Levy the tax described in section 13 and distribute the proceeds of the tax.

(g) Enter into contracts incidental to or necessary for the operation of a community swimming pool.

(h) Subject to the limitations in section 11, borrow money and issue notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the tax authorized in section 13.

(i) Subject to the limitations in section 11, issue negotiable revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. Revenue bonds issued by the authority are not a debt of the district or this state. A participating municipality may by majority vote pledge its full faith and credit to support the authority's revenue bonds.

(j) Subject to the limitations in section 11, issue general obligation unlimited tax bonds and authorize and levy taxes necessary to pay the principal of and interest on the bonds.

(k) Subject to the limitations in section 11, issue general obligation limited tax bonds by resolution of the board, without submitting the question to the electors of the participating municipalities. The board shall not authorize or levy a tax to pay the principal of or interest on the general obligation limited tax bonds that exceeds the tax levy authorized by a vote of the qualified electors of the district as provided in section 13.

(2) Money for an authority shall be paid to the board and deposited in a fund known as the community swimming pool fund. The board shall exclusively control the expenditure of money deposited in the community swimming pool fund.

123.1071 Borrowing money or issuing notes or bonds.

Sec. 11. (1) An authority shall not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the authority, exceeds 5% of the state equalized valuation of the taxable property within the geographical boundaries of the authority.

(2) An authority shall not issue general obligation unlimited tax bonds unless all of the following conditions are met:

(a) The board adopts a resolution submitting the question of issuing general obligation unlimited tax bonds to the electors of the participating municipalities residing within the geographical boundaries of the authority.

(b) The question of issuing general obligation unlimited tax bonds is certified by the board and the election is conducted in the manner provided in section 13 for an election for a tax.

(c) A majority of the qualified electors voting on the question approve the issuing of the general obligation unlimited tax bonds.

(3) The question of issuing general obligation unlimited tax bonds under subsection (2) shall be submitted by ballot in substantially the following term:

"Shall the community swimming pool authority, formed by the municipalities of _____, borrow the sum of not to exceed _____ dollars ($) and issue its general obligation unlimited tax bonds for all or a portion of that amount for the purpose of _____ ? Yes [ ] No [ ]".

(4) Refunding bonds or the refunding part of a bond issue is not within the 5% limitation of subsection (1), but is authorized in addition to the 5% limitation.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 233]

(SB 858)

AN ACT to amend 2000 PA 321, entitled "An act to provide for the establishment of recreational authorities; to provide powers and duties of an authority; to authorize the assessment of a fee, the levy of a property tax, and the issuance of bonds and notes by an authority; and to provide for the powers and duties of certain government officials," by amending section 21 (MCL 123.1151).

The People of the State of Michigan enact:

123.1151 Borrowing money or issuing bonds or notes.

Sec. 21. (1) An authority may borrow money and issue bonds or notes to finance the acquisition, construction, and improvement of a public swimming pool, a public recreation center, a public auditorium, a public conference center, or a public park, including the acquisition of sites and the acquisition and installation of furnishings and equipment for these purposes.

(2) An authority shall not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the authority, exceeds 2 mills of the taxable value of the taxable property within the district as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(3) Bonds or notes issued by an authority are a debt of the authority and not of the participating municipalities.

(4) All bonds or notes issued by a recreational authority under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 234]

(SB 860)

AN ACT to amend 1975 PA 197, entitled "An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and

prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials," by amending sections 12 and 16 (MCL 125.1662 and 125.1666), section 12 as amended by 1983 PA 86 and section 16 as amended by 1996 PA 269.

The People of the State of Michigan enact:

125.1662 Ad valorem tax; borrowing in anticipation of collection.

Sec. 12. (1) An authority with the approval of the municipal governing body may levy an ad valorem tax on the real and tangible personal property not exempt by law and as finally equalized in the downtown district. The tax shall not be more than 1 mill if the downtown district is in a municipality having a population of 1,000,000 or more, or not more than 2 mills if the downtown district is in a municipality having a population of less than 1,000,000. The tax shall be collected by the municipality creating the authority levying the tax. The municipality shall collect the tax at the same time and in the same manner as it collects its other ad valorem taxes. The tax shall be paid to the treasurer of the authority and credited to the general fund of the authority for purposes of the authority.

(2) The municipality may at the request of the authority borrow money and issue its notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the ad valorem tax authorized in this section.

125.1666 General obligation bonds and tax increment bonds; qualified refunding obligation.

Sec. 16. (1) The municipality may by resolution of its governing body authorize, issue, and sell general obligation bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan and shall pledge its full faith and credit for the payment of the bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 11. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Before the municipality may authorize the borrowing, the authority shall submit an estimate of the anticipated tax increment revenues and other revenue available under section 11 to be available for payment of principal and interest on the bonds, to the governing body of the municipality. This estimate shall be approved by the governing body of the municipality by resolution adopted by majority vote of the members of the governing body in the resolution authorizing the bonds. If the governing body of the municipality adopts the resolution authorizing the bonds, the estimate of the anticipated tax increment revenues and other revenue available under section 11 to be available for payment of principal and interest on the bonds shall be conclusive for purposes of this section. The bonds issued under this subsection shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2801.

(2) By resolution of its governing body, the authority may authorize, issue, and sell tax increment bonds subject to the limitations set forth in this subsection to finance the development program of the tax increment financing plan. The tax increment bonds issued by the

authority under this subsection shall pledge solely the tax increment revenues of a development area in which the project is located or a development area from which tax increment revenues may be used for this project, or both. In addition or in the alternative, the bonds issued by the authority pursuant to this subsection may be secured by any other revenues identified in section 11 as sources of financing for activities of the authority that the authority shall specifically pledge in the resolution. However, the full faith and credit of the municipality shall not be pledged to secure bonds issued pursuant to this subsection. The bond issue may include a sum sufficient to pay interest on the tax increment bonds until full development of tax increment revenues from the project and also a sum to provide a reasonable reserve for payment of principal and interest on the bonds. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution. Bonds issued under this subsection that pledge revenue received under section 11 for repayment of the bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 13b by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 235]

(SB 861)

AN ACT to amend 1986 PA 281, entitled "An act to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing," by amending section 14 (MCL 125.2164), as amended by 1996 PA 270.

The People of the State of Michigan enact:

125.2164 Tax increment bonds; qualified refunding obligation.

Sec. 14. (1) By resolution of its board and subject to the limitations set forth in this section, the authority may authorize, issue, and sell its tax increment bonds to finance a development program. The bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The authority may pledge for debt service requirements the tax increment revenues to be received from an eligible property. The bonds issued under this section shall be considered a single series for the purposes of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The municipality by majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds or, if authorized by the voters of the municipality, pledge its full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds. The municipality may pledge as additional security for the bonds any money received by the authority or the municipality pursuant to section 10.

(3) Bonds and notes issued by the authority and the interest on and income from those bonds and notes are exempt from taxation by the state or a political subdivision of this state.

(4) Notwithstanding any other provision of this act, if the state treasurer determines that an authority or municipality can issue a qualified refunding obligation and the authority or municipality does not make a good faith effort to issue the qualified refunding obligation as determined by the state treasurer, the state treasurer may reduce the amount claimed by the authority or municipality under section 11a by an amount equal to the net present value saving that would have been realized had the authority or municipality refunded the obligation or the state treasurer may require a reduction in the capture of tax increment revenues from taxes levied by a local or intermediate school district or this state by an amount equal to the net present value savings that would have been realized had the authority or municipality refunded the obligation. This subsection does not authorize the state treasurer to require the authority or municipality to pledge security greater than the security pledged for the obligation being refunded.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 236]

(SB 862)

AN ACT to amend 1986 PA 59, entitled "An act to authorize the establishment of a resort district authority; to prescribe its powers and duties; to correct and prevent deterioration in resort districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of rehabilitation plans in the districts; to create a board and to prescribe its powers and duties; to authorize the levy and collection of taxes; and to authorize the issuance of bonds and other evidences of indebtedness," by amending sections 8 and 14 (MCL 125.2208 and 125.2214), section 8 as amended by 1996 PA 209.

The People of the State of Michigan enact:

125.2208 Ad valorem tax on property located in resort district; mills; limitation; collection; disposition; borrowing money and issuing notes; extension of tax.

Sec. 8. (1) Subject to the provisions of section 7, an authority may levy an ad valorem tax on the taxable value of the real and tangible personal property located in the resort district and not exempt by law. The tax shall not be more than 3 mills for a period of not more than 5 years. The tax shall be collected by the township creating the authority levying the tax. The township shall collect the tax at the same time and in the same manner as it collects its other ad valorem taxes. The tax shall be paid to the treasurer of the authority and credited to the general fund of the authority for purposes of the authority.

(2) An authority may borrow money and issue its notes for that money pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of the ad valorem tax authorized in this section.

(3) Except as provided in subsection (4), the authority may extend the tax levied under this section for periods of not more than 5 years. An extension of the tax shall not be more than 3 mills. An extension shall not be levied unless, before September 15 of the year following the year in which a previously approved tax levy expires, the extension is approved by a majority of the electors who reside in the resort district and who vote on the proposition.

(4) If a tax levy has been previously levied and approved by a majority of electors who reside within the resort district on 2 previous occasions, the authority may extend the tax levied under this section for a period of not more than 10 years. An extension of the tax shall not be more than 3 mills. An extension under this subsection shall not be levied unless, before September 15 following the year in which a previously approved tax levy expires, the extension is approved by a majority of the electors who reside in the resort district and who vote on the proposition.

125.2214 Bonds to finance rehabilitation plan.

Sec. 14. (1) If authorized in the ordinance or resolution of the township creating the authority, by resolution of its board, and subject to the limitations set forth in this section, the authority may authorize, issue, and sell its bonds to finance a rehabilitation plan. The bonds shall mature not later than the last year for which the authority is entitled to levy an ad valorem tax pursuant to section 8 and shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) If electors have approved the millage pursuant to section 7, the township board may, by a majority vote of its members make a limited tax pledge of its full faith and credit for the payment of principal and interest on the authority's bonds issued pursuant to this section.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 237]

(SB 864)

AN ACT to amend 1985 PA 106, entitled "An act to impose a state excise tax on persons engaged in the business of providing rooms for dwelling, lodging, or sleeping

purposes to transient guests in certain counties; to provide for the levy, assessment, and collection of the tax; to provide for the disposition and appropriation of the collections from the tax; to create a convention facility development fund; to authorize the distributions from the fund; to authorize the use of distributions from the tax as security for any bonds, obligations, or other evidences of indebtedness issued to finance convention facilities as provided by law; to prescribe certain other matters relating to bonds, obligations, or other evidences of indebtedness issued for such purposes," by amending sections 11 and 12 (MCL 207.631 and 207.632), as amended by 1993 PA 58.

The People of the State of Michigan enact:

207.631 Refunding bonds, obligations, or other evidences of indebtedness; purposes for issuance; dedication of tax distributions from convention facility development fund; determination by state treasurer; effect of unlawful expenditure.

Sec. 11. (1) Refunding bonds, obligations, or other evidences of indebtedness described in subsection (2) are issued subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, a local governmental unit may issue refunding bonds, obligations, or other evidences of indebtedness to refund all or a portion of the bonds, obligations, or other evidences of indebtedness issued for purposes specified in this act. If refunding bonds, obligations, or other evidences of indebtedness are issued, an assignment or pledge of distributions of taxes from the convention facility development fund for the payment of principal or interest on the refunded bonds, obligations, or other evidences shall apply, after the issuance of the refunding bonds, only to the refunding bonds, obligations, or other evidences of indebtedness and to any bonds, obligations, or other evidences of indebtedness that were not refunded and to which the assignment or pledge previously applied.

(3) A local governmental unit that refunds bonds, obligations, or other evidences of indebtedness pursuant to subsection (2) may dedicate distributions of taxes from the convention facility development fund to the payment of principal, interest, or credit support fees or other costs of issuance or of the maintenance of any required reserves for general obligation bonds, obligations, or other evidences of indebtedness issued or to be issued for purposes specified in this act but not pursuant to the authority granted in this act or may reimburse itself for such payments from such distributions. However, distributions to a local governmental unit pursuant to this subsection in any state fiscal year shall not exceed the lesser of the following:

(a) Principal, interest, or credit support fees or other costs of issuance or of the maintenance of required reserves payable in the state fiscal year on the bonds, obligations, or other evidences of indebtedness to which the distributions are dedicated.

(b) The difference between the amount that would have been distributed to the local governmental unit had it not issued refunding bonds pursuant to subsection (2) and the amount of distribution of taxes to which an assignment or pledge applies under subsection (2).

(4) After September 30, 1999, taxes shall not be distributed from the convention facility development fund pursuant to subsection (3).

(5) If bonds, obligations, or other evidences of indebtedness are to be issued for the purposes set forth in section 8(2), for which all or a portion of the distribution of taxes that the local governmental unit is eligible to receive are pledged or assigned as set forth in subsection (1) or (2), and if as a direct result of the acquiring, constructing, improving,

enlarging, renewing, replacing, or in conjunction with these activities, repairing, furnishing, equipping, or leasing of a convention facility financed from the proceeds of the bonds, obligations, or other evidences of indebtedness, it is necessary for the state to expend money from the state trunk line fund from the proceeds of bonds issued by this state payable from deposits into the state trunk line fund, or from direct appropriations for the costs of relocating, constructing, or reconstructing highways, roads, streets, or bridges, and costs ancillary thereto, then before the issuance of the bonds, obligations, or other evidences of indebtedness, the state treasurer shall determine that the total amount of these costs to be paid from the state trunk line fund, from the proceeds of bonds or notes payable from deposits into the state trunk line fund, or from direct appropriations of this state, excluding any of the cost to be reimbursed to this state by the federal government, any local unit of government or authority or agency thereof, or any other person or entity, shall not exceed 25% of the total cost of the relocation, construction, or reconstruction of highways, roads, streets, and bridges, and costs ancillary to those costs, directly resulting from the convention facility project purposes described in section 8(2). For purposes of the validity of the bonds, obligations, or other evidences of indebtedness, the determination of the state treasurer is conclusive as to the matters stated in the determination. If after the determination by the state treasurer the total costs of relocating, constructing, and reconstructing highways, roads, streets, and bridges, and costs ancillary thereto, increase, this state shall not expend from the state trunk line fund, from the proceeds from bonds payable from deposits in the state trunk line fund, or from direct appropriations of this state, any additional funds that cause the total expenditure by this state from these sources, after any reimbursement, to exceed 25% of the total cost, as increased, of the relocation, construction, and reconstruction, including ancillary costs. An expenditure by this state in violation of this subsection does not invalidate or otherwise adversely affect any previously issued bonds, obligations, or other evidences of indebtedness described in this section or any security therefor.

207.632 Transmitting payment to trustee or trustees for bonds, obligations, or other evidences of indebtedness; prohibition; exception.

Sec. 12. (1) Subject to approval pursuant to section 11, a local governmental unit may assign or pledge all or a portion of the distribution of taxes that the local governmental unit is eligible to receive under this act for payment of bonds, obligations, or other evidences of indebtedness for the purposes specified in section 8(2). If a local governmental unit assigns, pledges, or, pursuant to section 11(3), dedicates all or a portion of the distribution of taxes that the local governmental unit is eligible to receive under this act for payment of bonds, obligations, or other evidences of indebtedness incurred for the purposes specified in this act, the state treasurer may transmit to the duly appointed trustee or trustees for the bonds, obligations, or other evidences of indebtedness, if any, the payment of the distribution assigned, pledged, or dedicated by the local governmental unit.

(2) A local governmental unit shall not issue bonds, obligations, or other evidences of indebtedness to which distributions under section 9 are pledged in a principal amount greater than $180,000,000.00. This limit does not apply to refunding bonds, obligations, or other evidences of indebtedness issued pursuant to section 11(2) or to bonds, obligations, or other evidences of indebtedness to which distributions of taxes from the convention facility development fund are dedicated under section 11(3).

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 238]

(SB 865)

AN ACT to amend 1989 PA 186, entitled "An act to provide for the establishment of a department of solid waste management in certain counties; to prescribe the powers and duties of certain public corporations; to provide for the incurring of certain contract obligations and the issuance and payment of certain bonds and notes by certain public corporations; to provide for a public corporation to pledge its full faith and credit and to levy taxes; and to prescribe a procedure for condemnation," by amending sections 7, 8, and 9 (MCL 45.587, 45.588, and 45.589).

The People of the State of Michigan enact:

45.587 Methods of financing.

Sec. 7. The acquisition, improvement, enlargement, or extension of a solid waste system under this act may be financed by 1 or more of the following methods:

(a) The issuance of revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or any other applicable act.

(b) The issuance of bonds in anticipation of payments to become due under 1 or more contracts whereby 1 or more public corporations, including the county itself, agree to pay to the county certain sums toward the cost of the acquisition, improvement, enlargement, or extension of a system instituted under this act.

(c) Through money advanced by a county under agreements with 1 or more public corporations for the repayment of the money.

(d) Through money advanced, periodically, before or during construction of a system, by a public corporation, in which event the county shall reimburse the corporation, with interest not to exceed 10% per annum or without interest as may be agreed, when funds are available. The obligation of the county to make this reimbursement may be evidenced by a contract or note that may be made payable out of the payments to be made by public corporations under a contract described in section 9 or 13, out of the proceeds of bonds issued pursuant to this act by the county, or out of any other available money. However, the contract or note shall not be considered an obligation within the meaning of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

45.588 Bonds generally.

Sec. 8. Bonds issued under this act shall be authorized by a resolution or ordinance adopted by the county board of commissioners. The county board of commissioners may, by a majority vote of its members elect, pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds, including revenue bonds, issued pursuant to this act. If it becomes necessary for the county to advance money, other than its share of the cost of the project for the payment of principal and interest, then the county is entitled to reimbursement from any surplus from time to time existing in the fund from which the principal and interest are primarily payable. If the full faith and credit of the county are pledged for the payment of principal of and interest on any bonds issued pursuant to this act, the county may, in the case of insufficiency of funds primarily pledged for the payment, pay the principal and interest from its general fund or levy taxes, but not in excess of the rate or amount necessary to make up the deficiency and not in excess of, or contrary to, constitutional limitations. The bonds shall be issued in the name of the county and shall be executed by the manual or facsimile signatures of the chairperson of the county board of commissioners and the county clerk, and the seal of the county shall be impressed or imprinted on the bonds. The bonds issued under this act shall be negotiable instruments and shall have a last maturity date of not more than 40 years.

The bonds shall be issued pursuant to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and in all cases where required by article IX of the constitution of 1963, shall be subject to a vote of the people. Bonds issued under this act are exempt from all taxation by this state or by any taxing authority within the state.

45.589 Contract between county and public corporation; purpose; payment of obligations; tax levy; methods of raising money; pledge; powers.

Sec. 9. (1) A county may contract with 1 or more public corporations, including the county itself, for the acquisition, improvement, enlargement, or extension of a solid waste system and for the payment of the cost of the system by the contracting public corporations, with interest, over a period not exceeding 40 years.

(2) In a contract entered into under subsection (1), each contracting public corporation shall pledge its full faith and credit for the payment of its obligations under the contract. If the public corporation has taxing power, it may each year levy a tax in an amount that is sufficient for the prompt payment of all or part of the contract obligations due before the following year's tax collection. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If the contract or an unlimited tax pledge in support of the contract has been approved by the electors, the tax may be in addition to any tax that the public corporation otherwise may be authorized to levy and may be imposed without limitation as to rate or amount, but shall not be in excess of the rate or amount necessary to pay the contract obligation. For the payment of contractual obligations incurred pursuant to this section, a township shall levy a tax only on the taxable property of the township not incorporated as a village unless the township and a village have agreed that a part of the capacity in the county system allocated to the township by contract pursuant to this act will be used to serve areas in a village located wholly or partly within the township and the village has not itself agreed to purchase that capacity in the county system. If a contracting public corporation at the time of its annual tax levy has on hand in cash or has budgeted any amount pledged to the payment of the current obligations for which the tax levy is to be made, then the annual tax levy may be reduced by that amount. For the purpose of obtaining the credit, money may be raised by a public corporation by 1 or more of the following methods:

(a) Service or availability charges to users or customers of the system in an amount no greater than that needed to pay the current operating costs of the system.

(b) Special assessments upon lands benefited, directly or indirectly or at a present or future time.

(c) Setting aside state collected money disbursed to the public corporation and usable for this purpose.

(d) Setting aside other available money.

(3) Money raised or to be raised by a public corporation by a method described in subsection (2) may be pledged to secure the payment of its obligations under a contract entered into under subsection (1).

(4) A public corporation may agree to raise all or any part of its contract obligation by a method provided in this section or by another legally available method. The governing body of a public corporation shall exercise the powers granted to the public corporation under this act.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 239]

(SB 866)

AN ACT to amend 1917 PA 298, entitled "An act to authorize cities and villages to levy a tax for the purpose of collecting and disposing of garbage; and providing for the issuance of bonds therefor," by amending section 1 (MCL 123.261).

The People of the State of Michigan enact:

123.261 Garbage disposal plants or systems in cities or villages; establishment and maintenance; annual garbage tax; construction bonds; "garbage" defined.

Sec. 1. (1) The city council of a city, whether organized under the general law or special charter, or the president and board of trustees of a village may establish and maintain garbage systems or plants for the collection and disposal of garbage in the city or village, and may levy a tax not to exceed 3 mills on the taxable value of all taxable property in the city or village according to the valuation of the property, as made for the purpose of state and county taxation by the last assessment in the city or village for these purposes. The annual garbage tax shall be in addition to the amount authorized to be levied for general purposes by the general law or special charter under which the city or village is incorporated. All cities or villages may, for the construction of a garbage disposal plant or system, issue bonds in a sum not to exceed 3 mills on the dollar on all taxable property in the city or village according to the valuation of the property, as made for the purpose of state and county taxation by the last assessment in the city or village. Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) As used in this act, "garbage" means any putrescible and nonputrescible solid wastes, except body wastes, and includes ashes, incinerator ash, incinerator residue, street cleanings, solid market wastes, solid industrial wastes, and also rubbish including such items as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and litter of any kind.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 240]

(SB 867)

AN ACT to amend 1951 PA 266, entitled "An act regulating garbage disposal by cities and villages; to provide for the adoption of ordinances; to provide for the borrowing of money and the issuance of bonds; to provide for rates for services; and to declare the effect of this act," by amending sections 4 and 7 (MCL 123.364 and 123.367), section 7 as amended by 1983 PA 28.

The People of the State of Michigan enact:

123.364 Bonds; issuance, amount, interest, maturity; tax exemption; principal and interest; payment.

Sec. 4. For the purpose of defraying the cost of purchasing, acquiring, constructing, improving, installing, extending, enlarging, adjusting, and repairing a garbage disposal

equipment system, any city or village may borrow money and issue its negotiable bonds for those purposes. However, bonds shall not be issued under this section unless and until the ordinance required by section 3 has been adopted, which ordinance shall set forth a brief description of the contemplated garbage disposal equipment system, the estimated cost of the system and the amount, maximum rate of interest, and the time of payment of the bonds, not to exceed 20 years. The bonds and coupons shall be exempt from any and all taxation by this state or by any taxing authority within this state. The principal of and interest on the bonds shall be payable primarily from the net revenues derived from the operation of the garbage disposal equipment system, and in addition the city or village may pledge the full faith, credit, and resources of the city or village for the payment of the bonds. No bond or coupon issued under this act shall constitute an indebtedness of the city or village within the meaning of any charter, statutory, or constitutional limitation. All bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

123.367 Use of money received from sale of bonds.

Sec. 7. All money received from the sale of any bonds issued under this act shall, after the payment of any appropriation made under section 6, be used solely for the purchase, acquisition, construction, improvement, installation, extension, enlargement, adjustment, or repair of the garbage disposal improvement for which the bonds were issued, including any engineering, legal, and other expenses incident to the garbage disposal improvement, and, if determined in the authorizing ordinance, the payment of the interest on the bonds during a period not to exceed the first 3 years following the date of the bonds and the amount required for operation and maintenance prior to the receipt of the first revenues.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 241]

(SB 868)

AN ACT to amend 1955 PA 233, entitled "An act to provide for the incorporation of certain municipal authorities to acquire, own, extend, improve, and operate sewage disposal systems, water supply systems, and solid waste management systems; to prescribe the rights, powers, and duties thereof; to authorize contracts between such authorities and public corporations; to provide for the issuance of bonds to acquire, construct, extend, or improve the systems; and to prescribe penalties and provide remedies," by amending sections 7, 9, and 12c (MCL 124.287, 124.289, and 124.292c), section 7 as amended by 1981 PA 154, section 9 as amended by 1994 PA 36, and section 12c as amended by 1983 PA 30.

The People of the State of Michigan enact:

124.287 Contracts between authority and constituent municipalities; purpose; pledging full faith and credit for payment of obligation; taxes; additional methods of raising other funds; permissible contract provisions.

Sec. 7. (1) The authority and any of its constituent municipalities may enter into a contract or contracts providing for the acquisition, construction, improvement, enlargement,

extension, operation, and financing of a sewage disposal system, a water supply system, a solid waste management system, or a combination of systems, which contract or contracts shall provide for the allocation and payment of the share of the total cost to be borne by each contracting municipality in annual installments for a period of not exceeding 40 years. Each contracting municipality may pledge its full faith and credit for the payment of the obligation in the manner and times specified in the contract or contracts, in which event each contracting municipality may include in its annual tax levy an amount sufficient so that the estimated collections from the tax levy will be sufficient to promptly pay when due the portion of the obligation falling due before the time of the following year's tax collection. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If the contract or an unlimited tax pledge in support of the contract has been approved by the electors of a municipality, the tax may be in addition to any tax that the municipality may otherwise be authorized to levy and may be imposed without limitation as to rate or amount but shall not be in excess of the rate or amount necessary to pay the contractual obligation. If at the time of making the annual tax levy, there are other funds on hand earmarked for the payment of the contractual obligation, then credit for those funds may be taken upon the annual levy for the payment of the obligation. Other funds may be raised by each contracting municipality by the use of any, or all, or any combination of the following additional methods:

(a) The levy of special assessments on property benefited by a sewage disposal system, water supply system, or a combination of systems, the procedures relative to the levying and collection of the special assessments to conform as near as is applicable to charter or statutory provisions for the levying and collection, except that a petition shall not be required from property owners.

(b) The levy and collection of rates or charges to users and beneficiaries of the service or services furnished by the sewage disposal system, water supply system, solid waste management system, or combination of systems.

(c) The exaction of connection charges to be paid by owners of land directly or indirectly connected with the sewage disposal system, water supply system, solid waste management system, or combination of systems.

(d) The receipt of money derived from the imposition of taxes by this state, except as the use of the money for the purpose is expressly prohibited by the state constitution of 1963.

(e) The receipt of other funds that may be validly used for the purpose.

(2) The contract or contracts may provide for any and all matters relating to the acquisition, construction, operation, and financing of the sewage disposal system, water supply system, solid waste management system, or combination of systems as are considered necessary, including authorization to the authority to issue bonds secured by the full faith and credit pledges of the contracting municipalities, as authorized by section 9. The contract or contracts may provide for appropriate remedy or remedies in case of default.

124.289 Issuance of negotiable bonds; maturity; use of money; conditions for issuance or refunding of bonds; bonds issued, sold, and subject to §§ 141.2101 to 141.2821.

Sec. 9. (1) To obtain funds for the acquisition, construction, improvement, enlargement, or extension of the sewage disposal system, water supply system, solid waste management system, or combination of systems authorized by this act, the authority, after the execution of the contract or contracts authorized by sections 7 and 8, upon ordinance or resolution adopted by the authority, may issue its negotiable bonds secured by the full faith and credit pledges made by each contracting municipality pursuant to authorization

contained in this act and the contract or contracts entered into pursuant to sections 7 and 8. The bonds shall mature over not more than 40 years from the date of issuance, and may provide for the use of money received from the sale of the bonds to pay operation and maintenance costs of a sewage disposal system, water supply system, solid waste management system, or combination of systems before receipt of the first revenues from the bonds.

(2) Except as otherwise provided in this act, bonds issued pursuant to this section shall be issued and sold and subject to all other applicable provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

124.292c Bonds secured by trust indenture; provisions in resolution or trust indenture; annual audit; pledging eligible marketable securities as collateral security for deposits; expenses; construction of 1958 amendments.

Sec. 12c. (1) In the discretion of the governing body of the authority, any series of bonds issued pursuant to the authorization of section 12b may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state, but no trust indenture shall convey or mortgage the project or any part of the project. Either the resolution providing for the issuance of bonds or the trust indenture may contain the provisions for the security and payment of the bonds and for the protection and enforcement of the rights and remedies of the bondholders as deemed advisable by the governing body of the authority, not in violation of the constitution of this state, including specifically covenants setting forth the following:

(a) The duties of the authority in relationship to the construction, maintenance, operation, repair, and insurance of the project.

(b) The pledge of revenues of the project or any part of the project.

(c) Limitations on the amount of money derived from the operation of the project that may be expended for operating, administrative, or other specified expenses of the authority.

(d) The safeguarding and application of the fund from which the cost of the project is to be paid and of the revenues pledged to the payment of the bonds, all of which may be deposited in as received and paid out by those banks as provided in the resolution or indenture.

(e) Provisions for the employment of consulting engineers to supervise the construction of the project, and to supervise its maintenance and operation, to which consulting engineers may be delegated all rights and duties with respect to the project deemed advisable by the governing body of the authority and the appointment of which consulting engineers shall be subject to the approval by the purchasers or holders of the bonds as provided in the resolution or indenture.

(f) Rights and remedies of the bondholders and the trustee, if any, and the restrictions thereon as may be considered advisable.

(g) Any other and additional provisions ordinarily found in trust agreements securing bond issues protecting and enforcing the rights and security of the holders of the bonds and designed to make the bonds more attractive and salable at the best available prices.

(2) The resolution or trust indenture shall contain a provision requiring an annual audit of the books and records of the authority, or any fiscal agent or trustee specified in the resolution or trust indenture by a certified public accountant or accountants to be selected by the governing body of the authority and approved by the manager or managers of the account purchasing the bonds.

(3) Any bank or trust company designated as trustee or as depositary for any funds, notwithstanding any provision of law to the contrary, is authorized to pledge as collateral security for moneys deposited in such bank or trust company direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by the government of the United States, or other marketable securities eligible as security for the deposit of trust funds under regulations of the federal reserve board and having a market value, exclusive of accrued interest, at least equal to the amount of the deposit; or in lieu of the collateral security as to all or any part of the deposit, there may be lodged with the trustee, or with the governing body of the authority in case of moneys deposited or remaining on deposit with the trustee, and remain in full force and effect as security for the moneys deposited, the indemnifying bonds of a surety company or companies qualified as surety for deposits of the government of the United States and qualified to transact business in this state, in a sum at least equal to the amount of moneys deposited with such bank or trust company, if such indemnity bond or bonds be approved by the governing body of the authority. All expenses incurred in carrying out the provisions appearing in any trust indenture or bond resolution and the cost of any surety bond furnished may be treated as part of the cost of maintaining and operating the project. The resolution or trust indenture may contain such other provisions as the governing body of the authority may deem reasonable and proper for the security of the bondholders, including, but without limitation, covenants prescribing all happenings or occurrences that constitute events of default and the terms and conditions upon which bonds may become or be declared to be due before maturity and as to the rights, liabilities, powers, and duties arising upon the breach by the authority of any of its duties and obligations.

(4) Nothing contained in the 1958 amendments to this act shall be construed to authorize the issuance of other than revenue bonds.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 242]

(SB 869)

AN ACT to amend 1992 PA 173, entitled "An act to authorize the establishment of land reclamation and improvement authorities; to provide for land reclamation and improvement authority boards and for their powers and duties; to authorize the exercise of the power of eminent domain; to provide for the making of certain improvements; to provide for the issuance of bonds and notes; to provide for assessing the cost of improvements and services against property benefited; to authorize certain rents, fees, and charges; and to provide for the powers and duties of certain state and local governmental officers and entities," by amending section 32 (MCL 125.2482).

The People of the State of Michigan enact:

125.2482 Authority board; bonds and notes; issuance; amount.

Sec. 32. (1) After the special assessment roll for an improvement is confirmed, the authority board may borrow money and issue the bonds and notes of the authority in anticipation of the collection of special assessments to defray all or any part of the cost of the improvement. The bonds and notes shall not exceed the amount of the special

assessments in anticipation of the collection of which they are issued. Bonds or notes may be issued in anticipation of the collection of special assessments levied in respect to 1 or more improvements.

(2) The issuance of bonds and notes under this section is subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved April 27, 2002.
Filed with Secretary of State April 29, 2002.

[No. 243]

(SB 1166)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," (MCL 211.1 to 211.157) by adding section 44d.

The People of the State of Michigan enact:

211.44d Summer property tax levy; retention of administration fees.

Sec. 44d. (1) A local taxing unit that levied part or all of its 2002 property taxes in December in a city or township shall not increase the proportion of its mills levied in the summer in that city or township in 2003.

(2) Notwithstanding section 44, if a county treasurer or the state treasurer collects a summer property tax levy under section 5b of the state education tax act, 1993 PA 331, MCL 211.905b, the county treasurer or the state treasurer may retain all administration fees collected in that summer property tax levy.

This act is ordered to take immediate effect.
Approved April 30, 2002.
Filed with Secretary of State April 30, 2002.

[No. 244]

(SB 1165)

AN ACT to amend 1993 PA 331, entitled "An act to provide for the levy and collection of a state education tax; to create the education finance authority and board; to prescribe

the powers and duties of the authority and the board; to provide for the levy of a tax by the authority and the distribution of the tax; and to prescribe the duties of certain state officers," by amending the title and sections 3 and 5 (MCL 211.903 and 211.905), as amended by 1994 PA 187, and by adding section 5b.

The People of the State of Michigan enact:

TITLE

An act to provide for the levy and collection of a state education tax; to provide for the distribution of the tax; and to prescribe the duties of certain local officials and state officers.

211.903 State education tax; levy; rate.

Sec. 3. (1) Beginning in 1994, except as otherwise provided in subsection (2), there is levied a state education tax on all property not exempt by law from ad valorem property taxes or not subject to a tax under 1905 PA 282, MCL 207.1 to 207.21, at a rate of 6 mills.

(2) In 2003 only, there is levied a state education tax on all property not exempt by law from ad valorem property taxes or not subject to a tax under 1905 PA 282, MCL 207.1 to 207.21, at the rate of 5 mills.

211.905 Collection, distribution, return, certification, and disposition of tax.

Sec. 5. (1) Beginning in 1994 through 2002, the tax levied under this act shall be collected and distributed by the local tax collecting unit under the provisions of the general property tax act at the same time as other taxes levied by the local school district for school operating purposes. However, in each year after 1993 if a local school district is not going to levy a tax in that summer but levied a tax in the summer of 1993, and the local tax collecting unit in which the local school district is located is collecting a tax for any taxing unit in that summer, the local tax collecting unit shall collect within that local school district 1/2 of the tax under this act in that summer. The tax levied under this act that is collected by a city shall become a lien against the property on which assessed in the same manner and on the same date as city taxes or, if the city approves the collection of the tax levied under this act on a date other than the date it collects the city taxes, on July 1. The tax levied under this act that is collected with the city taxes shall be subject to the same penalties, interest, and collection charges as city taxes and, except as otherwise provided in subsection (3), shall be returned as delinquent to the county treasurer in the same manner and with the same interest, penalties, and fees as city taxes, except as provided in section 89a of the general property tax act, 1893 PA 206, MCL 211.89a.

(2) Beginning in 2003, the tax levied under this act shall be collected under the provisions of the general property tax act in a summer levy and shall be distributed as provided in this act. Except as otherwise provided in subsection (3) and section 5b, the tax levied under this act shall be collected by each city and township.

(3) Notwithstanding the provision of a charter of a county adopted pursuant to 1966 PA 293, MCL 45.501 to 45.521, or the provisions of the charter of a home rule city, to the contrary, the city treasurer of a city that does not return delinquent real property taxes levied by the city to the county treasurer shall return all uncollected delinquent taxes levied under this act to the county treasurer as provided by the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, on the March 1 immediately following the year in which the taxes are levied. After the delinquent real property taxes are returned to the county treasurer for collection under this section, the provisions of the general property

tax act, 1893 PA 206, MCL 211.1 to 211.157, apply for the collection of those taxes and for the issuance of notes in anticipation of the collection of the taxes.

(4) Beginning in 2003, if a school district or intermediate school district collects taxes in the summer under section 1613 of the revised school code of 1976, 1976 PA 451, MCL 380.1613, the school district or intermediate school district shall collect the taxes levied under this act in the summer and shall distribute the taxes collected as provided in this act.

(5) The state treasurer shall certify the levy of the tax under this act pursuant to the general property tax act.

(6) The state treasurer upon receipt shall deposit the collections from the tax into the state treasury to the credit of the state school aid fund.

211.905b City or township in which no property taxes collected.

Sec. 5b. (1) This section applies only to a city or township, or that portion of a city or township, in which no property taxes, other than the tax levied under this act or village taxes, are levied in the summer of 2003 and any summer after 2003.

(2) A city or township shall collect the tax levied under this act unless, before November 1, 2002, the legislative body of the city or township adopts a resolution declining to collect the tax levied under this act and, for a township, the treasurer concurs in writing with that resolution. Before November 1, 2002, if the city or township adopts a resolution declining to collect the tax under this act and, for a township, the treasurer concurs in writing with that resolution, the appropriate assessing officer shall send a copy of that resolution and, for a township, that concurrence to the state treasurer and the treasurer of the county in which the city or township is located. In January 2004 and each January thereafter, the legislative body of a city or township that has declined to collect the tax under this subsection may by resolution adopted by a majority of the legislative body rescind the earlier decision to decline to collect the tax. The city or township shall immediately send a copy of the resolution rescinding the earlier decision to decline to collect the tax to the state treasurer and the treasurer of the county in which the city or township is located. If a city or township collects the tax levied under this act pursuant to this section, this state shall transmit to that city or township $2.50 for each parcel of property in that city or township on which the tax levied under this act is collected under this section.

(3) A county that receives a copy of a resolution declining to collect the tax under this act and, for a township, a written concurrence as provided in subsection (2) shall collect the tax levied under this act pursuant to this section unless, before February 1, 2003, the county board of commissioners adopts a resolution declining to collect the tax levied under this act and the county treasurer concurs in writing with that resolution. Before February 1, 2003, if the county board of commissioners adopts a resolution declining to collect the tax under this act and the county treasurer concurs in writing with that resolution, the county treasurer shall send a copy of that resolution and that concurrence to the state treasurer. In February 2004 and each February thereafter, a county board of commissioners that has declined to collect the tax under this subsection may by resolution, with the written concurrence of the county treasurer, rescind the earlier decision to decline to collect the tax. The county treasurer shall immediately send a copy of the resolution rescinding the earlier decision to decline to collect the tax and the written concurrence of the county treasurer to the state treasurer. If a county collects the tax levied under this act pursuant to this section, this state shall transmit to that county $2.50 for each parcel for property in that county on which the tax levied under this act is collected under this section.

(4) If a city or township does not collect the tax levied under this act pursuant to subsection (2) and if a county does not collect the tax levied under this act pursuant to subsection (3), the state treasurer shall collect the tax under the provisions of the general property tax act. The collection of the tax levied under this act is not subject to 1941 PA 122, MCL 205.1 to 205.31. The tax levied under this act collected pursuant to this subsection is subject to a 1% administration fee.

(5) All of the following apply to the collection of the tax levied under this act by a county treasurer or the state treasurer:

(a) Not later than June 1, the township or city for which the tax is being collected shall deliver to the county treasurer or the state treasurer, as applicable, a certified copy of each assessment roll for taxable property located in the township or city. Each assessment roll shall include the taxable value of each parcel subject to the collection of the tax levied under this act. The county treasurer or state treasurer, as applicable, shall remit the necessary cost incident to the reproduction of the assessment roll to the township or city.

(b) Not later than June 30, the county treasurer or the state treasurer, as applicable, shall spread the millage levied under this act against the assessment roll and prepare the tax roll.

(c) The county treasurer or the state treasurer, as applicable, may impose all or a portion of the fees and charges authorized under section 44 of the general property tax act, 1893 PA 206, MCL 211.44, on taxes paid before March 1. The county treasurer or the state treasurer, as applicable, shall retain the fees and charges imposed under this subdivision regardless of whether all or part of the fees and charges have been waived by the township or city.

(6) In relation to the assessment, spreading, and collection of taxes pursuant to this section, a county treasurer or the state treasurer, as applicable, shall have powers and duties similar to those prescribed by the general property tax act for township supervisors, township clerks, and township treasurers. However, this section shall not be considered to transfer any authority over the assessment of property.

(7) A county treasurer or state treasurer collecting taxes pursuant to this section shall be bonded for tax collection in the same amount and in the same manner as a township treasurer would be for undertaking the duties prescribed by this section.

(8) If a county treasurer or the state treasurer collects the tax levied under this act pursuant to this section, all payments from this state for collecting the tax levied under this act in a summer levy, and all revenue generated by the administration fee, shall be deposited in a restricted account designated as the "state education tax collection account". The county treasurer or the state treasurer, as applicable, shall direct the investment of the account. The county treasurer or the state treasurer, as applicable, shall credit to the account interest and earnings from the account investments. Proceeds in that account shall only be used for the cost of collecting the tax levied under this act. For a county collecting the tax under this act, the county board of commissioners shall appropriate sufficient money from the account to the county treasurer to cover the cost of collecting the tax levied under this act.

(9) The tax levied under this act that is collected by a city pursuant to this section on a date other than a date it collects city taxes shall be subject to the same fees and charges a city may impose under section 44 of the general property tax act, 1893 PA 206, MCL 211.44, except that a city may impose the administration fee on the tax levied under this act that is billed in the summer even if the fee is not imposed on taxes billed in December. The tax levied under this act that is collected pursuant to this section on or before September 14 of each year by a city that collects school taxes on a date other than the date

it collects city taxes shall be without interest, but the tax levied under this act that is collected after September 14 in each year shall bear interest at the rate imposed by section 59 of the general property tax act, 1893 PA 206, MCL 211.59, on delinquent property tax levies that become a lien in the same year. All interest and penalties that are imposed prior to the date the tax levied under this act is returned as delinquent, other than the administration fee, shall be transmitted to the state treasurer for deposit into the state school aid fund established in section 11 of article IX of the state constitution of 1963. If imposed, the administration fee shall be retained by the city.

(10) The tax levied under this act that is collected by a township on or before September 14 in each year shall be without interest. The tax levied under this act that is collected after September 14 of any year shall bear interest at the rate imposed by section 59 of the general property tax act, 1893 PA 206, MCL 211.59, on delinquent property tax levies that become a lien in the same year. The tax levied under this act that is collected by a township is subject to the same fees and charges the township may impose under section 44 of the general property tax act, 1893 PA 206, MCL 211.44, except that a township may impose the administration fee on the tax levied under this act that is billed in the summer even if the fee is not imposed on taxes billed in December. All interest and penalties that are imposed prior to the date the tax levied under this act is returned delinquent, other than the administration fee, shall be transmitted to the state treasurer for deposit into the state school aid fund established in section 11 of article IX of the state constitution of 1963. If imposed, the administration fee shall be retained by the township.

This act is ordered to take immediate effect.
Approved April 30, 2002.
Filed with Secretary of State April 30, 2002.

[No. 245]

(HB 5298)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions

as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 36 of chapter VIII (MCL 768.36).

The People of the State of Michigan enact:

CHAPTER VIII

768.36 Defense of insanity in compliance with § 768.20a; finding of "guilty but mentally ill"; waiver of right to trial; plea of guilty but mentally ill; examination of reports; hearing; sentence; evaluation and treatment; discharge; report to parole board; treatment as condition of parole or probation; period of probation; psychiatric reports.

Sec. 36. (1) If the defendant asserts a defense of insanity in compliance with section 20a of this chapter, the defendant may be found "guilty but mentally ill" if, after trial, the trier of fact finds all of the following:

(a) The defendant is guilty beyond a reasonable doubt of an offense.

(b) The defendant has proven by a preponderance of the evidence that he or she was mentally ill at the time of the commission of that offense.

(c) The defendant has not established by a preponderance of the evidence that he or she lacked the substantial capacity either to appreciate the nature and quality or the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law.

(2) If the defendant asserts a defense of insanity in compliance with section 20a of this chapter and the defendant waives his or her right to trial, by jury or by judge, the trial judge, with the approval of the prosecuting attorney, may accept a plea of guilty but mentally ill in lieu of a plea of guilty or a plea of nolo contendere. The judge shall not accept a plea of guilty but mentally ill until, with the defendant's consent, the judge has examined the report or reports prepared in compliance with section 20a of this chapter, the judge has held a hearing on the issue of the defendant's mental illness at which either party may present evidence, and the judge is satisfied that the defendant has proven by a preponderance of the evidence that the defendant was mentally ill at the time of the offense to which the plea is entered. The reports shall be made a part of the record of the case.

(3) If a defendant is found guilty but mentally ill or enters a plea to that effect which is accepted by the court, the court shall impose any sentence that could be imposed by law upon a defendant who is convicted of the same offense. If the defendant is committed to the custody of the department of corrections, the defendant shall undergo further evaluation and be given such treatment as is psychiatrically indicated for his or her mental illness or retardation. Treatment may be provided by the department of corrections or by the department of community health as provided by law. Sections 1004 and 1006 of the mental health code, 1974 PA 258, MCL 330.2004 and 330.2006, apply to the discharge of the defendant from a facility of the department of community health to which the defendant has been admitted and to the return of the defendant to the department of corrections for the balance of the defendant's sentence. When a treating facility designated by either the department of corrections or the department of community health discharges the defendant before the expiration of the defendant's sentence, that treating facility shall transmit to the parole board a report on the condition of the defendant that contains the clinical facts, the diagnosis, the course of treatment, the prognosis for the remission of symptoms, the potential for recidivism, the danger of the defendant to himself or herself

or to the public, and recommendations for future treatment. If the parole board considers the defendant for parole, the board shall consult with the treating facility at which the defendant is being treated or from which the defendant has been discharged and a comparable report on the condition of the defendant shall be filed with the board. If the defendant is placed on parole, the defendant's treatment shall, upon recommendation of the treating facility, be made a condition of parole. Failure to continue treatment except by agreement with the designated facility and parole board is grounds for revocation of parole.

(4) If a defendant who is found guilty but mentally ill is placed on probation under the jurisdiction of the sentencing court as provided by law, the trial judge, upon recommendation of the center for forensic psychiatry, shall make treatment a condition of probation. Reports as specified by the trial judge shall be filed with the probation officer and the sentencing court. Failure to continue treatment, except by agreement with the treating agency and the sentencing court, is grounds for revocation of probation. The period of probation shall not be for less than 5 years and shall not be shortened without receipt and consideration of a forensic psychiatric report by the sentencing court. Treatment shall be provided by an agency of the department of community health or, with the approval of the sentencing court and at individual expense, by private agencies, private physicians, or other mental health personnel. A psychiatric report shall be filed with the probation officer and the sentencing court every 3 months during the period of probation. If a motion on a petition to discontinue probation is made by the defendant, the probation officer shall request a report as specified from the center for forensic psychiatry or any other facility certified by department of community health for the performance of forensic psychiatric evaluation.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved April 30, 2002.
Filed with Secretary of State April 30, 2002.

[No. 246]

(HB 5411)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1225 (MCL 380.1225), as amended by 1997 PA 152.

The People of the State of Michigan enact:

380.1225 Power of board to borrow money and issue notes; purpose; pledging money to be received from state school aid; notes as full faith and credit obligations; due date; limitation; school district not able to redeem notes within 12 months of issuance; multi-year repayment agreement; notes issued for next succeeding fiscal year; maturity; failure to receive state school aid; number of borrowings; obtaining line of credit.

Sec. 1225. (1) Subject to restrictions of this section, the board of a local or intermediate school district may borrow money and issue its notes for the borrowed money to secure funds for school operations or to pay previous loans obtained for school operations under this or any other statute. The school board or intermediate school board shall pledge money to be received by it from state school aid for the payment of notes issued under this section. The notes are full faith and credit obligations of the school district or intermediate school district and are payable from tax levies or from unencumbered funds of the school district or intermediate school district in event of the unavailability or insufficiency of state school aid for any reason.

(2) Notes issued under this section shall become due not later than 12 months after the date on which they are issued, except as provided in this section. Except as otherwise provided in this subsection, notes issued within a fiscal year shall not exceed 70% of the difference between the total state aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received or pledged, except secondary pledges made under section 1356. Until June 30, 1999, notes issued and sold to the Michigan municipal bond authority within a fiscal year shall not exceed 70% of the difference between the total state aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received.

(3) A school district or intermediate school district that is not able to redeem its notes within 12 months after the date on which the notes were issued may enter into a multi-year agreement with a lending institution to repay its obligation. A repayment agreement shall not be executed without the prior approval of an authorized representative of the state board or, for notes sold to the Michigan municipal bond authority only, without the approval of an authorized representative of the department of treasury.

(4) During the last 4 months of a fiscal year, notes may be issued pledging state school aid for the next succeeding fiscal year. Except as otherwise provided in this subsection, the notes shall not exceed 50% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 50% of the apportionment for the then current fiscal year. For the 1997-98 fiscal year only, with the approval of the state treasurer or the department, notes may be issued that shall not exceed 70% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 70% of the apportionment for the then current fiscal year. For the 1998-99 fiscal year only, with the approval of the state treasurer or the department, notes may be issued that shall not exceed 60% of the state school aid apportioned to the school district or intermediate school district for the next succeeding fiscal year or, if the apportionment has not been made, 60% of the apportionment for the then current fiscal year. The notes shall mature not later than 12 months after the date of issuance.

(5) Notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Failure of a school district or intermediate school

district to receive state school aid does not affect the validity or enforceability of a note issued under this section.

(6) A school board or intermediate school board may make more than 1 borrowing under this section during a school year.

(7) In addition to other powers under this section, with the approval of the state treasurer, the board of a local or intermediate school district may obtain a line of credit to secure funds for school operations or to pay previous loans obtained for school operations under this or any other statute. The school board or intermediate school board shall pledge not more than 30% of the state school aid apportioned to the school district or intermediate school district for that fiscal year for repayment of funds received pursuant to a line of credit obtained under this subsection. However, the school board or intermediate school board shall not borrow against the line of credit an amount greater than the difference, as of the date of the borrowing, between the total state school aid funds apportioned to the school district or intermediate school district for that fiscal year and the portion already received or pledged, except secondary pledges made under section 1356. To obtain approval for obtaining a line of credit under this subsection, a school board or intermediate school board shall apply to the state treasurer in the form and manner prescribed by the state treasurer, and shall provide information as requested by the state treasurer for evaluating the application. The state treasurer shall approve or disapprove an application and notify the school board or intermediate school board within 20 business days after receiving a proper application. If the state treasurer disapproves an application, the state treasurer shall include the reasons for disapproval in the notification to the school board or intermediate school board.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved April 30, 2002.
Filed with Secretary of State April 30, 2002.

[No. 247]

(SB 1007)

AN ACT to amend 1996 PA 354, entitled "An act to codify the laws relating to savings banks; to provide for incorporation, regulation, supervision, and internal administration of savings banks; to prescribe the rights, powers, and immunities of savings banks; to prescribe the powers and duties of certain state agencies and officials; to provide for remedies; and to prescribe penalties," (MCL 487.3101 to 487.3804) by adding section 514.

The People of the State of Michigan enact:

487.3514 Transaction report; filing.

Sec. 514. (1) If a savings bank is required to file a transaction report under sections 5313 to 5318 of title 31 of the United States Code, 31 U.S.C. 5313 to 5318, the savings bank shall also within 24 hours file a copy of the transaction report with the department of state police.

(2) Except for a violation of sections 5313 to 5318 of title 31 of the United States Code, 31 U.S.C. 5313 to 5318, a savings bank or a director, officer, employee, or agent of the savings bank is not liable in any civil or governmental action for the filing of a copy of the transaction report as required under subsection (1) or for the failure to notify the account holder or any other person of the filing.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

This act is ordered to take immediate effect.
Approved April 30, 2002.
Filed with Secretary of State April 30, 2002.

[No. 248]

(HB 5624)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 4504 (MCL 324.4504), as added by 1995 PA 60.

The People of the State of Michigan enact:

324.4504 Bonds; issuance in series; resolution of administrative board; sale of bonds.

Sec. 4504. (1) The bonds shall be issued in 1 or more series, each series to be in the principal amount, to be dated, to have the maturities that may be either serial, term, or term and serial, to bear interest at a rate or rates not to exceed 6% per annum if issued before September 19, 1982 and not to exceed 18% per annum if issued on or after September 19, 1982, to be subject or not subject to prior redemption and, if subject to prior redemption with call premiums, to be payable at a place or places, to have or not have the provisions for registration as to principal only or as to both principal and interest, and to be in the form and to be executed in the manner as determined by resolution to be adopted by the administrative board. The administrative board may in the resolution provide for the investment and reinvestment of bond sales proceeds and any other details for the bonds and the security of the bonds considered necessary and advisable. The bonds or any series of the bonds shall be sold for not less than the par value of the bonds and may be sold, as authorized by the state administrative board, either at a public sale or at a publicly negotiated sale.

(2) Bonds issued under this part are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The issuance of bonds under this part is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved April 30, 2002.
Filed with Secretary of State April 30, 2002.

[No. 249]

(HB 5634)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 74112 (MCL 324.74112), as added by 1995 PA 58.

The People of the State of Michigan enact:

324.74112 Maximum rate of interest; sale and award of bonds; public or private sale; advertisement; notice of sale.

Sec. 74112. (1) The maximum rate of interest on bonds issued under this part shall be that set forth for bonds in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The sale and award of bonds shall be conducted and made by the commission at a public or private sale. If a public sale is held, the bonds shall be advertised for sale once not less than 7 days before sale in a publication with statewide circulation that carries as a part of its regular service notices of the sales of municipal bonds and that has been designated in the resolution as a publication complying with these qualifications. The notice of sale shall be in the form designated by the commission.

(2) Bonds issued under this part are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The issuance of bonds under this part is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved April 30, 2002.
Filed with Secretary of State April 30, 2002.

[No. 250]

(SB 839)

AN ACT to amend 1968 PA 2, entitled "An act to provide for the formulation and establishment of uniform charts of accounts and reports in local units of government; to define local units of government; to provide for the examination of the books and accounts of local units of government; to provide for annual financial reports from local units of government; to provide for the administration of this act; to prescribe the powers and duties of the state treasurer, the attorney general, the library of Michigan and depository libraries, and other officers and entities; to provide penalties for violation of certain requirements of this act; to provide for meeting the expenses authorized by this act; to provide a uniform budgeting system for local units; and to prohibit deficit spending by a local unit of government," by amending section 4 (MCL 141.424), as amended by 2000 PA 493.

The People of the State of Michigan enact:

141.424 Annual financial report; filing extension; unauthorized investments prohibited; "pension" defined.

Sec. 4. (1) The chief administrative officer of each local unit shall make an annual financial report (local unit fiscal report) which shall be uniform for all local units of the same class.

(2) The annual financial report shall contain for each fiscal year, all of the following:

(a) An accurate statement in summarized form, showing the amount of all revenues from all sources, the amount of expenditures for each purpose, the amount of indebtedness, the fund balances at the close of each fiscal year, and any other information as may be required by law.

(b) A statement indicating whether there are derivative instruments or products in the local unit's nonpension investment portfolio at fiscal year end.

(c) If the statement under subdivision (b) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit's nonpension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(d) A statement indicating whether there are derivative instruments or products in the local unit's pension investment portfolio at fiscal year end. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(e) If the statement under subdivision (d) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit's pension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(3) One copy of the annual financial report required by subsection (1) shall be filed with the state treasurer within 6 months after the end of the fiscal year of the local unit. The state treasurer shall prescribe the forms to be used by local units for preparation of the financial reports. The chief administrative officer of a local unit may request an extension of the filing date from the state treasurer, and the state treasurer may grant the request for reasonable cause. If the local unit of government requests an extension of the filing deadline, then the local unit of government must provide to the department of treasury the unadjusted year end trial balance reports, in a form and manner as prescribed by the department of treasury, to the department of treasury at the time the local unit of government requests the extension. The department of treasury shall post these unadjusted year end trial reports on the department's internet website if the extension is granted.

(4) This section does not authorize a local unit to make investments not otherwise authorized by law.

(5) For purposes of this section, "pension" includes a public employee health care fund as defined in the public employee health care investment fund act, 1999 PA 149, MCL 38.1211 to 38.1216.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 251]

(SB 882)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding section 3341.

The People of the State of Michigan enact:

500.3341 Coverage for certain convictions; premium surcharges.

Sec. 3341. As part of its secondary or merit rating plan, the facility shall provide for premium surcharges for any or all coverages, other than comprehensive coverage, for convictions for 1 or more of the following, when that information becomes available to the facility:

(a) A violation of section 904 of the Michigan vehicle code, 1949 PA 300, MCL 257.904.

(b) A violation of section 904a of the Michigan vehicle code, 1949 PA 300, MCL 257.904a.

(c) A violation of section 91 of the Michigan penal code, 1931 PA 328, MCL 750.91, resulting from or in connection with the operation of a motor vehicle.

(d) A violation of section 316 of the Michigan penal code, 1931 PA 328, MCL 750.316, resulting from or in connection with the operation of a motor vehicle.

(e) A violation of section 317 of the Michigan penal code, 1931 PA 328, MCL 750.317, resulting from or in connection with the operation of a motor vehicle.

(f) A violation of section 321 of the Michigan penal code, 1931 PA 328, MCL 750.321, resulting from or in connection with the operation of a motor vehicle.

(g) A violation of section 324 of the Michigan penal code, 1931 PA 328, MCL 750.324.

(h) A violation of section 382 of the Michigan penal code, 1931 PA 328, MCL 750.382, resulting from or in connection with the operation of a motor vehicle.

(i) A violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.

(j) A violation of section 1 of 1931 PA 214, MCL 752.191.

(k) A violation substantially similar to any of the violations listed in subdivisions (a) through (j) under the laws of another state or a local unit of government of this state or another state.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

[No. 252]

(SB 1026)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 502 (MCL 750.502).

The People of the State of Michigan enact:

Repeal of § 750.502.

Enacting section 1. Section 502 of the Michigan penal code, 1931 PA 328, MCL 750.502, is repealed.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

[No. 253]

(SB 1057)

AN ACT to amend 1925 PA 12, entitled "An act to provide for the laying out and establishing of additional trunk line mileage; to make all roads that have been improved

as federal aid projects, and all roads that have been, or that may hereafter be, approved for federal aid, trunk line highways; to provide for the widening, altering or straightening of trunk line highways; to provide for the abandonment, alteration or change of any portion of the trunk line highway; and to repeal all acts and parts of acts inconsistent herewith," by repealing section 2 (MCL 250.112).

The People of the State of Michigan enact:

Repeal of § 250.112.

Enacting section 1. Section 2 of 1925 PA 12, MCL 250.112, is repealed.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

[No. 254]

(HB 5472)

AN ACT to amend 1996 PA 381, entitled "An act to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans relating to the designation and treatment of brownfield redevelopment zones; to promote the revitalization of environmentally distressed areas; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing," by amending section 2 (MCL 125.2652), as amended by 2000 PA 145.

The People of the State of Michigan enact:

125.2652 Definitions.

Sec. 2. As used in this act:

(a) "Additional response activities" means response activities identified as part of a brownfield plan that are in addition to baseline environmental assessment activities and due care activities for an eligible property.

(b) "Authority" means a brownfield redevelopment authority created under this act.

(c) "Baseline environmental assessment" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) "Baseline environmental assessment activities" means those response activities identified as part of a brownfield plan that are necessary to complete a baseline environmental assessment for an eligible property in the brownfield plan.

(e) "Blighted" means property that meets any of the following criteria:

(*i*) Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(*ii*) Is an attractive nuisance to children because of physical condition, use, or occupancy.

(*iii*) Is a fire hazard or is otherwise dangerous to the safety of persons or property.

(*iv*) Has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.

(*v*) Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a qualified local governmental unit, county, or this state after the property's inclusion in a brownfield plan shall not result in the loss to the property of the status as blighted property for purposes of this act.

(f) "Board" means the governing body of an authority.

(g) "Brownfield plan" means a plan that meets the requirements of section 13 and is adopted under section 14.

(h) "Captured taxable value" means the amount in 1 year by which the current taxable value of an eligible property subject to a brownfield plan, including the taxable value or assessed value, as appropriate, of the property for which specific taxes are paid in lieu of property taxes, exceeds the initial taxable value of that eligible property. The state tax commission shall prescribe the method for calculating captured taxable value.

(i) "Chief executive officer" means the mayor of a city, the village manager of a village, the township supervisor of a township, or the county executive of a county or, if the county does not have an elected county executive, the chairperson of the county board of commissioners.

(j) "Department" means the department of environmental quality.

(k) "Due care activities" means those response activities identified as part of a brownfield plan that are necessary to allow the owner or operator of an eligible property in the plan to comply with the requirements of section 20107a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20107a.

(*l*) "Eligible activities" or "eligible activity" does not include activities related to multi-source commercial hazardous waste disposal wells as that term is defined in section 62506a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.62506a, but means 1 or more of the following:

(*i*) Baseline environmental assessment activities.

(*ii*) Due care activities.

(*iii*) Additional response activities.

(*iv*) For eligible activities on eligible property that was used or is currently used for commercial, industrial, or residential purposes that is in a qualified local governmental unit and is a facility, functionally obsolete, or blighted, and except for purposes of section 38d of the single business tax act, 1975 PA 228, MCL 208.38d, the following additional activities:

(A) Infrastructure improvements that directly benefit eligible property.

(B) Demolition of structures that is not response activity under section 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(C) Lead or asbestos abatement.

(D) Site preparation that is not response activity under section 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(*v*) Relocation of public buildings or operations for economic development purposes with prior approval of the Michigan economic development authority.

(m) "Eligible property" means property for which eligible activities are identified under a brownfield plan that was used or is currently used for commercial, industrial, or residential purposes that is either in a qualified local governmental unit and is a facility,

functionally obsolete, or blighted or is not in a qualified local governmental unit and is a facility, and includes parcels that are adjacent or contiguous to that property if the development of the adjacent and contiguous parcels is estimated to increase the captured taxable value of that property. Eligible property includes, to the extent included in the brownfield plan, personal property located on the property. Eligible property does not include qualified agricultural property exempt under section 7ee of the general property tax act, 1893 PA 206, MCL 211.7ee, from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

(n) "Facility" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(o) "Fiscal year" means the fiscal year of the authority.

(p) "Functionally obsolete" means that the property is unable to be used to adequately perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or superadequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property.

(q) "Governing body" means the elected body having legislative powers of a municipality creating an authority under this act.

(r) "Infrastructure improvements" means a street, road, sidewalk, parking facility, pedestrian mall, alley, bridge, sewer, sewage treatment plant, property designed to reduce, eliminate, or prevent the spread of identified soil or groundwater contamination, drainage system, waterway, waterline, water storage facility, rail line, utility line or pipeline, or other similar or related structure or improvement, together with necessary easements for the structure or improvement, owned or used by a public agency or functionally connected to similar or supporting property owned or used by a public agency, or designed and dedicated to use by, for the benefit of, or for the protection of the health, welfare, or safety of the public generally, whether or not used by a single business entity, provided that any road, street, or bridge shall be continuously open to public access and that other property shall be located in public easements or rights-of-way and sized to accommodate reasonably foreseeable development of eligible property in adjoining areas.

(s) "Initial taxable value" means the taxable value of an eligible property identified in and subject to a brownfield plan at the time the resolution adding that eligible property in the brownfield plan is adopted, as shown by the most recent assessment roll for which equalization has been completed at the time the resolution is adopted. Property exempt from taxation at the time the initial taxable value is determined shall be included with the initial taxable value of zero. Property for which a specific tax is paid in lieu of property tax shall not be considered exempt from taxation. The state tax commission shall prescribe the method for calculating the initial taxable value of property for which a specific tax was paid in lieu of property tax.

(t) "Local taxes" means all taxes levied other than taxes levied for school operating purposes.

(u) "Municipality" means all of the following:

(*i*) A city.

(*ii*) A village.

(*iii*) A township in those areas of the township that are outside of a village.

(*iv*) A township in those areas of the township that are in a village upon the concurrence by resolution of the village in which the zone would be located.

(*v*) A county.

(v) "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act.

(w) "Qualified taxpayer" means that term as defined in sections 38d and 38g of the single business tax act, 1975 PA 228, MCL 208.38d and 208.38g.

(x) "Remedial action plan" means a plan that meets both of the following requirements:

(*i*) Is a remedial action plan as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(*ii*) Describes each individual activity to be conducted to complete eligible activities and the associated costs of each individual activity.

(y) "Response activity" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(z) "Specific taxes" means a tax levied under 1974 PA 198, MCL 207.551 to 207.572; the commercial redevelopment act, 1978 PA 255, MCL 207.651 to 207.668; the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123; 1953 PA 189, MCL 211.181 to 211.182; the technology park development act, 1984 PA 385, MCL 207.701 to 207.718; the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797; or the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.787.

(aa) "Tax increment revenues" means the amount of ad valorem property taxes and specific taxes attributable to the application of the levy of all taxing jurisdictions upon the captured taxable value of each parcel of eligible property subject to a brownfield plan and personal property located on that property. Tax increment revenues exclude ad valorem property taxes specifically levied for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit, and specific taxes attributable to those ad valorem property taxes. Tax increment revenues attributable to eligible property also exclude the amount of ad valorem property taxes or specific taxes captured by a downtown development authority, tax increment finance authority, or local development finance authority if those taxes were captured by these other authorities on the date that eligible property became subject to a brownfield plan under this act.

(bb) "Taxable value" means the value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(cc) "Taxes levied for school operating purposes" means all of the following:

(*i*) The taxes levied by a local school district for operating purposes.

(*ii*) The taxes levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906.

(*iii*) That portion of specific taxes attributable to taxes described under subparagraphs (*i*) and (*ii*).

(dd) "Work plan" means a plan that describes each individual activity to be conducted to complete eligible activities and the associated costs of each individual activity.

(ee) "Zone" means, for an authority established before the effective date of the amendatory act that added subdivision (r), a brownfield redevelopment zone designated under this act.

This act is ordered to take immediate effect.

Approved May 1, 2002.

Filed with Secretary of State May 1, 2002.

[No. 255]

(HB 4507)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 5 (MCL 205.95).

The People of the State of Michigan enact:

205.95 Registration requirements; seller to collect tax from consumer; foreign corporations; dissolution or withdrawal of corporation; election of lessor on payment of taxes.

Sec. 5. (a) Except as otherwise provided in this subsection, every person engaged in the business of selling tangible personal property for storage, use, or other consumption in this state shall register with the department and give the name and address of each agent operating in this state, the location of all distribution or sales houses or offices or other places of business in this state, and any other information that the department requires with respect to matters pertinent to the enforcement of this act. A seller holding a sales tax license obtained pursuant to the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, is not required to separately register with the department as provided in this act. Every such seller shall collect the tax imposed by this act from the consumer.

(b) The corporation, securities, and land development bureau of the department of consumer and industry services shall not issue to any foreign corporation engaged in the business of selling tangible personal property a certificate of authority to do business in this state or approve and file the proposed articles of incorporation submitted to it by any domestic corporation authorizing or permitting such corporation to conduct any business of selling of tangible personal property unless the corporation submits with the application for the certificate of authority or proposed articles of incorporation, an application for registration of the corporation under the provisions of this act or an application for a sales tax license under the provisions of the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, which application shall be transmitted to the department by the corporation, securities, and land development bureau of the department of consumer and industry services.

(c) The corporation, securities, and land development bureau of the department of consumer and industry services shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this state or organized under the laws of another state and admitted to do business in this state until the receipt of a notice from the department to the effect that all taxes levied under this act against that corporation have been paid, or until it is notified by the department that the applicant does not owe taxes levied under this act.

(d) A lessor may elect to pay use tax on receipts from the rental or lease of the tangible personal property in lieu of payment of sales or use tax on the full cost of the property at the time it is acquired. For tax years that begin after December 31, 2001, in order to make a valid election under this subsection, a lessor of tangible personal property that is an aircraft shall obtain a use tax registration by the earlier of the date set for the first payment of use tax under the lease or rental agreement or 90 days after the lessor first brings the aircraft into this state.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

[No. 256]

(SB 837)

AN ACT to amend 1995 PA 280, entitled "An act to authorize local units of government to accept financial transaction device payments," by amending section 1 (MCL 129.221).

The People of the State of Michigan enact:

129.221 Definitions.

Sec. 1. As used in this act:

(a) "Credit card" means a card or device issued by a person licensed under 1984 PA 379, MCL 493.101 to 493.114, or under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, or issued by a depository financial institution as defined in section 1a of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651a, under a credit card arrangement.

(b) "Credit card arrangement" means an unsecured extension of credit for purchasing goods or services from the credit card issuer or any other person that is made to the holder of a credit card and that is accessed with a credit card.

(c) "Financial transaction device" means any of the following:

(*i*) An electronic funds transfer card.

(*ii*) A credit card.

(*iii*) A debit card.

(d) "Governing body" means any of the following:

(*i*) The council, commission, or other entity vested with the legislative power of a village.

(*ii*) The council or other entity vested with the legislative power of a city.

(*iii*) The township board of a township.

(*iv*) The county board of commissioners of a county.

(*v*) The board of county road commissioners of a county.

(*vi*) The board of education of a local school district.

(*vii*) The board of education of an intermediate school district.

(*viii*) The board of trustees of a community college district.

(*ix*) The official body to which is granted general governing powers over an authority or organization of government established by law which may issue obligations pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and which may expend funds of the authority or organization.

(e) "Local school district" means a school district organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or a district governed by a special or local act.

(f) "Local unit" means any of the following:

(*i*) A village.

(*ii*) A city.

(*iii*) A township.

(*iv*) A county.

(*v*) A county road commission.

(*vi*) A local school district.

(*vii*) An intermediate school district.

(*viii*) A community college district.

(*ix*) An authority or organization of government established by law which may issue obligations under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to MCL 141.2821, and which may expend funds of the authority or organization.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

[No. 257]

(SB 838)

AN ACT to amend 1995 PA 266, entitled "An act to authorize and regulate credit card transactions involving local units of government, including the use of credit cards by officers and employees of local units of government; and to provide for powers and duties of certain state and local agencies, officers, and employees," by amending sections 1 and 2 (MCL 129.241 and 129.242), section 1 as amended by 2000 PA 169.

The People of the State of Michigan enact:

129.241 Definitions.

Sec. 1. As used in this act:

(a) "Budget" means a plan of financial operation for a given period of time, including an estimate of all proposed expenditures from the funds of a local unit and the proposed means of financing the expenditures. As used in section 4(1), budget does not include any of the following:

(*i*) A fund for which the local unit acts as a trustee or agent.

(*ii*) An intragovernmental service fund.

(*iii*) An enterprise fund.

(*iv*) A public improvement or building and site fund.

(*v*) A special assessment fund.

(b) "Credit card" means a card or device issued under a credit card arrangement by a person licensed under 1984 PA 379, MCL 493.101 to 493.114, by a person licensed under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, or by a depository financial institution as defined in section 1a of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651a.

(c) "Credit card arrangement" means an unsecured extension of credit for purchasing goods or services from the credit card issuer or any other person that is made to the holder of a credit card and that is accessed with a credit card.

(d) "Credit card policy" means a policy adopted by resolution of a local unit under section 3.

(e) "Governing body" means any of the following:

(*i*) The council, commission, or other entity vested with the legislative power of a village.

(*ii*) The council or other entity vested with the legislative power of a city.

(*iii*) The township board of a township.

(*iv*) The county board of commissioners of a county.

(*v*) The board of county road commissioners of a county.

(*vi*) The board of education of a local school district.

(*vii*) The board of education of an intermediate school district.

(*viii*) The board of trustees of a community college district.

(*ix*) The official body to which is granted general governing powers over an authority or organization of government established by law that may issue obligations under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and that may expend funds of the authority or organization.

(*x*) A community mental health authority created under section 205 of the mental health code, 1974 PA 258, MCL 330.1205.

(f) "Local school district" means a school district organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or a district governed by a special or local act.

(g) "Local unit" means any of the following:

(*i*) A village.

(*ii*) A city.

(*iii*) A township.

(*iv*) A county.

(*v*) A county road commission.

(*vi*) A local school district.

(*vii*) An intermediate school district.

(*viii*) A community college district.

(*ix*) An authority or organization of government established by law that may issue obligations under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and that may expend funds of the authority or organization.

(*x*) A community mental health authority created under section 205 of the mental health code, 1974 PA 258, MCL 330.1205.

129.242 Credit card arrangement; use of credit cards.

Sec. 2. (1) Subject to sections 3 and 5, the governing body of a local unit may enter into a credit card arrangement.

(2) A credit card arrangement or the use of credit cards under this act is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or to provisions of law or charter concerning the issuance of debt by a local unit.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

[No. 258]

(SB 1006)

AN ACT to amend 1945 PA 327, entitled "An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics

commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state, by political subdivisions, or by public airport authorities; providing for the incorporation of public airport authorities and providing for the powers, duties, and obligations of public airport authorities; providing for the transfer of airport management to public airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics," by amending section 85 (MCL 259.85), as amended by 1996 PA 370.

The People of the State of Michigan enact:

259.85 Flight school.

Sec. 85. (1) A person shall not operate a flight school in this state unless the person holds an annual license issued by the commission.

(2) Upon receipt of an application and a $25.00 license fee from a flight school, the commission shall review the qualifications of the applicant.

(3) Unless surrendered, suspended, or revoked before this date, a flight school license expires 1 year from date of issuance or upon the sale or transfer by the owner of property, equipment, or franchise of the flight school.

(4) The annual flight school license renewal fee is $10.00 and is payable from the original date of issuance. An applicant shall file an initial application and pay the initial application fee if a license is not renewed before its expiration.

(5) A change in the name of the flight school, without change in ownership, does not void a current license if the owner of the flight school notifies the commission in writing within 15 days of the change. Upon receipt of notification under this subsection, the commission shall issue a license under the new name with the same expiration date as the license previously issued.

(6) A flight school operating facilities at more than 1 aeronautical facility shall obtain a license for each location.

(7) The flight school license shall be posted in the principal office of the flight school where it may be readily observed by the general public.

(8) A flight school shall at all times conduct itself in accordance with all applicable federal, state, and local laws and statutes.

(9) A flight school shall be operated from an airport properly licensed by the commission.

(10) A flight school operator shall obtain from the airport manager a written agreement to operate commercially from the airport at which the flight school is based.

(11) Each flight school student shall be advised in writing at the time of enrollment of the type and amount of insurance coverage provided for each aircraft used by the flight school.

(12) A flight school shall provide a suitable space of permanent nature that is properly heated, lighted, and ventilated to accommodate flight school students and to house adequate equipment necessary to properly conduct business matters and to prepare and preserve business records. The facilities described in this subsection shall be located at the licensed airport site.

(13) Each aircraft to be used for purposes of flight instruction at a flight school shall comply with all of the following:

(a) Possess a valid airworthiness certificate issued by the federal aviation administration.

(b) Be properly registered with the commission.

(c) Have the equipment and performance characteristics appropriate to the curriculum and to the airport to be used.

(14) All aircraft used in any flight school operation shall be operated in accordance with federal aviation administration maintenance regulations and standards. Adequate records shall be kept by the school to demonstrate performance of all required items of maintenance. The maintenance status of each aircraft, including discrepancies, shall be displayed by the school in a manner adequate to determine compliance.

(15) A flight school shall have a flight instructor available to dispatch and supervise each student pilot solo flight.

(16) A flight school shall have a written curriculum, including lesson plans, adequate to properly qualify the student to complete the particular course for the certificate or rating sought. A flight school shall also include lessons pertaining to Michigan laws relating to aviation and this act.

(17) A flight school shall make available to students current texts and reference material pertaining to the certificate or rating sought.

(18) A flight school shall provide adequate instruction to properly qualify a student completing its courses for the appropriate federal aviation administration examination covering the grade of certificate or rating sought.

(19) A flight school shall maintain training records adequate to show each student's progress and level of completion relative to the course of instruction in which the student is enrolled. These records shall be made available for inspection by any authorized representative of the commission.

(20) A copy of the airport and flight school regulations shall be made available to the students enrolled in the school for information and guidance.

(21) A flight school shall designate a practice area.

(22) A flight school or its representatives and instructors shall not make false claims of any kind pertaining to either flight training or employment following flight training. Only a licensed flight school may advertise flight instruction.

(23) A flight school accepting prepayment equal to or in excess of $1,000.00 shall file with the commission a corporate surety bond payable to the state of Michigan in the sum of $5,000.00 conditioned on the faithful performance of all contracts and agreements with students made by the flight school or its agent. The aggregate liability for the surety for all breaches of conditions of the bond shall not exceed the principal sum of $5,000.00. The surety of any bond may cancel the bond upon giving 60 days' notice in writing to the commission and the flight school. If a bond is canceled in compliance with this subsection,

the surety is relieved of liability for any breach of conditions occurring after the effective date of cancellation.

(24) Beginning the effective date of the amendatory act that added this subsection, a flight school shall request from the criminal records division of the department of state police a criminal history check and criminal records check through the federal bureau of investigation on any applicant for training at the flight school in the manner provided for under section 85a. The applicant shall cooperate with the flight school in completing the criminal history check and criminal records check through the federal bureau of investigation. A flight school shall not enroll or shall terminate the enrollment of an applicant if any of the following occurred to the applicant within the preceding 7 years:

(a) Was convicted of a violent or other felony.

(b) Was incarcerated for a violent or other felony conviction.

(c) Was on probation or parole for a violent or other felony conviction.

(25) The requirements for a flight school set out in this section are conditions of the license. Failure to comply with any of these requirements is grounds for revocation of a flight school's license.

(26) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than $100.00 or more than $500.00, or both, together with costs of the prosecution.

(27) As used in this section, "violent or other felony" means a violation of a penal law of this state, another state, or the United States for which the offender, upon conviction, may be punished by death or imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 934 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

Compiler's note: Senate Bill No. 934, referred to in enacting section 2, was filed with the Secretary of State May 22, 2002, and became P.A. 2002, No. 318, Imd. Eff. May 22, 2002.

[No. 259]

(HB 5504)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy

and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 307, 312f, 319b, and 732 (MCL 257.307, 257.312f, 257.319b, and 257.732), section 307 as amended by 2001 PA 159, section 312f as amended by 1992 PA 180, section 319b as amended by 1998 PA 356, and section 732 as amended by 2001 PA 134.

The People of the State of Michigan enact:

257.307 Application for operator's or chauffeur's license; manner; contents; image; equipment; use of image and information; signature and certification; fee; refund; driving record from another jurisdiction; application for original, renewal, or upgrade of vehicle group designation or indorsement; issuing renewal license by mail or other methods; information manual; disclosure or display of social security number.

Sec. 307. (1) An application for an operator's or chauffeur's license shall be made in a manner prescribed by the secretary of state and shall contain all of the following:

(a) The applicant's full name, date of birth, residence address, height, sex, eye color, signature, other information required or permitted on the license under this chapter, and, to the extent required to comply with federal law, the applicant's social security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

(b) The following notice shall be included to inform the applicant that under sections 509o and 509r of the Michigan election law, 1954 PA 116, MCL 168.509o and 168.509r, the secretary of state is required to use the residence address provided on this application as the applicant's residence address on the qualified voter file for voter registration and voting:

> "NOTICE: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide in this application differs from your voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter registration to match the residence address on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your residence address is located.".

(c) For an operator's or chauffeur's license with a vehicle group designation or indorsement, the following certifications by the applicant:

(*i*) The applicant meets the applicable federal physical driver qualification requirements under 49 C.F.R. part 391 if the applicant operates or intends to operate in interstate commerce or meets the applicable physical qualifications under the rules promulgated by the department of state police under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22, if the applicant operates or intends to operate in intrastate commerce.

(*ii*) The vehicle in which the applicant will take the driving skills tests is representative of the type of vehicle the applicant operates or intends to operate.

(*iii*) The applicant has not been convicted of an offense as described in section 312f or 319b.

(*iv*) The applicant does not have a driver's license from more than 1 state.

(d) For an operator's or chauffeur's license with a vehicle group designation or indorsement and for which the applicant claims a waiver of the driving test as provided in section 312f, the following additional certifications by the applicant concerning the 2-year period immediately before application:

(*i*) The applicant has not had more than 1 license.

(*ii*) The applicant has not had any license suspended, revoked, or canceled.

(*iii*) The applicant has not been convicted of any offense described in section 319b while operating a motor vehicle.

(*iv*) The applicant has not been convicted of a moving violation under state or local law relating to motor vehicle traffic control arising in connection with a traffic accident.

(*v*) The applicant is regularly employed in a job requiring the operation of a commercial motor vehicle.

(*vi*) The applicant qualifies under either of the following:

(A) He or she has passed a behind-the-wheel driving test given by a state with a commercial motor vehicle driver licensing and testing system and taken in a representative vehicle for that applicant's driver's license vehicle group designation.

(B) For at least 2 years immediately preceding application, the applicant has operated a vehicle representative of the commercial motor vehicle group or passenger vehicle for which he or she is applying. The applicant's employer or the applicant, if self-employed, shall provide evidence of this requirement.

(e) An applicant for an operator's or chauffeur's license with a vehicle group designation and a hazardous material indorsement (H vehicle indorsement) shall provide his or her fingerprints which shall have been taken by a law enforcement official or a designated representative for investigation as required by the uniting and strengthening America by providing appropriate tools required to intercept and obstruct terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56, 115 Stat. 272.

(2) Except as provided in this subsection, an applicant for an operator's or chauffeur's license may have his or her image captured or reproduced when the application for the license is made. An applicant required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card shall have his or her image captured or reproduced when the application for the license is made. The secretary of state shall acquire by purchase or lease the equipment for capturing the images and may furnish the equipment to a local unit authorized by the secretary of state to license drivers. The secretary of state shall acquire equipment purchased or leased pursuant to this section under standard purchasing procedures of the department of management and budget based on standards and specifications established by the secretary of state. The secretary of state shall not purchase or lease equipment until an appropriation for the equipment has been made by the legislature. An image captured pursuant to this section shall appear on the applicant's operator's or chauffeur's license. Except as provided in this subsection, the secretary of state may retain and use a person's image described in this subsection only for programs administered by the secretary of state. Except as provided in this

subsection, the secretary of state shall not use a person's image unless the person grants written permission for that purpose to the secretary of state or specific enabling legislation permitting the use is enacted into law. A law enforcement agency of this state has access to information retained by the secretary of state under this subsection. The information may be utilized for any law enforcement purpose unless otherwise prohibited by law. The department of state police shall provide to the secretary of state updated lists of persons required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732, and the secretary of state shall make the images of those persons available to the department of state police as provided in that act.

(3) An application shall contain a signature and certification by the applicant and shall be accompanied by the proper fee. The examiner shall collect the application fee and shall forward the fee to the secretary of state with the application. The secretary of state shall refund the application fee to the applicant if the license applied for is denied, but shall not refund the fee to an applicant who fails to complete the examination requirements of the secretary of state within 90 days after the date of application for a license. A service fee of $1.00 shall be added to each fee collected for an original, renewal, duplicate, or corrected operator's or chauffeur's license. The service fee received and collected under this subsection shall be deposited in the state treasury to the credit of the general fund. The service fee shall be used to defray the expenses of the secretary of state. Appropriations from the Michigan transportation fund shall not be used to compensate the secretary of state for costs incurred and services performed under this section.

(4) In conjunction with the issuance of an operator's or chauffeur's license, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(*i*) Written information explaining the applicant's right to make an anatomical gift in the event of death in accordance with section 310.

(*ii*) Written information describing the organ donation registry program maintained by Michigan's federally designated organ procurement organization or its successor organization. The written information required under this subparagraph shall include, in a type size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization, along with an advisory to call Michigan's federally designated organ procurement organization or its successor organization with questions about the organ donor registry program.

(*iii*) Written information giving the applicant the opportunity to be placed on the organ donation registry described in subparagraph (*ii*).

(b) Provide the applicant with the opportunity to specify on his or her operator's or chauffeur's license that he or she is willing to make an anatomical gift in the event of death in accordance with section 310.

(c) Inform the applicant in writing that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the organ donor registry described in subdivision (a)(*ii*), the secretary of state will forward the applicant's name and address to the organ donation registry maintained by Michigan's federally designated organ procurement organization or its successor organization, as required by subsection (6).

(5) The secretary of state may fulfill the requirements of subsection (4) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for an operator's or chauffeur's license renewal or the issuance of an operator's or chauffeur's license.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for operator's and chauffeur's licenses processed by electronic means.

(6) If an applicant indicates a willingness under this section to have his or her name placed on the organ donor registry described in subsection (4)(a)(*ii*), the secretary of state shall within 10 days forward the applicant's name and address to the organ donor registry maintained by Michigan's federally designated organ procurement organization or its successor organization. The secretary of state may forward information under this subsection by mail or by electronic means. The secretary of state shall not maintain a record of the name or address of an individual who indicates a willingness to have his or her name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have his or her name placed on the organ donor registry that is obtained by the secretary of state under subsection (4) and forwarded under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

(7) If an application is received from a person previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record and other available information from the national driver register. When received, the driving record and other available information become a part of the driver's record in this state. If the application is for an original, renewal, or upgrade of a vehicle group designation or indorsement, the secretary of state shall also check the applicant's driving record with the federal commercial driver license information system before issuing that group designation or indorsement.

(8) Except for a vehicle group designation or indorsement or as provided in this subsection, the secretary of state may issue a renewal operator's or chauffeur's license for 1 additional 4-year period by mail or by other methods prescribed by the secretary of state. The secretary of state shall issue a renewal license only in person if the licensee has a driving record with a conviction or civil infraction determination obtained in the 48 months preceding renewal or if the person is a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card. However, the secretary of state shall not refuse to issue a renewal license by mail or by other method because of a conviction or civil infraction determination for which fines and costs were waived under section 901a or section 907. If a license is renewed by mail or by other method, the secretary of state shall issue evidence of renewal to indicate the date the license expires in the future. The department of state police shall provide to the secretary of state updated lists of persons required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(9) Upon request, the secretary of state shall provide an information manual to an applicant explaining how to obtain a vehicle group designation or indorsement. The manual shall contain the information required under 49 C.F.R. part 383.

(10) The secretary of state shall not disclose a social security number obtained under subsection (1) to another person except for use for 1 or more of the following purposes:

(a) Compliance with chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317, and regulations and state law and rules related to this chapter.

(b) Through the law enforcement information network, to carry out the purposes of section 466(a) of part D of title IV of the social security act, 42 U.S.C. 666, in connection with matters relating to paternity, child support, or overdue child support.

(c) As otherwise required by law.

(11) The secretary of state shall not display a person's social security number on the person's operator's or chauffeur's license.

(12) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number or to an applicant who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The secretary of state shall inform the applicant of this possible exemption.

257.312f Vehicle group designation or indorsement on operator's or chauffeur's license; age; tests; waiver; conditions prohibiting issuance of vehicle group designation; determining applicability of subsection (4); definitions.

Sec. 312f. (1) Except as otherwise provided in this section, a person shall be at least 18 years of age before he or she is issued a vehicle group designation or indorsement, other than a motorcycle indorsement, on an operator's or chauffeur's license and, as provided in this section, the person shall pass knowledge and driving skills tests that comply with minimum federal standards prescribed in 49 C.F.R. part 383. A person operating a vehicle to be used for farming purposes only may obtain a group A, a group B, or an F vehicle group designation if he or she is at least 16 years of age. Each written examination given an applicant for a vehicle group designation or indorsement on an operator's or chauffeur's license shall include subjects designed to cover the type or general class of vehicle to be operated. A person shall pass an examination that includes a driving test designed to test competency of the applicant for an original vehicle group designation and passenger indorsement on an operator's or chauffeur's license to drive that type or general class of vehicle upon the highways of this state with safety to that person and other persons and property. The secretary of state shall waive the driving skills test for a person operating a vehicle that is used under the conditions described in section 312e(4)(a) to (d) unless the vehicle has a gross vehicle weight rating of 26,001 pounds or more on the power unit and is to be used to carry hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199. The driving test may be waived if the applicant has a valid license, indorsement, or vehicle group designation to operate that type or group of vehicle in another state, except that the driving test for a vehicle group designation or passenger vehicle indorsement may not be waived unless the applicant has a valid license with the appropriate vehicle group designation or passenger vehicle indorsement in another state issued in compliance with the commercial motor vehicle safety act of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170.

(2) The secretary of state shall waive the knowledge test and the driving skills test and issue a 1-year seasonal restricted vehicle group designation for an otherwise qualified person who desires to operate a group B or a group C vehicle for a farm related service industry under the following conditions:

(a) An applicant shall possess a good driving record. However, an applicant who has not held an operator's or chauffeur's license for at least 1 year is not eligible for a waiver. An applicant who has between 1 and 2 years of driving experience shall possess a good driving record for his or her entire driving history. An applicant who has more than 2 years of driving experience shall possess a good driving record for the 2 years immediately preceding application for a waiver.

(b) The seasons for which the seasonal restricted vehicle group designation is issued shall be from April 2 to June 30 and from September 2 to November 30 only of a 12-month period or, at the option of the applicant, for not more than 180 days from the date of issuance in a 12-month period subsequent to 1992. A seasonal restricted vehicle group designation under this subsection shall be issued, suspended, revoked, canceled, or renewed in accordance with this act. The good driving record shall be confirmed before each season and 180-day period.

(c) The commercial motor vehicle for which the seasonal restricted vehicle group designation is issued shall be operated only on routes within 150 miles from the place of business to the farm or farms being served.

(d) The commercial motor vehicle for which the seasonal restricted vehicle group designation is issued shall not transport a quantity of hazardous materials on which a placard is required except for the following:

(*i*) Diesel motor fuel in quantities of 1,000 gallons or less.

(*ii*) Liquid fertilizers in quantities of 3,000 gallons or less.

(*iii*) Solid fertilizers that are not transported with any organic substance.

(e) The commercial motor vehicle for which a seasonal restricted vehicle group designation is issued shall not include a bus or school bus.

(3) The secretary of state may enter into an agreement with another public or private person or agency to conduct a skills test required under this section, section 312e, or 49 C.F.R. part 383.

(4) The secretary of state shall not issue a vehicle group designation or a vehicle indorsement to an applicant for an original vehicle group designation or vehicle indorsement under section 312e to whom 1 or more of the following apply:

(a) The applicant has had his or her license suspended or revoked for a reason other than as provided in section 321a, 515, or 801c in the 36 months immediately preceding application, except that a vehicle group designation may be issued if the suspension or revocation was due to a temporary medical condition or failure to appear at a reexamination as provided in section 320.

(b) The applicant was convicted of or incurred a bond forfeiture in relation to a 6-point violation as provided in section 320a in the 24 months immediately preceding application, or a violation of section 625(3) or former section 625b, or a local ordinance substantially corresponding to section 625(3) or former section 625b in the 24 months immediately preceding application, if the violation occurred while the applicant was operating a type of vehicle that is operated under a vehicle group designation.

(c) The applicant is listed on the national driver register, the commercial driver license information system, or the driving records of the state in which the applicant was previously licensed as being disqualified from operating a commercial motor vehicle or as having a license suspended, revoked, canceled, or denied.

(d) The applicant is listed on the national driver register, the commercial driver license information system, or the driving records of the state in which the applicant was previously licensed as having had a license suspended, revoked, or canceled in the 36 months immediately preceding application if a suspension or revocation would have been imposed under this act had the applicant been licensed in this state in the original instance. This subdivision does not apply to a suspension or revocation that would have been imposed due to a temporary medical condition or pursuant to section 321a, 515, or 801c.

(e) The applicant is subject to a suspension or revocation under section 319b or would have been subject to a suspension or revocation under section 319b if the applicant had been issued a vehicle group designation or vehicle indorsement.

(f) The applicant has been disqualified from operating a commercial motor vehicle under title XII of Public Law 99-570, 100 Stat. 3207-170 or the applicant's license to operate a commercial motor vehicle has been suspended, revoked, denied, or canceled within 36 months immediately preceding the date of application.

(5) The secretary of state shall only consider bond forfeitures under subsection (4)(b) for violations that occurred on or after January 1, 1990 when determining the applicability of subsection (4).

(6) If an applicant for an original vehicle group designation was previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record from that jurisdiction. If 1 or more of the conditions described in subsection (4) exist in that jurisdiction when the secretary of state receives the copy, the secretary of state shall cancel all vehicle group designations on the person's operator's or chauffeur's license.

(7) Subsection (4)(a), (b), (d), and (f) do not apply to an applicant for an original vehicle group designation who at the time of application has a valid class 1, class 2, or class 3 indorsement under this act or a valid license to operate a commercial motor vehicle issued by any state in compliance with title XII of Public Law 99-570.

(8) As used in this section:

(a) "Farm related service industry" means custom harvesters, farm retail outlets and suppliers, agri-chemical business, or livestock feeders.

(b) "Good driving record" means the criteria required under regulations described at 49 C.F.R. 383.77 and 57 F.R. 75, P. 13650 (April 17, 1992).

257.319b Suspension or revocation of vehicle group designations on operator's or chauffeur's license; revocation for life the hazardous material indorsement; notice of conviction, bond forfeiture, civil infraction determination, violation of law, or refusal to submit to chemical test; period of suspension or revocation; definitions; applicability of conditions.

Sec. 319b. (1) The secretary of state shall immediately suspend or revoke, as applicable, all vehicle group designations on the operator's or chauffeur's license of a person upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation described in this subsection of a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state, or notice that the person has refused to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, breath, or urine while the person was operating a commercial motor vehicle as required by a law or local ordinance of this or another state. The period of suspension or revocation is as follows:

(a) Suspension for 60 days if the licensee is convicted of or found responsible for 2 serious traffic violations while operating a commercial motor vehicle arising from separate incidents within 36 months.

(b) Suspension for 120 days if the licensee is convicted of or found responsible for 3 serious traffic violations while operating a commercial motor vehicle arising from separate incidents within 36 months.

(c) Suspension for 1 year if the licensee is convicted of or found responsible for 1 of the following:

(*i*) A violation of section 625(1), (3), (4), (5), (6), or (7), section 625m, or former section 625(1) or (2), or former section 625b, or a local ordinance substantially corresponding to section 625(1) or (3), section 625m, or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), (5), (6), or (7), section 625m, or former section 625(1) or (2), or former section 625b, while operating a commercial motor vehicle.

(*ii*) Leaving the scene of an accident involving a commercial motor vehicle operated by the licensee.

(*iii*) A felony in which a commercial motor vehicle was used.

(*iv*) A refusal of a peace officer's request to submit to a chemical test of his or her blood, breath, or urine to determine the amount of alcohol or presence of a controlled substance or both in his or her blood, breath, or urine while he or she was operating a commercial motor vehicle as required by a law or local ordinance of this state or another state.

(*v*) A 6-point violation as provided in section 320a while operating a commercial motor vehicle.

(d) Suspension for 3 years if the licensee is convicted of or found responsible for an offense enumerated in subdivision (c)(*i*) to (*v*) in which a commercial motor vehicle was used if the vehicle was carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199.

(e) Revocation for not less than 10 years and until the person is approved for the issuance of a vehicle group designation if a licensee is convicted of or found responsible for 1 of the following:

(*i*) Any combination of 2 violations arising from 2 or more separate incidents under section 625(1), (3), (4), (5), (6), or (7), section 625m, or former section 625(1) or (2), or former section 625b, a local ordinance substantially corresponding to section 625(1) or (3), section 625m, or former section 625(1) or (2), or former section 625b, or a law of another state substantially corresponding to section 625(1), (3), (4), (5), (6), or (7), section 625m, or former section 625(1) or (2), or former section 625b while driving a commercial motor vehicle.

(*ii*) Two violations of leaving the scene of an accident involving a commercial motor vehicle operated by the licensee.

(*iii*) Two violations of a felony in which a commercial motor vehicle was used.

(*iv*) Two refusals of a request of a police officer to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood while he or she was operating a commercial motor vehicle in this state or another state, which refusals occurred in separate incidents.

(*v*) Two 6-point violations as provided in section 320a while operating a commercial motor vehicle.

(*vi*) Two violations, in any combination, of the offenses enumerated under subparagraph (*i*), (*ii*), (*iii*), (*iv*), or (*v*) arising from 2 or more separate incidents.

(f) Revocation for life if a licensee is convicted of or found responsible for any of the following:

(*i*) One violation of a felony in which a commercial motor vehicle was used and that involved the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance.

(*ii*) A conviction of any offense described in subdivision (c) or (d) after having been approved for the issuance of a vehicle group designation under subdivision (e).

(*iii*) A conviction of a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(2) The secretary of state shall immediately revoke for life the hazardous material indorsement (H vehicle indorsement) on the operator's or chauffeur's license of a person with a vehicle group designation upon receiving notice from the U.S. department of transportation that the person poses a security risk warranting denial under the uniting and strengthening America by providing appropriate tools required to intercept and obstruct terrorism (USA PATRIOT ACT) act of 2001, Public Law 107-56, 115 Stat. 272.

(3) The secretary of state shall immediately suspend all vehicle group designations on the operator's or chauffeur's license of a person upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation of section 319d(4) or 319f, a local ordinance substantially corresponding to section 319d(4) or 319f, or a law or local ordinance of another state, the United States, Canada, Mexico, or a local jurisdiction of either of these countries substantially corresponding to section 319d(4) or 319f, while operating a commercial motor vehicle as defined in section 7a. The period of suspension or revocation is as follows:

(a) Suspension for 90 days if the licensee is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle.

(b) Suspension for 180 days if the licensee is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle that is either carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199 or designed to carry 16 or more passengers, including the driver.

(c) Suspension for 1 year if the licensee is convicted of or found responsible for 2 violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 2 or more separate incidents during a 10-year period.

(d) Suspension for 3 years if the licensee is convicted of or found responsible for 3 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 3 or more separate incidents during a 10-year period.

(e) Suspension for 3 years if the licensee is convicted of or found responsible for 2 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199, or designed to carry 16 or more passengers, including the driver, arising from 2 or more separate incidents during a 10-year period.

(4) As used in this section:

(a) "Felony in which a commercial motor vehicle was used" means a felony during the commission of which the person convicted operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

(*i*) The vehicle was used as an instrument of the felony.

(*ii*) The vehicle was used to transport a victim of the felony.

(*iii*) The vehicle was used to flee the scene of the felony.

(*iv*) The vehicle was necessary for the commission of the felony.

(b) "Serious traffic violation" means a traffic violation that occurs in connection with an accident in which a person died, careless driving, excessive speeding as defined in the federal administrative regulations promulgated to implement the commercial motor vehicle safety act of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170, improper lane use, following too closely, or any other serious traffic violation as defined in 49 C.F.R. 383.5 or as prescribed under this act.

(5) For the purpose of this section only, a bond forfeiture or a determination by a court of original jurisdiction or an authorized administrative tribunal that a person has violated the law is considered a conviction.

(6) The secretary of state shall suspend or revoke a vehicle group designation under subsection (1) notwithstanding a suspension, restriction, revocation, or denial of an operator's or chauffeur's license or vehicle group designation under another section of this act or a court order issued under another section of this act or a local ordinance substantially corresponding to another section of this act.

(7) When determining the applicability of conditions listed in this section, the secretary of state shall only consider violations that occurred after January 1, 1990.

257.732 Record of cases; forwarding abstract of record or report to secretary of state; statement; abstracts forwarded; noncompliance as misconduct in office; location and public inspection of abstracts; entering abstracts on master driving record; exceptions; informing courts of violations; entering order of reversal in book or index; modifications; abstract as part of written notice to appear; expunction prohibited.

Sec. 732. (1) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways and with those offenses pertaining to the operation of ORVs or snowmobiles for which points are assessed under section 320a(1)(c) or (h). Except as provided in subsection (15), the municipal judge or clerk of the court of record shall prepare and forward to the secretary of state an abstract of the court record as follows:

(a) Within 14 days after a conviction, forfeiture of bail, or entry of a civil infraction determination or default judgment upon a charge of or citation for violating or attempting to violate this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways.

(b) Immediately for each case charging a violation of section 625(1), (3), (4), (5), (6), or (7) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m in which the charge is dismissed or the defendant is acquitted.

(c) Immediately for each case charging a violation of section 82127(1) or (3), 81134, or 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127, 324.81134, and 324.81135, or a local ordinance substantially corresponding to those sections.

(2) If a city or village department, bureau, or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance substantially corresponding to this act, the city or village department, bureau, or person shall send a full report of each

case in which a person pays any amount of money to the city or village department, bureau, or person to the secretary of state upon a form prescribed by the secretary of state.

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state. An abstract shall be certified by signature, stamp, or facsimile signature of the person required to prepare the abstract as correct. An abstract or report shall include all of the following:

(a) The name, address, and date of birth of the person charged or cited.

(b) The number of the person's operator's or chauffeur's license, if any.

(c) The date and nature of the violation.

(d) The type of vehicle driven at the time of the violation and, if the vehicle is a commercial motor vehicle, that vehicle's group designation and indorsement classification.

(e) The date of the conviction, finding, forfeiture, judgment, or civil infraction determination.

(f) Whether bail was forfeited.

(g) Any license restriction, suspension, or denial ordered by the court as provided by law.

(h) The vehicle identification number and registration plate number of all vehicles that are ordered immobilized or forfeited.

(i) Other information considered necessary to the secretary of state.

(4) The clerk of the court also shall forward an abstract of the court record to the secretary of state upon a person's conviction involving any of the following:

(a) A violation of section 413, 414, or 479a of the Michigan penal code, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

(b) A violation of section 1 of former 1931 PA 214.

(c) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle.

(d) A violation of section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to that section.

(e) An attempt to violate, a conspiracy to violate, or a violation of part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, or a local ordinance that prohibits conduct prohibited under part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, unless the convicted person is sentenced to life imprisonment or a minimum term of imprisonment that exceeds 1 year for the offense.

(f) An attempt to commit an offense described in subdivisions (a) to (d).

(g) A violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(5) As used in subsections (6) to (8), "felony in which a motor vehicle was used" means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

(a) The vehicle was used as an instrument of the felony.

(b) The vehicle was used to transport a victim of the felony.

(c) The vehicle was used to flee the scene of the felony.

(d) The vehicle was necessary for the commission of the felony.

(6) If a person is charged with a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

"You are charged with the commission of a felony in which a motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver's license shall be suspended by the secretary of state.".

(7) If a juvenile is accused of an act, the nature of which constitutes a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney or family division of circuit court shall include the following statement on the petition filed in the court:

"You are accused of an act the nature of which constitutes a felony in which a motor vehicle was used. If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver's license shall be suspended by the secretary of state.".

(8) If the court determines as part of the sentence or disposition that the felony for which the person was convicted or adjudicated and with respect to which notice was given under subsection (6) or (7) is a felony in which a motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(9) As used in subsections (10) and (11), "felony in which a commercial motor vehicle was used" means a felony during the commission of which the person operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

(a) The vehicle was used as an instrument of the felony.

(b) The vehicle was used to transport a victim of the felony.

(c) The vehicle was used to flee the scene of the felony.

(d) The vehicle was necessary for the commission of the felony.

(10) If a person is charged with a felony in which a commercial motor vehicle was used and for which a vehicle group designation on a license is subject to suspension or revocation under section 319b(1)(c)(*iii*), 319b(1)(d), 319b(1)(e)(*iii*), or 319b(1)(f)(*i*), the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

"You are charged with the commission of a felony in which a commercial motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a commercial motor vehicle was used, as defined in section 319b of the Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle group designations on your driver's license shall be suspended or revoked by the secretary of state.".

(11) If the judge determines as part of the sentence that the felony for which the defendant was convicted and with respect to which notice was given under subsection (10) is a felony in which a commercial motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(12) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded. The certification shall be filed with the secretary of state not later

than 28 days after the end of the period covered by the certification. The certification shall be made upon a form furnished by the secretary of state and shall include all of the following:

(a) The name and title of the person required to forward abstracts.

(b) The court for which the certification is filed.

(c) The time period covered by the certification.

(d) The following statement:

"I certify that all abstracts required by section 732 of the Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period _____ through _____ have been forwarded to the secretary of state.".

(e) Other information the secretary of state considers necessary.

(f) The signature of the person required to forward abstracts.

(13) The failure, refusal, or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office.

(14) Except as provided in subsection (15), the secretary of state shall keep all abstracts received under this section at the secretary of state's main office and the abstracts shall be open for public inspection during the office's usual business hours. Each abstract shall be entered upon the master driving record of the person to whom it pertains.

(15) Except for controlled substance offenses described in subsection (4), the court shall not submit, and the secretary of state shall discard and not enter on the master driving record, an abstract for a conviction or civil infraction determination for any of the following violations:

(a) The parking or standing of a vehicle.

(b) A nonmoving violation that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.

(c) A violation of chapter II that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.

(d) A pedestrian, passenger, or bicycle violation, other than a violation of section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b or a local ordinance substantially corresponding to section 624a or 624b.

(e) A violation of section 710e or a local ordinance substantially corresponding to section 710e.

(16) The secretary of state shall discard and not enter on the master driving record an abstract for a bond forfeiture that occurred outside this state. However, the secretary of state shall retain and enter on the master driving record an abstract of an out-of-state bond forfeiture for an offense that occurred after January 1, 1990 in connection with the operation of a commercial motor vehicle.

(17) The secretary of state shall inform the courts of this state of the nonmoving violations and violations of chapter II that are used by the secretary of state as the basis for the suspension, restriction, revocation, or denial of an operator's or chauffeur's license.

(18) If a conviction or civil infraction determination is reversed upon appeal, the person whose conviction or determination has been reversed may serve on the secretary of state a certified copy of the order of reversal. The secretary of state shall enter the order in the proper book or index in connection with the record of the conviction or civil infraction determination.

(19) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, or settlement to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If the permitted abstract of court record reporting a conviction, civil infraction determination, or settlement originates as a part of the written notice to appear, authorized in section 728(1) or 742(1), the form of the written notice and report shall be as prescribed by the secretary of state.

(20) Except as provided in this act and notwithstanding any other provision of law, a court shall not order expunction of any violation reportable to the secretary of state under this section.

Effective date of §§ 257.307, 257.312f, 257.319b, and 257.732.

Enacting section 1. Sections 307, 312f, 319b, and 732 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, 257.312f, 257.319b, and 257.732, as amended by this amendatory act take effect April 22, 2002.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

[No. 260]

(SB 1034)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 348 (MCL 750.348).

The People of the State of Michigan enact:

Repeal of § 750.348.

Enacting section 1. Section 348 of the Michigan penal code, 1931 PA 328, MCL 750.348, is repealed.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

[No. 261]

(SB 1035)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide

laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16q of chapter XVII (MCL 777.16q), as added by 1998 PA 317.

The People of the State of Michigan enact:

CHAPTER XVII

777.16q §§ 750.332 to 750.350a; felonies to which chapter applicable.

Sec. 16q. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.332	Property	H	Entering horse in race under false name	4
750.335a	Person	A	Indecent exposure by sexually delinquent person	Life
750.338	Pub ord	G	Gross indecency between males	5
750.338a	Pub ord	G	Gross indecency between females	5
750.338b	Pub ord	G	Gross indecency between males and females	5
750.349	Person	A	Kidnapping	Life
750.349a	Person	A	Prisoner taking a hostage	Life
750.350	Person	A	Kidnapping — child enticement	Life
750.350a	Person	H	Kidnapping — custodial interference	1

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1034 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

Compiler's note: Senate Bill No. 1034, referred to in enacting section 1, was filed with the Secretary of State May 1, 2002, and became P.A. 2002, No. 260, Imd. Eff. May 1, 2002.

[No. 262]

(SB 1037)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 494 (MCL 750.494).

The People of the State of Michigan enact:

Repeal of § 750.494.

Enacting section 1. Section 494 of the Michigan penal code, 1931 PA 328, MCL 750.494, is repealed.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

[No. 263]

(HB 5152)

AN ACT to amend 1996 PA 354, entitled "An act to codify the laws relating to savings banks; to provide for incorporation, regulation, supervision, and internal administration of savings banks; to prescribe the rights, powers, and immunities of savings banks; to prescribe the powers and duties of certain state agencies and officials; to provide for remedies; and to prescribe penalties," (MCL 487.3101 to 487.3804) by adding section 706a.

The People of the State of Michigan enact:

487.3706a Definitions; reorganization of existing mutual savings bank to mutual holding company; requirements; organization and incorporation of new savings bank subsidiary; approval.

Sec. 706a. (1) As used in this section:

(a) "Existing mutual savings bank" means a mutual savings bank engaged in the savings bank business before reorganization under this section.

(b) "Mutual holding company" means that term as defined in section 10(o) of the home owners' loan act, chapter 64, titles III and IX of Public Law 101-73, 12 U.S.C. 1467a, and OTS regulations governing mutual holding companies.

(c) "New savings bank" means a savings bank not engaged in the savings bank business before the reorganization provided in this section.

(d) "OTS" means the office of thrift supervision, United States department of the treasury.

(2) An existing mutual savings bank may reorganize to establish a mutual holding company, if all of the following requirements are met:

(a) The reorganization plan complies in all respects with OTS mutual holding company laws and receives the approval of the OTS, and the OTS grants a federal charter to the newly created mutual holding company.

(b) The reorganization plan receives the approval of the office of financial and insurance services.

(c) The board of directors of the existing mutual savings bank has approved the plan of reorganization at a meeting called in accordance with the bank's articles of incorporation and bylaws.

(d) A majority of the total votes of the members of the existing mutual savings bank eligible to be cast shall have approved the plan of reorganization after a membership meeting called in accordance with the bank's articles of incorporation and bylaws.

(3) Persons as provided in section 301 may organize and incorporate as the incorporator or incorporators any new savings bank subsidiary of the existing mutual savings bank, having its principal office in the same city or village as the principal office of the existing mutual savings bank, if the new savings bank is organized for the sole purpose of effecting a reorganization plan in accordance with this section.

(4) The assets, liabilities, and banking business of the existing mutual savings bank shall not be transferred to any new savings bank subsidiary or federal savings bank subsidiary under the reorganization plan until the office of financial and insurance services or OTS approves a charter for the subsidiary to operate as a savings bank or federal savings bank.

(5) Unless the office of financial and insurance services determines in writing that the subsidiary charter application does not meet the requirements for a savings bank under this act, the office of financial and insurance services shall approve the subsidiary's charter application if the applicant represents, and the commissioner believes, the subsidiary will conduct substantially the same banking business as the existing mutual savings bank.

This act is ordered to take immediate effect.
Approved May 1, 2002.
Filed with Secretary of State May 1, 2002.

[No. 264]

(HB 4848)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 486 (MCL 750.486).

The People of the State of Michigan enact:

Repeal of § 750.486.

Enacting section 1. Section 486 of the Michigan penal code, 1931 PA 328, MCL 750.486, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 265]

(HB 5151)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9948) by adding section 2607.

The People of the State of Michigan enact:

600.2607 Stay pending appeal of judgment; amount of bond; limitation; rescission of limitation.

Sec. 2607. (1) The amount of a bond issued to stay execution on a judgment while an appeal is pending shall be determined according to the applicable Michigan court rules and statutory provisions. The bond shall not exceed $25,000,000.00 regardless of the amount of the judgment. The maximum amount allowed for a bond under this subsection shall be adjusted on January 1 following the fifth year after the effective date of the amendatory act that added this section and on January 1 every 5 years after that adjustment by an amount determined by the state treasurer to reflect the annual aggregate percentage change in the Detroit consumer price index since the previous adjustment. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor and as certified by the state treasurer.

(2) If the appellee proves by a preponderance of the evidence that the party for whom the bond to stay execution has been limited is purposefully dissipating or diverting assets outside of the ordinary course of business for the purpose of avoiding ultimate payment of the judgment, the court shall rescind the limitation granted under subsection (1).

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003 and applies to an appeal filed on or after that date.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 266]

(HB 5440)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution

for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 750.1 to 750.568) by adding section 81d.

The People of the State of Michigan enact:

750.81d Assault, battering, resisting, obstructing, opposing person performing duty; felony; penalty; other violations; consecutive terms; definitions.

Sec. 81d. (1) Except as provided in subsections (2), (3), and (4), an individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(2) An individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties causing a bodily injury requiring medical attention or medical care to that person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(3) An individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties causing a serious impairment of a body function of that person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $10,000.00, or both.

(4) An individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties causing the death of that person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(5) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(6) A term of imprisonment imposed for a violation of this section may run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

(7) As used in this section:

(a) "Obstruct" includes the use or threatened use of physical interference or force or a knowing failure to comply with a lawful command.

(b) "Person" means any of the following:

(*i*) A police officer of this state or of a political subdivision of this state including, but not limited to, a motor carrier officer or capitol security officer of the department of state police.

(*ii*) A police officer of a junior college, college, or university who is authorized by the governing board of that junior college, college, or university to enforce state law and the rules and ordinances of that junior college, college, or university.

(*iii*) A conservation officer of the department of natural resources or the department of environmental quality.

(*iv*) A conservation officer of the United States department of the interior.

(*v*) A sheriff or deputy sheriff.

(*vi*) A constable.

(*vii*) A peace officer of a duly authorized police agency of the United States, including, but not limited to, an agent of the secret service or department of justice.

(*viii*) A firefighter.

(*ix*) Any emergency medical service personnel described in section 20950 of the public health code, 1978 PA 368, MCL 333.20950.

(c) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

Effective date.

Enacting section 1. This amendatory act takes effect July 15, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5442 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

Compiler's note: House Bill No. 5442, referred to in enacting section 2, was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 270, Imd. Eff. May 9, 2002.

[No. 267]

(HB 5211)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 19 (MCL 211.19), as amended by 1996 PA 126; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

211.19 Statement as to assessable property.

Sec. 19. (1) A supervisor or other assessing officer, as soon as possible after entering upon the duties of his or her office or as required under the provisions of any charter that makes special provisions for the assessment of property, shall ascertain the taxable property in his or her assessing district, the person to whom it should be assessed, and that person's residence.

(2) The supervisor or other assessing officer shall require any person whom he or she believes has personal property in their possession to make a statement of all the personal property of that person whether owned by that person or held for the use of another. The statement shall be completed and delivered to the supervisor or assessor on or before February 20 of each year.

(3) If a supervisor, an assessing officer, a county tax or equalization department provided for in section 34, or the state tax commission considers it necessary to require from any person a statement of real property assessable to that person, it shall notify the person, and that person shall submit the statement.

(4) A local tax collecting unit may provide for the electronic filing of the statement required under subsection (2) or (3).

(5) A statement under subsection (2) or (3) shall be in a form prescribed by the state tax commission. If a local tax collecting unit has provided for electronic filing of the statement under subsection (4), the filing format shall be prescribed by the state tax commission. The state tax commission shall not prescribe more than 1 format for electronically filing a statement under subsection (2) or more than 1 format for electronically filing a statement under subsection (3).

(6) A statement under subsection (2) or (3) shall be signed manually, by facsimile, or electronically. A supervisor or assessor shall not require that a statement required under subsection (2) or (3) be filed before February 20 of each year.

(7) A supervisor or assessor shall not accept a statement under subsection (2) or (3) as final or sufficient if that statement is not in the proper form or does not contain a manual, facsimile, or electronic signature. A supervisor or assessor shall preserve a statement that is not in the proper form or is not signed as in other cases, and that statement may be used to make the assessment and as evidence in any proceeding regarding the assessment of the person furnishing that statement.

(8) An electronic or facsimile signature shall be accepted by a local tax collecting unit using a procedure prescribed by the state tax commission.

Repeal of §§ 211.18 and 211.20.

Enacting section 1. Sections 18 and 20 of the general property tax act, 1893 PA 206, MCL 211.18 and 211.20, are repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 268]

(SB 982)

AN ACT to amend 1933 (Ex Sess) PA 18, entitled "An act to authorize any city, village, township, or county to purchase, acquire, construct, maintain, operate, improve, extend, and repair housing facilities; to eliminate housing conditions which are detrimental to the public peace, health, safety, morals, or welfare; and for any such purposes to authorize any such city, village, township, or county to create a commission with power to effectuate said purposes, and to prescribe the powers and duties of such commission and of such city, village, township, or county; and for any such purposes to authorize any such

commission, city, village, township, or county to issue notes and revenue bonds; to regulate the issuance, sale, retirement, and refunding of such notes and bonds; to regulate the rentals of such projects and the use of the revenues of the projects; to prescribe the manner of selecting tenants for such projects; to provide for condemnation of private property for such projects; to confer certain powers upon such commissions, cities, villages, townships, and counties in relation to such projects, including the power to receive aid and cooperation of the federal government; to provide for a referendum thereon; to provide for cooperative financing by 2 or more commissions, cities, villages, townships, or counties or any combination thereof; to provide for the issuance, sale, and retirement of revenue bonds and special obligation notes for such purposes; to provide for financing agreements between cooperating borrowers; to provide for other matters relative to the bonds and notes and methods of cooperative financing; for other purposes; and to prescribe penalties and provide remedies," by amending sections 17 and 47 (MCL 125.667 and 125.697), as amended by 1996 PA 338; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

125.667 Revenue bonds generally.

Sec. 17. (1) For the purpose of defraying the cost of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing any housing project or combined projects, any borrower may borrow money and issue revenue bonds. The bonds may be awarded before an authorizing ordinance or resolution is adopted; however, the bonds shall not be issued unless and until authorized by an ordinance or resolution setting forth a brief description of the contemplated housing project or combined projects and the site or sites of the project or projects, time and place of payment, and other details in connection with the issuance and sale of the bonds.

(2) Except as otherwise provided by this act, the bonds issued under this act are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. If less than all of the bonds authorized in connection with a project or combined projects are sold to the United States housing authority or a successor agency, the balance of the bonds may also be sold at private sale at an interest cost to the borrower of not more than the interest cost to the borrower of the portion of the bonds sold to the United States of America or any agency or instrumentality of the United States of America.

(3) Notes issued in connection with a housing project or combined projects prior to the issuance of bonds may be accepted in payment of bonds sold in connection with the housing project or combined projects if the notes provide. In a contract for the purchase, acquisition, or construction of any housing facility or for the improvement, enlargement, extension, or repair of the project or projects, provision may be made that payment shall be made in the bonds.

(4) The bonds may be made payable in funds that are on the respective dates of payment of interest and principal upon the bonds, legal tender for debts due the United States of America. All bonds and notes issued under this act, the interest on the bonds and notes, and their transfer are exempt from all taxation by this state or any political subdivisions of this state.

(5) The principal of and interest upon the bonds shall be payable, except as provided in this act, solely from the revenue derived from the operation of the housing project or combined projects, for the purchase, acquisition, construction, improvement, enlargement, extension, or repair of which the bonds are issued, and from contributions received for or in aid of the project or combined projects, from whatever source derived. The contributions may be pledged to the payment of any or all bonds issued in connection with

the project or combined projects, as the borrower may provide. Bonds issued pursuant to this act shall not constitute an indebtedness of a borrower within the meaning of state constitutional provisions or statutory limitations. There shall be plainly stated on the face of each bond substantially as follows:

"This bond is a revenue bond and the principal of and interest on this bond are exempt from any and all state, county, city, village, or other taxation under the laws of this state and are secured by the statutory lien created by 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c, and payable solely from contributions received for or in aid of the project or combined projects in connection with which the bonds are issued or from the revenues of the project or combined projects or from both the revenues and contributions, as the case may be, and are not a general obligation of the borrower."

(6) The bonds shall have all the qualities of negotiable instruments under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102. The authorizing ordinance or resolution may provide that the bonds shall be issued under a trust indenture, the authorized form of which shall be set forth in the ordinance or resolution, and any provision required or permitted by this act to appear in the authorizing ordinance or resolution shall be considered to be included in the ordinance or resolution if set forth in the trust indenture.

125.697 Promissory notes; issuance; authorization; principal and interest as indebtedness.

Sec. 47. (1) For the purpose of providing funds for expenses and costs involved in the development of a housing project or combined projects prior to the issuance of bonds for the project or projects, or in funding the annual operations of a commission, a borrower may, in addition to all other powers granted in this act, borrow money and issue its negotiable promissory notes. The notes may be authorized by ordinance or by resolution of the borrower. Bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The notes shall be made payable solely out of property or funds held or to be acquired by or for the commission, including the proceeds of the notes and property acquired, or to be acquired, which is not pledged for the payment of other obligations issued in connection with a housing project of the commission, funds received under section 27(2), or the proceeds of the sale of bonds issued to finance the development of the project or combined projects in connection with which the notes were issued. The notes shall in no event be payable out of any other funds of the borrower or from taxes.

(3) The principal of and interest upon notes issued in accordance with this act do not constitute an indebtedness of the borrower within the meaning of any state constitutional provisions or statutory limitation, and the notes shall state that fact on their face.

Repeal of §§ 125.672, 125.673, and 125.674.

Enacting section 1. Sections 22, 23, and 24 of 1933 (Ex Sess) PA 18, MCL 125.672, 125.673, and 125.674, are repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 269]

(HB 5441)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16d of chapter XVII (MCL 777.16d), as amended by 2001 PA 20.

The People of the State of Michigan enact:

CHAPTER XVII

777.16d §§ 750.81 to 750.91; felonies to which chapter applicable.

Sec. 16d. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.81(4)	Person	G	Domestic assault with prior convictions	2
750.81a(3)	Person	G	Aggravated domestic assault with prior convictions	2
750.81d(1)	Person	G	Assaulting, resisting, or obstructing certain persons	2
750.81d(2)	Person	F	Assaulting, resisting, or obstructing certain persons causing injury	4
750.81d(3)	Person	C	Assaulting, resisting, or obstructing certain persons causing serious impairment	15
750.81d(4)	Person	B	Assaulting, resisting, or obstructing certain persons causing death	20

750.82(1)	Person	F	Felonious assault	4
750.82(2)	Person	F	Felonious assault—weapon-free school zone	4
750.83	Person	A	Assault with intent to murder	Life
750.84	Person	D	Assault with intent to do great bodily harm less than murder	10
750.86	Person	D	Assault with intent to maim	10
750.87	Person	D	Assault with intent to commit a felony	10
750.88	Person	C	Assault with intent to commit unarmed robbery	15
750.89	Person	A	Assault with intent to commit armed robbery	Life
750.90	Person	D	Sexual intercourse under pretext of medical treatment	10
750.90a	Person	A	Assault against a pregnant individual causing miscarriage, stillbirth, or death to embryo or fetus with intent or recklessness	Life
750.90b(a)	Person	C	Assault against a pregnant individual resulting in miscarriage, stillbirth, or death to embryo or fetus	15
750.90b(b)	Person	D	Assault against a pregnant individual resulting in great bodily harm to embryo or fetus	10
750.90c(a)	Person	C	Gross negligence against a pregnant individual resulting in miscarriage, stillbirth, or death to embryo or fetus	15
750.90c(b)	Person	E	Gross negligence against a pregnant individual resulting in great bodily harm to embryo or fetus	5
750.90d(a)	Person	C	Operating a vehicle under the influence or while impaired causing miscarriage, stillbirth, or death to embryo or fetus	15
750.90d(b)	Person	E	Operating a vehicle under the influence or while impaired causing serious or aggravated injury to embryo or fetus	5
750.90e	Person	G	Careless or reckless driving causing miscarriage, stillbirth, or death to embryo or fetus	2
750.90g(3)	Person	A	Performance of procedure on live infant with intent to cause death	Life
750.91	Person	A	Attempted murder	Life

Effective date.

Enacting section 1. This amendatory act takes effect July 15, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5440 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

Compiler's note: House Bill No. 5440, referred to in enacting section 2, was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 266, Eff. July 15, 2002.

[No. 270]

(HB 5442)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 241, 479, 479a, and 543h (MCL 750.241, 750.479, 750.479a, and 750.543h), section 479a as amended by 1998 PA 344 and section 543h as added by 2002 PA 113.

The People of the State of Michigan enact:

750.241 Firefighter; obstructing and disobeying; interfering with public service facility during riot or civil disturbance.

Sec. 241. (1) Any person who, while in the vicinity of any fire, willfully disobeys any reasonable order or rule of the officer commanding any fire department at the fire, when the order or rule is given by the commanding officer or a firefighter there present, is guilty of a misdemeanor.

(2) During a riot or other civil disturbance, any person who knowingly and willfully hinders, obstructs, endangers, or interferes with any person who is engaged in the operation, installation, repair, or maintenance of any essential public service facility, including a facility for the transmission of electricity, gas, telephone messages, or water, is guilty of a felony.

750.479 Resisting or obstructing officer in discharge of duty; penalty; definitions.

Sec. 479. (1) A person shall not knowingly and willfully do any of the following:

(a) Assault, batter, wound, obstruct, or endanger a medical examiner, township treasurer, judge, magistrate, probation officer, parole officer, prosecutor, city attorney, court employee, court officer, or other officer or duly authorized person serving or attempting to serve or execute any process, rule, or order made or issued by lawful authority or otherwise acting in the performance of his or her duties.

(b) Assault, batter, wound, obstruct, or endanger an officer enforcing an ordinance, law, rule, order, or resolution of the common council of a city board of trustees, the common council or village council of an incorporated village, or a township board of a township.

(2) Except as provided in subsections (3), (4), and (5), a person who violates this section is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(3) A person who violates this section and by that violation causes a bodily injury requiring medical attention or medical care to an individual described in this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(4) A person who violates this section and by that violation causes serious impairment of a body function of an individual described in this section is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both.

(5) A person who violates this section and by that violation causes the death of an individual described in this section is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(6) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

(7) The court may order a term of imprisonment for a violation of this section to be served consecutively to any other term of imprisonment imposed for a violation arising out of the same criminal transaction as the violation of this section.

(8) As used in this section:

(a) "Obstruct" includes the use or threatened use of physical interference or force or a knowing failure to comply with a lawful command.

(b) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

750.479a Failure to obey direction of police or conservation officer to stop motor vehicle; applicability of subsection (1); fleeing and eluding as felony; penalty; suspension of license; revocation; conviction and sentence under other provision; "serious impairment of a body function" defined.

Sec. 479a. (1) A driver of a motor vehicle who is given by hand, voice, emergency light, or siren a visual or audible signal by a police or conservation officer, acting in the lawful performance of his or her duty, directing the driver to bring his or her motor vehicle to a stop shall not willfully fail to obey that direction by increasing the speed of the vehicle, extinguishing the lights of the vehicle, or otherwise attempting to flee or elude the police or conservation officer. This subsection does not apply unless the police or conservation officer giving the signal is in uniform and the officer's vehicle is identified as an official police or department of natural resources vehicle.

(2) Except as provided in subsection (3), (4), or (5), an individual who violates subsection (1) is guilty of fourth-degree fleeing and eluding, a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(3) Except as provided in subsection (4) or (5), an individual who violates subsection (1) is guilty of third-degree fleeing and eluding, a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both, if 1 or more of the following circumstances apply:

(a) The violation results in a collision or accident.

(b) A portion of the violation occurred in an area where the speed limit is 35 miles an hour or less, whether that speed limit is posted or imposed as a matter of law.

(c) The individual has a prior conviction for fourth-degree fleeing and eluding, attempted fourth-degree fleeing and eluding, or fleeing and eluding under a current or former law of this state prohibiting substantially similar conduct.

(4) Except as provided in subsection (5), an individual who violates subsection (1) is guilty of second-degree fleeing and eluding, a felony punishable by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both, if 1 or more of the following circumstances apply:

(a) The violation results in serious impairment of a body function of an individual.

(b) The individual has 1 or more prior convictions for first-, second-, or third-degree fleeing and eluding, attempted first-, second-, or third-degree fleeing and eluding, or fleeing and eluding under a current or former law of this state prohibiting substantially similar conduct.

(c) The individual has any combination of 2 or more prior convictions for fourth-degree fleeing and eluding, attempted fourth-degree fleeing and eluding, or fleeing and eluding under a current or former law of this state prohibiting substantially similar conduct.

(5) If the violation results in the death of another individual, an individual who violates subsection (1) is guilty of first-degree fleeing and eluding, a felony punishable by imprisonment for not more than 15 years or a fine of not more than $15,000.00, or both.

(6) Upon a conviction for a violation or attempted violation under subsection (2) or (3), the secretary of state shall suspend the individual's operator's or chauffeur's license as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.

(7) Upon a conviction for a violation or attempted violation under subsection (4) or (5), the secretary of state shall revoke the individual's operator's or chauffeur's license as provided in section 303 of the Michigan vehicle code, 1949 PA 300, MCL 257.303.

(8) Except as otherwise provided, a conviction under this section does not prohibit a conviction and sentence under any other applicable provision for conduct arising out of the same transaction. A conviction under subsection (2), (3), (4), or (5) prohibits a conviction under section 602a of the Michigan vehicle code, 1949 PA 300, MCL 257.602a, for conduct arising out of the same transaction.

(9) As used in this section, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

750.543h Hindering prosecution of terrorism; conduct; felony; penalty.

Sec. 543h. (1) A person is guilty of hindering prosecution of terrorism when he or she knowingly renders criminal assistance to a person who has violated any section of this chapter other than this section or is wanted as a material witness in connection with an act of terrorism pursuant to section 39 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.39.

(2) This section does not apply to conduct for which a person may be punished as if he or she had committed the offense committed by another person as allowed under section 39 of chapter VII of the code of criminal procedure, 1927 PA 175, MCL 767.39.

(3) Hindering prosecution of terrorism is a felony punishable as follows:

(a) Except as provided in subdivision (b), by imprisonment for not more than 20 years or a fine of not more than $20,000.00, or both.

(b) If the person renders criminal assistance to a person who has violated section 543f, by imprisonment for life or any term of years or a fine of not more than $100,000.00, or both.

Effective date of §§ 750.241, 750.479, and 750.479a.

Enacting section 1. Sections 241, 479, and 479a of the Michigan penal code, 1931 PA 328, MCL 750.241, 750.479, and 750.479a, as amended by this amendatory act, take effect July 15, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5440 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

Compiler's note: House Bill No. 5440, referred to in enacting section 2, was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 266, Eff. July 15, 2002.

[No. 271]

(HB 5443)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 16x and 16z of chapter XVII (MCL 777.16x and 777.16z), section 16x as amended by 2000 PA 473 and section 16z as amended by 2002 PA 122.

The People of the State of Michigan enact:

CHAPTER XVII

777.16x §§ 750.478a(2) to 750.517; felonies to which chapter applicable.

Sec. 16x. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.478a(2)	Pub ord	H	Unauthorized process to obstruct a public officer or employee	2
750.478a(3)	Pub ord	G	Unauthorized process to obstruct a public officer or employee — subsequent offense	4
750.479(2)	Person	G	Assaulting or obstructing certain officials	2
750.479(3)	Person	G	Assaulting or obstructing certain officials causing injury	4
750.479(4)	Person	D	Assaulting or obstructing certain officials causing serious impairment	10
750.479(5)	Person	B	Assaulting or obstructing certain officials causing death	20
750.479a(2)	Pub saf	G	Fleeing and eluding — fourth degree	2
750.479a(3)	Pub saf	E	Fleeing and eluding — third degree	5
750.479a(4)	Person	D	Fleeing and eluding — second degree	10
750.479a(5)	Person	C	Fleeing and eluding — first degree	15
750.479b(1)	Person	F	Disarming peace officer — non-firearm	4
750.479b(2)	Person	D	Disarming peace officer — firearm	10
750.480	Pub trst	F	Public officers — refusing to turn over books/money to successor	4
750.483a(2)(b)	Person	D	Retaliating for reporting crime punishable by more than 10 years	10
750.483a(4)(b)	Person	D	Interfering with police investigation by committing crime or threatening to kill or injure	10
750.483a(6)(a)	Pub ord	F	Tampering with evidence	4
750.483a(6)(b)	Pub ord	D	Tampering with evidence in case punishable by more than 10 years	10
750.488	Pub trst	H	Public officers — state official — retaining fees	2
750.490	Pub trst	H	Public money — safekeeping	2
750.491	Pub trst	H	Public records — removal/mutilation/destruction	2
750.492a(1)(a)	Pub trst	G	Medical record — intentionally place false information — health care provider	4

750.492a(2)	Pub trst	G	Medical record — health care provider alter/conceal injury/death	4
750.495a(2)	Person	F	Concealing objects in trees or wood products — causing injury	4
750.495a(3)	Person	C	Concealing objects in trees or wood products — causing death	15
750.505	Pub ord	E	Common law offenses	5
750.511	Person	A	Blocking or wrecking railroad track	Life
750.512	Property	E	Uncoupling railroad cars	10
750.513	Property	H	Issuing fraudulent railroad securities	10
750.514	Property	H	Seizing locomotive with mail car	10
750.516	Person	C	Stopping train to rob	Life
750.517	Person	C	Boarding train to rob	Life

777.16z §§ 750.535 to 750.552b; felonies to which chapter applicable.

Sec. 16z. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.535(2)	Property	D	Receiving or concealing stolen property having a value of $20,000 or more or with prior convictions	10
750.535(3)	Property	E	Receiving or concealing stolen property having a value of $1,000 to $20,000 or with prior convictions	5
750.535a(2)	Pub ord	D	Operating a chop shop	10
750.535a(3)	Pub ord	D	Operating a chop shop, subsequent violation	10
750.535b	Pub saf	E	Stolen firearms or ammunition	10
750.539c	Pub ord	H	Eavesdropping	2
750.539d	Pub ord	H	Installing eavesdropping device	2
750.539e	Pub ord	H	Divulging or using information obtained by eavesdropping	2
750.539f	Pub ord	H	Manufacture or possession of eavesdropping device	2
750.540	Pub ord	H	Tapping or cutting telephone lines	2
750.540c(3)	Property	F	Manufacturing or delivering a counterfeit communications device	4
750.540f(2)	Property	E	Knowingly publishing a communications access device with prior convictions	5
750.540g(1)(c)	Property	E	Diverting telecommunication services having a value of $1,000 to $20,000 or with prior convictions	5

750.540g(1)(d)	Property	D	Diverting telecommunications services having a value of $20,000 or more or with prior convictions	10
750.543f	Person	A	Terrorism without causing death	Life
750.543h(3)(a)	Pub ord	B	Hindering prosecution of terrorism — certain terrorist acts	20
750.543h(3)(b)	Pub ord	A	Hindering prosecution of terrorism — act of terrorism	Life
750.543k	Pub saf	B	Soliciting or providing material support for terrorism or terrorist acts	20
750.543m	Pub ord	B	Threat or false report of terrorism	20
750.543p	Pub saf	B	Use of internet or telecommunications to commit certain terrorist acts	20
750.543r	Pub saf	B	Possession of vulnerable target information with intent to commit certain terrorist acts	20
750.545	Pub ord	E	Misprision of treason	5
750.552b	Property	F	Trespassing on correctional facility property	4

Effective date of § 777.16x.

Enacting section 1. Section 16x of chapter XVII of the code of criminal procedure, 1927 PA 175, MCL 777.16x, as amended by this amendatory act, takes effect July 15, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5442 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

Compiler's note: House Bill No. 5442, referred to in enacting section 2, was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 270, Imd. Eff. May 9, 2002.

[No. 272]

(HB 5601)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for

criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16n of chapter XVII (MCL 777.16n), as added by 1998 PA 317.

The People of the State of Michigan enact:

CHAPTER XVII

777.16n §§ 750.241 to 750.266; felonies to which chapter applicable.

Sec. 16n. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.241(2)	Pub saf	F	Obstructing public service facility personnel in civil disturbance	4
750.248	Property	E	Forgery	14
750.248a	Property	F	Uttering and publishing financial transaction device	4
750.249	Property	E	Uttering and publishing forged records	14
750.249a	Property	H	Molds or dies to forge financial transaction device	4
750.250	Property	E	Forgery of treasury notes	7
750.251	Property	E	Forgery of bank bills	7
750.252	Property	E	Possessing counterfeit notes	7
750.253	Property	G	Uttering counterfeit notes	5
750.254	Property	E	Possession of counterfeit notes or bills	5
750.255	Property	E	Possession of counterfeiting tools	10
750.260	Property	E	Counterfeiting coins or possession of 5 or more counterfeit coins	Life
750.261	Property	E	Possession of 5 or fewer counterfeit coins	10
750.262	Property	E	Manufacture or possession of tools to counterfeit coins	10
750.263(3)	Property	E	Delivery, use, or display of items with counterfeit mark — subsequent offense or over $1,000 or 100 items	5
750.263(4)	Property	E	Manufacturing items with counterfeit mark	5
750.266	Property	G	Counterfeiting railroad tickets	4

Effective date.

Enacting section 1. This amendatory act takes effect July 15, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5442 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

Compiler's note: House Bill No. 5442, referred to in enacting section 2, was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 270, Imd. Eff. May 9, 2002.

[No. 273]

(SB 846)

AN ACT to amend 1931 PA 246, entitled "An act to provide for the construction, repair, and maintenance of pavements, sidewalks, and elevated structures on or along public roads and highways; to provide for the levying of taxes and of special assessments; to authorize the borrowing of money and the issuance of bonds; to prescribe the powers and duties of certain state and local agencies and officers; to validate actions taken, special assessments levied, and bonds issued; and to provide for the lighting of certain roads, highways, and bridges," by amending section 13a (MCL 41.283a).

The People of the State of Michigan enact:

41.283a Bonds; issuance and sale; full faith and credit; assessment district sinking fund; bonds subject to revised municipal finance act.

Sec. 13a. (1) The commissioners may issue and sell bonds and pledge the full faith and credit of the assessment district for the payment of the bonds.

(2) The township board of any township in which a special assessment district is created under the provisions of this act may, by resolution duly adopted, pledge the full faith and credit of the township for the payment of bonds issued on that special assessment district. Whenever an assessment district sinking fund is insufficient to pay the bonds and interest on the bonds when due, and the full faith and credit of the township have been pledged to the payment of those bonds, the amount necessary to make the payment shall be immediately paid into the assessment district sinking fund by the township. In any case where the payment is made by the township, all special assessments collected in the district after all bonds issued have been retired or sufficient funds have been accumulated in the assessment district sinking fund to retire all the bonds shall belong to and be turned over to the township.

(3) Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 274]

(SB 848)

AN ACT to amend 1923 PA 116, entitled "An act to authorize certain township or village public improvements and services; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 6c (MCL 41.416c), as added by 1989 PA 82.

The People of the State of Michigan enact:

41.416c Issuance and sale of bonds in conformity with revised municipal finance act.

Sec. 6c. If a township votes in favor of borrowing money and issuing bonds as provided in sections 6 to 6b, the township board of the township may issue and sell the bonds in conformity with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 275]

(SB 852)

AN ACT to amend 1851 PA 156, entitled "An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the violation of the provisions of this act," by amending section 11c (MCL 46.11c), as amended by 1989 PA 30.

The People of the State of Michigan enact:

46.11c Energy conservation improvements; resolution; payment; acquisition by contracts or notes; requirements; reports; forms.

Sec. 11c. (1) A county board of commissioners may provide by resolution for energy conservation improvements to be made to county facilities and may pay for the improvements from the general fund of the county or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air conditioning controls, and entrance or exit way closures.

(2) The county board of commissioners of a county may acquire 1 or more of the energy conservation improvements described in subsection (1) by installment contract or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract or notes issued pursuant to this subsection shall extend for a period of time not to exceed 10 years. Notes issued pursuant to this subsection shall be full faith and credit, tax limited obligations of the county, payable from tax levies and the general

fund as pledged by the county board of commissioners of the county. The notes are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. This subsection does not limit in any manner the borrowing or bonding authority of a county as provided by law.

(3) If energy conservation improvements are made as provided in this section, the county board of commissioners shall report the following information to the department of treasury within 60 days of the completion of the improvements:

(a) Name of each facility to which an improvement is made and a description of the conservation improvement.

(b) Actual energy consumption during the 12-month period before completion of the improvement.

(c) Project costs and expenditures.

(d) Estimated annual energy savings.

(4) If energy conservation improvements are made as provided in this section, the county board of commissioners shall report to the department of treasury, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the department of treasury.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 276]

(SB 853)

AN ACT to amend 1895 PA 3, entitled "An act to provide for the government of certain villages; to define their powers and duties; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by villages subject to this act; to define the powers and duties of certain state and local officers and entities; to define the application of this act and provide for its amendment by villages subject to this act; to validate prior amendments and certain prior actions taken and bonds issued by villages subject to this act; to provide for the disincorporation of villages; and to prescribe penalties and provide remedies," by amending section 36 of chapter VIII, sections 5, 21, and 25 of chapter IX, and sections 4 and 5 of chapter XII (MCL 68.36, 69.5, 69.21, 69.25, 72.4, and 72.5), section 36 of chapter VIII as amended by 1989 PA 28 and sections 5, 21, and 25 of chapter IX and sections 4 and 5 of chapter XII as amended by 1998 PA 254.

The People of the State of Michigan enact:

CHAPTER VIII

68.36 Energy conservation improvements; resolution; payment; scope of improvements; acquisition of improvements by contracts or notes; reports; forms.

Sec. 36. (1) The council of a village may provide by resolution for energy conservation improvements to be made to village facilities and may pay for the improvements from

operating funds of the village or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air conditioning controls, and entrance or exit way closures.

(2) The council of a village may acquire 1 or more of the energy conservation improvements described in subsection (1) by installment contract or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract or notes issued pursuant to this subsection shall extend for a period of time not to exceed 10 years. Notes issued pursuant to this subsection shall be full faith and credit, tax limited obligations of the village, payable from tax levies and the general fund as pledged by the council of the village. The notes are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. This subsection does not limit in any manner the borrowing or bonding authority of a village as provided by law.

(3) If energy conservation improvements are made as provided in this section, the village council shall report the following information to the department of treasury within 60 days of the completion of the improvements:

(a) Name of each facility to which an improvement is made and a description of the conservation improvement.

(b) Actual energy consumption during the 12-month period before completion of the improvement.

(c) Project costs and expenditures.

(d) Estimated annual energy savings.

(4) If energy conservation improvements are made as provided in this section, the village council shall report to the department of treasury, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the department of treasury.

CHAPTER IX

69.5 Authority of council to levy taxes; street and other local improvements; special assessment proceeds.

Sec. 5. The council may raise by special assessment upon the lands in sewer districts and special assessment districts, for the purpose of defraying the cost and expense of grading, paving, and graveling streets, and for constructing drains and sewers, and for making other local improvements, charged upon the lands in the district in proportion to frontage or benefits, such sums as they shall consider necessary to defray the costs of the improvements.

69.21 Borrowing in anticipation of revenue sharing or taxes.

Sec. 21. Subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, the council may borrow money, and give notes of the village, in anticipation of 1 or more of the following:

(a) The receipt of revenue sharing payments under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921.

(b) The collection of taxes.

69.25 Loans; issuance and execution of bonds; validation of prior bonds or indebtedness.

Sec. 25. A loan may not be made by the council or by its authority in any year, exceeding the amounts prescribed in this act. For a loan lawfully made, the bonds of the village may be issued subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The bonds shall be executed in the manner directed by the council. Bonds issued or indebtedness incurred by a village before January 30, 1974 are validated.

CHAPTER XII

72.4 Authorized village lighting; borrowing; limitation; payment; bonds; terms.

Sec. 4. (1) A village may borrow a sum of money not exceeding 5% of the taxable value of the property in the village as shown by the last preceding tax roll, to be used exclusively for the purpose of purchasing or constructing and maintaining lighting works as provided in this chapter. The council may fix the time and place of the payment of the principal and interest of the debt contracted under the provisions of this chapter, and issue bonds of the village for those purposes. Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The total amount expended for the purchase or construction of the lighting works shall not exceed the amount of the estimate of expense provided for in section 3 of this chapter.

72.5 Lighting works; repairs, alterations, or extensions; raising and expenditure of funds; title retention contract providing for payment from available net revenues; construction.

Sec. 5. (1) After lighting works have been purchased or constructed in the village as provided in this chapter, the council may raise and expend money to repair, alter, or extend the lighting works without submitting the question to the electors of the village. However, the sum to be so raised, in any 1 year, shall be included in, and shall not increase the total amount that the council is authorized to raise under section 1 of chapter IX.

(2) Instead of raising the funds by tax, the council may, by a contract that does not impose a general obligation on the village, provide for repairs, alterations, or extensions of the lighting works. The contract shall provide for payment of the contract out of the net revenues which, after payment of obligations due, provision for payment of obligations to become due, and payment of legitimate and necessary operating and other expenses are available from the operation of the lighting works after completion of the repairs, alterations, or extensions. The contract shall provide for the retention of title to materials furnished in the seller until paid for in full. However, a contract made under this section does not deprive the people of the village of any right vested in them by the constitution or the laws of this state, grant a franchise or its operating equivalent, or convey title to property to any person not possessed of such title before the execution of the title retaining contract.

(3) Instead of raising funds to repair, alter, or extend the lighting works by tax as provided by section 1 of chapter IX, or using funds available from the operation of the lighting works, as provided in this section, the council may borrow money and issue bonds in the manner provided in section 3 of this chapter for the acquisition or construction of lighting works, except that approval of the proposal requires the affirmative vote of 3/5 of the electors voting on the question.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 277]

(SB 854)

AN ACT to amend 1909 PA 278, entitled "An act to provide for the incorporation of villages and for revising and amending their charters; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness; to validate bonds issued and obligations previously incurred; and to prescribe penalties and provide remedies," by amending section 24b (MCL 78.24b), as amended by 1989 PA 29.

The People of the State of Michigan enact:

78.24b Energy conservation improvements; resolution; payment; scope of improvements; acquisition of improvements by contracts or notes; reports; forms.

Sec. 24b. (1) The governing body of a village may provide by resolution for energy conservation improvements to be made to village facilities and may pay for the improvements from operating funds of the village or from the savings that result from the energy conservation improvements. Energy conservation improvements may include, but are not limited to, heating system improvements, fenestration improvements, roof improvements, the installation of any insulation, the installation or repair of heating or air conditioning controls, and entrance or exit way closures.

(2) The governing body of a village may acquire 1 or more of the energy conservation improvements described in subsection (1) by installment contract or may borrow money and issue notes for the purpose of securing funds for the improvements or may enter into contracts in which the cost of the energy conservation improvements is paid from a portion of the savings that result from the energy conservation improvements. These contractual agreements may provide that the cost of the energy conservation improvements are paid only if the energy savings are sufficient to cover their cost. An installment contract or notes issued pursuant to this subsection shall extend for a period of time not to exceed 10 years. Notes issued pursuant to this subsection shall be full faith and credit, tax limited obligations of the village, payable from tax levies and the general fund as pledged by the governing body of the village. The notes are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. This subsection does not limit in any manner the borrowing or bonding authority of a village as provided by law.

(3) If energy conservation improvements are made as provided in this section, the governing body of a village shall report the following information to the department of treasury within 60 days of the completion of the improvements:

(a) Name of each facility to which an improvement is made and a description of the conservation improvement.

(b) Actual energy consumption during the 12-month period before completion of the improvement.

(c) Project costs and expenditures.

(d) Estimated annual energy savings.

(4) If energy conservation improvements are made as provided in this section, the governing body of a village shall report to the department of treasury, by July 1 of each of the 5 years after the improvements are completed, only the actual annual energy consumption of each facility to which improvements are made. The forms for the reports required by this section shall be furnished by the department of treasury.

This act is ordered to take immediate effect.

Approved May 8, 2002.

Filed with Secretary of State May 9, 2002.

[No. 278]

(SB 1045)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16i of chapter XVII (MCL 777.16i), as amended by 2000 PA 279.

The People of the State of Michigan enact:

CHAPTER XVII

777.16i §§ 750.158 to 750.182a; felonies to which chapter applicable.

Sec. 16i. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.158	Pub ord	E	Sodomy	15
750.159j	Pub saf	B	Racketeering	20
750.160	Pub ord	D	Disinterring or mutilating dead human bodies	10
750.160a	Pub ord	H	Photographing dead human bodies	2
750.161	Pub ord	G	Desertion/abandonment/nonsupport	3
750.164	Pub ord	F	Desertion to escape prosecution	4
750.165	Pub ord	F	Failing to pay support	4
750.171	Person	E	Duelling	10
750.174(4)	Property	E	Embezzlement by agent of $1,000 to $20,000 with prior convictions	5
750.174(5)	Property	D	Embezzlement by agent of $20,000 or more or $1,000 to $20,000 with prior convictions	10

750.174a(4)	Property	E	Embezzlement by person in a relationship of trust with a vulnerable adult of $1,000 to $20,000 or with prior convictions	5
750.174a(5)	Property	D	Embezzlement by person in a relationship of trust with a vulnerable adult of $20,000 or more or $1,000 to $20,000 with prior convictions	10
750.175	Pub trst	D	Embezzlement by public official over $50	10
750.176	Pub trst	E	Embezzlement by administrator/ executor/guardian	10
750.177(2)	Property	D	Embezzlement by chattel mortgagor of $20,000 or more or $1,000 to $20,000 with prior convictions	10
750.177(3)	Property	E	Embezzlement by chattel mortgagor of $1,000 to $20,000 or with prior convictions	5
750.178(2)	Property	D	Embezzlement of mortgaged or leased property of $20,000 or more or $1,000 to $20,000 with prior convictions	10
750.178(3)	Property	E	Embezzling mortgaged or leased property with value of $1,000 to $20,000 or with prior convictions	5
750.180	Property	D	Embezzlement by financial institutions	20
750.181(4)	Property	E	Embezzling jointly held property with value of $1,000 to $20,000 or with prior convictions	5
750.181(5)	Property	D	Embezzling jointly held property with value of $20,000 or more or $1,000 to $20,000 with prior convictions	10
750.182	Property	G	Embezzlement by warehouses	4
750.182a	Pub trst	H	Falsifying school records	2

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1044 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

Compiler's note: Senate Bill No. 1044, referred to in enacting section 1, was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 294, Imd. Eff. May 9, 2002.

[No. 279]

(SB 1047)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16r of chapter XVII (MCL 777.16r), as amended by 2002 PA 102.

The People of the State of Michigan enact:

CHAPTER XVII

777.16r §§ 750.356 to 750.374; felonies to which chapter applicable.

Sec. 16r. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.356(2)	Property	D	Larceny involving $20,000 or more or with prior convictions	10
750.356(3)	Property	E	Larceny involving $1,000 to $20,000 or with prior convictions	5
750.356a(1)	Property	G	Larceny from a motor vehicle	5
750.356a(2)(c)	Property	E	Breaking and entering a vehicle to steal $1,000 to $20,000 or with prior convictions	5
750.356a(2)(d)	Property	D	Breaking and entering a vehicle to steal $20,000 or more or with prior convictions	10
750.356a(3)	Property	G	Breaking and entering a vehicle to steal causing damage	5
750.356b	Property	G	Breaking and entering a coin telephone	4
750.356c	Property	E	Retail fraud — first degree	5

750.357	Person	D	Larceny from the person	10
750.357a	Property	G	Larceny of livestock	4
750.357b	Property	E	Larceny — stealing firearms of another	5
750.358	Property	G	Larceny from burning building	5
750.360	Property	G	Larceny in a building	4
750.360a(2)(b)	Property	F	Theft detection device offense with prior conviction	4
750.361	Property	H	Trains — stealing/maliciously removing parts	2
750.362	Property	E	Larceny by conversion involving $1,000 to $20,000 or with prior convictions	5
	Property	D	Larceny by conversion involving $20,000 or more or with prior convictions	10
750.362a(2)	Property	D	Larceny of rental property involving $20,000 or more or with prior convictions	10
750.362a(3)	Property	E	Larceny of rental property involving $1,000 to $20,000 or with prior convictions	5
750.363	Property	E	Larceny by false personation involving $1,000 to $20,000 or with prior convictions	5
	Property	D	Larceny by false personation involving $20,000 or more	10
750.365	Person	D	Larceny from car or persons detained or injured by accident	20
750.367	Property	E	Larceny of trees or shrubs involving $1,000 to $20,000 or with prior convictions	5
	Property	D	Larceny of a tree or shrub involving $20,000 or more or with prior convictions	10
750.367b	Property	E	Airplanes — taking possession	5
750.368(5)	Pub ord	G	Preparing, serving, or executing unauthorized process — third or subsequent offense	4
750.372	Pub ord	H	Running or allowing lottery	2
750.373	Pub ord	H	Selling or possessing lottery tickets	2
750.374	Pub ord	H	Lottery violations — subsequent offense	4

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1046 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

Compiler's note: Senate Bill No. 1046, referred to in enacting section 1, was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 295, Imd. Eff. May 9, 2002.

[No. 280]

(HB 5568)

AN ACT to amend 1974 PA 198, entitled "An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties," by amending section 2 (MCL 207.552), as amended by 2000 PA 247.

The People of the State of Michigan enact:

207.552 Definitions.

Sec. 2. (1) "Commission" means the state tax commission created by 1927 PA 360, MCL 209.101 to 209.107.

(2) "Facility" means either a replacement facility, a new facility, or, if applicable by its usage, a speculative building.

(3) "Replacement facility" means 1 of the following:

(a) In the case of a replacement or restoration that occurs on the same or contiguous land as that which is replaced or restored, industrial property that is or is to be acquired, constructed, altered, or installed for the purpose of replacement or restoration of obsolete industrial property together with any part of the old altered property that remains for use as industrial property after the replacement, restoration, or alteration.

(b) In the case of construction on vacant noncontiguous land, property that is or will be used as industrial property that is or is to be acquired, constructed, transferred, or installed for the purpose of being substituted for obsolete industrial property if the obsolete industrial property is situated in a plant rehabilitation district in the same city, village, or township as the land on which the facility is or is to be constructed and includes the obsolete industrial property itself until the time as the substituted facility is completed.

(4) "New facility" means new industrial property other than a replacement facility to be built in a plant rehabilitation district or industrial development district.

(5) "Local governmental unit" means a city, village, or township.

(6) "Industrial property" means land improvements, buildings, structures, and other real property, and machinery, equipment, furniture, and fixtures or any part or accessory whether completed or in the process of construction comprising an integrated whole, the primary purpose and use of which is the engaging in a high-technology activity, the manufacture of goods or materials, or the processing of goods and materials by physical or chemical change; property acquired, constructed, altered, or installed due to the passage of proposal A in 1976; the operation of a hydro-electric dam by a private company other than a public utility; or agricultural processing facilities. Industrial property includes facilities related to a manufacturing operation under the same ownership, including, but not limited to, office, engineering, research and development, warehousing, or parts distribution facilities. Industrial property also includes research and development laboratories of companies other than those companies that manufacture the products developed from their research activities and research development laboratories of a manufacturing company that are unrelated to the products of the company. For applications

approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007, industrial property also includes an electric generating plant that is not owned by a local unit of government. Industrial property also includes convention and trade centers over 250,000 square feet in size. Industrial property also includes a federal reserve bank operating under 12 U.S.C. 341, located in a city with a population of 750,000 or more. Industrial property may be owned or leased. However, in the case of leased property, the lessee is liable for payment of ad valorem property taxes and shall furnish proof of that liability. Industrial property does not include any of the following:

(a) Land.

(b) Property of a public utility other than an electric generating plant that is not owned by a local unit of government and for which an application was approved by the legislative body of a local governmental unit between June 30, 1999 and December 31, 2007.

(c) Inventory.

(7) "Obsolete industrial property" means industrial property the condition of which is substantially less than an economically efficient functional condition.

(8) "Economically efficient functional condition" means a state or condition of property the desirability and usefulness of which is not impaired due to changes in design, construction, technology, or improved production processes, or from external influencing factors which make the property less desirable and valuable for continued use.

(9) "Research and development laboratories" means building and structures, including the machinery, equipment, furniture, and fixtures located in the building or structure, used or to be used for research or experimental purposes that would be considered qualified research as that term is used in section 30 of the internal revenue code, except that qualified research also includes qualified research funded by grant, contract, or otherwise by another person or governmental entity.

(10) "Manufacture of goods or materials" or "processing of goods or materials" means any type of operation that would be conducted by an entity included in the classifications provided by sector 31-33 — manufacturing, of the North American industry classification system — United States, 1997, published by the office of management and budget, regardless of whether the entity conducting that operation is included in that manual.

(11) "High-technology activity" means that term as defined in section 3 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.803.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 281]

(HB 5755)

AN ACT to repeal 1927 PA 98, entitled "An act authorizing the state highway commissioner of the state of Michigan to enter into an agreement with the Wisconsin state highway commission to construct an interstate bridge project extending from approximately the intersection of Ogden avenue and Chandler street in the city of Menominee, Michigan, in a straight line terminating at the approximate center of Dunlap square in the city of Marinette, Wisconsin, and to provide for the cost and expense thereof," (MCL 254.121 to 254.123).

The People of the State of Michigan enact:

Repeal of §§ 254.121 to 254.123.

Enacting section 1. 1927 PA 98, MCL 254.121 to 254.123, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 282]

(HB 5752)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by repealing sections 712 and 713 (MCL 257.712 and 257.713).

The People of the State of Michigan enact:

Repeal of §§ 257.712 and 257.713.

Enacting section 1. Sections 712 and 713 of the Michigan vehicle code, 1949 PA 300, MCL 257.712 and 257.713, are repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 283]

(HB 5486)

AN ACT to amend 1978 PA 59, entitled "An act relative to condominiums and condominium projects; to prescribe powers and duties of the administrator; to provide certain protections for certain tenants, senior citizens, and persons with disabilities relating to

conversion condominium projects; to provide for escrow arrangements; to provide an exemption from certain property tax increases; to impose duties on certain state departments; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending sections 54, 58, 67, 69, 71, 90, 90a, 108, 112, 135, 173, and 176 (MCL 559.154, 559.158, 559.167, 559.169, 559.171, 559.190, 559.190a, 559.208, 559.212, 559.235, 559.273, and 559.276), sections 54, 58, 67, 69, 90, 108, 112, and 135 as amended and sections 90a and 176 as added by 2000 PA 379, section 71 as amended by 1982 PA 538, and section 173 as amended by 1983 PA 113; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

559.154 Bylaws; mandatory provisions; allocation of votes; dispute, claim, or grievance; applicability of subsections (8), (9), and (10).

Sec. 54. (1) The bylaws shall contain provisions for the designation of persons to administer the affairs of the condominium project and shall require that those persons keep books and records with a detailed account of the expenditures and receipts affecting the condominium project and its administration, and which specify the operating expenses of the project.

(2) The bylaws shall provide that the person designated to administer the affairs of the project shall be assessed as the person in possession for any tangible personal property of the project owned or possessed in common by the co-owners. Personal property taxes based on that tangible personal property shall be treated as expenses of administration.

(3) The bylaws shall contain specific provisions directing the courses of action to be taken in the event of partial or complete destruction of the building or buildings in the project.

(4) The bylaws shall provide that expenditures affecting the administration of the project shall include costs incurred in the satisfaction of any liability arising within, caused by, or connected with, the common elements or the administration of the condominium project, and that receipts affecting the administration of the condominium project shall include all sums received as the proceeds of, or pursuant to, a policy of insurance securing the interest of the co-owners against liabilities or losses arising within, caused by, or connected with the common elements or the administration of the condominium project.

(5) The bylaws shall provide that the association of co-owners shall prepare and distribute to each owner at least once each year a financial statement, the contents of which shall be defined by the association of co-owners.

(6) The bylaws shall provide an indemnification clause for the board of directors of the association of co-owners. The indemnification clause shall require that 10 days' notice, before payment under the clause, be given to the co-owners. The indemnification clause shall exclude indemnification for willful and wanton misconduct and for gross negligence.

(7) The bylaws may allocate to each condominium unit a number of votes in the association of co-owners proportionate to the percentage of value appertaining to each condominium unit, or an equal number of votes in the association of co-owners.

(8) The bylaws shall contain a provision providing that arbitration of disputes, claims, and grievances arising out of or relating to the interpretation of the application of the condominium document or arising out of disputes among or between co-owners shall be submitted to arbitration and that the parties to the dispute, claim, or grievance shall accept the arbitrator's decision as final and binding, upon the election and written consent of the parties to the disputes, claims, or grievances and upon written notice to the association. The commercial arbitration rules of the American arbitration association are applicable to any such arbitration.

(9) In the absence of the election and written consent of the parties under subsection (8), neither a co-owner nor the association is prohibited from petitioning a court of competent jurisdiction to resolve any dispute, claim, or grievance.

(10) The election by the parties to submit any dispute, claim, or grievance to arbitration prohibits the parties from petitioning the courts regarding that dispute, claim, or grievance.

(11) Subsections (8), (9), and (10) apply only to condominium projects established on or after the effective date of the amendatory act that added this subsection.

559.158 Acquisition of title by foreclosure of first mortgage; liability for assessments.

Sec. 58. If the mortgagee of a first mortgage of record or other purchaser of a condominium unit obtains title to the condominium unit as a result of foreclosure of the first mortgage, that mortgagee or purchaser and his or her successors and assigns are not liable for the assessments by the administering body chargeable to the unit that became due prior to the acquisition of title to the unit by that mortgagee or purchaser and his or her successors and assigns.

559.167 Changes in condominium project; amendment; replat of condominium subdivision plan; right of withdrawal.

Sec. 67. (1) A change in a condominium project shall be reflected in an amendment to the appropriate condominium document. An amendment to the condominium document is subject to sections 90, 90a, and 91.

(2) If a change involves a change in the boundaries of a condominium unit or the addition or elimination of condominium units, a replat of the condominium subdivision plan shall be prepared and recorded assigning a condominium unit number to each condominium unit in the amended project. The replat of the condominium subdivision plan shall be designated replat number _____ of _____ county condominium subdivision plan number _____, using the same plan number assigned to the original condominium subdivision plan.

(3) Notwithstanding section 33, if the developer has not completed development and construction of units or improvements in the condominium project that are identified as "need not be built" during a period ending 10 years after the date of commencement of construction by the developer of the project, the developer, its successors, or assigns have the right to withdraw from the project all undeveloped portions of the project not identified as "must be built" without the prior consent of any co-owners, mortgagees of units in the project, or any other party having an interest in the project. If the master deed contains provisions permitting the expansion, contraction, or rights of convertibility of units or common elements in the condominium project, then the time period is 6 years after the date the developer exercised its rights with respect to either expansion, contraction, or rights of convertibility, whichever right was exercised last. The undeveloped portions of the project withdrawn shall also automatically be granted easements for utility and access purposes through the condominium project for the benefit of the undeveloped portions of the project. If the developer does not withdraw the undeveloped portions of the project from the project before expiration of the time periods, those undeveloped lands shall remain part of the project as general common elements and all rights to construct units upon that land shall cease. In such an event, if it becomes necessary to adjust percentages of value as a result of fewer units existing, a co-owner or the association of co-owners may bring an action to require revisions to the percentages of value under section 95.

559.169 Assessment of common expenses; contribution of co-owner.

Sec. 69. (1) Except to the extent that the condominium documents provide otherwise, common expenses associated with the maintenance, repair, renovation, restoration, or replacement of a limited common element shall be specially assessed against the condominium unit to which that limited common element was assigned at the time the expenses were incurred. If the limited common element involved was assigned to more than 1 condominium unit, the expenses shall be specially assessed against each of the condominium units equally so that the total of the special assessments equals the total of the expenses, except to the extent that the condominium documents provide otherwise.

(2) To the extent that the condominium documents expressly so provide, any other unusual common expenses benefiting less than all of the condominium units, or any expenses incurred as a result of the conduct of less than all those entitled to occupy the condominium project or by their licensees or invitees, shall be specially assessed against the condominium unit or condominium units involved, in accordance with reasonable provisions as the condominium documents may provide.

(3) The amount of all common expenses not specially assessed under subsections (1) and (2) shall be assessed against the condominium units in proportion to the percentages of value or other provisions as may be contained in the master deed for apportionment of expenses of administration.

(4) A co-owner shall not be exempt from contributing as provided in this act by nonuse or waiver of the use of any of the common elements or by abandonment of his or her condominium unit.

559.171 Notice of proposed action.

Sec. 71. Not less than 10 days before taking reservations under a preliminary reservation agreement for a unit in a condominium project, recording a master deed for a project, or beginning construction of a project which is intended to be a condominium project at the time construction is begun, whichever is earliest, a written notice of the proposed action shall be provided to each of the following:

(a) The appropriate city, village, township, or county.

(b) The appropriate county road commission and county drain commissioner.

(c) The department of environmental quality.

(d) The state transportation department.

559.190 Amendment of condominium documents; consent; void provision superseded by subsection (2); reservation of right to amend; notice of proposed amendments; costs and expenses; master deed amendment; affirmative vote.

Sec. 90. (1) The condominium documents may be amended without the consent of co-owners or mortgagees if the amendment does not materially alter or change the rights of a co-owner or mortgagee and if the condominium documents contain a reservation of the right to amend for that purpose to the developer or the association of co-owners. An amendment that does not materially change the rights of a co-owner or mortgagee includes, but is not limited to, a modification of the types and sizes of unsold condominium units and their appurtenant limited common elements.

(2) Except as provided in this section, the master deed, bylaws, and condominium subdivision plan may be amended, even if the amendment will materially alter or change the rights of the co-owners or mortgagees, with the consent of not less than 2/3 of the

votes of the co-owners and mortgagees. A mortgagee shall have 1 vote for each mortgage held. The 2/3 majority required in this section may not be increased by the terms of the condominium documents, and a provision in any condominium documents that requires the consent of a greater proportion of co-owners or mortgagees for the purposes described in this subsection is void and is superseded by this subsection. Mortgagees are not required to appear at any meeting of co-owners except that their approval shall be solicited through written ballots. Any mortgagee ballots not returned within 90 days of mailing shall be counted as approval for the change.

(3) The developer may reserve, in the condominium documents, the right to amend materially the condominium documents to achieve specified purposes, except a purpose provided for in subsection (4). Reserved rights shall not be amended except by or with the consent of the developer. If a proper reservation is made, the condominium documents may be amended to achieve the specified purposes without the consent of co-owners or mortgagees.

(4) The method or formula used to determine the percentage of value of units in the project for other than voting purposes shall not be modified without the consent of each affected co-owner and mortgagee. A co-owner's condominium unit dimensions or appurtenant limited common elements may not be modified without the co-owner's consent.

(5) Co-owners shall be notified of proposed amendments under this section not less than 10 days before the amendment is recorded.

(6) A person causing or requesting an amendment to the condominium documents shall be responsible for costs and expenses of the amendment, except for amendments based upon a vote of a prescribed majority of co-owners and mortgagees or based upon the advisory committee's decision, the costs of which are expenses of administration.

(7) A master deed amendment, including the consolidating master deed, dealing with the addition, withdrawal, or modification of units or other physical characteristics of the project shall comply with the standards prescribed in section 66 for preparation of an original condominium subdivision plan for the project.

(8) For purposes of this section, the affirmative vote of a 2/3 of co-owners is considered 2/3 of all co-owners entitled to vote as of the record date for such votes.

559.190a Voting procedures.

Sec. 90a. (1) To the extent this act or the condominium documents require a vote of mortgagees of units on amendment of the condominium documents, the procedure described in this section applies.

(2) The date on which the proposed amendment is approved by the requisite majority of co-owners is considered the "control date".

(3) Only those mortgagees who hold a recorded first mortgage or a recorded assignment of a first mortgage against 1 or more condominium units in the condominium project on the control date are entitled to vote on the amendment. Each mortgagee entitled to vote shall have 1 vote for each condominium unit in the project that is subject to its mortgage or mortgages, without regard to how many mortgages the mortgagee may hold on a particular condominium unit.

(4) The association of co-owners shall give a notice to each mortgagee entitled to vote containing all of the following:

(a) A copy of the amendment or amendments as passed by the co-owners.

(b) A statement of the date that the amendment was approved by the requisite majority of co-owners.

(c) An envelope addressed to the entity authorized by the board of directors for tabulating mortgagee votes.

(d) A statement containing language in substantially the form described in subsection (5).

(e) A ballot providing spaces for approving or rejecting the amendment and a space for the signature of the mortgagee or an officer of the mortgagee.

(f) A statement of the number of condominium units subject to the mortgage or mortgages of the mortgagee.

(g) The date by which the mortgagee must return its ballot.

(5) The notice provided by subsection (4) shall contain a statement in substantially the following form:

"A review of the association records reveals that you are the holder of 1 or more mortgages recorded against title to 1 or more units in the (name of project) condominium. The co-owners of the condominium adopted the attached amendment to the condominium documents on (control date). Pursuant to the terms of the condominium documents and/or the Michigan condominium act, you are entitled to vote on the amendment. You have 1 vote for each unit that is subject to your mortgage or mortgages.

The amendment will be considered approved by first mortgagees if it is approved by 66-2/3% of those mortgagees. In order to vote, you must indicate your approval or rejection on the enclosed ballot, sign it, and return it not later than 90 days after this notice (which date coincides with the date of mailing). Failure to timely return a ballot will constitute a vote for approval. If you oppose the amendment, you must vote against it.".

(6) The amendment is considered to be approved by the first mortgagees if it is approved by 66-2/3% of the first mortgagees whose ballots are received, or are considered to be received, in accordance with section 90(2), by the entity authorized by the board of directors to tabulate mortgagee votes.

(7) The association of co-owners shall mail the notice required under subsection (4) to the first mortgagee at the address provided in the mortgage or assignment for notices.

(8) The association of co-owners shall maintain a copy of the notice, proofs of mailing of the notice, and the ballots returned by mortgagees for a period of 2 years after the control date.

(9) Notwithstanding any provision of the condominium documents to the contrary, first mortgagees are entitled to vote on amendments to the condominium documents only under the following circumstances:

(a) Termination of the condominium project.

(b) A change in the method or formula used to determine the percentage of value assigned to a unit subject to the mortgagee's mortgage.

(c) A reallocation of responsibility for maintenance, repair, replacement, or decoration for a condominium unit, its appurtenant limited common elements, or the general common elements from the association of co-owners to the condominium unit subject to the mortgagee's mortgage.

(d) Elimination of a requirement for the association of co-owners to maintain insurance on the project as a whole or a condominium unit subject to the mortgagee's mortgage or reallocation of responsibility for obtaining or maintaining, or both, insurance from the association of co-owners to the condominium unit subject to the mortgagee's mortgage.

(e) The modification or elimination of an easement benefiting the condominium unit subject to the mortgagee's mortgage.

(f) The partial or complete modification, imposition, or removal of leasing restrictions for condominium units in the condominium project.

(g) Amendments requiring the consent of all affected mortgagees under section 90(4).

559.208 Assessment lien; priority; foreclosure; bid; actions; receiver.

Sec. 108. (1) Sums assessed to a co-owner by the association of co-owners that are unpaid together with interest on such sums, collection and late charges, advances made by the association of co-owners for taxes or other liens to protect its lien, attorney fees, and fines in accordance with the condominium documents, constitute a lien upon the unit or units in the project owned by the co-owner at the time of the assessment before other liens except tax liens on the condominium unit in favor of any state or federal taxing authority and sums unpaid on a first mortgage of record, except that past due assessments that are evidenced by a notice of lien recorded as set forth in subsection (3) have priority over a first mortgage recorded subsequent to the recording of the notice of lien. The lien upon each condominium unit owned by the co-owner shall be in the amount assessed against the condominium unit, plus a proportionate share of the total of all other unpaid assessments attributable to condominium units no longer owned by the co-owner but which became due while the co-owner had title to the condominium units. The lien may be foreclosed by an action or by advertisement by the association of co-owners in the name of the condominium project on behalf of the other co-owners.

(2) A foreclosure shall be in the same manner as a foreclosure under the laws relating to foreclosure of real estate mortgages by advertisement or judicial action except that to the extent the condominium documents provide, the association of co-owners is entitled to reasonable interest, expenses, costs, and attorney fees for foreclosure by advertisement or judicial action. The redemption period for a foreclosure is 6 months from the date of sale unless the property is abandoned, in which event the redemption period is 1 month from the date of sale.

(3) A foreclosure proceeding may not be commenced without recordation and service of notice of lien in accordance with the following:

(a) Notice of lien shall set forth all of the following:

(*i*) The legal description of the condominium unit or condominium units to which the lien attaches.

(*ii*) The name of the co-owner of record.

(*iii*) The amounts due the association of co-owners at the date of the notice, exclusive of interest, costs, attorney fees, and future assessments.

(b) The notice of lien shall be in recordable form, executed by an authorized representative of the association of co-owners and may contain other information that the association of co-owners considers appropriate.

(c) The notice of lien shall be recorded in the office of register of deeds in the county in which the condominium project is located and shall be served upon the delinquent co-owner by first-class mail, postage prepaid, addressed to the last known address of the co-owner at least 10 days in advance of commencement of the foreclosure proceeding.

(4) The association of co-owners, acting on behalf of all co-owners, unless prohibited by the master deed or bylaws, may bid in at the foreclosure sale, and acquire, hold, lease, mortgage, or convey the condominium unit.

(5) An action to recover money judgments for unpaid assessments may be maintained without foreclosing or waiving the lien.

(6) An action for money damages and foreclosure may be combined in 1 action.

(7) A receiver may be appointed in an action for foreclosure of the assessment lien and may be empowered to take possession of the condominium unit, if not occupied by the co-owner, and to lease the condominium unit and collect and apply the rental from the condominium unit.

(8) The co-owner of a condominium unit subject to foreclosure under this section, and any purchaser, grantee, successor, or assignee of the co-owner's interest in the condominium unit, is liable for assessments by the association of co-owners chargeable to the condominium unit that become due before expiration of the period of redemption together with interest, advances made by the association of co-owners for taxes or other liens to protect its lien, costs, and attorney fees incurred in their collection.

(9) The mortgagee of a first mortgage of record of a condominium unit shall give notice to the association of co-owners of the commencement of foreclosure of the first mortgage by advertisement by serving a copy of the published notice of foreclosure required by statute upon the association of co-owners by certified mail, return receipt requested, addressed to the resident agent of the association of co-owners at the agent's address as shown on the records of the Michigan corporation and securities bureau, or to the address the association provides to the mortgagee, if any, in those cases where the address is not registered, within 10 days after the first publication of the notice. The mortgagee of a first mortgage of record of a condominium unit shall give notice to the association of co-owners of intent to commence foreclosure of the first mortgage by judicial action by serving a notice setting forth the names of the mortgagors, the mortgagee, and the foreclosing assignee of a recorded assignment of the mortgage, if any; the date of the mortgage and the date the mortgage was recorded; the amount claimed to be due on the mortgage on the date of the notice; and a description of the mortgaged premises that substantially conforms with the description contained in the mortgage upon the association of co-owners by certified mail, return receipt requested, addressed to the resident agent of the association of co-owners at the agent's address as shown on the records of the Michigan corporation and securities bureau, or to the address the association provides to the mortgagee, if any, in those cases where the address is not registered, not less than 10 days before commencement of the judicial action. Failure of the mortgagee to provide notice as required by this section shall only provide the association with legal recourse and will not, in any event, invalidate any foreclosure proceeding between a mortgagee and mortgagor.

559.212 Renting or leasing condominium unit; disclosure; review of lease form; notice; compliance required; action by association upon noncompliance; notice of arrearage; deduction of arrearage and future assessments from rental payments.

Sec. 112. (1) Before the transitional control date, during the development and sales period the rights of a co-owner, including the developer, to rent any number of condominium units shall be controlled by the provisions of the condominium documents as recorded by the developer and shall not be changed without developer approval. After the transitional control date, the association of co-owners may amend the condominium documents as to the rental of condominium units or terms of occupancy. The amendment shall not affect the rights of any lessors or lessees under a written lease otherwise in compliance with this section and executed before the effective date of the amendment, or condominium units that are owned or leased by the developer.

(2) A co-owner, including the developer, desiring to rent or lease a condominium unit shall disclose that fact in writing to the association of co-owners at least 10 days before presenting a lease or otherwise agreeing to grant possession of a condominium unit to potential lessees or occupants and, at the same time, shall supply the association of co-owners with a copy of the exact lease for its review for its compliance with the condominium documents. The co-owner or developer shall also provide the association of co-owners with a copy of the executed lease. If no lease is to be used, then the co-owner or developer shall supply the association of co-owners with the name and address of the lessees or occupants, along with the rental amount and due dates of any rental or compensation payable to a co-owner or developer, the due dates of that rental and compensation, and the term of the proposed arrangement.

(3) Tenants or nonco-owner occupants shall comply with all of the conditions of the condominium documents of the condominium project, and all leases and rental agreements shall so state.

(4) If the association of co-owners determines that the tenant or nonco-owner occupant failed to comply with the conditions of the condominium documents, the association of co-owners shall take the following action:

(a) The association of co-owners shall notify the co-owner by certified mail, advising of the alleged violation by the tenant. The co-owner shall have 15 days after receipt of the notice to investigate and correct the alleged breach by the tenant or advise the association of co-owners that a violation has not occurred.

(b) If after 15 days the association of co-owners believes that the alleged breach is not cured or may be repeated, it may institute on its behalf or derivatively by the co-owners on behalf of the association of co-owners, if it is under the control of the developer, an action for both eviction against the tenant or nonco-owner occupant and, simultaneously, for money damages against the co-owner and tenant or nonco-owner occupant for breach of the conditions of the condominium documents. The relief provided for in this section may be by summary proceeding. The association of co-owners may hold both the tenant and the co-owner liable for any damages to the general common elements caused by the co-owner or tenant in connection with the condominium unit or condominium project.

(5) When a co-owner is in arrearage to the association of co-owners for assessments, the association of co-owners may give written notice of the arrearage to a tenant occupying a co-owner's condominium unit under a lease or rental agreement, and the tenant, after receiving the notice, shall deduct from rental payments due the co-owner the arrearage and future assessments as they fall due and pay them to the association of co-owners. The deduction does not constitute a breach of the rental agreement or lease by the tenant. If the tenant, after being notified, fails or refuses to remit rent otherwise due the co-owner to the association of co-owners, then the association of co-owners may do the following:

(a) Issue a statutory notice to quit for non-payment of rent to the tenant and shall have the right to enforce that notice by summary proceeding.

(b) Initiate proceedings pursuant to subsection (4)(b).

559.235 Successor developer.

Sec. 135. (1) As used in this section, "successor developer" means a person who acquires title to the lesser of 10 units or 75% of the units in a condominium project, other than a business condominium project, by foreclosure, deed in lieu of foreclosure, purchase, or similar transaction.

(2) A successor developer shall do both of the following:

(a) Comply with this act in the same manner as a developer before selling any units.

(b) Except as provided in subsection (3), assume all express written contractual warranty obligations for defects in workmanship and materials undertaken by its predecessor in title. A successor developer shall not be required to assume, and shall not otherwise be liable for, any other contractual obligations of its predecessor in title.

(3) A successor developer shall not be required to comply with subsection (2)(b) with respect to any express written contractual warranty obligations for defects in workmanship and materials, if either of the following is maintained with respect to units for which such a warranty was undertaken by the predecessor in title:

(a) An insurance policy, in a form approved by the insurance bureau, that is underwritten by an insurer authorized to do business in this state. The insurance policy shall provide coverage for express written contractual warranty obligations for liability for defects in workmanship and materials.

(b) An aggregate escrow account with an escrow agent which contains not less than 0.5% of the sales price of each unit. If the escrow account described in this subdivision is initiated by a developer before a successor developer acquires title, 0.5% of the sales price of each unit in the project shall be deposited by the developer in the aggregate escrow account periodically upon the sale of each unit. If the escrow account described in this subdivision is initiated by a successor developer after acquisition of title, a total amount equal to 0.5% of the sales price of all units for which the warranty period plus 6 months has not expired shall be deposited by the successor developer in the aggregate escrow account, and 0.5% of the sales price of each unit shall be deposited by the successor developer in the aggregate escrow account periodically upon the sale of each remaining unit. Funds in an escrow account described in this subdivision shall not be released for a unit until 6 months after the expiration of the warranty period for that unit.

(4) A successor developer that acquires title to the lesser of 10 business condominium units or 75% of the business condominium units in the condominium project shall not be required to assume, and shall not otherwise be liable for, any contractual obligations of its predecessor in title.

(5) A residential builder who neither constructs nor refurbishes common elements in a condominium project and who is not an affiliate of the developer shall not be required to assume and be liable for any contractual obligations of the developer under this section, and shall not be considered a successor developer or acquire any additional developer obligations or rights in the absence of a specific assignment of those obligations or rights from the developer. However, a residential builder that sells a condominium unit shall deliver to the purchaser of that condominium unit the condominium documents that the developer is required to deliver to the purchasers under section 84a(1). This subsection applies only to condominium projects established on or after the effective date of the amendatory act that added this subsection.

559.273 Applicability of amendatory act; applicability of certain subsections.

Sec. 173. (1) This act applies to a condominium project or condominium unit as follows:

(a) For a condominium project for which a permit to sell has been issued on or before March 18, 1983, the developer may elect to comply with 1 or more of the following requirements in lieu of the specified provisions:

(*i*) In lieu of section 31, 32, 33, 52, or 66, or any combination of these sections, the developer may elect to comply with the terms of the master deed in effect as of March 18, 1983.

(*ii*) In lieu of sections 66(2)(j), 66(4), 84(3), 84(4)(a), (c), and (e), and 103b, the developer may elect to deposit all funds paid by a purchaser on or after January 17, 1983 into an escrow account pursuant to an escrow agreement the terms of which were approved by the administrator on or before March 18, 1983. The funds escrowed under this subdivision in excess of any amount or percentage of the escrowed funds that had been required to be escrowed by the administrator or a condominium document pursuant to former section 103 to cover the cost of construction of recreational facilities and other common elements, shall be released only upon conveyance of the condominium unit to that purchaser and issuance of a certificate of occupancy if required by local ordinance. Appropriate funds retained in escrow to cover the cost of construction of recreational facilities and other common elements shall be released to the developer upon completion of each recreational facility or other common element. The escrow agent shall be a bank, savings and loan association, or title insurance company, or person designated to act as the agent of a title insurance company, licensed or authorized to do business in this state.

(b) For a condominium project for which a permit to sell has been issued on or before March 18, 1983, the developer may elect to exempt the project from the application of sections 84(4)(d), 144, and 145(b).

(c) For promotional material filed with the administrator on or before March 18, 1983, the developer may elect to exempt the promotional material from the application of section 81a. For promotional material that has not been filed with the administrator on or before March 18, 1983 and that relates to a condominium project to which section 66 does not apply, the developer shall comply with section 81a as if section 66 was applicable to the condominium project.

(2) Sections 104a, 104b, and 104d and former section 104c apply to all condominium projects that on October 10, 1980 complied with the definition of qualified conversion condominium project provided in section 104b.

(3) Subsection (1)(a)(*ii*) and (b) does not apply to any phase or convertible area of a condominium project if the phase is established or the convertibility option is exercised after March 18, 1983 and that establishment or exercise results in the addition of units to the condominium project or the creation of a facility intended for common use.

559.276 Statute of limitations.

Sec. 176. (1) The following limitations apply in a cause of action arising out of the development or construction of the common elements of a condominium project, or the management, operation, or control of a condominium project:

(a) If the cause of action accrues on or before the transitional control date, a person shall not maintain an action against a developer, residential builder, licensed architect, contractor, sales agent, or manager of a condominium project later than 3 years after the transitional control date or 2 years after the date on which the cause of action accrued, whichever occurs later.

(b) If the cause of action accrues after the transitional control date, a person shall not maintain an action against a developer, residential builder, licensed architect, contractor, sales agent, or manager of a condominium project later than 2 years after the date on which the cause of action accrued.

(2) Subsection (1) applies only to condominium projects established on or after the effective date of the amendatory act that added this subsection.

Repeal of § 559.274.

Enacting section 1. Section 174 of the condominium act, 1978 PA 59, MCL 559.274, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 284]

(SB 981)

AN ACT to amend 1921 PA 207, entitled "An act to provide for the establishment in cities and villages of districts or zones within which the use of land and structures and the height, area, size, and location of buildings may be regulated by ordinance, and for which districts regulations shall be established for the light and ventilation of those buildings, and for which districts or zones the density of population may be regulated by ordinance; to designate the use of certain state licensed residential facilities; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise of private property that does not conform to the regulations and restrictions of the various zones or districts provided; to provide for the administering of this act; to provide for amendments, supplements, or changes in zoning ordinances, zones, or districts; to provide for conflict with the state housing code or other acts, ordinances, or regulations; to provide sanctions for the violation of this act; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; and to provide for special assessments," by amending section 15 (MCL 125.595), as added by 1996 PA 571.

The People of the State of Michigan enact:

125.595 Financing for PDR program; sources; borrowing money and issuing bonds or notes; pledge; lien; exemption from taxation; investment; disposition; special assessments.

Sec. 15. (1) A PDR program may be financed through 1 or more of the following sources:

(a) General appropriations by the city or village.

(b) Proceeds from the sale of development rights by the city or village subject to section 14(3).

(c) Grants.

(d) Donations.

(e) Bonds or notes issued under subsections (2) to (5).

(f) General fund revenue.

(g) Special assessments under subsection (6).

(h) Other sources approved by the city or village and permitted by law.

(2) The city or village may borrow money and issue bonds or notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, subject to the general debt limit applicable to the city or village. The bonds or notes may be revenue bonds or notes; general obligation limited tax bonds or notes; or, subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes.

(3) The legislative body of the city or village may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the legislative body of the city or village is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the city or village, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.

(6) A development rights ordinance may authorize the legislative body of the city or village to finance a PDR program by special assessments. In addition to meeting the requirements of section 14, the development rights ordinance shall include in the procedure to approve and establish a special assessment district both of the following:

(a) The requirement that there be filed with the legislative body a petition containing all of the following:

(*i*) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.

(*ii*) A description of the proposed special assessment district.

(*iii*) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.

(*iv*) The amount and duration of the proposed special assessments.

(b) The requirement that the legislative body specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 285]

(SB 983)

AN ACT to amend 1949 PA 208, entitled "An act to authorize cities, villages and townships of this state to designate neighborhood areas for the purpose of planning and carrying out local public improvements for the prevention of blight within such areas; to

authorize assistance in carrying out plans for local improvements by the acquisition and disposal of real property in such areas; to provide for the combining of neighborhood improvements that benefit the entire neighborhood into 1 improvement project; to provide for the establishment of local assessment districts coterminous with the neighborhood boundaries; to prescribe the methods of financing the exercise of these powers, and to declare the effect of this act," by amending sections 6a and 6b (MCL 125.946a and 125.946b), as amended by 1983 PA 38.

The People of the State of Michigan enact:

125.946a Issuance of bonds or notes; purpose; securing payment by pledge of loan, grant, or contribution; bonds or notes not indebtedness within meaning of debt limitation or restriction; inapplicability of charter provisions; tax exemption.

Sec. 6a. A municipality may issue bonds or notes from time to time in its discretion to finance the undertaking of any project authorized by this act including, but not limited to, the payment of principal and interest on any advances or loans made for surveys and plans for any project authorized by this act. The bonds or notes shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues and funds of the municipality derived from or held in connection with its undertaking and carrying out of any projects under this act. Payment of the bonds or notes, both as to principal and interest, may be further secured by a pledge of any loan, grant, or contribution due or to become due from the federal government or other source, in aid of any projects of the municipality under this act. Bonds or notes issued under this section shall not constitute an indebtedness within the meaning of any constitutional, statutory, or charter debt limitation or restriction, and shall not be subject to the provisions of any charter relating to the authorization, issuance, or sale of bonds or notes and may be issued without vote of the electors of the municipality. Bonds or notes issued under the provisions of this section are declared to be issued for an essential public and governmental purpose, and, together with interest on the bonds and notes and income on the bonds and notes, shall be exempted from all taxes. Bonds or notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

125.946b Issuance of general obligation bonds; maximum amount; designation; legislative determination; sale; applicability of other law or charter provisions; estimate of period of usefulness; definitions.

Sec. 6b. (1) For the purpose of providing funds to pay all or part of the cost of any project undertaken under this act or the net project cost of any project undertaken under this act with federal financial assistance, municipalities may provide by resolution duly adopted by its legislative body and without vote of the electors of the municipality for borrowing money and issuing general obligation bonds of the municipality, which bonds shall pledge the full faith and credit of the municipality.

(2) The bonds may be issued and sold from time to time during the progress of any project undertaken under this act, in which event the maximum amount of bonds issued shall not exceed the estimated cost of any project undertaken under this act or the estimated net cost of any project undertaken under this act with federal assistance. The legislative body in the resolution authorizing issuance of the bonds shall set forth the estimate or the bonds may be issued when any project has been completed. Bonds issued under this section shall be designated "neighborhood improvement bonds". All bonds

issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. It being the determination of the legislature that urban blight constitutes a serious menace to public health, welfare, and safety of municipalities and their inhabitants and that the financing of projects designed to prevent urban blight is necessary for the public health, welfare, and safety. The bonds authorized to be issued under this section are declared to be issued for an essential public and governmental purpose. The maximum principal amount of bonds that may be authorized under this section in any year shall not exceed an amount equal to the limitation on the maximum rate of taxation for the year for the municipality authorized by law less the taxes actually levied for the year exclusive of debt service tax levies and less budget bonds for the year issued or authorized to be issued, and less any bonds authorized in the year to be issued under sections 7a and 7b of 1945 PA 344, MCL 125.77a and 125.77b. Any bonds authorized to be issued pursuant to this section shall be sold not later than 3 full fiscal years from the end of the fiscal year in which the bonds are authorized to be issued. The maximum amount of bonds issued pursuant to this section that may be outstanding at any one time shall not, together with other outstanding indebtedness of the municipality, exceed the maximum limitations on bonded indebtedness of the municipality imposed by law.

(3) As used in this section:

(a) "Cost of any project" means the cost of land acquisition, demolition of buildings, land and site improvements, plans, surveys, appraisals, and all other costs relating to the acquisition, improvement, financing, and disposal of any project or any part of a project.

(b) "Net project cost" means that term as defined in former section 110(f) of title 1 of the housing act of 1949.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 286]

(SB 984)

AN ACT to amend 1923 PA 118, entitled "An act to authorize counties to raise by loan, expend from unallocated moneys on hand, or borrow money for permanent improvements, to issue bonds, and to levy taxes to the extent necessary for the repayment of the bonds," by amending section 1 (MCL 141.61).

The People of the State of Michigan enact:

141.61 Borrowing money for permanent improvements; issuance, sale, and payment of bonds.

Sec. 1. When the county board of commissioners of any county within this state considers it expedient for the county or its lawful officers, agents, and servants to make or cause to be made any permanent improvement or improvements in or additions to or about roads, highways, bridges, boulevards, parks, buildings, courthouses, infirmaries, sanatoria, or any other permanent improvements, authorized by law, relating to county property or to public property under the control or management of county authorities, the county board of commissioners may, by resolution of a majority of the members-elect, authorize and direct the borrowing on the faith and credit of the county of the sums of

money as in the judgment of the board may be needed, subject to the constitutional limitations upon county indebtedness, and the county board of commissioners may, in the resolution, authorize and direct the issue and sale of bonds of the county to secure the repayment of the sums borrowed, which bonds shall be paid from taxes levied without limitation as to rate or amount to the extent necessary for the repayment of the bonds. For any permanent improvement that may lawfully be made by the county authorities on the faith and credit of the county, the bonds of the county may be issued and sold to raise the money to pay for the improvement, or the bonds may be issued and negotiated to secure the payment of indebtedness incurred in making the permanent improvements. The bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 287]

(SB 985)

AN ACT to amend 1957 PA 57, entitled "An act to authorize cities and villages in Michigan to raise money by taxes or bond issue within certain limits for the purpose of establishing a local improvement revolving fund; providing for the use of moneys in the fund and the reimbursement of moneys used therefrom; and other matters relating to the creation of the fund and its use," by amending sections 1 and 3 (MCL 141.371 and 141.373).

The People of the State of Michigan enact:

141.371 Definitions.

Sec. 1. For the purpose of this act unless the context otherwise indicates:

(a) "Local improvement" means any public improvement, the expense of which, in whole or in part, the governing body of any city or village pursuant to law or charter has determined shall be defrayed by special assessments upon the property specially benefited.

(b) "Governing body" means the council, common council, or commission of a city or the council, commission, or board of trustees of a village.

(c) "Local improvement revolving fund" means the fund authorized to be established under this act for the purposes specified in this act.

(d) "Tax elector" means a person having the qualifications of an elector.

141.373 Sources of funds.

Sec. 3. Any city or village may provide funds for the local improvement revolving fund by any or all of the following means:

(a) The allocation to the fund of miscellaneous revenues, if the revenues are not otherwise pledged or encumbered.

(b) The appropriation of funds raised by general taxation in accordance with authorization otherwise granted by law or charter, as the governing body may determine to be necessary for the fund; but no city or village shall exceed, for this purpose, any tax limitation imposed by other law or charter.

(c) Subject to a vote of its tax electors, bonds pledging the full faith and credit of the city or village for those purposes. No bonds shall be issued under this authorization that at the time of their issuance would cause the indebtedness of the city or village represented by outstanding special assessment bonds that pledge the full faith and credit of the city or village for their payment, plus outstanding bonds issued pursuant to the provisions of this act, to exceed 12% of the assessed valuation of the taxable property in the city or village. The assessed valuation shall be that fixed by the last assessment roll of the city or village that has been reviewed by the board of review. All bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 288]

(SB 986)

AN ACT to amend 1964 PA 205, entitled "An act authorizing the purchase by municipalities of fire trucks, fire fighting apparatus and equipment on executory title retaining contracts and under chattel mortgage financing," by amending section 1 (MCL 141.451).

The People of the State of Michigan enact:

141.451 Fire trucks, fire fighting apparatus and equipment; purchase by municipalities; title retaining contract; chattel mortgage.

Sec. 1. The legislative body of any county, city, village, township, or other local unit of government may purchase on executory title retaining contracts, or finance purchases by chattel mortgages as security for the purchase price, any fire trucks and fire fighting apparatus and equipment and pay for it out of the general fund of the municipality. However, contracts or chattel mortgages shall not provide for payments for longer than the estimated period of usefulness of the property being purchased and in no event for longer than 6 years. Contracts and chattel mortgages, and the purchase of property under this section, are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, but are subject to 1933 PA 99, MCL 123.721 to 123.723.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 289]

(SB 988)

AN ACT to amend 2000 PA 147, entitled "An act to authorize certain governmental units to issue notes or bonds for planning for the acquisition, construction, improvement, or installation of safe drinking water facilities; to provide security for the payment of the principal of and interest on the notes or bonds; and to prescribe the powers and duties of certain governmental units," by amending sections 3 and 4 (MCL 141.1453 and 141.1454).

The People of the State of Michigan enact:

141.1453 Notes or bonds; issuance; use; limitation; sale to Michigan municipal bond authority.

Sec. 3. Subject to this act, a governmental unit may issue notes or bonds and use the proceeds of the notes or bonds for planning for the acquisition, construction, improvement, or installation of real or personal property comprising all or a portion of a community water supply or noncommunity water supply. For any governmental unit, the aggregate principal amount of all notes and bonds issued under this act less the principal amount used by the governmental unit to purchase notes or bonds issued by another governmental unit under this act shall not exceed $100,000.00. The notes or bonds issued under this act shall be sold to the Michigan municipal bond authority or to another governmental unit if the other governmental unit purchases the notes or bonds with proceeds of notes or bonds issued under this act and sold to the Michigan municipal bond authority. The notes or bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Each governmental unit is authorized to use proceeds of notes or bonds issued by it under this act and sold to the Michigan municipal bond authority to purchase notes or bonds issued under this act by any other governmental unit.

141.1454 Notes or bonds; issuance; authorization by resolution; provisions.

Sec. 4. Notes or bonds issued under this act shall be authorized by a resolution of the governing body of the governmental unit, which may pledge the full faith and credit of the governmental unit to the payment of the principal of and interest on the notes or bonds. The resolution of the governing body of the governmental unit authorizing the issuance of notes or bonds under this act may authorize the governmental unit to enter into loan agreements, security agreements, pledge agreements, including, but not limited to, the pledge of water supply revenues, mortgages, assignments, or other agreements determined to be necessary to the issuance of the notes or bonds and may authorize the governmental unit to use proceeds of the notes or bonds sold to the Michigan municipal bond authority to purchase notes or bonds issued under this act by any other governmental unit.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 290]

(SB 1038)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 517 (MCL 750.517).

The People of the State of Michigan enact:

Repeal of § 750.517.

Enacting section 1. Section 517 of the Michigan penal code, 1931 PA 328, MCL 750.517, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 291]

(SB 1039)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 516 (MCL 750.516).

The People of the State of Michigan enact:

Repeal of § 750.516.

Enacting section 1. Section 516 of the Michigan penal code, 1931 PA 328, MCL 750.516, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 292]

(SB 1040)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 514 (MCL 750.514).

The People of the State of Michigan enact:

Repeal of § 750.514.

Enacting section 1. Section 514 of the Michigan penal code, 1931 PA 328, MCL 750.514, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 293]

(SB 1042)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 513 (MCL 750.513).

The People of the State of Michigan enact:

Repeal of § 750.513.

Enacting section 1. Section 513 of the Michigan penal code, 1931 PA 328, MCL 750.513, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 294]

(SB 1044)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 179 (MCL 750.179).

The People of the State of Michigan enact:

Repeal of § 750.179.

Enacting section 1. Section 179 of the Michigan penal code, 1931 PA 328, MCL 750.179, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 295]

(SB 1046)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to

provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 366 (MCL 750.366).

The People of the State of Michigan enact:

Repeal of § 750.366.

Enacting section 1. Section 366 of the Michigan penal code, 1931 PA 328, MCL 750.366, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 296]

(SB 1048)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by repealing section 266 (MCL 750.266).

The People of the State of Michigan enact:

Repeal of § 750.266.

Enacting section 1. Section 266 of the Michigan penal code, 1931 PA 328, MCL 750.266, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 297]

(SB 1059)

AN ACT to amend 1963 PA 62, entitled "An act relating to industrial development; to authorize municipalities to acquire and dispose of industrial buildings and sites and industrial machinery and equipment, including water and air pollution control equipment, solid waste disposal facilities, and tourist and resort facilities and to lease the same to persons, firms, or corporations; to authorize municipalities to acquire and dispose of water and air pollution control equipment and solid waste disposal facilities and to lease or sell

the same to persons, firms, corporations, or public utilities; to provide for the financing of such buildings, sites, machinery, and equipment or water and air pollution control equipment and solid waste disposal facilities by the issuance of revenue bonds and refunding bonds; to provide the terms and conditions of such bonds; to prescribe the powers and duties of the municipal finance commission; and to prescribe penalties and provide remedies," by amending sections 4 and 9 (MCL 125.1254 and 125.1259), section 9 as amended by 1980 PA 90.

The People of the State of Michigan enact:

125.1254 Bonds; purpose; issuance; serial or term bonds; interest; form of bonds and coupons; execution; payment; tax exemption; debt limitation inapplicable; registration; applicability of other acts.

Sec. 4. (1) For the purpose of defraying the cost of the industrial building, the site for the building, and industrial machinery and equipment, a municipality may borrow money and issue its negotiable bonds for that purpose. The bonds shall be serial bonds or term bonds or a combination of these and if serial bonds they shall be payable either semiannually or annually with the first maturity date not more than 5 years from the date of issuance. The last maturity date of the bonds, whether term or serial, shall be not more than 40 years from the date of issuance. A maturity date shall not fall due after the estimated period of usefulness of the industrial building, or, if the industrial machinery and equipment represent more than 2/3 of the total cost of the project, after the average estimated period of usefulness of said industrial machinery and equipment. The bonds shall bear a rate of interest as specified therein not to exceed the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, payable semiannually, except that the first coupon may be for any number of months not exceeding 10. The bonds and coupons shall be substantially in the form provided in the authorizing resolution and shall be executed in the manner prescribed in this act, which as to coupons may be by facsimile signature. The bonds and coupons shall be payable in lawful money of the United States, and shall be exempt from taxation by this state or by any taxing authority within this state. The principal and interest of the bonds shall be payable from the net revenues derived from the industrial building and site and industrial machinery and equipment, from the proceeds of the sale of bonds issued to refund outstanding bonds, from the investment earnings of the proceeds, or from any combination of these sources. A bond or coupon issued pursuant to this act shall not be a general obligation of the issuer nor constitute a debt of the issuer within the meaning of the constitutional or statutory limitation. Bonds may be made registerable as to principal or principal and interest under terms and conditions as may be determined by the governing body of the municipality.

(2) Bonds issued under this act are not subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

125.1259 Additional bonds; refunding bonds.

Sec. 9. (1) If the governing body finds that the bonds originally authorized will be insufficient to accomplish the purpose desired, additional bonds, only in the amount

necessary to complete the project as originally approved, may be authorized and issued in the same manner as the original bonds. Additional bonds may be issued to defray the cost of 1 or more of the following:

(a) An item of cost contained in section 10.

(b) Interest that has accrued, may accrue, or has been paid during the construction period of the project and for 6 months after the construction period on money borrowed or that is estimated to be borrowed pursuant to this act.

(c) Interest on previously issued bonds.

(2) At the time of issuing additional bonds, the governing body may provide that the additional bonds for additions, extensions, and permanent improvements, be placed in escrow and negotiated from time to time as the proceeds for those purposes are necessary. When negotiated, bonds placed in escrow shall have equal standing with bonds of the same issue.

(3) The municipality may issue bonds at any time to refund, in whole or in part, outstanding bonds issued pursuant to this act, including the payment of interest accrued, or to accrue, to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds, redemption premium, if any, and any commission, service fees, and other expenses necessary to be paid in connection therewith, whether the bonds to be refunded have matured or are redeemable or shall thereafter mature or become redeemable. If considered advisable by the municipality, the municipality may issue bonds partly to refund outstanding bonds and partly for any other purpose contemplated by this act. Bonds issued to refund outstanding bonds may be issued in a principal amount greater than, the same as, or lesser than the principal amount of the bonds to be refunded, and may bear interest rates that are higher than, the same as, or lower than the interest rates of the bonds to be refunded. The interest rates, however, shall not exceed the maximum rate of interest permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The principal, interest, and redemption premiums, if any, on bonds issued by a municipality pursuant to this section to refund outstanding bonds shall be payable from 1 or more of the following:

(a) The net revenues derived from the facilities constructed, acquired, reconstructed, remodeled, or repaired with the proceeds of the bonds to be refunded.

(b) The proceeds of the refunding bonds.

(c) Investment earnings on the proceeds of the refunding bonds.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 298]

(SB 1060)

AN ACT to repeal 1870 (Ex Sess) PA 5, entitled "An act to authorize the introduction of water into, and the construction or purchase of hydraulic works in the cities and villages in the state of Michigan," (MCL 123.111 to 123.130).

The People of the State of Michigan enact:

Repeal of §§ 123.111 to 123.130.

Enacting section 1. 1870 (Ex Sess) PA 5, MCL 123.111 to 123.130, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 299]

(SB 1061)

AN ACT to repeal 1923 PA 60, entitled "An act to authorize the board of supervisors of any county of this state, severally, or in conjunction with the legislative body or board of any 1 or more cities or villages having a population in excess of 5,000 according to the last official census to establish and operate a public agricultural produce market or markets or sell, exchange or abandon the same," (MCL 46.101 to 46.104).

The People of the State of Michigan enact:

Repeal of §§ 46.101 to 46.104.

Enacting section 1. 1923 PA 60, MCL 46.101 to 46.104, is repealed.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 300]

(SB 1063)

AN ACT to amend 1981 PA 97, entitled "An act to permit the state to approve and make eligible for participation under this act local bonds or other obligations upon application of a county, city, village, township, or charter township; to prescribe the powers and duties of certain state agencies; to provide for the application of certain state shared revenues for payment on distributable aid obligations; and to prescribe certain other matters relating to the bonds and other obligations and state shared revenues," by amending section 10 (MCL 141.1030), as amended by 1987 PA 281; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

141.1030 Pledge and lien on distributable aid.

Sec. 10. (1) The pledge and lien on distributable aid created by this act in favor of the holder of a distributable aid obligation may be on a parity with any pledge or application of distributable aid as security for obligations of a municipality under a contract or proceedings authorized by law after July 14, 1981 permitting the pledge or application of

distributable aid regardless of whether that contract or proceedings are subsequently declared invalid, illegal, unenforceable, disaffirmed, or otherwise terminated in whole or in part. However, any obligations to be incurred on a parity basis shall meet the requirements for participation eligibility under section 5, and the distributable aid respecting these obligations shall be paid, retained, or otherwise treated in accordance with section 6, and these obligations shall be entitled to all the benefits of this act.

(2) The pledge and lien on distributable aid created by this act in favor of the holder of a distributable aid obligation shall be superior to a pledge or lien on the distributable aid created by 1957 PA 185, MCL 123.731 to 123.786; the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630; and the county public improvement act of 1939, 1939 PA 342, MCL 46.171 to 46.188. The pledge and lien on distributable aid created by this act in favor of the holders of distributable aid obligations shall be superior to a pledge or lien on the distributable aid created after July 15, 1981, under 1955 PA 233, MCL 124.281 to 124.294; and the municipal finance act, 1943 PA 202, MCL 131.1 to 139.3, or any other law.

(3) A municipality may pledge and assign distributable aid for other obligations of the municipality authorized by law after July 14, 1981. However, the maximum debt service on these other outstanding obligations, together with the maximum debt service on outstanding distributable aid obligations in any fiscal year, shall not exceed the amount permitted under section 5 of this act.

(4) The restrictions prescribed by this act do not apply to obligations secured by either of the following:

(a) A pledge of distributable aid pursuant to statutory authorization that expressly permits a general pledge of distributable aid subject only to constitutional limitation.

(b) A pledge of distributable aid pursuant to statutory authorization that expressly excludes the pledge or the obligation from the provisions of this act.

(5) Beginning March 1, 2002, a municipality shall not issue or refund an obligation under this act.

Repeal of §§ 141.1021 to 141.1030; effective date of repeal.

Enacting section 1. The Michigan municipal distributable aid bond act, 1981 PA 97, MCL 141.1021 to 141.1030, is repealed effective January 1, 2010.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 301]

(SB 1065)

AN ACT to amend 1957 PA 206, entitled "An act to authorize 2 or more counties, cities, townships and incorporated villages, or any combination thereof, to incorporate an airport authority for the planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining and operating the landing, navigational and building facilities necessary thereto of 1 or more community airports; to provide for changes in the membership therein; to authorize an authority or the counties, cities, townships and incorporated villages that form an authority to levy taxes for such purposes; to provide for the operation and maintenance and issuing notes therefor; to authorize condemnation

proceedings; and to prescribe penalties and provide remedies," by amending section 9 (MCL 259.629), as amended by 1982 PA 312.

The People of the State of Michigan enact:

259.629 Airport authority board; borrowing money and issuing notes; maturity; purpose; resolution; notes issued subject to §§ 141.2101 to 141.2821.

Sec. 9. The airport authority board operating any airport under the provisions of this act, by resolution adopted by a majority vote of the entire governing board, may borrow money and issue notes, maturing not more than 1 year from the date of their issuance. Borrowing pursuant to this section shall be for the purpose of meeting current expenses of operation and maintenance of the airport. The resolution shall provide for the pledging of income and revenues of the airport authority not previously pledged for the payment of the notes and shall also provide for a special sinking fund into which there shall first be paid, as collected, a sufficient sum from the revenues of the airport authority pledges to retire both the principal and interest of the notes at maturity. The resolution may also provide for the pledging of other assets of the airport authority as additional security for the payment of the notes. Notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 302]

(SB 1066)

AN ACT to amend 1986 PA 157, entitled "An act to help stimulate the expansion of international export markets of state products and services; to provide for the creation of the Michigan export development authority and to establish its board of directors; to prescribe the powers and duties of the authority and of the board; to provide for the issuance of, and certain terms and conditions of, bonds; to exempt bonds from certain taxes; to prescribe the powers and duties of certain state officers; and to provide for the creation of certain funds and for the funding of the creation and operation of the authority," by amending section 10 (MCL 447.160), as amended by 1990 PA 304.

The People of the State of Michigan enact:

447.160 Bonds and notes generally.

Sec. 10. (1) Bonds issued under this act may be executed and delivered at any time, may be issued as a single issue or from time to time as several issues, may be in the form and denominations, may be in coupon or registered form, may be payable in installments and at such time or times not exceeding 30 years from their date, may be subject to the terms of redemption, may be payable at such place or places, may bear interest at the rate or rates as may be set, reset, or calculated from time to time, or may bear no interest and may contain provisions not inconsistent with this act, all of which shall be provided in the resolution of the authority authorizing the bonds.

(2) Bonds issued under the authority of this act may be sold at public or private sale at the price and in the manner and from time to time as may be determined by the authority to be most advantageous. The authority may pay all expenses, premiums, insurance premiums, and commissions that the authority considers necessary or advantageous in connection with the authorization, sale, and issuance of the bonds from proceeds of the bonds.

(3) Bonds or notes issued by the authority are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The bonds issued by the authority are not required to be registered. A filing of a bond of the authority is not required under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

This act is ordered to take immediate effect.
Approved May 8, 2002.
Filed with Secretary of State May 9, 2002.

[No. 303]

(HB 4057)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending the title and section 20161 (MCL 333.20161), the title as amended by 1998 PA 332 and section 20161 as amended by 2000 PA 253, and by adding section 20173.

The People of the State of Michigan enact:

TITLE

An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commis-

sions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates.

333.20161 Fees for health facility and agency licenses and certificates of need; surcharge; fee for provisional license or temporary permit; fee to recover cost of proficiency evaluation samples; fee for reissuance of clinical laboratory license; cost of licensure activities; application fee for waiver under § 333.21564; travel expenses; fees for licensure or renewal under part 209; deposit of fees; use of quality assurance assessment fee; "medicaid" defined.

Sec. 20161. (1) The department shall assess fees for health facility and agency licenses and certificates of need on an annual basis as provided in this article. Except as otherwise provided in this article, fees shall be paid in accordance with the following fee schedule:

(a) Freestanding surgical outpatient facilities	$238.00 per facility.
(b) Hospitals	$8.28 per licensed bed.
(c) Nursing homes, county medical care facilities, and hospital long-term care units	$2.20 per licensed bed.
(d) Homes for the aged	$6.27 per licensed bed.
(e) Clinical laboratories	$475.00 per laboratory.
(f) Hospice residences	$200.00 per license survey; and $20.00 per licensed bed.
(g) Subject to subsection (13), quality assurance assessment fee for nongovernmentally owned nursing homes and hospital long-term care units	an amount resulting in not more than a 7% increase in aggregate medicaid nursing home and hospital long-term care unit payment rates, net of assessments, above the rates that were in effect on April 1, 2002.

(2) If a hospital requests the department to conduct a certification survey for purposes of title XVIII or title XIX of the social security act, the hospital shall pay a license fee surcharge of $23.00 per bed. As used in this subsection, "title XVIII" and "title XIX" mean those terms as defined in section 20155.

(3) The base fee for a certificate of need is $750.00 for each application. For a project requiring a projected capital expenditure of more than $150,000.00 but less than $1,500,000.00, an additional fee of $2,000.00 shall be added to the base fee. For a project requiring a projected capital expenditure of $1,500,000.00 or more, an additional fee of $3,500.00 shall be added to the base fee.

(4) If licensure is for more than 1 year, the fees described in subsection (1) are multiplied by the number of years for which the license is issued, and the total amount of the fees shall be collected in the year in which the license is issued.

(5) Fees described in this section are payable to the department at the time an application for a license, permit, or certificate is submitted. If an application for a license, permit, or certificate is denied or if a license, permit, or certificate is revoked before its expiration date, the department shall not refund fees paid to the department.

(6) The fee for a provisional license or temporary permit is the same as for a license. A license may be issued at the expiration date of a temporary permit without an additional fee for the balance of the period for which the fee was paid if the requirements for licensure are met.

(7) The department may charge a fee to recover the cost of purchase or production and distribution of proficiency evaluation samples that are supplied to clinical laboratories pursuant to section 20521(3).

(8) In addition to the fees imposed under subsection (1), a clinical laboratory shall submit a fee of $25.00 to the department for each reissuance during the licensure period of the clinical laboratory's license.

(9) Except for the licensure of clinical laboratories, not more than half the annual cost of licensure activities as determined by the department shall be provided by license fees.

(10) The application fee for a waiver under section 21564 is $200.00 plus $40.00 per hour for the professional services and travel expenses directly related to processing the application. The travel expenses shall be calculated in accordance with the state standardized travel regulations of the department of management and budget in effect at the time of the travel.

(11) An applicant for licensure or renewal of licensure under part 209 shall pay the applicable fees set forth in part 209.

(12) The fees collected under this section shall be deposited in the state treasury, to the credit of the general fund.

(13) The quality assurance assessment fee collected under subsection (1)(g) and all federal matching funds attributed to that fee shall be used only for the following purposes and under the following specific circumstances:

(a) The quality assurance assessment fee and all federal matching funds attributed to that fee shall be used to maintain the increased per diem medicaid reimbursement rate increases as provided for in subdivision (e). Only licensed nursing homes and hospital long-term care units that are assessed the quality assurance assessment fee and participate in the medicaid program are eligible for increased per diem medicaid reimbursement rates under this subdivision.

(b) The quality assurance assessment fee shall be implemented on the effective date of the amendatory act that added this subsection.

(c) The quality assurance assessment fee is based on the number of licensed nursing home beds and the number of licensed hospital long-term care unit beds in existence on July 1 of each year, shall be assessed upon implementation pursuant to subdivision (b) and

subsequently on October 1 of each following year, and is payable on a quarterly basis, the first payment due 90 days after the date the fee is assessed.

(d) Beginning October 1, 2007, the department shall no longer assess or collect the quality assurance assessment fee or apply for federal matching funds.

(e) Upon implementation pursuant to subdivision (b), the department of community health shall increase the per diem nursing home medicaid reimbursement rates for the balance of that year. For each subsequent year in which the quality assurance assessment fee is assessed and collected, the department of community health shall maintain the medicaid nursing home reimbursement payment increase financed by the quality assurance assessment fee.

(f) The department of community health shall implement this section in a manner that complies with federal requirements necessary to assure that the quality assurance assessment fee qualifies for federal matching funds.

(g) If a nursing home or a hospital long-term care unit fails to pay the assessment required by subsection (1)(g), the department of community health may assess the nursing home or hospital long-term care unit a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department of community health may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(h) The medicaid nursing home quality assurance assessment fund is established in the state treasury. The department of community health shall deposit the revenue raised through the quality assurance assessment fee with the state treasurer for deposit in the medicaid nursing home quality assurance assessment fund.

(i) Neither the department of consumer and industry services nor the department of community health shall implement this subsection in a manner that conflicts with 42 U.S.C. 1396b(w).

(j) The quality assurance assessment fee collected under subsection (1)(g) shall be prorated on a quarterly basis for any licensed beds added to or subtracted from a nursing home or hospital long-term care unit since the immediately preceding July 1. Any adjustments in payments are due on the next quarterly installment due date.

(k) In each fiscal year governed by this subsection, medicaid reimbursement rates shall not be reduced below the medicaid reimbursement rates in effect on April 1, 2002 as a direct result of the quality assurance assessment fee collected under subsection (1)(g).

(*l*) The amounts listed in this subdivision are appropriated for the department of community health, subject to the conditions set forth in this subsection, for the fiscal year ending September 30, 2003:

MEDICAL SERVICES		
Long-term care services	$	1,469,003,900
Gross appropriation	$	1,469,003,900
Appropriated from:		
Federal revenues:		
Total federal revenues		814,122,200
Special revenue funds:		
Medicaid quality assurance assessment		44,829,000
Total local revenues		8,445,100
State general fund/general purpose	$	601,607,600

(14) As used in this section, "medicaid" means that term as defined in section 22207.

333.20173 Nursing home, county medical care facility, or home for the aged; criminal history check of employment applicants; definitions.

Sec. 20173. (1) Except as otherwise provided in subsection (2), a health facility or agency that is a nursing home, county medical care facility, or home for the aged shall not employ, independently contract with, or grant clinical privileges to an individual who regularly provides direct services to patients or residents in the health facility or agency after the effective date of the amendatory act that added this section if the individual has been convicted of 1 or more of the following:

(a) A felony or an attempt or conspiracy to commit a felony within the 15 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract.

(b) A misdemeanor involving abuse, neglect, assault, battery, or criminal sexual conduct or involving fraud or theft against a vulnerable adult as that term is defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m, or a state or federal crime that is substantially similar to a misdemeanor described in this subdivision, within the 10 years immediately preceding the date of application for employment or clinical privileges or the date of the execution of the independent contract.

(2) Except as otherwise provided in this subsection and subsection (5), a health facility or agency that is a nursing home, county medical care facility, or home for the aged shall not employ, independently contract with, or grant privileges to an individual who regularly provides direct services to patients or residents in the health facility or agency after the effective date of the amendatory act that added this section until the health facility or agency complies with subsection (4) or (5), or both. This subsection and subsection (1) do not apply to an individual who is employed by, under independent contract to, or granted clinical privileges in a health facility or agency before the effective date of the amendatory act that added this section.

(3) An individual who applies for employment either as an employee or as an independent contractor or for clinical privileges with a health facility or agency that is a nursing home, county medical care facility, or home for the aged and has received a good faith offer of employment, an independent contract, or clinical privileges from the health facility or agency shall give written consent at the time of application for the department of state police to conduct a criminal history check under subsection (4) or (5), or both, along with identification acceptable to the department of state police. If the department of state police has conducted a criminal history check on the applicant within the 24 months immediately preceding the date of application and the applicant provides written consent for the release of information for the purposes of this section, the health facility or agency may use a copy of the results of that criminal history check instead of obtaining written consent and requesting a new criminal history check under this subsection, and under subsections (4) and (5), or both. If the applicant is using a prior criminal history check as described in this subsection, the health facility or agency shall accept the copy of the results of the criminal history check only from the health facility or agency or adult foster care facility that previously employed or granted clinical privileges to the applicant or from the firm or agency that independently contracts with the applicant.

(4) Upon receipt of the written consent and identification required under subsection (3), if an applicant has resided in this state for 3 or more years preceding the good faith offer of employment, an independent contract, or clinical privileges, a health facility or agency that is a nursing home, county medical care facility, or home for the aged that has made a good faith offer of employment or an independent contract or clinical privileges to the applicant shall make a request to the department of state police to conduct a criminal history check on the applicant. The request shall be made in a manner prescribed by the

department of state police. The health facility or agency shall make the written consent and identification available to the department of state police. If there is a charge for conducting the criminal history check, the health facility or agency requesting the criminal history check shall pay the cost of the charge. The health facility or agency shall not seek reimbursement for the charge from the individual who is the subject of the criminal history check. The department of state police shall conduct a criminal history check on the applicant named in the request. The department of state police shall provide the health facility or agency with a written report of the criminal history check conducted under this subsection. The report shall contain any criminal history record information on the applicant maintained by the department of state police. As a condition of employment, an applicant shall sign a written statement that he or she has been a resident of this state for 3 or more years preceding the good faith offer of employment, independent contract, or clinical privileges.

(5) Upon receipt of the written consent and identification required under subsection (3), if an applicant has resided in this state for less than 3 years preceding the good faith offer of employment, an independent contract, or clinical privileges, a health facility or agency that is a nursing home, county medical care facility, or home for the aged that has made a good faith offer described in this subsection to the applicant shall comply with subsection (4) and shall make a request to the department of state police to forward the applicant's fingerprints to the federal bureau of investigation. The department of state police shall request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant. An applicant described in this subsection shall provide the department of state police with 2 sets of fingerprints. The department of state police shall complete the criminal history check under subsection (4) and, except as otherwise provided in this subsection, provide the results of its determination under subsection (4) to the health facility or agency and the results of the federal bureau of investigation determination to the department of consumer and industry services within 30 days after the request is made. If the requesting health facility or agency is not a state department or agency and if a crime is disclosed on the federal bureau of investigation determination, the department shall notify the health facility or agency in writing of the type of crime disclosed on the federal bureau of investigation determination without disclosing the details of the crime. Any charges for fingerprinting or a federal bureau of investigation determination under this subsection shall be paid in the manner required under subsection (4).

(6) If a health facility or agency that is a nursing home, county medical care facility, or home for the aged determines it necessary to employ or grant clinical privileges to an applicant before receiving the results of the applicant's criminal history check under subsection (4) or (5), or both, the health facility or agency may conditionally employ or grant conditional clinical privileges to the individual if all of the following apply:

(a) The health facility or agency requests the criminal history check under subsection (4) or (5), or both, upon conditionally employing or conditionally granting clinical privileges to the individual.

(b) The individual signs a statement in writing that indicates all of the following:

(*i*) That he or she has not been convicted of 1 or more of the crimes that are described in subsection (1)(a) and (b) within the applicable time period prescribed by subsection (1)(a) and (b).

(*ii*) The individual agrees that, if the information in the criminal history check conducted under subsection (4) or (5), or both, does not confirm the individual's statement under subparagraph (*i*), his or her employment or clinical privileges will be terminated by the health facility or agency as required under subsection (1) unless and until the individual can prove that the information is incorrect. The health facility or agency shall

provide a copy of the results of the criminal history check conducted under subsection (4) or (5), or both, to the applicant upon request.

(*iii*) That he or she understands the conditions described in subparagraphs (*i*) and (*ii*) that result in the termination of his or her employment or clinical privileges and that those conditions are good cause for termination.

(7) On the effective date of the amendatory act that added this section, the department shall develop and distribute a model form for the statement required under subsection (6)(b). The department shall make the model form available to health facilities or agencies subject to this section upon request at no charge.

(8) If an individual is employed as a conditional employee or is granted conditional clinical privileges under subsection (6), and the report described in subsection (4) or (5), or both, does not confirm the individual's statement under subsection (6)(b)(*i*), the health facility or agency shall terminate the individual's employment or clinical privileges as required by subsection (1).

(9) An individual who knowingly provides false information regarding criminal convictions on a statement described in subsection (6)(b)(*i*) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

(10) A health facility or agency that is a nursing home, county medical care facility, or home for the aged shall use criminal history record information obtained under subsection (4), (5), or (6) only for the purpose of evaluating an applicant's qualifications for employment, an independent contract, or clinical privileges in the position for which he or she has applied and for the purposes of subsections (6) and (8). A health facility or agency or an employee of the health facility or agency shall not disclose criminal history record information obtained under subsection (4) or (5) to a person who is not directly involved in evaluating the applicant's qualifications for employment, an independent contract, or clinical privileges. Upon written request from another health facility or agency or adult foster care facility that is considering employing, independently contracting with, or granting clinical privileges to an individual, a health facility or agency that has obtained criminal history record information under this section on that individual shall share the information with the requesting health facility or agency or adult foster care facility. Except for a knowing or intentional release of false information, a health facility or agency has no liability in connection with a criminal background check conducted under this section or the release of criminal history record information under this subsection.

(11) As a condition of continued employment, each employee, independent contractor, or individual granted clinical privileges shall agree in writing to report to the health facility or agency immediately upon being arrested for or convicted of 1 or more of the criminal offenses listed in subsection (1)(a) and (b).

(12) As used in this section:

(a) "Adult foster care facility" means an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(b) "Independent contract" means a contract entered into by a health facility or agency with an individual who provides the contracted services independently or a contract entered into by a health facility or agency with an organization or agency that employs or contracts with an individual after complying with the requirements of this section to provide the contracted services to the health facility or agency on behalf of the organization or agency.

This act is ordered to take immediate effect.
Approved May 10, 2002.
Filed with Secretary of State May 10, 2002.

[No. 304]

(SB 748)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending the title and sections 3515, 3519, 3523, 3529, 3801, 3807, 3809, 3811, 3815, 3819, and 3829 (MCL 500.3515, 500.3519, 500.3523, 500.3529, 500.3801, 500.3807, 500.3809, 500.3811, 500.3815, 500.3819, and 500.3829), the title as amended by 1998 PA 457, sections 3515, 3519, 3523, and 3529 as added by 2000 PA 252, and sections 3801, 3807, 3809, 3811, 3815, 3819, and 3829 as added by 1992 PA 84, and by adding sections 224b, 3830, and 3830a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety

companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act.

500.224b Quality assistance assessment fee; assessment on health maintenance organization having medicaid managed care contract; use; circumstances; definitions.

Sec. 224b. (1) The department of community health shall assess on each health maintenance organization that has a medicaid managed care contract awarded by the state and administered by the department of community health a quality assurance assessment fee that equals a percentage established by the department of community health that, when applied to each health maintenance organization's non-medicare premiums paid to the health maintenance organization, totals an amount that would equal a 5% increase for the medicaid managed care program net of the value of the quality assurance assessment fee.

(2) The quality assurance assessment fee collected under subsection (1) and all federal matching funds attributed to that fee shall be used for the following purposes and under the following specific circumstances:

(a) The entire quality assurance assessment fee and all federal matching funds attributed to that fee shall be used to maintain the medicaid reimbursement rate increase

in each fiscal year in which the fee is first assessed. Only a health maintenance organization that is assessed the quality assurance assessment fee is eligible for the increased medicaid reimbursement rates under this section.

(b) The quality assurance assessment fee shall be implemented on the effective date of the amendatory act that added this section.

(c) The quality assurance assessment fee shall be assessed on the non-medicare premiums collected by each health maintenance organization described in subsection (1) in calendar year 2001. If the health maintenance organization did not have non-medicare premium revenue in calendar year 2001, the assessment shall be based on the health maintenance organization's non-medicare premiums collected in the immediately preceding quarter. Except as otherwise provided, the quality assurance assessment fee shall be payable on a quarterly basis with the first payment due 90 days after the date the fee is assessed. However, for a health maintenance organization that did not have non-medicare premium revenue in calendar year 2001, the first quality assurance assessment fee shall be assessed as soon as possible and shall be payable upon receipt.

(d) The quality assurance assessment fee shall only be assessed on a health maintenance organization that has in effect a medicaid managed care contract awarded by the state and administered by the department of community health at the time of the assessment.

(e) Beginning October 1, 2003, the quality assurance assessment fee shall no longer be assessed or collected.

(f) The department of community health shall implement this section in a manner that complies with federal requirements necessary to assure that the quality assurance assessment fee qualifies for federal matching funds. If the department of community health is unable to comply with the federal requirements for federal matching funds under this section or is unable to use the fiscal year 2001-2002 level of support for federal matching dollars other than for a change in covered benefits or covered population required under the state's medicaid contract with health maintenance organizations, the quality assurance assessment fee under this section shall no longer be assessed or collected.

(g) If a health maintenance organization fails to pay the quality assurance assessment fee required under subsection (1), the department of community health may assess the health maintenance organization a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department of community health may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(h) The medicaid health maintenance organization quality assurance assessment fund is established as a separate fund in the state treasury. The department of community health shall deposit the revenue raised through the quality assurance assessment fee with the state treasurer for deposit in the medicaid health maintenance organization quality assurance assessment fund to be used as provided in subsection (2)(a).

(i) In all fiscal years governed by this section, medicaid reimbursement rates shall not be reduced below the medicaid payment rates in effect on April 1, 2002 as a direct result of the quality assurance assessment fee assessed under this section. This subdivision does not apply to a change in medicaid reimbursement rates caused by a change in covered benefits or change in covered populations required under the state's medicaid contract with health maintenance organizations.

(j) The amounts listed in this subdivision are appropriated for the department of community health, subject to the conditions set forth in this section, for the fiscal year ending September 30, 2003:

MEDICAL SERVICES		
Health plan services	$	1,476,781,100
Gross appropriation	$	1,476,781,100
Appropriated from:		
Federal revenues:		
Total federal revenues		817,495,900
Special revenue funds:		
Medicaid quality assurance assessment		55,747,000
State general fund/general purpose	$	603,538,200

(3) As used in this section:

(a) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(b) "Medicare" means title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28, 1395x to 1395yy, and 1395bbb to 1395ggg.

500.3515 Additional health maintenance services; copayments; "preventative health care services" defined; partial payment from government or private person.

Sec. 3515. (1) A health maintenance organization may provide additional health maintenance services or any other related health care service or treatment not required under this chapter.

(2) A health maintenance organization may have health maintenance contracts with deductibles. A health maintenance organization may have health maintenance contracts with nominal copayments that are required for specific health maintenance services. Copayments, excluding deductibles, shall not exceed 50% of a health maintenance organization's reimbursement to an affiliated provider for providing the service to an enrollee and shall not be based on the provider's standard charge for the service. A health maintenance organization shall not require contributions be made to a deductible for preventative health care services. As used in this subsection, "preventative health care services" means services designated to maintain an individual in optimum health and to prevent unnecessary injury, illness, or disability.

(3) A health maintenance organization may accept from governmental agencies and from private persons payments covering any part of the cost of health maintenance contracts.

500.3519 Contract and contract rates; fairness; rate differential; basic health services required.

Sec. 3519. (1) A health maintenance organization contract and the contract's rates, including any deductibles and nominal copayments, between the organization and its subscribers shall be fair, sound, and reasonable in relation to the services provided, and the procedures for offering and terminating contracts shall not be unfairly discriminatory.

(2) A health maintenance organization contract and the contract's rates shall not discriminate on the basis of race, color, creed, national origin, residence within the approved service area of the health maintenance organization, lawful occupation, sex, handicap, or marital status, except that marital status may be used to classify individuals or risks for the purpose of insuring family units. The commissioner may approve a rate differential based on sex, age, residence, disability, marital status, or lawful occupation, if the differential is supported by sound actuarial principles, a reasonable classification system, and is related to the actual and credible loss statistics or reasonably anticipated experience for new coverages.

(3) All health maintenance organization contracts shall include, at a minimum, basic health services.

500.3523 Health maintenance contract; provisions.

Sec. 3523. (1) A health maintenance contract shall be filed with and approved by the commissioner.

(2) A health maintenance contract shall include any approved riders, amendments, and the enrollment application.

(3) In addition to the provisions of this act that apply to an expense-incurred hospital, medical, or surgical policy or certificate, a health maintenance contract shall include all of the following:

(a) Name and address of the organization.

(b) Definitions of terms subject to interpretation.

(c) The effective date and duration of coverage.

(d) The conditions of eligibility.

(e) A statement of responsibility for payments.

(f) A description of specific benefits and services available under the contract within the service area, with respective copayments and deductibles.

(g) A description of emergency and out-of-area services.

(h) A specific description of any limitation, exclusion, and exception, including any preexisting condition limitation, grouped together with captions in boldfaced type.

(i) Covenants that address confidentiality, an enrollee's right to choose or change the primary care physician or other providers, availability and accessibility of services, and any rights of the enrollee to inspect and review his or her medical records.

(j) Covenants of the subscriber shall address all of the following subjects:

(*i*) Timely payment.

(*ii*) Nonassignment of benefits.

(*iii*) Truth in application and statements.

(*iv*) Notification of change in address.

(*v*) Theft of membership identification.

(k) A statement of responsibilities and rights regarding the grievance procedure.

(*l*) A statement regarding subrogation and coordination of benefits provisions, including any responsibility of the enrollee to cooperate.

(m) A statement regarding conversion rights.

(n) Provisions for adding new family members or other acquired dependents, including conversion of individual contracts to family contracts and family contracts to individual contracts, and the time constraints imposed.

(o) Provisions for grace periods for late payment.

(p) A description of any specific terms under which the health maintenance organization or the subscriber can terminate the contract.

(q) A statement of the nonassignability of the contract.

500.3529 Affiliated provider contracts; collection of payments from enrollees; contract provisions; waiver of requirement under subsection (2); contract format; evidence of sufficient number of providers.

Sec. 3529. (1) A health maintenance organization may contract with or employ health professionals on the basis of cost, quality, availability of services to the membership, conformity to the administrative procedures of the health maintenance organization, and other factors relevant to delivery of economical, quality care, but shall not discriminate solely on the basis of the class of health professionals to which the health professional belongs.

(2) A health maintenance organization shall enter into contracts with providers through which health care services are usually provided to enrollees under the health maintenance organization plan.

(3) An affiliated provider contract shall prohibit the provider from seeking payment from the enrollee for services provided pursuant to the provider contract, except that the contract may allow affiliated providers to collect copayments and deductibles directly from enrollees.

(4) An affiliated provider contract shall contain provisions assuring all of the following:

(a) The provider meets applicable licensure or certification requirements.

(b) Appropriate access by the health maintenance organization to records or reports concerning services to its enrollees.

(c) The provider cooperates with the health maintenance organization's quality assurance activities.

(5) The commissioner may waive the contract requirement under subsection (2) if a health maintenance organization has demonstrated that it is unable to obtain a contract and accessibility to patient care would not be compromised. When 10% or more of a health maintenance organization's elective inpatient admissions, or projected admissions for a new health maintenance organization, occur in hospitals with which the health maintenance organization does not have contracts or agreements that protect enrollees from liability for authorized admissions and services, the health maintenance organization may be required to maintain a hospital reserve fund equal to 3 months' projected claims from such hospitals.

(6) A health maintenance organization shall submit to the commissioner for approval standard contract formats proposed for use with its affiliated providers and any substantive changes to those contracts. The contract format or change is considered approved 30 days after filing unless approved or disapproved within the 30 days. As used in this subsection, "substantive changes to contract formats" means a change to a provider contract that alters the method of payment to a provider, alters the risk assumed by each party to the contract, or affects a provision required by law.

(7) A health maintenance organization or applicant shall provide evidence that it has employed, or has executed affiliation contracts with, a sufficient number of providers to enable it to deliver the health maintenance services it proposes to offer.

500.3801 Chapter; definitions.

Sec. 3801. As used in this chapter:

(a) "Applicant" means:

(*i*) For an individual medicare supplement policy, the person who seeks to contract for insurance benefits.

(*ii*) For a group medicare supplement policy, the proposed certificate holder.

(b) "Bankruptcy" means when a medicare+choice organization that is not an insurer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in this state.

(c) "Certificate" means any certificate delivered or issued for delivery in this state under a group medicare supplement policy.

(d) "Certificate form" means the form on which the certificate is delivered or issued for delivery by the insurer.

(e) "Continuous period of creditable coverage" means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than 63 days.

(f) "Creditable coverage" means coverage of an individual provided under any of the following:

(*i*) A group health plan.

(*ii*) Health insurance coverage.

(*iii*) Part A or part B of medicare.

(*iv*) Medicaid other than coverage consisting solely of benefits under section 1928 of medicaid, 42 U.S.C. 1396s.

(*v*) Chapter 55 of title 10 of the United States Code, 10 U.S.C. 1071 to 1110.

(*vi*) A medical care program of the Indian health service or of a tribal organization.

(*vii*) A state health benefits risk pool.

(*viii*) A health plan offered under chapter 89 of title 5 of the United States Code, 5 U.S.C. 8901 to 8914.

(*ix*) A public health plan as defined in federal regulation.

(*x*) Health care under section 5(e) of title I of the peace corps act, Public Law 87-293, 22 U.S.C. 2504.

(g) "Direct response solicitation" means solicitation in which an insurer representative does not contact the applicant in person and explain the coverage available, such as, but not limited to, solicitation through direct mail or through advertisements in periodicals and other media.

(h) "Employee welfare benefit plan" means a plan, fund, or program of employee benefits as defined in section 3 of subtitle A of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1002.

(i) "Insolvency" means when an insurer licensed to transact the business of insurance in this state has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the insurer's state of domicile.

(j) "Insurer" includes any entity, including a health care corporation, delivering or issuing for delivery in this state medicare supplement policies.

(k) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(*l*) "Medicare" means title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28, 1395x to 1395yy, and 1395bbb to 1395ggg.

(m) "Medicare+choice plan" means a plan of coverage for health benefits under medicare part C as defined in section 12-2859 of part C of medicare, 42 U.S.C. 1395w-28, and includes any of the following:

(*i*) Coordinated care plans that provide health care services, including, but not limited to, health maintenance organization plans with or without a point-of-service option, plans offered by provider-sponsored organizations, and preferred provider organization plans.

(*ii*) Medical savings account plans coupled with a contribution into a medicare+choice medical savings account.

(*iii*) Medicare+choice private fee-for-service plans.

(n) "Medicare supplement buyer's guide" means the document entitled, "guide to health insurance for people with medicare", developed by the national association of insurance commissioners and the United States department of health and human services or a substantially similar document as approved by the commissioner.

(o) "Medicare supplement policy" means an individual or group policy or certificate of insurance that is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare and medicare select policies and certificates under section 3817. Medicare supplement policy does not include a policy or contract of 1 or more employers or labor organizations, or of the trustees of a fund established by 1 or more employers or labor organizations, or both, for employees or former employees, or both, or for members or former members, or both, of the labor organizations.

(p) "PACE" means a program of all-inclusive care for the elderly as described in the social security act.

(q) "Policy form" means the form on which the policy is delivered or issued for delivery by the insurer.

(r) "Secretary" means the secretary of the United States department of health and human services.

(s) "Social security act" means the social security act, chapter 531, 49 Stat. 620.

500.3807 Basic core package of benefits.

Sec. 3807. Every insurer issuing a medicare supplement insurance policy in this state shall make available a medicare supplement insurance policy that includes a basic core package of benefits to each prospective insured. An insurer issuing a medicare supplement insurance policy in this state may make available to prospective insureds benefits pursuant to section 3809 that are in addition to, but not instead of, the basic core package. The basic core package of benefits shall include all of the following:

(a) Coverage of part A medicare eligible expenses for hospitalization to the extent not covered by medicare from the 61st day through the 90th day in any medicare benefit period.

(b) Coverage of part A medicare eligible expenses incurred for hospitalization to the extent not covered by medicare for each medicare lifetime inpatient reserve day used.

(c) Upon exhaustion of the medicare hospital inpatient coverage including the lifetime reserve days, coverage of the medicare part A eligible expenses for hospitalization paid at the diagnostic related group day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days.

(d) Coverage under medicare parts A and B for the reasonable cost of the first 3 pints of blood or equivalent quantities of packed red blood cells, as defined under federal regulations unless replaced in accordance with federal regulations.

(e) Coverage for the coinsurance amount, or the copayment amount paid for hospital outpatient department services under a prospective payment system, of medicare eligible expenses under part B regardless of hospital confinement, subject to the medicare part B deductible.

500.3809 Additional benefits; reimbursement for preventative screening tests and services; definitions.

Sec. 3809. (1) In addition to the basic core package of benefits required under section 3807, the following benefits may be included in a medicare supplement insurance policy and if included shall conform to section 3811(5)(b) to (j):

(a) Medicare part A deductible: coverage for all of the medicare part A inpatient hospital deductible amount per benefit period.

(b) Skilled nursing facility care: coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a medicare benefit period for posthospital skilled nursing facility care eligible under medicare part A.

(c) Medicare part B deductible: coverage for all of the medicare part B deductible amount per calendar year regardless of hospital confinement.

(d) Eighty percent of the medicare part B excess charges: coverage for 80% of the difference between the actual medicare part B charge as billed, not to exceed any charge limitation established by medicare or state law, and the medicare-approved part B charge.

(e) One hundred percent of the medicare part B excess charges: coverage for all of the difference between the actual medicare part B charge as billed, not to exceed any charge limitation established by medicare or state law, and the medicare-approved part B charge.

(f) Basic outpatient prescription drug benefit: coverage for 50% of outpatient prescription drug charges, after a $250.00 calendar year deductible, to a maximum of $1,250.00 in benefits received by the insured per calendar year, to the extent not covered by medicare.

(g) Extended outpatient prescription drug benefit: coverage for 50% of outpatient prescription drug charges, after a $250.00 calendar year deductible, to a maximum of $3,000.00 in benefits received by the insured per calendar year, to the extent not covered by medicare.

(h) Medically necessary emergency care in a foreign country: coverage to the extent not covered by medicare for 80% of the billed charges for medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, which care would have been covered by medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of $250.00, and a lifetime maximum benefit of $50,000.00. For purposes of this benefit, "emergency care" means care needed immediately because of an injury or an illness of sudden and unexpected onset.

(i) Preventive medical care benefit: Coverage for the following preventive health services:

(*i*) An annual clinical preventive medical history and physical examination that may include tests and services from subparagraph (*ii*) and patient education to address preventive health care measures.

(*ii*) Any 1 or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(A) Digital rectal examination.

(B) Dipstick urinalysis for hematuria, bacteriuria, and proteinuria.

(C) Pure tone, air only, hearing screening test, administered or ordered by a physician.

(D) Serum cholesterol screening every 5 years.

(E) Thyroid function test.

(F) Diabetes screening.

(G) Tetanus and diphtheria booster every 10 years.

(H) Any other tests or preventive measures determined appropriate by the attending physician.

(j) At-home recovery benefit: coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery. At-home recovery services provided shall be primarily services that assist in activities of daily living. The insured's attending physician shall certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by medicare. Coverage is excluded for home care visits paid for by medicare or other government programs and care provided by family members, unpaid volunteers, or providers who are not care providers. Coverage is limited to:

(*i*) No more than the number of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of medicare approved home health care visits under a medicare approved home care plan of treatment.

(*ii*) The actual charges for each visit up to a maximum reimbursement of $40.00 per visit.

(*iii*) One thousand six hundred dollars per calendar year.

(*iv*) Seven visits in any 1 week.

(*v*) Care furnished on a visiting basis in the insured's home.

(*vi*) Services provided by a care provider as defined in this section.

(*vii*) At-home recovery visits while the insured is covered under the insurance policy and not otherwise excluded.

(*viii*) At-home recovery visits received during the period the insured is receiving medicare approved home care services or no more than 8 weeks after the service date of the last medicare approved home health care visit.

(k) New or innovative benefits: an insurer may, with the prior approval of the commissioner, offer new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. These benefits may include benefits that are appropriate to medicare supplement insurance, new or

innovative, not otherwise available, cost-effective, and offered in a manner that is consistent with the goal of simplification of medicare supplement policies.

(2) Reimbursement for the preventive screening tests and services under subsection (1)(i)(*ii*) shall be for the actual charges up to 100% of the medicare-approved amount for each test or service, as if medicare were to cover the test or service as identified in the American medical association current procedural terminology codes, to a maximum of $120.00 annually under this benefit. This benefit shall not include payment for any procedure covered by medicare.

(3) As used in subsection (1)(j):

(a) "Activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(b) "Care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(c) "Home" means any place used by the insured as a place of residence, provided that it qualifies as a residence for home health care services covered by medicare. A hospital or skilled nursing facility shall not be considered the insured's home.

(d) "At-home recovery visit" means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive 4 hours in a 24-hour period of services provided by a care provider is 1 visit.

500.3811 Basic core benefits; availability; sale of certain benefits prohibited; designations, structure, language, and format; other designations; requirements.

Sec. 3811. (1) An insurer shall make available to each prospective medicare supplement policyholder and certificate holder a policy form or certificate form containing only the basic core benefits as provided in section 3807.

(2) Groups, packages, or combinations of medicare supplement benefits other than those listed in this section shall not be offered for sale in this state except as may be permitted in section 3809(1)(k).

(3) Benefit plans shall contain the appropriate A through J designations, shall be uniform in structure, language, and format to the standard benefit plans in subsection (5), and shall conform to the definitions in this chapter. Each benefit shall be structured in accordance with sections 3807 and 3809 and list the benefits in the order shown in subsection (5). For purposes of this section, "structure, language, and format" means style, arrangement, and overall content of a benefit.

(4) In addition to the benefit plan designations A through J as provided under subsection (5), an insurer may use other designations to the extent permitted by law.

(5) A medicare supplement insurance benefit plan shall conform to 1 of the following:

(a) A standardized medicare supplement benefit plan A shall be limited to the basic core benefits common to all benefit plans as defined in section 3807.

(b) A standardized medicare supplement benefit plan B shall include only the following: the core benefits as defined in section 3807 and the medicare part A deductible as defined in section 3809(1)(a).

(c) A standardized medicare supplement benefit plan C shall include only the following: the core benefits as defined in section 3807, the medicare part A deductible, skilled nursing facility care, medicare part B deductible, and medically necessary emergency care in a foreign country as defined in section 3809(1)(a), (b), (c), and (h).

(d) A standardized medicare supplement benefit plan D shall include only the following: the core benefits as defined in section 3807, the medicare part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in section 3809(1)(a), (b), (h), and (j).

(e) A standardized medicare supplement benefit plan E shall include only the following: the core benefits as defined in section 3807, the medicare part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in section 3809(1)(a), (b), (h), and (i).

(f) A standardized medicare supplement benefit plan F shall include only the following: the core benefits as defined in section 3807, the medicare part A deductible, skilled nursing facility care, medicare part B deductible, 100% of the medicare part B excess charges, and medically necessary emergency care in a foreign country as defined in section 3809(1)(a), (b), (c), (e), and (h). A standardized medicare supplement plan F high deductible shall include only the following: 100% of covered expenses following the payment of the annual high deductible plan F deductible. The covered expenses include the core benefits as defined in section 3807, plus the medicare part A deductible, skilled nursing facility care, the medicare part B deductible, 100% of the medicare part B excess charges, and medically necessary emergency care in a foreign country as defined in section 3809(1)(a), (b), (c), (e), and (h). The annual high deductible plan F deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the medicare supplement plan F policy, and shall be in addition to any other specific benefit deductibles. The annual high deductible plan F deductible is $1,580.00 for calendar year 2001, and the secretary shall adjust it annually thereafter to reflect the change in the consumer price index for all urban consumers for the 12-month period ending with August of the preceding year, rounded to the nearest multiple of $10.00.

(g) A standardized medicare supplement benefit plan G shall include only the following: the core benefits as defined in section 3807, the medicare part A deductible, skilled nursing facility care, 80% of the medicare part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in section 3809(1)(a), (b), (d), (h), and (j).

(h) A standardized medicare supplement benefit plan H shall include only the following: the core benefits as defined in section 3807, the medicare part A deductible, skilled nursing facility care, basic outpatient prescription drug benefit, and medically necessary emergency care in a foreign country as defined in section 3809(1)(a), (b), (f), and (h).

(i) A standardized medicare supplement benefit plan I shall include only the following: the core benefits as defined in section 3807, the medicare part A deductible, skilled nursing facility care, 100% of the medicare part B excess charges, basic outpatient prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined in section 3809(1)(a), (b), (e), (f), (h), and (j).

(j) A standardized medicare supplement benefit plan J shall include only the following: the core benefits as defined in section 3807, the medicare part A deductible, skilled nursing facility care, medicare part B deductible, 100% of the medicare part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care, and at-home recovery benefit as defined in section 3809(1)(a), (b), (c), (e), (g), (h), (i), and (j). A standardized medicare supplement benefit plan J high deductible plan shall consist of only the following: 100% of covered

expenses following the payment of the annual high deductible plan J deductible. The covered expenses include the core benefits as defined in section 3807, plus the medicare part A deductible, skilled nursing facility care, medicare part B deductible, 100% of the medicare part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit and at-home recovery benefit as defined in section 3809(1)(a), (b), (c), (e), (g), (h), (i), and (j). The annual high deductible plan J deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the medicare supplement plan J policy, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be $1,580.00 for calendar year 2001, and the secretary shall adjust it annually thereafter to reflect the change in the consumer price index for all urban consumers for the 12-month period ending with August of the preceding year, rounded to the nearest multiple of $10.00.

500.3815 Outline of coverage; acknowledgment of receipt; substitute; language, format, and required items.

Sec. 3815. (1) An insurer that offers a medicare supplement policy shall provide to the applicant at the time of application an outline of coverage and, except for direct response solicitation policies, shall obtain an acknowledgment of receipt of the outline of coverage from the applicant. The outline of coverage provided to applicants pursuant to this section shall consist of the following 4 parts:

(a) A cover page.

(b) Premium information.

(c) Disclosure pages.

(d) Charts displaying the features of each benefit plan offered by the insurer.

(2) If an outline of coverage is provided at the time of application and the medicare supplement policy or certificate is issued on a basis that would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate shall accompany the policy or certificate when it is delivered and shall contain the following statement, in no less than 12-point type, immediately above the company name:

> NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.

(3) An outline of coverage under subsection (1) shall be in the language and format prescribed in this section and in not less than 12-point type. The A through J letter designation of the plan shall be shown on the cover page and the plans offered by the insurer shall be prominently identified. Premium information shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and method of payment mode shall be stated for all plans that are offered to the applicant. All possible premiums for the applicant shall be illustrated. The following items shall be included in the outline of coverage in the order prescribed below and in substantially the following form, as approved by the commissioner:

(Insurer Name)
Medicare Supplement Coverage
Outline of Medicare Supplement Coverage-Cover Page:

Benefit Plan(s)_____ [insert letter(s) of plan(s) being offered]

Medicare supplement insurance can be sold in only 10 standard plans plus 2 high deductible plans. This chart shows the benefits included in each plan. Every insurer shall make available Plan “A”. Some plans may not be available in your state.

BASIC BENEFITS: Included in All Plans.

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (20% of Medicare-approved expenses) or, for hospital outpatient department services under a prospective payment system, applicable copayments.

Blood: First three pints of blood each year.

	A	B	C	D	E	F	G	H	I	J
Basic Benefits	x	x	x	x	x	x	x	x	x	x
Skilled Nursing Co-Insurance			x	x	x	x	x	x	x	x
Part A Deductible		x	x	x	x	x	x	x	x	x
Part B Deductible			x			x				x
Part B Excess						x 100%	x 80%		x 100%	x 100%
Foreign Travel Emergency			x	x	x	x	x	x	x	x
At-Home Recovery				x			x		x	x
Drugs								x $1,250 Limit	x $1,250 Limit	x $3,000 Limit
Preventive Care					x					x

PREMIUM INFORMATION

We (insert insurer's name) can only raise your premium if we raise the premium for all policies like yours in this state. (If the premium is based on the increasing age of the insured, include information specifying when premiums will change).

DISCLOSURES

Use this outline to compare benefits and premiums among policies, certificates, and contracts.

READ YOUR POLICY VERY CAREFULLY

This is only an outline describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY

If you find that you are not satisfied with your policy, you may return it to (insert insurer's address). If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT

If you are replacing another health insurance policy, do not cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE

This policy may not fully cover all of your medical costs.

[For agent issued policies]

Neither (insert insurer's name) nor its agents are connected with medicare.

[For direct response issued policies]

(Insert insurer's name) is not connected with medicare.

This outline of coverage does not give all the details of medicare coverage. Contact your local social security office or consult "the medicare handbook" for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan offered by the insurer a chart showing the services, medicare payments, plan payments, and insured payments using the same language, in the same order, and using uniform layout and format as shown in the charts that follow. An insurer may use additional benefit plan designations on these charts pursuant to section 3809(1)(k). Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner. The insurer issuing the policy shall change the dollar amounts each year to reflect current figures. No more than 4 plans may be shown on 1 chart.] Charts for each plan are as follows:

PLAN A

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$0	$792 (Part A Deductible)
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after:			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs

SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	$0	Up to $99 a day
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	$0	Balance

PLAN A
MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— In or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs

BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES— Blood tests for diagnostic services	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE Medicare Approved Services			
—Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0

PLAN B

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs

SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	$0	Up to $99 a day
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN B

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— In or out of the hospital and outpatient hospital treatment, such as Physician's services, in-patient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs

BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES— Blood tests for diagnostic services	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE Medicare Approved Services —Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0

PLAN C

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs

SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	$0	Balance

PLAN C

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— In or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs

BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES— Blood tests for diagnostic services	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE Medicare Approved Services —Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL— Not covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

PLAN D

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	$0	Balance

PLAN D

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— In or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES— Blood tests for diagnostic services	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE Medicare Approved Services —Medically necessary skilled care services and medical supplies —Durable medical equipment	100%	$0	$0

First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
AT-HOME RECOVERY SERVICES— Not covered by Medicare Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
—Benefit for each visit	$0	Actual Charges to $40 a visit	Balance
—Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
—Calendar year maximum	$0	$1,600	

(continued)

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL— Not covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

PLAN E

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after —While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used: —Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	$0	Balance

PLAN E

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— In or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES— Blood tests for diagnostic services	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE Medicare Approved Services —Medically necessary skilled care services and medical supplies —Durable medical equipment	100%	$0	$0

First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL—Not covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum
PREVENTIVE MEDICAL CARE BENEFIT—Not covered by Medicare Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First $120 each calendar year	$0	$120	$0
Additional charges	$0	$0	All Costs

PLAN F OR HIGH DEDUCTIBLE PLAN F
MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

**This high deductible plan pays the same or offers the same benefits as plan F after you have paid a calendar year ($1,580) deductible. Benefits from the high deductible plan F will not begin until out-of-pocket expenses are $1,580. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes medicare deductibles for part A and part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY $1,580 DEDUCTIBLE**, PLAN PAYS	IN ADDITION TO $1,580 DEDUCTIBLE**, YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0

HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	$0	Balance

PLAN F

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

**This high deductible plan pays the same or offers the same benefits as plan F after you have paid a calendar year ($1,580) deductible. Benefits from the high deductible plan F will not begin until out-of-pocket expenses are $1,580. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes medicare deductibles for part A and part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY $1,580 DEDUCTIBLE**, PLAN PAYS	IN ADDITION TO $1,580 DEDUCTIBLE**, YOU PAY
MEDICAL EXPENSES— In or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	100%	$0
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0

CLINICAL LABORATORY SERVICES— Blood tests for diagnostic services	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE Medicare Approved Services —Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL— Not covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

PLAN G

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after —While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used: —Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	$0	Balance

PLAN G

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— In or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	80%	20%
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES— Blood tests for diagnostic services	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE Medicare Approved Services			
—Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)

Remainder of Medicare Approved Amounts	80%	20%	$0
AT-HOME RECOVERY SERVICES— Not covered by Medicare Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
—Benefit for each visit	$0	Actual Charges to $40 a visit	Balance
—Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
—Calendar year maximum	$0	$1,600	

(continued)

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL— Not covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

PLAN H

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after —While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used: —Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN H

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES—In or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES—			
Blood tests for diagnostic services	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE			
Medicare Approved Services			
—Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)

Remainder of Medicare Approved Amounts	80%	20%	$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL—Not covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum
BASIC OUTPATIENT PRESCRIPTION DRUGS—Not covered by Medicare			
First $250 each calendar year	$0	$0	$250
Next $2,500 each calendar year	$0	50%—$1,250 calendar year maximum benefit	50%
Over $2,500 each calendar year	$0	$0	All Costs

PLAN I

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after —While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0

—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN I

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES— In or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			

First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	100%	$0
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES—			
Blood tests for diagnostic services	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE			
Medicare Approved Services —Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
AT-HOME RECOVERY SERVICES—			
Not covered by Medicare Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
—Benefit for each visit	$0	Actual Charges to $40 a visit	Balance

—Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
—Calendar year maximum	$0	$1,600	

(continued)

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL—Not covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges*	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum
BASIC OUTPATIENT PRESCRIPTION DRUGS—Not covered by Medicare			
First $250 each calendar year	$0	$0	$250
Next $2,500 each calendar year	$0	50%—$1,250 calendar year maximum benefit	50%
Over $2,500 each calendar year	$0	$0	All Costs

PLAN J OR HIGH DEDUCTIBLE PLAN J
MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

**This high deductible plan pays the same or offers the same benefits as plan J after you have paid a calendar year ($1,580) deductible. Benefits from the high deductible plan J will not begin until out-of-pocket expenses are $1,580. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes medicare deductibles for part A and part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY $1,580 DEDUCTIBLE**, PLAN PAYS	IN ADDITION TO $1,580 DEDUCTIBLE**, YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0

HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN J

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

**This high deductible plan pays the same or offers the same benefits as plan J after you have paid a calendar year ($1,580) deductible. Benefits from the high deductible plan J will not begin until out-of-pocket expenses are $1,580. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. This includes medicare deductibles for part A and part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY $1,580 DEDUCTIBLE**, PLAN PAYS	IN ADDITION TO $1,580 DEDUCTIBLE**, YOU PAY
MEDICAL EXPENSES— In or out of the hospital and outpatient hospital treatment, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	100%	$0
BLOOD First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0

CLINICAL LABORATORY SERVICES— Blood tests for diagnostic services	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE Medicare Approved Services —Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0
AT-HOME RECOVERY SERVICES— Not covered by Medicare Home care certified by your doctor, for personal care beginning during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan —Benefit for each visit	$0	Actual Charges to $40 a visit	Balance
—Number of visits covered (must be received within 8 weeks of last visit)	$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
Medicare Approved —Calendar year maximum	$0	$1,600	

(continued)

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL— Not covered by Medicare Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum
EXTENDED OUTPATIENT PRESCRIPTION DRUGS— Not covered by Medicare			
First $250 each calendar year	$0	$0	$250
Next $6,000 each calendar year	$0	50%—$3,000 calendar year maximum benefit	50%
Over $6,000 each calendar year	$0	$0	All Costs
PREVENTIVE MEDICAL CARE BENEFIT— Not covered by Medicare Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First $120 each calendar year	$0	$120	$0
Additional charges	$0	$0	All costs

500.3819 Minimum standards; suspension of benefits and premiums; notice; reinstitution.

Sec. 3819. (1) An insurance policy shall not be titled, advertised, solicited, or issued for delivery in this state as a medicare supplement policy if the policy does not meet the minimum standards prescribed in this section. These minimum standards are in addition to all other requirements of this chapter.

(2) The following standards apply to medicare supplement policies:

(a) A medicare supplement policy shall not deny a claim for losses incurred more than 6 months from the effective date of coverage because it involved a preexisting condition. The policy or certificate shall not define a preexisting condition more restrictively than to mean a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage.

(b) A medicare supplement policy shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(c) A medicare supplement policy shall provide that benefits designed to cover cost sharing amounts under medicare will be changed automatically to coincide with any changes in the applicable medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

(d) A medicare supplement policy shall be guaranteed renewable. Termination shall be for nonpayment of premium or material misrepresentation only.

(e) Termination of a medicare supplement policy shall not reduce or limit the payment of benefits for any continuous loss that commenced while the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be predicated upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.

(f) A medicare supplement policy shall not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.

(3) A medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder or certificate holder for a period not to exceed 24 months in which the policyholder or certificate holder has applied for and is determined to be entitled to medical assistance under medicaid, but only if the policyholder or certificate holder notifies the insurer of such assistance within 90 days after the date the individual becomes entitled to the assistance. Upon receipt of timely notice, the insurer shall return to the policyholder or certificate holder that portion of the premium attributable to the period of medicaid eligibility, subject to adjustment for paid claims. If a suspension occurs and if the policyholder or certificate holder loses entitlement to medical assistance under medicaid, the policy shall be automatically reinstituted effective as of the date of termination of the assistance if the policyholder or certificate holder provides notice of loss of medicaid medical assistance within 90 days after the date of the loss and pays the premium attributable to the period effective as of the date of termination of the assistance. Each medicare supplement policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder if the policyholder is entitled to benefits under section 226(b) of title II of the social security act, and is covered under a group health plan as defined in section 1862(b)(1)(A)(*v*) of the social security act. If suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, the policy shall be automatically reinstituted effective as of the date of loss of coverage if the policyholder provides notice of loss of

coverage within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan. All of the following apply to the reinstitution of a medicare supplement policy under this subsection:

(a) The reinstitution shall not provide for any waiting period with respect to treatment of preexisting conditions.

(b) Reinstituted coverage shall be substantially equivalent to coverage in effect before the date of the suspension.

(c) Classification of premiums for reinstituted coverage shall be on terms at least as favorable to the policyholder or certificate holder as the premium classification terms that would have applied to the policyholder or certificate holder had the coverage not been suspended.

500.3829 Denying or conditioning issuance based on health status, claims experience, receipt of health care, or medical condition of applicant prohibited; condition; exclusion of benefits based on pre-existing conditions; reduction; creditable coverage.

Sec. 3829. (1) An insurer shall not deny or condition the issuance or effectiveness of a medicare supplement policy available for sale in this state, or discriminate in the pricing of such a policy, because of the health status, claims experience, receipt of health care, or medical condition of an applicant if an application for the policy is submitted during the 6-month period beginning with the first month in which an individual who is 65 years of age or older first enrolled for benefits under medicare part B. Each medicare supplement policy currently available from an insurer shall be made available to all applicants who qualify under this section without regard to age.

(2) If an applicant qualifies under subsection (1), submits an application during the time period provided in subsection (1), and as of the date of application has had a continuous period of creditable coverage of not less than 6 months, the insurer shall not exclude benefits based on a preexisting condition. If the applicant qualifies under subsection (1), submits an application during the time period in subsection (1), and as of the date of application has had a continuous period of creditable coverage that is less than 6 months, the insurer shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The secretary shall specify the manner of the reduction under this subsection.

(3) Except as provided in subsection (2) and section 3833, subsection (1) does not prevent the exclusion of benefits under a policy, during the first 6 months, based on a preexisting condition for which the policyholder or certificate holder received treatment or was otherwise diagnosed during the 6 months before the coverage became effective.

(4) "Creditable coverage" does not include any of the following:

(a) One or more of the following:

(*i*) Coverage only for accident or disability income insurance, or any combination of accident or disability income insurance.

(*ii*) Coverage issued as a supplement to liability insurance.

(*iii*) Liability insurance, including general liability insurance and automobile liability insurance.

(*iv*) Workers' compensation or similar insurance.

(*v*) Automobile medical payment insurance.

(*vi*) Credit-only insurance.

(*vii*) Coverage for on-site medical clinics.

(*viii*) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

(b) The following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(*i*) Limited scope dental or vision benefits.

(*ii*) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination of long-term care, nursing home care, home health care, or community-based care.

(*iii*) Such other similar, limited benefits as are specified in federal regulations.

(c) The following benefits if offered as independent, noncoordinated benefits:

(*i*) Coverage only for a specified disease or illness.

(*ii*) Hospital indemnity or other fixed indemnity insurance.

(d) The following if it is offered as a separate policy, certificate, or contract of insurance:

(*i*) Medicare supplemental policy as defined under section 1882(g)(1) of part D of medicare, 42 U.S.C. 1395ss.

(*ii*) Coverage supplemental to the coverage provided under chapter 55 of title 10 of the United States Code, 10 U.S.C. 1071 to 1109.

(*iii*) Similar supplemental coverage provided to coverage under a group health plan.

500.3830 Eligible person; requirements.

Sec. 3830. (1) An eligible person is an individual described in subsection (2) who applies to enroll under a medicare supplement policy during the period described in subsection (3), and who submits evidence of the date of termination or disenrollment with the application for a medicare supplement policy. For an eligible person, an insurer shall not deny or condition the issuance or effectiveness of a medicare supplement policy described in subsections (5), (6), and (7) that is offered and is available for issuance to new enrollees by the insurer, shall not discriminate in the pricing of the medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under the medicare supplement policy.

(2) An eligible person under this section is an individual that meets any of the following:

(a) Is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under medicare and the plan terminates or the plan ceases to provide all those supplemental health benefits to the individual.

(b) Is enrolled with a medicare+choice organization under a medicare+choice plan under part C of medicare, and any of the following circumstances apply, or the individual is 65 years of age or older and is enrolled with a PACE provider under section 1894 of the social security act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with the provider if the individual were enrolled in a medicare+choice plan:

(*i*) The certification of the organization or plan has been terminated.

(*ii*) The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides.

(*iii*) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(b) of the social security act, where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards established under section 1856 of the social security act, or the plan is terminated for all individuals within a residence area.

(*iv*) The individual demonstrates, in accordance with guidelines established by the secretary, that the organization offering the plan substantially violated a material provision of the organization's contract in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide covered care in accordance with applicable quality standards, or the organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual.

(*v*) The individual meets other exceptional conditions as the secretary may provide.

(c) Is enrolled with an eligible organization under a contract under section 1876 of the social security act, a similar organization operating under demonstration project authority, effective for periods before April 1, 1999, an organization under an agreement under section 1833(a)(1)(A) of the social security act, health care prepayment plan, or an organization under a medicare select policy, and the enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under subdivision (b).

(d) Is enrolled under a medicare supplement policy and the enrollment ceases because of any of the following:

(*i*) The insolvency of the insurer or bankruptcy of the noninsurer organization or of other involuntary termination of coverage or enrollment under the policy.

(*ii*) The insurer substantially violated a material provision of the policy.

(*iii*) The insurer, or an agent or other entity acting on the insurer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual.

(e) Was enrolled under a medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any medicare+choice organization under a medicare+choice plan under part C of medicare, any eligible organization under a contract under section 1876 of the social security act, medicare cost, any similar organization operating under demonstration project authority, any PACE provider under section 1894 of the social security act, or a medicare select policy; and the subsequent enrollment is terminated by the enrollee during any period within the first 12 months of the subsequent enrollment during which the enrollee is permitted to terminate the subsequent enrollment under section 1851(e) of the social security act.

(f) Upon first becoming eligible for benefits under part A of medicare at age 65, enrolls in a medicare+choice plan under part C of medicare, or with a PACE provider under section 1894 of the social security act, and disenrolls from the plan or program by not later than 12 months after the effective date of enrollment.

(3) The guaranteed issue time periods under this section are as follows:

(a) For an individual described in subsection (2)(a), the guaranteed issue time period begins on the date the individual receives a notice of termination or cessation of all supplemental health benefits or, if a notice is not received, notice that a claim has been

denied because of a termination or cessation, and ends 63 days after the date of the applicable notice.

(b) For an individual described in subsection (2)(b), (c), (e), or (f) whose enrollment is terminated involuntarily, the guaranteed issue time period begins on the date that the individual receives a notice of termination and ends 63 days after the date the applicable coverage is terminated.

(c) For an individual described in subsection (2)(d)(*i*), the guaranteed issue time period begins on the earlier of the date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice, if any, or the date that the applicable coverage is terminated, and ends on the date that is 63 days after the date the coverage is terminated.

(d) For an individual described in subsection (2)(b), (d)(*ii*), (d)(*iii*), (e), or (f) who disenrolls voluntarily, the guaranteed issue time period begins on the date that is 60 days before the effective date of the disenrollment and ends on the date that is 63 days after the effective date.

(e) For an individual described in subsection (2) but not described in subdivisions (a) to (d), the guaranteed issue time period begins on the effective date of disenrollment and ends on the date that is 63 days after the effective date.

(4) For an individual described in subsection (2)(e) whose enrollment with an organization or provider described in subsection (2)(e) is involuntarily terminated within the first 12 months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment shall be considered an initial enrollment described in subsection (2)(e). For an individual described in subsection (2)(f) whose enrollment within a plan or in a program described in subsection (2)(f) is involuntarily terminated within the first 12 months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment shall be considered an initial enrollment described in subsection (2)(f). For purposes of subsections (2)(e) and (f), an enrollment of an individual with an organization or provider described in subsection (2)(e), or with a plan or provider described in subsection (2)(f), shall not be considered to be an initial enrollment after the 2-year period beginning on the date on which the individual first enrolled with such an organization, provider, or plan.

(5) The medicare supplement policy to which an eligible person is entitled under subsection (2)(a), (b), (c), and (d) is a medicare supplement policy that has a benefit package classified as plan A, B, C, or F offered by any insurer.

(6) The medicare supplement policy to which an eligible person is entitled under subsection (2)(e) is the same medicare supplement policy in which the individual was most recently previously enrolled, if available from the same insurer, or, if not so available, a policy described in subsection (5).

(7) The medicare supplement policy to which an eligible person is entitled under subsection (2)(f) shall include any medicare supplement policy offered by any insurer.

500.3830a Termination of contract or agreement; notice to individual.

Sec. 3830a. (1) At the time of an event described in section 3830(2) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the insurer terminating the policy, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under section 3830 and of the obligations of insurers of medicare supplement policies under section 3830(1). The notice shall be communicated contemporaneously with the notification of termination.

(2) At the time of an event described in section 3830(2) because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the insurer offering the policy, or the administrator of the plan, respectively, shall notify the individual of his or her rights under section 3830 and of the obligations of insurers of medicare supplement policies under section 3830(1). The notice shall be communicated within 10 working days of the insurer receiving notification of disenrollment.

Repeal of § 500.3837.

Enacting section 1. Section 3837 of the insurance code of 1956, 1956 PA 218, MCL 500.3837, is repealed.

This act is ordered to take immediate effect.
Approved May 10, 2002.
Filed with Secretary of State May 10, 2002.

[No. 305]

(SB 685)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.1100) by adding section 64.

The People of the State of Michigan enact:

250.1064 "94th Combat Infantry Division Memorial Highway."

Sec. 64. That portion of highway I-94 in Calhoun county beginning at exit 92 and continuing east to the M-66 exit shall be named the "94th Combat Infantry Division Memorial Highway".

This act is ordered to take immediate effect.
Approved May 11, 2002.
Filed with Secretary of State May 13, 2002.

[No. 306]

(SB 856)

AN ACT to amend 1948 (1st Ex Sess) PA 31, entitled "An act to provide for the incorporation of authorities to acquire, furnish, equip, own, improve, enlarge, operate, and maintain buildings, automobile parking lots or structures, recreational facilities, stadiums, and the necessary site or sites therefor, together with appurtenant properties and facilities necessary or convenient for the effective use thereof, for the use of any county, city, village, or township, or for the use of any combination of 2 or more counties, cities, villages, or townships, or for the use of any school district and any city, village, or township wholly or partially within the district's boundaries, or for the use of any school district and any combination of 2 or more cities, villages, or townships wholly or partially within the

district's boundaries, or for the use of any intermediate school district and any constituent school district or any city, village, or township, wholly or partially within the intermediate school district's boundaries; to provide for compensation of authority commissioners; to permit transfers of property to authorities; to authorize the execution of contracts, leases, and subleases pertaining to authority property and the use of authority property; to authorize incorporating units to impose taxes without limitation as to rate or amount and to pledge their full faith and credit for the payment of contract of lease obligations in anticipation of which bonds are issued by an authority; to provide for the issuance of bonds by such authorities; to validate action taken and bonds issued; to provide other powers, rights, and duties of authorities and incorporating units, including those for the disposal of authority property; and to prescribe penalties and provide remedies," by amending section 11j (MCL 123.961j), as amended by 1983 PA 29; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

123.961j Bonds subject to revised municipal finance act; tax exemption.

Sec. 11j. (1) All bonds authorized under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The principal and interest on bonds issued under this act are exempt from taxation by this state and by any other taxing authority within this state.

Repeal of §§ 123.961c, 123.961i, and 123.961k.

Enacting section 1. Sections 11c, 11i, and 11k of 1948 (1st Ex Sess) PA 31, MCL 123.961c, 123.961i, and 123.961k, are repealed.

This act is ordered to take immediate effect.
Approved May 11, 2002.
Filed with Secretary of State May 13, 2002.

[No. 307]

(SB 1068)

AN ACT to repeal 1919 PA 325, entitled "An act to authorize and empower cities to own and acquire land, by gift, purchase, condemnation, or otherwise, for the erection of memorials to soldiers and sailors; to authorize the erection of such memorials and determine the character thereof; to provide for the appropriation of money for the acquisition, erection and maintenance thereof, for the assessment, levy and collection of taxes, the borrowing of money, and the issuing of bonds therefor, and for the custody, control and management of such memorials," (MCL 35.871 to 35.873).

The People of the State of Michigan enact:

Repeal of §§ 35.871 to 35.873.

Enacting section 1. 1919 PA 325, MCL 35.871 to 35.873, is repealed.

This act is ordered to take immediate effect.
Approved May 11, 2002.
Filed with Secretary of State May 13, 2002.

[No. 308]

(SB 1069)

AN ACT to amend 1951 PA 33, entitled "An act to provide police and fire protection for townships and for certain areas in townships, certain incorporated villages, and cities under 15,000 population; to authorize contracting for fire and police protection; to authorize the purchase of fire and police equipment, and the maintenance and operation of the equipment; to provide for defraying the cost of the equipment; to authorize the creation of special assessment districts and the levying and collecting of special assessments; to authorize the issuance of special assessment bonds in anticipation of the collection of special assessments and the advancement of the amount necessary to pay such bonds, and to provide for reimbursement for such advances by reassessment if necessary; to authorize the collection of fees for certain emergency services in townships and other municipalities; to authorize the creation of administrative boards and to prescribe their powers and duties; to provide for the appointment of traffic officers and to prescribe their powers and duties; and to repeal certain acts and parts of acts," by amending section 1 (MCL 41.801), as amended by 1998 PA 545.

The People of the State of Michigan enact:

41.801 Purchase of police and fire motor vehicles, apparatus, equipment, and housing; appropriation; special assessment; bonds; election; estimate of cost and expenses; special assessment district; hearing; publication or posting of notice; distribution of special assessment levy; transfer or loan of money from general fund; repayment; exercise of powers; assessment after December 31, 1998; "taxable value" defined; finding of invalid assessment; bonds subject to municipal finance act.

Sec. 1. (1) The township board of a township, or the township boards of adjoining townships acting jointly, whether or not the townships are located in the same county, may purchase police and fire motor vehicles, apparatus, equipment, and housing and for that purpose may provide by resolution for the appropriation of general or contingent funds. Before January 1, 1999, the appropriation for fire motor vehicles, apparatus, equipment, and housing in a 1-year period shall not exceed 10 mills of the assessed valuation of the area in their respective townships for which fire protection is to be furnished. After December 31, 1998, the appropriation for fire motor vehicles, apparatus, equipment, and housing in a 1-year period shall not exceed 10 mills of the taxable value of the area in their respective townships for which fire protection is to be furnished. Before January 1, 1999, the appropriation for police motor vehicles, apparatus, equipment, and housing in a 1-year period shall not exceed 10 mills of the assessed valuation of the area in their respective townships for which police protection is to be furnished. After December 31, 1998, the appropriation for police motor vehicles, apparatus, equipment, and housing in a 1-year period shall not exceed 10 mills of the taxable value of the area in their respective townships for which police protection is to be furnished.

(2) The township board of a township, or the township boards of adjoining townships acting jointly, whether or not the townships are located in the same county, may provide annually by resolution for the appropriation of general or contingent funds for maintenance and operation of police and fire departments.

(3) The township board, or the township boards of adjoining townships acting jointly, may provide that the sums prescribed in subsection (2) for purchasing and housing equipment, for the operation of the equipment, or both, may be defrayed by special assessment on the lands and premises in the township or townships to be benefited and may issue bonds in anticipation of the collection of these special assessments. The question of raising money by special assessment may be submitted to the electors of the township or townships by the township board, or township boards acting jointly, at a general election or special election called for that purpose by the township board or township boards. The question of raising money by special assessment shall be submitted by the township board, or township boards acting jointly, if in the affected township, or in each of the affected townships, the owners of 10% of the land to be made into a special assessment district petition the township board or boards.

(4) If a special assessment district is proposed under subsection (3), the township board, or township boards acting jointly, shall estimate the cost and expenses of the police and fire motor vehicles, apparatus, equipment, and housing and police and fire protection, and fix a day for a hearing on the estimate and on the question of creating a special assessment district and defraying the expenses of the special assessment district by special assessment on the property to be especially benefited. The hearing shall be a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. In addition, the township board, or township boards acting jointly, shall publish in a newspaper of general circulation in the proposed district a notice stating the time, place, and purpose of the meeting. If there is not a newspaper of general circulation in the proposed district, notices shall be posted in not less than 3 of the most public places in the proposed district. This notice shall be published or posted not less than 5 days before the hearing. On the day appointed for the hearing, the township board, or township boards acting jointly, shall be in session to hear objections that may be offered against the estimate and the creation of the special assessment district. Before January 1, 1999, if the township board, or township boards acting jointly, determine to create a special assessment district, they shall determine the boundaries by resolution, determine the amount of the special assessment levy, and direct the supervisor or supervisors to spread the assessment levy on all of the lands and premises in the district that are to be especially benefited by the police and fire protection, according to benefits received, to defray the expenses of police and fire protection. After December 31, 1998, if the township board, or township boards acting jointly, determine to create a special assessment district, they shall determine the boundaries by resolution, determine the amount of the special assessment levy, and direct the supervisor or supervisors to spread the assessment levy on the taxable value of all of the lands and premises in the district that are to be especially benefited by the police and fire protection, according to benefits received, to defray the expenses of police and fire protection. The township board, or township boards acting jointly, shall hold a hearing on objections to the distribution of the special assessment levy. This hearing shall be held in the same manner and with the same notice as provided in this section. The township board, or township boards acting jointly, shall annually determine the amount to be assessed in the district for police and fire protection, shall direct the supervisor or supervisors to distribute the special assessment levy, and shall hold a hearing on the estimated costs and expenses of police and fire protection and on the distribution of the levy. The assessment may be made either in a special assessment roll or in a column provided in the regular tax roll. The assessment shall be distributed and shall become due

and be collected at the same time as other township taxes are assessed, levied, and collected, and shall be returned in the same manner for nonpayment. However, if the collections received from the special assessment levied to defray the cost or portion intended to be defrayed for police and fire protection are, at any time, insufficient to meet the obligations or expenses incurred for the maintenance and operation of the police and fire departments, the township board of the township, or township boards acting jointly, may, by resolution, authorize the transfer or loan of sufficient money from the general fund of the township or townships, to the special assessment police and fire department fund. This money shall be repaid to the general fund of the township or townships out of special assessment funds when collected.

(5) The powers granted by this act with respect to police and fire protection may be exercised with respect to police protection alone, fire protection alone, or police and fire protection in combination.

(6) After December 31, 1998, an ad valorem special assessment levied under this act shall be levied on the taxable value of the property assessed.

(7) As used in this section, "taxable value" means that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(8) If the levy of an ad valorem special assessment on the property's taxable value is found to be invalid by a court of competent jurisdiction, the levy of the ad valorem special assessment shall be levied on the property's state equalized value.

(9) Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 11, 2002.
Filed with Secretary of State May 13, 2002.

[No. 309]

(SB 1070)

AN ACT to repeal 1911 PA 228, entitled "An act to authorize the boards of supervisors of the several counties in this state to borrow money, and issue bonds therefor, for the purchase of land and improve the same by the erection of buildings and other improvements thereon or for the purpose of improving and erecting buildings upon lands already purchased and held by said county to be used for the purpose of holding thereon fairs and exhibitions of an agricultural character," (MCL 46.111).

The People of the State of Michigan enact:

Repeal of §§ 46.111.

Enacting section 1. 1911 PA 228, MCL 46.111, is repealed.

This act is ordered to take immediate effect.
Approved May 11, 2002.
Filed with Secretary of State May 13, 2002.

[No. 310]

(SB 1071)

AN ACT to repeal 1911 PA 26, entitled "An act to legalize the proceedings taken by any village in the state of Michigan, incorporated under Act No. 3 of the Public Acts of 1895, as amended, authorizing the issuance of bonds for the purpose of securing an additional water supply and extending the municipal lighting plant of any such village," (MCL 79.1 to 79.2).

The People of the State of Michigan enact:

Repeal of §§ 79.1 to 79.2.

Enacting section 1. 1911 PA 26, MCL 79.1 to 79.2, is repealed.

This act is ordered to take immediate effect.
Approved May 11, 2002.
Filed with Secretary of State May 13, 2002.

[No. 311]

(SB 1072)

AN ACT to repeal 1925 PA 209, entitled "An act to authorize any incorporated village having a population of 1,000 or less, which may be the county seat of any county in this state, to borrow money, and issue bonds therefor, for the purpose of buying or building a courthouse or jail or both for said county in such village, upon approval of the electors of said village," (MCL 79.41 to 79.43).

The People of the State of Michigan enact:

Repeal of §§ 79.41 to 79.43.

Enacting section 1. 1925 PA 209, MCL 79.41 to 79.43, is repealed.

This act is ordered to take immediate effect.
Approved May 11, 2002.
Filed with Secretary of State May 13, 2002.

[No. 312]

(SB 1075)

AN ACT to amend 1923 PA 150, entitled "An act to authorize and empower counties, cities, villages and townships or any combination of them, to singly or jointly acquire by gift, devise or public condemnation a site or sites and/or construct, erect, lease, sub-lease and maintain public buildings for the purpose of housing within the same building or buildings city, county, village or township offices, and/or for any other public uses and

purposes, which may include a memorial hall for war veterans of the United States of America and for public assemblage," by amending section 5 (MCL 123.925).

The People of the State of Michigan enact:

123.925 Public buildings; veterans' memorial hall; rent contracts; bonds; referendum, issuance; applicability of section to counties with certain population; bonds subject to revised municipal finance act.

Sec. 5. (1) A county, city, village, or township for itself and any other of the units of government may acquire, construct, lease, or maintain a building or buildings to house any of their offices, or facilities for any other public use and purpose of the units of government, which building may be or include a memorial hall for war veterans of the United States of America and for public assemblage and to acquire a site or sites for those purposes. However, no county, city, village, or township shall for joint purposes and uses acquire a site or sites or erect any building or buildings unless the unit of government has entered into a contract or contracts for the rental of a portion of the site or sites and quarters or space with each of the other participating units of government in the amount or amounts and for the period or periods of time and in the form as will provide revenues from payments to it of a reasonably proportionate or equitable share of the total cost in relation to the portion, space, use, and public benefits provided in the contract or contracts for the lessee or lessees. The contract or contracts shall be executed following approval by a majority vote of the members elected to and serving in the legislative body of each unit of government participating in and a party to the contract. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The county, city, village, or township that singly acquires a site or sites or acquires, constructs, or leases a building or buildings for the purposes authorized in this section may obtain funds for those purposes by gift or by means of general obligation bonds or by the issuance of self-liquidating revenue bonds to be paid from the revenues derived in pursuance of a contract or contracts as provided in subsection (1) and under the provisions of the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. In the event that the revenues to be derived under the contract or contracts shall be only sufficient to permit the issuance of revenue bonds for a portion of the cost of the site or sites or building or buildings, authority is hereby granted to issue revenue bonds to the extent to which the revenue shall permit. However, the entire improvement or improvements on which revenue bonds are issued shall be subject to the provisions of the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. However, as a prerequisite to the lease or purchase of any property, the lease, purchase, or construction of any building or buildings or the issuance of any revenue or general obligation bonds under the provision of this section, the board of commissioners of the county involved shall submit the question to the qualified electors of the county at the next general election or at a special election to be called by the board of commissioners of the county. However, if the majority vote of the qualified electors in the largest city of the county and a majority vote of the qualified electors in all the rest of the county shall vote in favor of the question, the provisions of this section shall then become operative. However, no self-liquidating revenue bonds shall be sold unless prior to the sale an advertisement is made of the date of the sale, the number and amount of bonds, and other matters covering the revenue bonds. However, sealed bids shall be taken on the day of the sale of the bonds from any and all persons who may bid, and the bonds shall be sold to the highest bidder at the sale. The proceeds derived from the sale of any and all the bonds shall be used only for the purpose of

acquiring a site or constructing building or buildings, as authorized in this act, and shall be used for no other purpose.

(3) The provisions of this section shall apply only to counties having a population of 300,000 or over according to the latest federal census. However, the provisions of this section shall not apply in a county unless and until the board of supervisors of the county shall adopt a resolution approved by a 2/3 vote of the members elected to and serving on the board.

(4) General obligation bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 11, 2002.
Filed with Secretary of State May 13, 2002.

[No. 313]

(SB 1081)

AN ACT to repeal 1931 PA 316, entitled "An act to authorize cities and villages to construct, own, equip, operate, maintain and improve works for the disposal of sewage; to authorize charges against owners of premises for the use of such works and to provide for the collection of the same; to authorize cities and villages to issue revenue bonds payable solely from the revenues of such works; and to make such bonds exempt from taxation and to make them lawful investments of sinking funds; to authorize contracts for the use of such works by private corporations and by other cities and villages and political subdivisions and charges against owners of premises therein served thereby," (MCL 123.201 to 123.220).

The People of the State of Michigan enact:

Repeal of §§ 123.201 to 123.220.

Enacting section 1. 1931 PA 316, MCL 123.201 to 123.220, is repealed.

This act is ordered to take immediate effect.
Approved May 11, 2002.
Filed with Secretary of State May 13, 2002.

[No. 314]

(SB 1083)

AN ACT to repeal 1941 PA 66, entitled "An act validating all proceedings heretofore had by the governing body of any city in this state having a water front bordering on any navigable waters which has heretofore provided for the acquisition, improvement and repair of water front facilities and improvements and for the issuance of revenue bonds in payment of the cost thereof; validating provisions which may have been made by such cities for the operation and control of such facilities and improvements; granting to such

cities the right to license ferries and similar commercial craft and to impose fees and charges for the use of public piers, wharves, docks and landing places therein and to regulate and license the construction, operation, maintenance and business of owning private piers, wharves, docks and landing places of boats, ferries and craft on and adjacent to any lands bordering on such navigable waters with power to cancel such licenses and to make rules and regulations governing the construction, operation and maintenance thereof; validating any agreements which may have been entered into for the leasing of any part of such facilities or improvements; authorizing the issuance of such bonds; and granting supervision and regulation by such cities of all lands located therein which border on such navigable waters, including lands owned by the state of Michigan," (MCL 123.601 to 123.604).

The People of the State of Michigan enact:

Repeal of §§ 123.601 to 123.604.

Enacting section 1. 1941 PA 66, MCL 123.601 to 123.604, is repealed.

This act is ordered to take immediate effect.
Approved May 11, 2002.
Filed with Secretary of State May 13, 2002.

[No. 315]

(HB 4799)

AN ACT to amend 1909 PA 279, entitled "An act to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; to prescribe penalties and provide remedies; and to repeal acts and parts of acts on specific dates," (MCL 117.1 to 117.38) by adding section 5j.

The People of the State of Michigan enact:

117.5j Sewer separation; authorization; ordinance; special assessment.

Sec. 5j. A city, in order to protect the public health, may adopt an ordinance to provide for the separation of storm water drainage and footing drains from sanitary sewers on privately owned property. The legislative body of a city may determine that the sewer separation authorized by this section is for a public purpose and is a public improvement and may also determine that the whole or any part of the expense of these public improvements may be defrayed by special assessment upon lands benefited by the public improvement or by any other lawful charge. A special assessment authorized by this section shall be considered to benefit only lands where the separation of storm water drainage and footing drains from sanitary sewers occurs.

This act is ordered to take immediate effect.
Approved May 14, 2002.
Filed with Secretary of State May 14, 2002.

[No. 316]

(SB 451)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 2006 (MCL 500.2006).

The People of the State of Michigan enact:

500.2006 Payment of benefits on timely basis; payment of interest in alternative; failure to pay claims or interest as unfair trade practice; liability for claim pursuant to judgment; proof of loss; inability to pay claim; interest requirements; failure of reinsurer to pay benefits on timely basis; effect of inconsistency with certain acts; exceptions; processing and payment procedures; notices; violations; fines; definitions.

Sec. 2006. (1) A person must pay on a timely basis to its insured, an individual or entity directly entitled to benefits under its insured's contract of insurance, or a third party tort

claimant the benefits provided under the terms of its policy, or, in the alternative, the person must pay to its insured, an individual or entity directly entitled to benefits under its insured's contract of insurance, or a third party tort claimant 12% interest, as provided in subsection (4), on claims not paid on a timely basis. Failure to pay claims on a timely basis or to pay interest on claims as provided in subsection (4) is an unfair trade practice unless the claim is reasonably in dispute.

(2) A person shall not be found to have committed an unfair trade practice under this section if the person is found liable for a claim pursuant to a judgment rendered by a court of law, and the person pays to its insured, individual or entity directly entitled to benefits under its insured's contract of insurance, or third party tort claimant interest as provided in subsection (4).

(3) An insurer shall specify in writing the materials that constitute a satisfactory proof of loss not later than 30 days after receipt of a claim unless the claim is settled within the 30 days. If proof of loss is not supplied as to the entire claim, the amount supported by proof of loss shall be considered paid on a timely basis if paid within 60 days after receipt of proof of loss by the insurer. Any part of the remainder of the claim that is later supported by proof of loss shall be considered paid on a timely basis if paid within 60 days after receipt of the proof of loss by the insurer. If the proof of loss provided by the claimant contains facts that clearly indicate the need for additional medical information by the insurer in order to determine its liability under a policy of life insurance, the claim shall be considered paid on a timely basis if paid within 60 days after receipt of necessary medical information by the insurer. Payment of a claim shall not be untimely during any period in which the insurer is unable to pay the claim when there is no recipient who is legally able to give a valid release for the payment, or where the insurer is unable to determine who is entitled to receive the payment, if the insurer has promptly notified the claimant of that inability and has offered in good faith to promptly pay the claim upon determination of who is entitled to receive the payment.

(4) If benefits are not paid on a timely basis the benefits paid shall bear simple interest from a date 60 days after satisfactory proof of loss was received by the insurer at the rate of 12% per annum, if the claimant is the insured or an individual or entity directly entitled to benefits under the insured's contract of insurance. If the claimant is a third party tort claimant, then the benefits paid shall bear interest from a date 60 days after satisfactory proof of loss was received by the insurer at the rate of 12% per annum if the liability of the insurer for the claim is not reasonably in dispute, the insurer has refused payment in bad faith and the bad faith was determined by a court of law. The interest shall be paid in addition to and at the time of payment of the loss. If the loss exceeds the limits of insurance coverage available, interest shall be payable based upon the limits of insurance coverage rather than the amount of the loss. If payment is offered by the insurer but is rejected by the claimant, and the claimant does not subsequently recover an amount in excess of the amount offered, interest is not due. Interest paid pursuant to this section shall be offset by any award of interest that is payable by the insurer pursuant to the award.

(5) If a person contracts to provide benefits and reinsures all or a portion of the risk, the person contracting to provide benefits is liable for interest due to an insured, an individual or entity directly entitled to benefits under its insured's contract of insurance, or a third party tort claimant under this section where a reinsurer fails to pay benefits on a timely basis.

(6) If there is any specific inconsistency between this section and sections 3101 to 3177 or the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, the provisions of this section do not apply. Subsections (7) to (14) do not apply to an entity

regulated under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941. Subsections (7) to (14) do not apply to the processing and paying of medicaid claims that are covered under section 111i of the social welfare act, 1939 PA 280, MCL 400.111i.

(7) Subsections (1) to (6) do not apply and subsections (8) to (14) do apply to health plans when paying claims to health professionals and health facilities that are not pharmacies and that do not involve claims arising out of sections 3101 to 3177 or the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(8) Each health professional and health facility in billing for services rendered and each health plan in processing and paying claims for services rendered shall use the following timely processing and payment procedures:

(a) A clean claim shall be paid within 45 days after receipt of the claim by the health plan. A clean claim that is not paid within 45 days shall bear simple interest at a rate of 12% per annum.

(b) A health plan shall notify the health professional or health facility within 30 days after receipt of the claim by the health plan of all known reasons that prevent the claim from being a clean claim.

(c) A health professional and a health facility have 45 days, and any additional time the health plan permits, after receipt of a notice under subdivision (b) to correct all known defects. The 45-day time period in subdivision (a) is tolled from the date of receipt of a notice to a health professional or health facility under subdivision (b) to the date of the health plan's receipt of a response from the health professional or health facility.

(d) If a health professional's or health facility's response under subdivision (c) makes the claim a clean claim, the health plan shall pay the health professional or health facility within the 45-day time period under subdivision (a), excluding any time period tolled under subdivision (c).

(e) If a health professional's or health facility's response under subdivision (c) does not make the claim a clean claim, the health plan shall notify the health professional or health facility of an adverse claim determination and of the reasons for the adverse claim determination within the 45-day time period under subdivision (a), excluding any time period tolled under subdivision (c).

(f) A health professional or health facility shall bill a health plan within 1 year after the date of service or the date of discharge from the health facility in order for a claim to be a clean claim.

(g) A health professional or health facility shall not resubmit the same claim to the health plan unless the time frame in subdivision (a) has passed or as provided in subdivision (c).

(9) Notices required under subsection (8) shall be made in writing or electronically.

(10) If a health plan determines that 1 or more services listed on a claim are payable, the health plan shall pay for those services and shall not deny the entire claim because 1 or more other services listed on the claim are defective. This subsection does not apply if a health plan and health professional or health facility have an overriding contractual reimbursement arrangement.

(11) A health plan shall not terminate the affiliation status or the participation of a health professional or health facility with a health maintenance organization provider panel or otherwise discriminate against a health professional or health facility because the health professional or health facility claims that a health plan has violated subsections (7) to (10).

(12) A health professional, health facility, or health plan alleging that a timely processing or payment procedure under subsections (7) to (11) has been violated may file a complaint with the commissioner on a form approved by the commissioner and has a right to a determination of the matter by the commissioner or his or her designee. This subsection does not prohibit a health professional, health facility, or health plan from seeking court action. A health plan described in subsection (14)(c)(*iv*) is subject only to the procedures and penalties provided for in subsection (13) and section 402 of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1402, for a violation of a timely processing or payment procedure under subsections (7) to (11).

(13) In addition to any other penalty provided for by law, the commissioner may impose a civil fine of not more than $1,000.00 for each violation of subsections (7) to (11) not to exceed $10,000.00 in the aggregate for multiple violations.

(14) As used in subsections (7) to (13):

(a) "Clean claim" means a claim that does all of the following:

(*i*) Identifies the health professional or health facility that provided service sufficiently to verify, if necessary, affiliation status and includes any identifying numbers.

(*ii*) Sufficiently identifies the patient and health plan subscriber.

(*iii*) Lists the date and place of service.

(*iv*) Is a claim for covered services for an eligible individual.

(*v*) If necessary, substantiates the medical necessity and appropriateness of the service provided.

(*vi*) If prior authorization is required for certain patient services, contains information sufficient to establish that prior authorization was obtained.

(*vii*) Identifies the service rendered using a generally accepted system of procedure or service coding.

(*viii*) Includes additional documentation based upon services rendered as reasonably required by the health plan.

(b) "Health facility" means a health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(c) "Health plan" means all of the following:

(*i*) An insurer providing benefits under an expense-incurred hospital, medical, surgical, vision, or dental policy or certificate, including any policy or certificate that provides coverage for specific diseases or accidents only, or any hospital indemnity, medicare supplement, long-term care, or 1-time limited duration policy or certificate, but not to payments made to an administrative services only or cost-plus arrangement.

(*ii*) A MEWA regulated under chapter 70 that provides hospital, medical, surgical, vision, dental, and sick care benefits.

(*iii*) A health maintenance organization licensed or issued a certificate of authority in this state.

(*iv*) A health care corporation for benefits provided under a certificate issued under the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, but not to payments made pursuant to an administrative services only or cost-plus arrangement.

(d) "Health professional" means a health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

Effective date; applicability of amendatory act to all health claims with dates of service on and after October 1, 2002.

Enacting section 1. This amendatory act takes effect on October 1, 2002 and applies to all health care claims with dates of service on and after October 1, 2002.

This act is ordered to take immediate effect.
Approved May 17, 2002.
Filed with Secretary of State May 17, 2002.

[No. 317]

(SB 452)

AN ACT to amend 1980 PA 350, entitled "An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of health care providers to nonprofit health care corporations and to specify their rights, powers, and immunities with respect thereto; to provide for a Michigan caring program; to provide for the regulation and supervision of nonprofit health care corporations by the commissioner of insurance; to prescribe powers and duties of certain other state officers with respect to the regulation and supervision of nonprofit health care corporations; to provide for the imposition of a regulatory fee; to regulate the merger or consolidation of certain corporations; to prescribe an expeditious and effective procedure for the maintenance and conduct of certain administrative appeals relative to provider class plans; to provide for certain administrative hearings relative to rates for health care benefits; to provide for certain causes of action; to prescribe penalties and to provide civil fines for violations of this act; and to repeal certain acts and parts of acts," by amending section 403 (MCL 550.1403).

The People of the State of Michigan enact:

550.1403 Payment of benefits; interest; claim form; exception.

Sec. 403. (1) A health care corporation, on a timely basis, shall pay to a member benefits as are entitled and provided under the applicable certificate. When not paid on a timely basis, benefits payable to a member shall bear simple interest from a date 60 days after a satisfactory claim form was received by the health care corporation, at a rate of 12% interest per annum. The interest shall be paid in addition to, and at the time of payment of, the claim. Section 2006(7) to (14) of the insurance code of 1956, 1956 PA 218, MCL 500.2006, applies to a health care corporation.

(2) A health care corporation shall specify in writing the materials that constitute a satisfactory claim form not later than 30 days after receipt of a claim, unless the claim is settled within 30 days. If a claim form is not supplied as to the entire claim, the amount supported by the claim form shall be considered to be paid on a timely basis if paid within 60 days after receipt of the claim form by the corporation. This subsection does not apply to a health care corporation when paying a claim under section 2006(7) to (14) of the insurance code of 1956, 1956 PA 218, MCL 500.2006.

Effective date; applicability of amendatory act to all health care claims with dates of service on and after October 1, 2002.

Enacting section 1. This amendatory act takes effect on October 1, 2002 and applies to all health care claims with dates of service on and after October 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 451 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 17, 2002.
Filed with Secretary of State May 17, 2002.

Compiler's note: Senate Bill No. 451, referred to in enacting section 2, was filed with the Secretary of State May 17, 2002, and became P.A. 2002, No. 316, Eff. Oct. 1, 2002.

[No. 318]

(SB 934)

AN ACT to amend 1945 PA 327, entitled "An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state, by political subdivisions, or by public airport authorities; providing for the incorporation of public airport authorities and providing for the powers, duties, and obligations of public airport authorities; providing for the transfer of airport management to public airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics," (MCL 259.1 to 259.208) by adding section 85a.

The People of the State of Michigan enact:

259.85a Enrollment of applicant in flight school; criminal history and records check; fingerprints; enrollment as conditional student; contract as void; application at more than 1 flight school; consent to criminal history and records check; form and manner of request; report; "criminal history record information".

Sec. 85a. (1) Beginning the effective date of the amendatory act that added this section and subject to subsections (2) and (4), as a condition of enrollment of an applicant in a

flight school, the flight school shall request from the criminal records division of the department of state police a criminal history check and a criminal records check through the federal bureau of investigation on the applicant and, before enrolling the applicant, shall have received from the department of state police the report described in subsection (7). A flight school shall require the applicant to submit his or her fingerprints to the department of state police for the criminal history and criminal records checks. The flight school may charge the flight school applicant a fee for the criminal history check and the criminal records check. The department of state police may charge a fee for the criminal history check and the criminal records check.

(2) The flight school may enroll the applicant as a conditional student under this subsection without first receiving the report described in subsection (7) if all of the following apply:

(a) The flight school requests the criminal history and criminal records checks required under subsection (1) before conditionally enrolling the applicant.

(b) The applicant signs a statement that identifies all crimes for which he or she has been convicted, if any, and agreeing that, if the report described in subsection (7) is not the same as the applicant's statement, his or her enrollment contract is void. If the statement of convictions includes any of the circumstances described in section 85(24), the enrollment contract is void.

(3) If an applicant is enrolled as a conditional student under subsection (2) and the report described in subsection (7) is not the same as the applicant's statement under subsection (2), the flight school shall void the applicant's enrollment contract. If the contract is voided under this subsection, the applicant's enrollment is terminated and the flight school is not liable for the termination or any money paid toward enrollment.

(4) If an applicant for enrollment is being considered for enrollment by more than 1 flight school and if the applicant agrees in writing to allow a flight school to share the report described in subsection (7) with another flight school, the flight school may satisfy the requirements of subsection (1) by obtaining a copy of the report described in subsection (7) from another flight school.

(5) An applicant described in subsection (1) shall give written consent at the time of application for the criminal records division of the department of state police to conduct the criminal history and criminal records check required under this section.

(6) A flight school shall make a request to the criminal records division of the department of state police for a criminal history and criminal records check required under this section on a form and in a manner prescribed by the criminal records division of the department of state police.

(7) Within 30 days after receiving a proper request by a flight school for a criminal history and criminal records check on an applicant under this section, the criminal records division of the department of state police shall conduct and initiate the criminal history and criminal records check and, after conducting the criminal history and criminal records check and within that time period, provide a report of the results of the criminal history and criminal records check to the flight school. The report shall contain any criminal history record information on the applicant maintained by the criminal records division of the department of state police and include information regarding the criminal records check of the records of the federal bureau of investigation.

(8) Criminal history record information received from the criminal records division of the department of state police under subsection (7) shall be used by a flight school only for the purpose of evaluating an applicant's qualifications for enrollment in the position for

which he or she has applied and for the purposes of subsection (3). A flight school shall not disclose the report or its contents to any person who is not directly involved in evaluating the applicant's qualifications for enrollment. However, for the purposes of subsection (4), a person described in this subsection may provide a copy of the report under subsection (7) concerning the individual to an appropriate representative of another flight school. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

(9) As used in this section, "criminal history record information" means that term as defined in section 1a of 1925 PA 289, MCL 28.241a.

Effective date.

Enacting section 1. This amendatory act takes effect May 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1006 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 22, 2002.
Filed with Secretary of State May 22, 2002.

Compiler's note: Senate Bill No. 1006, referred to in enacting section 2, was filed with the Secretary of State May 1, 2002, and became P.A. 2002, No. 258, Eff. May 22, 2002.

[No. 319]

(HB 5138)

AN ACT to designate an official historical society of this state.

The People of the State of Michigan enact:

2.411 Official historical society of state.

Sec. 1. The historical society of Michigan is designated the official historical society of this state.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 320]

(SB 1043)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and

ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16x of chapter XVII (MCL 777.16x), as amended by 2000 PA 473.

The People of the State of Michigan enact:

CHAPTER XVII

777.16x §§ 750.478a(2) to 750.512; felonies to which chapter applicable.

Sec. 16x. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.478a(2)	Pub ord	H	Unauthorized process to obstruct a public officer or employee	2
750.478a(3)	Pub ord	G	Unauthorized process to obstruct a public officer or employee — subsequent offense	4
750.479(2)	Person	G	Assaulting or obstructing certain officials	2
750.479(3)	Person	G	Assaulting or obstructing certain officials causing injury	4
750.479(4)	Person	D	Assaulting or obstructing certain officials causing serious impairment	10
750.479(5)	Person	B	Assaulting or obstructing certain officials causing death	20
750.479a(2)	Pub saf	G	Fleeing and eluding — fourth degree	2
750.479a(3)	Pub saf	E	Fleeing and eluding — third degree	5
750.479a(4)	Person	D	Fleeing and eluding — second degree	10
750.479a(5)	Person	C	Fleeing and eluding — first degree	15
750.479b(1)	Person	F	Disarming peace officer — nonfirearm	4

750.479b(2)	Person	D	Disarming peace officer — firearm	10
750.480	Pub trst	F	Public officers — refusing to turn over books/money to successor	4
750.483a(2)(b)	Person	D	Retaliating for reporting crime punishable by more than 10 years	10
750.483a(4)(b)	Person	D	Interfering with police investigation by committing crime or threatening to kill or injure	10
750.483a(6)(a)	Pub ord	F	Tampering with evidence	4
750.483a(6)(b)	Pub ord	D	Tampering with evidence in case punishable by more than 10 years	10
750.488	Pub trst	H	Public officers — state official — retaining fees	2
750.490	Pub trst	H	Public money — safekeeping	2
750.491	Pub trst	H	Public records — removal/ mutilation/destruction	2
750.492a(1)(a)	Pub trst	G	Medical record — intentional place false information — health care provider	4
750.492a(2)	Pub trst	G	Medical record — health care provider alter conceal injury/death	4
750.495a(2)	Person	F	Concealing objects in trees or wood products — causing injury	4
750.495a(3)	Person	C	Concealing objects in trees or wood products — causing death	15
750.505	Pub ord	E	Common law offenses	5
750.511	Person	A	Blocking or wrecking railroad track	Life
750.512	Property	E	Uncoupling railroad cars	10

Effective date.

Enacting section 1. This amendatory act takes effect July 15, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 1038.

(b) Senate Bill No. 1039.

(c) Senate Bill No. 1040.

(d) Senate Bill No. 1042.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 1038 was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 290, Imd. Eff. May 9, 2002.
Senate Bill No. 1039 was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 291, Imd. Eff. May 9, 2002.
Senate Bill No. 1040 was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 292, Imd. Eff. May 9, 2002.
Senate Bill No. 1042 was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 293, Imd. Eff. May 9, 2002.

[No. 321]

(SB 1049)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16n of chapter XVII (MCL 777.16n), as added by 1998 PA 317.

The People of the State of Michigan enact:

CHAPTER XVII

777.16n §§ 750.241 to 750.263; felonies to which chapter applicable.

Sec. 16n. This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.241(2)	Pub saf	F	Obstructing public service facility personnel in civil disturbance	4
750.248	Property	E	Forgery	14
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Effective date.

Enacting section 1. This amendatory act takes effect July 15, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1048 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

Compiler's note: Senate Bill No. 1048, referred to in enacting section 2, was filed with the Secretary of State May 9, 2002, and became P.A. 2002, No. 296, Imd. Eff. May 9, 2002.

[No. 322]

(SB 1019)

AN ACT to amend 1962 PA 213, entitled "An act to encourage the raising of started pullets; to provide for the inspection and certification as to the age, condition and health of started pullets; to define certain terms; to provide authority to establish and collect fees; to impose certain responsibilities on the department of agriculture; to grant authority to make rules and regulations to carry out the purpose of this act; and to prescribe penalties for violation thereof," by repealing section 4 (MCL 287.174).

The People of the State of Michigan enact:

Repeal of § 287.174.

Enacting section 1. Section 4 of 1962 PA 213, MCL 287.174, is repealed.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 323]

(SB 1025)

AN ACT to repeal 1865 PA 165, entitled "An act making it obligatory upon banks and bankers in this state to stamp counterfeit, altered and worthless bank bills," (MCL 487.651 to 487.652).

The People of the State of Michigan enact:

Repeal of §§ 487.651 to 487.652.

Enacting section 1. 1865 PA 165, MCL 487.651 to 487.652, is repealed.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 324]

(HB 5547)

AN ACT to amend 1935 PA 59, entitled "An act to provide for the public safety; to create the Michigan state police, and provide for the organization thereof; to transfer thereto the offices, duties and powers of the state fire marshal, the state oil inspector, the department of the Michigan state police as heretofore organized, and the department of public safety; to create the office of commissioner of the Michigan state police; to provide for an acting commissioner and for the appointment of the officers and members of said department; to prescribe their powers, duties, and immunities; to provide the manner of fixing their compensation; to provide for their removal from office; and to repeal Act No. 26 of the Public Acts of 1919, being sections 556 to 562, inclusive, of the Compiled Laws of 1929, and Act No. 123 of the Public Acts of 1921, as amended, being sections 545 to 555, inclusive, of the Compiled Laws of 1929," by repealing section 10 (MCL 28.10).

The People of the State of Michigan enact:

Repeal of § 28.10.

Enacting section 1. Section 10 of 1935 PA 59, MCL 28.10, is repealed.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 325]

(HB 4603)

AN ACT to amend 1986 PA 255, entitled "An act to regulate the sale and providing of certain funeral goods or funeral services; to regulate the use of funds received by sellers

and providers of funeral goods or services; to prescribe powers and duties of the departments of licensing and regulation, mental health, and social services and certain other state and local officers; to provide for the promulgation of rules and establishment of fees; and to provide certain penalties and remedies," by amending section 19 (MCL 328.229).

The People of the State of Michigan enact:

328.229 Irrevocable prepaid funeral contract approved by family independence agency or department of community health; rules.

Sec. 19. (1) A prepaid funeral contract may be made with an applicant for or recipient of assistance under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or a patient or a legal guardian of a patient in a community health care facility under the jurisdiction of the department of community health. If the family independence agency or department of community health determines that the contract is a fully paid guaranteed price contract, which when added to the amount of a death benefit from an insurance policy or annuity contract, the proceeds of which have been assigned pursuant to section 2080(6) of the insurance code of 1956, 1956 PA 218, MCL 500.2080, as payment for funeral goods or funeral services for the contract beneficiary that are not more than that amount allowed under section 2080(6)(g) of the insurance code of 1956, 1956 PA 218, MCL 500.2080, plus $2,000.00, exclusive of income, and that the state will not be liable for the funeral goods or funeral services, excluding an outside receptacle when required by the chosen cemetery, of the applicant for or recipient of assistance or patient allowable under contracts under this act, the prepaid funeral contract shall be made irrevocable at the request of the applicant for or recipient of assistance, or the patient or a legal guardian of a patient. Nothing in this section shall be construed as increasing the amount of excludable burial assets for family independence agency or medicaid program eligibility above that allowed under existing family independence agency standards, including any increases therein. The family independence agency or department of community health shall advise the applicant for or recipient of assistance, or the patient or a legal guardian of a patient that additional funeral goods or funeral services subject to contract under this act will not be paid by the family independence agency or department of community health but shall not specify or require approval of particular funeral goods or funeral services selected by the applicant for or recipient of assistance, or patient or a legal guardian of a patient.

(2) A prepaid funeral contract approved by the family independence agency or department of community health shall not be revoked or canceled by the contract seller, contract provider, contract buyer, or their successors, or the estate of the contract beneficiary either before or after the death of the contract beneficiary. This subsection does not prevent those legally entitled to make arrangements for a contract beneficiary from reallocating the amount paid under the prepaid contract to different funeral services and funeral goods. A contract seller or provider shall assign an irrevocable prepaid funeral contract to another provider upon the written request of the contract beneficiary, his or her successor, or those legally entitled to make arrangements for the contract beneficiary so long as the written request is received before a provider's obligations have been performed. An irrevocable contract shall not be considered in determining the eligibility of an applicant or recipient for assistance given under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b. An irrevocable prepaid funeral contract made under this section is not subject to the cancellation provision of section 13 or to the provisions of section 15(5).

(3) Notwithstanding any other provisions of this act, funds paid in connection with an irrevocable prepaid funeral contract may, at the option of the provider, be held and deposited in the manner prescribed for a nonguaranteed price contract.

(4) The family independence agency and department of community health may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the uniform administration of this section.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 326]

(HB 5822)

AN ACT to amend 1993 PA 159, entitled "An act to provide for the establishment of a base conversion authority; to prescribe the powers and duties of the base conversion authority; and to provide for conversion of certain bases to civilian uses," by amending section 8 (MCL 3.578).

The People of the State of Michigan enact:

3.578 Conversion base authority; powers.

Sec. 8. The authority may do all of the following:

(a) Employ law enforcement officers, fire protection personnel, maintenance personnel, and other employees as necessary to protect and maintain real and personal property located on the base or contract for the procurement of any of these services.

(b) Enter into contracts with the United States department of defense for the maintenance and security of buildings, grounds, water and sewage systems, heating and cooling systems, and other systems or property at the base until final disposition of the systems or property.

(c) Sell, lease, convey, exchange, transfer, assign, subdivide, pledge by mortgage or deed of trust, or otherwise dispose of any real or personal property under its control or an interest in the property.

(d) Rent, maintain, manage, operate, improve, demolish, and repair property under its control.

(e) Plan, propose, and implement plans of development necessary to achieve the purposes of this act.

(f) Receive funds from a local governmental unit, other state agencies, the federal government or an agency of the federal government, or a private individual or group, foundations or other private entities and spend those funds to the extent permitted under the powers granted to it pursuant to this section.

(g) Issue notes or bonds of the authority if necessary to implement plans of development necessary to achieve the purposes of this act. Bonds or notes issued by the authority are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The issuance of bonds and notes under this act is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 327]

(HB 5823)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 4302 (MCL 324.4302).

The People of the State of Michigan enact:

324.4302 Waterworks systems, sewers, and disposal plants; mortgage bonds.

Sec. 4302. (1) The waterworks system, intercepting sewers, pumping stations, sewage disposal plant and system, transfer station, and garbage and refuse processing or disposal plant and system, are public utilities within the meaning of any constitutional or statutory provisions for the purpose of acquiring, purchasing, owning, operating, constructing, equipping, and maintaining the waterworks system, intercepting sewers, pumping stations, sewage disposal plant and system, transfer station, and garbage and refuse processing or disposal plant and system. A local unit of government may issue full faith and credit bonds or mortgage bonds for the purposes described in this part beyond the general limits of the bonded indebtedness prescribed by law except as provided in this section. The mortgage bonds as provided in this section shall not impose any general liability upon the local unit of government but shall be secured only on the property and revenues of the utility as provided in this section, including a franchise, stating the terms upon which the purchaser may operate the utility in case of foreclosure. The franchise shall not extend for a longer period than 20 years from the date of the sale on foreclosure. The total amount of mortgage bonds shall not exceed 60% of the original cost of the utility except as provided in this section. Bonds shall not be issued as general obligations of the local unit of government except upon a 3/5 affirmative vote of the qualified electors of the local unit of government and except as provided in this section, not in excess of 3% of the assessed valuation of the real and personal property of the local unit of government as shown by the last preceding tax roll. Bonds shall not be issued as full faith and credit bonds or mortgage bonds of the utility except upon a 3/5 affirmative vote of the legislative body of the local unit of government.

(2) Revenue bonds issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Except for revenue bonds described in subsection (2), all other bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 328]

(HB 5836)

AN ACT to amend 1967 PA 204, entitled "An act to create metropolitan transportation authorities; to define their powers and duties, including the creation of transportation districts; to provide for the withdrawal of counties from the authorities; to require the state to guarantee payment of certain claims against certain transportation authorities and to give the state a lien in satisfaction of payment; to permit the creation of certain councils; and to prescribe penalties and provide remedies," by amending section 16 (MCL 124.416), as amended by 1983 PA 31.

The People of the State of Michigan enact:

124.416 Bonds; contractual obligations; issuance and sale; advancing money or delivering property to authority; resolution authorizing execution of contract; petition; referendum; approval of certain bonds or notes; subway; notes not subject to revised municipal finance act.

Sec. 16. (1) The authority may borrow money and issue bonds to finance and to carry out its powers and duties. The bonds shall be payable from and may be issued in anticipation of payment of the proceeds of any of the methods of financing described in section 14 or elsewhere in this act or as may be provided by law. A political subdivision within the geographical boundaries of the authority may contract to make payments, appropriations, or contributions to the authority of the proceeds of taxes, special assessments, or charges imposed and collected by the political subdivision or out of any other funds legally available and may pledge its full faith and credit in support of its contractual obligation to the authority. The contractual obligation shall not constitute an indebtedness of a political subdivision within a statutory or charter debt limitation. If the authority has issued bonds in anticipation of payments, appropriations, or contributions to be made to the authority pursuant to contract by a political subdivision having the power to levy and collect ad valorem taxes, the political subdivision may obligate itself by the contract, and thereupon may levy a tax on all taxable property in the political subdivision, which tax as to rate or amount will be as provided in section 6 of article IX of the state constitution of 1963 for contract obligations in anticipation of which bonds are issued, to provide sufficient money to fulfill its contractual obligation to the authority.

(2) The bonds of the authority shall be issued and sold in compliance with the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except that the bonds may be issued for any period of years, not exceeding 40 years.

(3) A public corporation may advance money or deliver property to the authority to finance or to carry out its powers and duties. The authority may agree to repay the advances or pay for the property within a period not exceeding 10 years, from the proceeds of its bonds or from other funds legally available for that purpose, with or without interest as may be agreed at the time of advance or of repayment. The obligation of the authority to make the repayment or payment may be evidenced by a contract or note or notes, which contract or note may pledge the full faith and credit of the authority.

(4) A political subdivision desiring to enter into a contract under subsection (1) shall authorize, by resolution of its governing body, the execution of the contract, which resolution shall be published in a newspaper of general circulation within the political subdivision, and the contract may be executed without a vote of the electors on the contract upon the expiration of 90 days after the date of the publication unless, within the

90-day period, a petition signed by not less than 5% of the registered electors residing within the limits of the political subdivision is filed with the clerk of the political subdivision requesting a referendum upon the execution of the contract, and in that event the contract shall not be executed until approved by the vote of a majority of the electors of the political subdivision qualified to vote and voting on the contract at a general or special election to be held not more than 90 days after the filing of the petition.

(5) If the bonds or notes sold by the authority involve the pledge or use of state collected or administered funds, the authority shall seek the approval of the state transportation commission.

(6) Notwithstanding any other provision of this section, an authority shall not issue bonds, nor use the revenues of the sale of bonds, for the construction, reconstruction, maintenance, or operation of a subway unless approved by concurrent resolution by the legislature.

(7) Notes issued and contracts entered into under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 329]

(HB 5839)

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions

of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 10n (MCL 247.660n), as added by 1987 PA 234.

The People of the State of Michigan enact:

247.660n Comprehensive transportation fund; distribution of funds; notes.

Sec. 10n. (1) Funds from the comprehensive transportation fund may be distributed to a trustee, or to the Michigan municipal bond authority as created under the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076, that is authorized to receive the funds under a borrowing resolution adopted by an eligible authority. The issuance of the notes of an eligible authority in anticipation of payment of proceeds from the comprehensive transportation fund shall be authorized by a borrowing resolution of the eligible authority under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426. The issuance of the notes under this section is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and shall be subject to the prior approval of the state transportation commission. Failure of the commission to take action within 35 days after receipt of notification from the eligible authority of intent to issue the notes, constitutes approval by the state transportation commission. The eligible authority may only issue the notes in anticipation of funds to be received during its current fiscal year at any time before the eligible authority's receipt of the funds from the comprehensive transportation fund. The principal amount of notes for which the funds to be received from the comprehensive transportation fund are pledged shall not exceed 85% of the amount remaining to be received by the eligible authority from the comprehensive transportation fund in the current fiscal year. The pledge of 100% of the funds the eligible authority expects to receive from the comprehensive transportation fund shall be secured by a direct transfer of the pledge funds from the comprehensive transportation fund to the trustee or the Michigan municipal bond authority that is authorized to receive the funds by the borrowing resolution adopted by the eligible authority. The notes of the eligible authority shall not be in any way a debt or a liability of the state and shall not create or constitute any indebtedness, liability, or obligations of the state or be or constitute a pledge of the full faith and credit of the state. Each note shall contain on its face a statement to the effect that the eligible authority is obligated to pay the principal of and the interest on the note only from funds of or due to the eligible authority and that this state is not obligated to pay that principal or interest and that neither the faith in credit nor the taxing power of this state is pledged to the payment of the principal of or the interest on the note. The notes shall mature not more than 13 months from the date of issuance, shall bear interest at a fixed or variable rate or rates of interest per annum, and, in addition to other security required by this section, may be secured by letter or line of credit issued by a financial institution or as provided in the borrowing resolution.

(2) The issuance of notes under this section is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 330]

(HB 5840)

AN ACT to amend 1952 PA 175, entitled "An act to authorize incorporated cities and villages to borrow money and issue bonds in anticipation of future payments from the motor vehicle highway fund, for any purpose or purposes for which said funds may be used and for the purpose of refunding such bonds; authorizing the pledging of the faith and credit of the issuing city or village, upon proper resolution of its governing body, as additional security for the payment of said bonds; and to prescribe procedures and conditions relative to the issuance of such bonds," by amending sections 1 and 3 (MCL 247.701 and 247.703), section 1 as amended by 1998 PA 506 and section 3 as amended by 1988 PA 152; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

247.701 Borrowing money and issuing bonds; purposes; bonds subject to revised municipal finance act; refunding bonds; sale; refund prohibited under certain conditions.

Sec. 1. (1) Subject to subsections (2) and (3), any incorporated city or village in this state is authorized to borrow money and issue its bonds for the purposes enumerated in section 13 of 1951 PA 51, MCL 247.663, and to refund bonds issued under this act or in part to refund bonds issued under this act and in part for the purposes enumerated in section 13 of 1951 PA 51, MCL 247.663, without a vote of the electors. Any bonds issued under this act are subject to the requirements of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and all procedures for issuing bonds under this act shall conform to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Any refunding bonds issued under this act may include the amount of any premium to be paid upon the calling of the bonds to be refunded or, if the bonds are not callable, any premium necessary to be paid in order to secure the surrender of the bonds to be refunded, but, in either case, the amount of the premium included shall not exceed 3% of the principal amount of the bonds to be refunded. Nothing in this section shall be construed to provide for the refunding of noncallable unmatured bonds without the consent of the holder or holders of those bonds. Refunding bonds may be sold at any time to refund any outstanding bonds.

(2) A city or village shall not issue or refund a bond under this act if the bond or authorizing resolution does 1 or more of the following:

(a) Provides that the proceeds of the bond are used for operational expenses of the city or village, other than engineering or design expenses related to the project for which the bond was issued.

(b) Provides that the weighted average maturity of the bond exceeds the useful life of the asset.

(c) Provides that the bond, in whole or in part, appreciates in principal amount or is sold at a discount in an amount greater than 10%.

247.703 Bonds; principal and interest; payment; additional security; existing contract rights; priority.

Sec. 3. (1) The principal of and interest upon the bonds shall be payable primarily from the proceeds of revenues derived from state collected taxes returned to the city or village for road purposes pursuant to law. As additional security for the payment of the bonds, a

city or village, upon proper resolution of its governing body, is authorized to pledge its full faith and credit for the payment of the bonds. If a pledge of its full faith and credit is made and the revenues pledged to the payment of the bonds are at any time insufficient for the payment, the city or village shall be obligated to pay the bonds and coupons to the same extent as other general obligation bonds of the city or village, and shall be reimbursed from subsequent revenues received by the city or village from the state collected taxes returned to the city or village for road purposes pursuant to law.

(2) Nothing contained in this act shall be construed to violate or impair contract rights existing in the holders of outstanding bonds issued under the provisions of 1941 PA 205, MCL 252.51 to 252.64, but pledges of the revenues or taxes made by a city or village under the provisions of that act shall retain their priority of lien or charge against the revenues as contemplated by the provisions of that act and as provided in the contract or resolution authorizing the issuance of bonds under that act.

Repeal of § 247.706.

Enacting section 1. Section 6 of 1952 PA 175, MCL 247.706, is repealed.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 331]

(HB 5844)

AN ACT to amend 1941 PA 205, entitled "An act to provide for the construction, establishment, opening, use, discontinuing, vacating, closing, altering, improvement, and maintenance of limited access highways and facilities ancillary to those highways; to permit the acquiring of property and property rights and the closing or other treatment of intersecting roads for these purposes; to provide for the borrowing of money and for the issuing of bonds or notes payable from special funds for the acquisition, construction or improvement of such highways; and to provide for the receipt and expenditure of funds generated from the facilities," by amending sections 8 and 14 (MCL 252.58 and 252.64); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

252.58 Limited access highways; contributions and pledges of funds; payment.

Sec. 8. For the purpose of carrying out the provisions of this act, and to enable limited access highways to be constructed, the state transportation commission is authorized to make annual contributions to the cost of construction of limited access highways as provided in this act, and to make an irrevocable pledge of funds of the state transportation department derived from taxes imposed upon gasoline or other motor fuels, and on motor vehicles registered in this state for the purpose of meeting its annual obligations under the contract or contracts. The annual contributions of the state transportation department for any such project shall be payable in manner designated by the contract or contracts over a fixed period of not exceeding 30 years.

252.64 Scope of act.

Sec. 14. (1) This act, without reference to any other statute or to any charter, shall be considered full authority for the purposes provided in this act and shall be construed as an additional and alternative method for the financing of limited access highways, any provisions of the general laws of this state or of any charter to the contrary notwithstanding.

(2) A contract entered into under this act is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Repeal of §§ 252.61, 252.62, and 252.63.

Enacting section 1. Sections 11, 12, and 13 of 1941 PA 205, MCL 252.61, 252.62, and 252.63, are repealed.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 332]

(HB 5855)

AN ACT to amend 1917 PA 5, entitled "An act authorizing organized townships and incorporated villages in the state of Michigan to borrow money and to issue bonds therefor for the purpose of establishing free public libraries, purchasing sites and constructing buildings thereon," by amending section 4 (MCL 397.324); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

397.324 Library bonds; vote; issuance; subject to revised municipal finance act.

Sec. 4. If at an election a majority of the qualified electors present and voting upon the proposition vote in favor of the loan, the bonds shall be issued by the township board of the township or the village council or board of trustees of the village, as the case may be. Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

Repeal of § 397.325.

Enacting section 1. Section 5 of 1917 PA 5, MCL 397.325, is repealed.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 333]

(HB 5845)

AN ACT to repeal 1931 PA 235, entitled "An act authorizing cities to borrow money and to issue bonds for the purpose of defraying part or all of the city's share of the cost

and expense of separating grades for railroads and public highways and streets where such railroads intersect such highways and streets, including part or all of the city's share of the cost and expense of the elevation or depression of such railroads, highways and streets, and including the defraying of part or all of the city's share of the damages resulting to abutting property by reason of such separation of grades, or the elevation or depression of such railroads, public highways or streets," (MCL 253.91).

The People of the State of Michigan enact:

Repeal of § 253.91.

Enacting section 1. 1931 PA 235, MCL 253.91, is repealed.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 334]

(HB 5821)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 445 (MCL 380.445).

The People of the State of Michigan enact:

380.445 Bonds for sites, buildings, and improvements; resolution; approval of school electors; form of bonds; filing notice and draft; laws governing election; electors qualified to vote; bonds subject to revised municipal finance act.

Sec. 445. (1) The first class school district board by resolution may submit the proposition of issuing bonds for the purpose of purchasing sites for buildings, playgrounds, or athletic fields and purchasing or erecting and equipping a building or making permanent improvements that it is authorized to make to the school electors of the school district at a city, state, or special election called for that purpose.

(2) If a majority of the school electors voting on the question approve the issuance of bonds, the board may issue the bonds of the district.

(3) The board shall determine the form of the bonds, the manner in which they shall be executed by the president and secretary of the district, the sums payable and the times of payment, and other terms and conditions the board considers necessary.

(4) If the board determines to issue bonds under this section, sections 432 and 444 shall not apply to the issuance of the bonds and the bonds may be issued in an amount equal to that provided by part 17.

(5) The secretary of the board shall file with the city clerk a written notice of the adoption of the resolution with a draft of the form of the bonding proposition to be submitted to the school electors of the school district. The notice shall be under the seal of the board and filed with the city clerk at least 60 days before the date fixed by the board for the election.

(6) The laws of this state pertaining to elections in a city shall govern the practicable submission of the proposition to the school electors. Electors qualified to vote on the bonding proposition shall be registered school electors of the city in which the first class school district is located and otherwise qualified to vote on bonding propositions under the constitution and laws of this state.

(7) Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 335]

(HB 5837)

AN ACT to amend 1986 PA 196, entitled "An act to authorize the formation of public transportation authorities with certain general powers and duties; to provide for the withdrawal of certain local entities from public transportation authorities; to authorize certain local entities to levy property taxes for public transportation service and public transportation purposes; to protect the rights of employees of existing public transportation systems; to provide for the issuance of bonds and notes; to provide for the pledge of taxes, revenues, assessments, tax levies, and other funds for bond or note payment; to provide for the powers and duties of certain state agencies; to validate taxes authorized before July 10, 1986, elections held before July 10, 1986, and bonds and notes issued before July 10, 1986; to provide for transfer of certain tax revenue and certain powers, rights, duties, and obligations; to authorize condemnation proceedings; to grant certain powers to certain local entities; to validate and ratify the organization, existence, and membership of public transportation authorities created before July 10, 1986 and the actions taken by those public transportation authorities and by the members of those public transportation authorities; and to prescribe penalties and provide remedies," by amending section 23 (MCL 124.473).

The People of the State of Michigan enact:

124.473 Notes and bonds; additional provisions; tax exemption; advancing money or delivering property to carry out powers and duties; repayment or payment.

Sec. 23. (1) A public authority may borrow money and issue notes and bonds to acquire, construct, or purchase public transportation facilities and to otherwise finance

and carry out its powers and duties. The notes and bonds may pledge, be payable from, and may be issued in anticipation of payment of the proceeds of any of the methods of financing described in section 17 or elsewhere in this act or as may be provided by law.

(2) The public authority may issue bonds or notes at any time to retire, fund, or refund, in whole or in part, outstanding bonds or notes issued pursuant to this act, or for transportation purposes under any other act including the payment of interest accrued, or to accrue, to the earliest or any subsequent date of redemption, purchase, or maturity of the bonds or notes, redemption premium, if any, and any commission, service fees, and other expenses necessary to be paid in connection with the bonds or notes, whether the bonds or notes to be refunded have matured or are redeemable or shall at a later date mature or become redeemable. If considered advisable by the public authority, the public authority may issue bonds or notes partly to refund outstanding bonds or notes and partly for any other purpose contemplated by this act.

(3) The bonds and notes issued pursuant to section 22 or this section may be issued pursuant to, and shall be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The public authority, by resolution of its board, shall provide for the issuance of the notes or bonds for the purpose of paying part or all of the cost of the public transportation facilities or authorized programs, which cost may include an allowance for legal, engineering, architectural, and consulting services; interest on the bonds or notes becoming due before the collection of the first revenue available for the payment of the interest as determined by the authority; a debt service reserve; and other necessary incidental expenses. Principal of, and interest and redemption premiums on, the bonds or notes issued under this section shall be payable solely from revenue, the other sources described in this section, or otherwise described in this act. Any interest shall be payable on the dates as determined in the resolution authorizing the issuance of the bonds or notes. The board of the public authority, in the resolution authorizing the issuance of the bonds or notes shall determine the principal amount of the bonds or notes to be issued, the registration provisions, the bond or note denominations, the bond or note designations, the rights of prior redemption of the bonds or notes at the option of the public authority or the holders of the bonds or notes, the maximum rate of interest, the method of execution of the bonds or notes, and any other provisions respecting the bonds or notes, the rights of the holders of the bonds or notes, the security for the bonds or notes, and the procedures for disbursement of the bond or note proceeds and for the investment of the proceeds of bonds or notes and money for the payment of bonds or notes. The board of the public authority in the resolution authorizing the issuance of bonds or notes may provide for the assignment of the revenues pledged to 1 of the paying agents for the bonds or notes or to a trustee, as provided in this act. The board of the public authority, in the resolution or resolutions authorizing the bonds or notes, may provide for the terms and conditions upon which the holders of the bonds or notes, or any portion of the bond or noteholders or any trustee for the bond or noteholders, shall be entitled to the appointment of a receiver. The resolution authorizing the bonds or notes may provide for the appointment of a trustee for the bond or noteholders, may give to the trustee the appropriate rights, duties, remedies, and powers, with or without the execution of a deed of trust or mortgage, necessary and appropriate to secure the bonds or notes.

(5) All bonds and notes and the interest coupons attached to the bonds or notes are declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, subject only to the provisions for registration of the bonds or notes which may appear on the bonds or notes.

(6) The property of the authority, its income and operation, and any vendor, vendee, lessor, and lessee interest in any property sold or leased pursuant to section 24 shall be exempt from all taxation by this state or any of its political subdivisions and all bonds and notes of the authority, the interest on the bonds and notes, and their transfer shall be exempt from all taxation by this state or any of its political subdivisions. This state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority under this act, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the fund, issued pursuant to this act, the interest on the notes and bonds, the transfer of the bonds or notes, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation as provided by the laws of this state.

(7) The public authority may issue additional bonds or notes with respect to the pledge of the revenues with previously issued bonds or notes of the public authority for the purpose and under the terms and conditions provided in the resolution authorizing the previous issue of bonds. The public authority may enter into agreements with the holders of the bonds or notes or with others for the bonds or notes to be delivered to the public authority or others before the stated maturities of the bonds or notes.

(8) This state, a political subdivision, or a private corporation, partnership, or individual may advance money or deliver property to the public authority to finance or to carry out its powers and duties. The public authority may agree to repay the advances or pay for the property within a period not exceeding 40 years, from the proceeds of its bonds or notes or from other funds legally available for use, with or without interest as may be agreed at the time of advance or of repayment. The obligation of the public authority to make the repayment or payment may be evidenced by a contract or note or notes, which contract or note may pledge the full faith and credit of the public authority, but the contract or note shall not be an obligation within the meaning of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. A political subdivision, subject to applicable constitutional limitations and procedures, may pledge its full faith and credit for the payment of bonds or notes of the public authority upon adoption of a resolution or a majority vote of the members elected to and serving on its governing body so providing.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 336]

(HB 5838)

AN ACT to amend 1956 PA 111, entitled "An act to provide for the acquisition, construction, establishment, opening, altering, improving and maintaining of highways; authorizing contracts between townships and boards of county road commissioners for the same; authorizing townships to finance their share of the cost of the same from its contingent fund, special assessments, and bonds or short term notes issued in anticipation of the receipt of sales tax moneys or general obligation bonds; and to prescribe procedures and conditions relative to the issuance of said bonds or short term notes," by amending sections 4 and 5 (MCL 247.354 and 247.355), section 4 as amended by 1983 PA 109.

The People of the State of Michigan enact:

247.354 Bonds issued in anticipation of sales tax money; additional security; irrevocable pledge and appropriation; annual debt service requirements; limitation; successive borrowings; bonds and notes subject to revised municipal finance act.

Sec. 4. (1) Bonds issued under this act in anticipation of sales tax revenue to be returned to the township shall be payable primarily from the proceeds of revenues derived from sales tax revenue collected by the state and returned to the township under section 10 of article IX of the state constitution of 1963.

(2) As additional security for the payment of the bonds, the township board may submit to the qualified electors of the township the question of pledging the full faith and credit of the township for the payment of the bonds, as provided in section 5; and if a majority of the qualified electors voting on the issue approve the question, the township board may pledge the full faith and credit of the township for the payment of the bonds, in which event, if the sales tax proceeds are not sufficient to pay the bonds and the interest on the bonds, they shall be payable from any money in the contingent fund of the township or from ad valorem taxes that the township shall levy without limitation as to rate or amount.

(3) The township board in the resolution shall make an irrevocable pledge and appropriation of an amount sufficient for payment of the principal of and interest upon the bonds or short term notes from revenues derived from sales tax revenue collected by the state and returned to the township under section 10 of article IX of the state constitution of 1963. The township board may not pledge for annual debt service requirements in any future calendar year on the bonds or short term notes an amount in excess of 50% of the average revenues derived from sales tax revenues collected by the state and returned to the township under section 10 of article IX of the state constitution of 1963 in the 3 calendar years immediately preceding the borrowing. Nothing contained in this section shall be construed as a prohibition against successive borrowings if the total amount of revenues pledged for annual debt service requirements does not exceed the applicable percentage described in this section.

(4) Bonds and notes issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

247.355 General obligation bonds.

Sec. 5. General obligation bonds issued under this act shall be issued only after their issuance has been authorized by a majority vote of the qualified electors of the township voting on the proposition of issuing the bonds at a general or special township election and only after the qualified electors of the township have voted an increase in the tax rate limitation imposed by section 6 of article IX of the state constitution of 1963, in an amount and for a period of time necessary to permit the collection of taxes in an amount sufficient to meet the principal and interest requirements on the proposed bonds. A township may not issue general obligation bonds under this act for an amount greater than 10% of the total assessed valuation of the township. The general obligation bonds shall be issued and sold subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 337]

(HB 5841)

AN ACT to amend 1963 PA 55, entitled "An act to provide for the incorporation of public authorities to acquire, own, and operate or cause to be operated mass transportation systems; to require the state to guarantee payment of certain claims against certain transportation authorities and to give the state a lien in satisfaction of payment; to prescribe the rights, powers, and duties of those public authorities; to provide for the issuance of bonds; to provide for the levy and collection of certain taxes; and to authorize contracts between those authorities and either public or private corporations to carry out the operation of those mass transportation systems," by amending section 7 (MCL 124.357), as amended by 1983 PA 137.

The People of the State of Michigan enact:

124.357 Self-liquidating revenue bonds; issuance; source of payment; property tax; limitation; election; resolution; submitting proposition to electors; conduct; canvass; costs; tax rate; levy and collection.

Sec. 7. (1) For the purpose of acquiring, improving, enlarging, or extending a mass transportation system, the authority may issue self-liquidating revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or any other act providing for the issuance of self-liquidating revenue bonds. The bonds shall not be a general obligation of the authority, but shall be payable solely from the revenue of the mass transportation system. However, if the authority issues self-liquidating revenue bonds with a pledge of the full faith and credit of the municipality, those revenue bonds are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) An authority formed under this act may levy a tax on all of the taxable property within the political subdivisions that comprise the authority for public transportation purposes as authorized by this act.

(3) The tax authorized in subsection (2) shall not exceed 5 mills of the state equalized valuation on each dollar of assessed valuation in the political subdivisions that comprise the applicable authority.

(4) The tax authorized under subsection (2) shall not be levied except upon the approval of a majority of the registered electors residing in the political subdivisions that comprise the authority affected and qualified to vote and voting on the tax at a general or special election. The election may be called by resolution of the board of the authority. The recording officer of the authority shall file a copy of the resolution of the board calling the election with the clerk of each affected county, city, or township not less than 60 days before the date of the election. The resolution calling the election shall contain a statement of the proposition to be submitted to the electors. Each county, city, and township clerk and all other county, city, and township officials shall undertake those steps to properly submit the proposition to the electors of the county, city, and township at the election specified in the resolutions of the authority. The election shall be conducted and canvassed in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, except that if the authority is located in more than 1 county, the election shall be canvassed by the state board of canvassers. The results of the election shall be certified to the board of the authority promptly after the date of the election. The authority shall not call more than 1 election within a calendar year under this section for the approval of the tax authorized by subsection (2) without the approval of the legislative bodies of a majority of

the member political subdivisions of the authority. If the election is a special election, the authority in which the election is held shall pay the costs of the election. If the election is a general election, the authority in which the election is held shall pay the increased costs of the election due to the placement of the proposition on the ballot by the authority or an amount negotiated between the authority and the appropriate political subdivisions.

(5) The taxes authorized by this section may be levied at a rate and for a period of not more than 5 years as determined by the authority in the resolution calling the election and as shall be set forth in the proposition submitted to the electors.

(6) The tax rate authorized by this section shall be levied and collected as are all ad valorem property taxes in this state and the recording officer of the authority shall at the appropriate times certify to the proper tax assessing or collecting officers of each tax collecting county, city, and township the amount of taxes to be levied and collected each year by each county, city, and township. The board of the authority shall determine on which tax roll, if there is more than 1, of the county, city, or township that the taxes authorized by this section shall be collected. Each tax assessing and collecting officer and each county treasurer shall levy and collect the taxes certified by the authority and pay the taxes to the authority by the time provided in section 43 of the general property tax act, 1893 PA 206, MCL 211.43. The tax rate authorized by this section may be first levied by the authority as a part of the first tax roll of the appropriate counties, cities, and townships occurring after the election described in subsection (4). The tax may be levied and collected on the June or December tax roll immediately following the date of election, if the tax is certified to the proper tax assessing officials not later than May 15 or November 15, respectively, of the year in which the election is held.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 338]

(HB 5842)

AN ACT to amend 1911 PA 28, entitled "An act to authorize the board of supervisors of any county to raise by taxation or borrow money for the purpose of purchasing real estate for sites for, and constructing or repairing public buildings and bridges; to limit the amount that can be raised or borrowed for such purpose by such boards in certain cases; to authorize such boards to submit the question of raising or borrowing money for such purposes to the electors of their certain counties; to provide for the manner of submission; and to repeal Act No. 41 of the Public Acts of 1909, entitled "An act limiting the amount which may be raised in any county in any 1 year by the board of supervisors," approved April twenty-first, 1909," by amending section 1 (MCL 141.71).

The People of the State of Michigan enact:

141.71 Tax for sites, construction, or repair of public buildings or bridges; limitations; bonds subject to revised municipal finance act.

Sec. 1. (1) The county board of commissioners of a county may, subject to the limitations provided in the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a, in any 1 year levy a tax for purchase of real estate for sites for, and the construction or

repair of public buildings or bridges. The foregoing limitations shall not apply to taxes imposed for the payment of principal and interest on bonds or other evidences of indebtedness or for the payment of assessments or contract obligations in anticipation of which bonds are issued, which taxes may be imposed without limitation as to rate or amount and in addition to any other taxes, even though the bonds or other evidences of indebtedness were issued for the foregoing purposes.

(2) Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 339]

(HB 5843)

AN ACT to amend 1909 PA 283, entitled "An act to revise, consolidate, and add to the laws relating to the establishment, opening, discontinuing, vacating, closing, altering, improvement, maintenance, and use of the public highways and private roads; the condemnation of property and gravel therefor; the building, repairing and preservation of bridges; maintaining public access to waterways under certain conditions; setting and protecting shade trees, drainage, and cutting weeds and brush within this state; providing for the election or appointment and defining the powers, duties, and compensation of state, county, township, and district highway officials; and to prescribe penalties and provide remedies," by amending section 22 (MCL 224.22).

The People of the State of Michigan enact:

224.22 Bond issue; submission to electors; notice; vote; expenditure of proceeds; contract indebtedness or bonds subject to revised municipal finance act.

Sec. 22. If the board of supervisors of the county by a majority vote of all the members elected to and serving resolve to contract indebtedness or issue bonds to raise money for the construction and maintenance of county roads, the question shall be submitted to a vote of the electors of the county at a general or a special election called for that purpose. Notice of the submission of the resolution to a vote of the electors and, in case a special election is called, notice of the calling of the special election shall be given in the same manner and for the same length of time as provided by law. If a majority of the electors voting on the resolution vote in favor of the resolution, it shall be considered to have carried. The manner of stating the question upon the ballots shall be prescribed by the resolution of the board of supervisors. All money raised by the board of supervisors for the construction and maintenance of county roads shall be expended under the direction of the board of county road commissioners. Contract indebtedness incurred or bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 340]

(HB 5846)

AN ACT to repeal 1927 PA 109, entitled "An act to authorize cities to raise by loan, or borrow money for the construction, improvement, repair and maintenance of bridges and to issue bonds of the said cities to secure repayment thereof and validating proceedings heretofore taken authorizing the issuance of such bonds," (MCL 254.81 to 254.83).

The People of the State of Michigan enact:

Repeal of §§ 254.81 to 254.83.

Enacting section 1. 1927 PA 109, MCL 254.81 to 254.83, is repealed.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 341]

(HB 5847)

AN ACT to repeal 1911 PA 6, entitled "An act to authorize any city within this state, bordering upon any navigable stream which is the boundary line between this state and any other state, in conjunction with any city bordering upon said navigable stream in said other state, to construct and maintain bridges across said stream between said cities," (MCL 254.91 to 254.94).

The People of the State of Michigan enact:

Repeal of §§ 254.91 to 254.94.

Enacting section 1. 1911 PA 6, MCL 254.91 to 254.94, is repealed.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 342]

(HB 5848)

AN ACT to amend 1945 PA 327, entitled "An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by the state, by political subdivisions, or by public airport

authorities; providing for the incorporation of public airport authorities and providing for the powers, duties, and obligations of public airport authorities; providing for the transfer of airport management to public airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics," by amending section 131 (MCL 259.131).

The People of the State of Michigan enact:

259.131 Aeronautical facilities; general obligation bonds; revenue bonds; additional security; "revenues" defined.

Sec. 131. (1) The legislative body of any political subdivision in this state may submit to the qualified electors of the political subdivision at any regular or special election called for that purpose the question of the issuance of general obligation bonds of the political subdivision, the proceeds of which shall be used for the acquisition, construction, operation, maintenance, and equipping of airports and landing fields, including buildings, structures, or facilities relating to them and the necessary land for them. A majority vote of the qualified voters voting on the question shall authorize the issuance of the general obligation bonds. General obligation bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Revenue bonds may be issued for the purposes set forth in subsection (1), and the legislative body of the political subdivision may pledge as security for the bonds all or any portion of the landing fees, concession fees, rents, charges, or any other revenues derived from the operation of the airport. The revenue bonds shall be issued in accordance with the applicable provisions of the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. However, the fees, rents, or charges pledged that are fixed and established under the provisions of a lease or contract shall not be subject to revision or change except in the manner provided in the lease or contract. As additional security for the payment of the principal of and interest on any revenue bonds issued under the provisions of this section, any issuing political subdivision may, by resolution adopted by a majority vote of its governing body, agree that if the funds pledged for the payment of the revenue bonds are not sufficient to pay the principal and interest on the bonds as they become due, the political subdivision shall advance sufficient money out of its general funds for the payment of the principal and interest, if the proceeds of the revenue bonds are used exclusively within the territorial limits of the county in which the political subdivision is located, and the treasurer of the political subdivision shall promptly make the advancement. The political subdivision shall be reimbursed for any money advanced out of funds pledged for the payment of the revenue bonds subsequently paid or collected.

(3) Except for the additional security that may be agreed upon by resolution of the governing body as provided in this section, the principal of and interest on the revenue bonds shall be payable solely from the revenues described in this section. As used in this section, "revenues" means net revenues after operating expenses.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 343]

(HB 5849)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disabilities; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 205 (MCL 330.1205), as amended by 2000 PA 228.

The People of the State of Michigan enact:

330.1205 Community mental health authority.

Sec. 205. (1) A county community mental health agency or a community mental health organization that is certified by the department under section 232a may become a community mental health authority as provided in this section through an enabling resolution adopted by the board of commissioners of each creating county after at least 3 public hearings held in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The resolution is considered adopted if it is approved by a majority of the commissioners elected and serving in each county creating the authority. The enabling resolution is not effective until it has been filed with the secretary of state and with the county clerk of each county creating the authority. If any provision of the enabling resolution conflicts with this act, this act supersedes the conflicting provision.

(2) All of the following shall be stated in the enabling resolution:

(a) The purpose and the power to be exercised by the community mental health authority shall be to comply with and carry out the provisions of this act.

(b) The duration of the existence of the community mental health authority and the method by which the community mental health authority may be dissolved or terminated by itself or by the county board or boards of commissioners. These provisions shall comply with section 220.

(c) The manner in which any net financial assets originally made available to the authority by the participating county or counties will be returned or distributed if the authority is dissolved or terminated. All other remaining assets, net of liabilities, shall be transferred to the community mental health services program or programs that replace the authority.

(d) The liability of the community mental health authority for costs associated with real or personal property purchased or leased by the county for use by the community mental health services program to the extent necessary to discharge the financial liability if desired by the county or counties.

(e) The manner of employing, compensating, transferring, or discharging necessary personnel subject to the provisions of applicable civil service and merit systems, and the following restrictions:

(*i*) Employees of a community mental health authority are public employees. A community mental health authority and its employees are subject to 1947 PA 336, MCL 423.201 to 423.217.

(*ii*) Upon the creation of a community mental health authority, the employees of the former community mental health services program shall be transferred to the new authority and appointed as employees subject to all rights and benefits for 1 year. Such employees of the new community mental health authority shall not be placed in a worse position by reason of the transfer for a period of 1 year with respect to workers' compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other benefit that the employee enjoyed as an employee of the former community mental health services program. Employees who are transferred shall not by reason of the transfer have their accrued pension benefits or credits diminished.

(*iii*) If the former county community mental health agency or community mental health organization was the designated employer or participated in the development of a collective bargaining agreement, the newly established community mental health authority shall assume and be bound by the existing collective bargaining agreement. The formation of a community mental health authority shall not adversely affect any existing rights and obligations contained in the existing collective bargaining agreement. For purposes of this provision, participation in the development of a collective bargaining agreement means that a representative of the community mental health agency or organization actively participated in bargaining sessions with the employer representative and union or was consulted with during the bargaining process.

(f) Any other matter consistent with this act that is necessary to assure operation of the community mental health authority as agreed upon by the creating county or counties.

(3) If a county community mental health agency or a community mental health organization becomes a community mental health authority pursuant to this section, both of the following apply:

(a) All assets, debts, and obligations of the county community mental health agency or community mental health organization, including, but not limited to, equipment, furnishings, supplies, cash, and other personal property, shall be transferred to the community mental health authority.

(b) All the privileges and immunities from liability and exemptions from laws, ordinances, and rules that are applicable to county community mental health agencies or community mental health organizations and their board members, officers, and administrators, and county elected officials and employees of county government are retained by the authority and the board members, officers, agents, and employees of an authority created under this section.

(4) In addition to other powers of a community mental health services program as set forth in this act, a community mental health authority has all of the following powers, whether or not they are specified in the enabling resolution:

(a) To fix and collect charges, rates, rents, fees, or other charges and to collect interest.

(b) To make purchases and contracts.

(c) To transfer, divide, or distribute assets, liabilities, or contingent liabilities, unless the community mental health authority is a single-county community mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program. During the interim period between notification by a county under section 220 of its intent to terminate participation in a multi-county community mental health services program and the official termination of that participation, a community mental health authority's power under this subdivision is subject to any agreement between the community mental health authority and the county that is terminating participation, if that agreement is consistent with the enabling resolution that created the authority.

(d) To accept gifts, grants, or bequests and determine the manner in which those gifts, grants, or bequests may be used consistent with the donor's request.

(e) To acquire, own, operate, maintain, lease, or sell real or personal property. Before taking official action to sell residential property, however, the authority shall do all of the following:

(*i*) Implement a plan for alternative housing arrangements for recipients residing on the property.

(*ii*) Provide the recipients residing on the property or their legal guardians, if any, an opportunity to offer their comments and concerns regarding the sale and planned alternatives.

(*iii*) Respond to those comments and concerns in writing.

(f) To do the following in its own name:

(*i*) Enter into contracts and agreements.

(*ii*) Employ staff.

(*iii*) Acquire, construct, manage, maintain, or operate buildings or improvements.

(*iv*) Subject to subdivision (e), acquire, own, operate, maintain, lease, or dispose of real or personal property, unless the community mental health authority is a single-county mental health services program and the county has notified the department of its intention to terminate participation in the community mental health services program. During the interim period between notification by a county under section 220 of its intent to terminate participation in a multi-county community mental health services program and the official termination of that participation, a community mental health authority's power under this subdivision is subject to any agreement between the community mental health authority and the county that is terminating participation, if that agreement is consistent with the enabling resolution that created the authority.

(*v*) Incur debts, liabilities, or obligations that do not constitute the debts, liabilities, or obligations of the creating county or counties.

(*vi*) Commence litigation and defend itself in litigation.

(g) To invest funds in accordance with statutes regarding investments.

(h) To set up reserve accounts, utilizing state funds in the same proportion that state funds relate to all revenue sources, to cover vested employee benefits including, but not limited to, accrued vacation, health benefits, the employee payout portion of accrued sick leave, if any, and worker's compensation. In addition, an authority may set up reserve accounts for depreciation of capital assets and for expected future expenditures for an organizational retirement plan.

(i) To develop a charge schedule for services provided to the public and utilize the charge schedule for first and third-party payers. The charge schedule may include charges that are higher than costs for some service units by spreading nonrevenue service unit costs to revenue-producing service unit costs with total charges not exceeding total costs. All revenue over cost generated in this manner shall be utilized to provide services to priority populations.

(5) In addition to other duties and responsibilities of a community mental health services program as set forth in this act, a community mental health authority shall do all of the following:

(a) Provide to each county creating the authority and to the department a copy of an annual independent audit performed by a certified public accountant in accordance with governmental auditing standards issued by the comptroller of the United States.

(b) Be responsible for all executive administration, personnel administration, finance, accounting, and management information system functions. The authority may discharge this responsibility through direct staff or by contracting for services.

(6) A county that has created a community mental health authority is not liable for any intentional, negligent, or grossly negligent act or omission, for any financial affairs, or for any obligation of a community mental health authority, its board, employees, representatives, or agents. This subsection applies only to county government.

(7) A community mental health authority shall not levy any type of tax or, except as provided in subsection (13), issue any type of bond in its own name or financially obligate any unit of government other than itself.

(8) An employee of a community mental health authority is not a county employee. The community mental health authority is the employer with regard to all laws pertaining to employee and employer rights, benefits, and responsibilities.

(9) As a public governmental body, a community mental health authority is subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except for those documents produced as a part of the peer review process required in section 143a and made confidential by section 748(9).

(10) A community mental health authority may borrow money to finance or refinance the purchase of real property or tangible personal property of the authority. These contractual obligations shall be secured by a mortgage on the real property or a security interest or other lien on the tangible personal property. These contractual obligations shall be for not longer than the useful life of the collateral and shall be authorized by resolution approved by a majority of the community mental health board. A mortgage given by a community mental health authority to finance the purchase of real property under this subsection is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(11) A community mental health authority may enter into an installment purchase agreement for the purchase or refinancing of tangible personal property for public purposes. The installment purchase agreement for the purchase of tangible personal property shall not be for a longer term than the useful life of the tangible personal property. The installment purchase agreements described in this subsection are not subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The total of all outstanding installment purchase agreements under this subsection shall not exceed 1% of the taxable value of all property located within the area served by that community mental health authority.

(12) If a community mental health authority has financed the purchase of property in a substantially similar manner to that as described in subsection (10) or (11), prior to the effective date of the amendatory act that added this subsection, that purchase is ratified as if it was made under subsection (10) or (11).

(13) A community mental health authority may borrow money and issue notes by resolution of a majority vote of its governing board, which notes shall not exceed 20% of the previous year's annual income and shall mature not more than 18 months from the date of their issuance. Notes shall be issued for the purpose of meeting the expenses of the community mental health authority, including the expenses of operation and maintenance of its facilities, and payments due to its contracted service providers. The resolution authorizing the issuance of the notes shall provide for the pledge of income and revenues of the community mental health authority for the payment of the notes, and may also provide for a special sinking fund into which there may be paid, as collected, a sufficient fund from the revenues of the community mental health authority to retire both the principal of and interest on the notes at or before maturity. The resolution may also

authorize 1 or more officers or board members of the authority to provide for the mortgage, pledge, or grant of security interests or other liens in other assets of the community mental health authority as additional security for the payment of notes. Notes issued by a community mental health authority under this subsection are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 344]

(HB 5851)

AN ACT to repeal 1919 PA 305, entitled "An act to authorize the issue of bonds; to provide sites for and for the erection thereon of public libraries and for additions to and improvements of such sites and the buildings thereon, whether now existing or hereafter acquired, in cities, villages and school districts where free public libraries have or may hereafter be established," (MCL 397.241 to 397.246).

The People of the State of Michigan enact:

Repeal of §§ 397.241 to 397.246.

Enacting section 1. 1919 PA 305, MCL 397.241 to 397.246, is repealed.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 345]

(HB 5852)

AN ACT to amend 1988 PA 265, entitled "An act to authorize district libraries to acquire, construct, or furnish real or personal property for use for library purposes; to authorize district libraries to borrow money and issue bonds and notes and refunding bonds and notes for those acquisitions; and to authorize district libraries to levy a tax for, and to pledge their full faith and credit to, the payment of contracts, bonds, and notes," by amending sections 4, 5, and 9 (MCL 397.284, 397.285, and 397.289), sections 4 and 5 as amended by 1989 PA 25.

The People of the State of Michigan enact:

397.284 Limitation on borrowing money or issuing bonds or notes; conditions to issuance of general obligation unlimited tax bonds; ballot question.

Sec. 4. (1) A district library shall not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the district library, exceeds 5% of the state equalized valuation of the taxable property within the district.

(2) A district library shall not issue general obligation unlimited tax bonds unless all of the following conditions are met:

(a) The board adopts a resolution submitting the question of issuing general obligation unlimited tax bonds or notes to the electors of the district.

(b) The question of issuing general obligation unlimited tax bonds or notes is certified by the board and the election is conducted in the manner provided in sections 14 to 23 of the district library establishment act, 1989 PA 24, MCL 397.184 to 397.193, for an election for a districtwide tax.

(c) A majority of the qualified electors of the district voting on the question approve the issuing of the general obligation unlimited tax bonds.

(3) The question of issuing general obligation unlimited tax bonds pursuant to subsection (2) shall be submitted by ballot in substantially the following form:

"Shall the district library, formed by _____, county[ies] of _____, State of Michigan, borrow the sum of not to exceed _____ dollars ($_____) and issue its general obligation unlimited tax bonds for all or a portion of that amount for the purpose of _____?

Yes [ ] No [ ]"

397.285 Issuance of limited tax bonds or notes by resolution.

Sec. 5. Except as otherwise provided in section 4, a district library may issue limited tax bonds or notes by resolution of the board, without submitting the question to the electors of the district.

397.289 Bonds subject to revised municipal finance act.

Sec. 9. Bonds issued pursuant to this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 346]

(HB 5854)

AN ACT to amend 1913 PA 261, entitled "An act to authorize boards of education to provide for the maintenance of free public libraries existing under the control of boards of education of the cities; to authorize and empower said boards of education to raise or borrow money and issue bonds in sufficient sum to purchase property or site, erect and maintain buildings for use as a free public library and other educational purposes," by amending section 2 (MCL 397.262).

The People of the State of Michigan enact:

397.262 Boards of education; raising money for purchase of property; bonds; issuance; approval by electors; issuance subject to revised municipal finance act.

Sec. 2. (1) Boards of education in cities having the control of free public libraries by reason of existing charters or otherwise are hereby authorized and empowered to raise

money, either by including the amount in their annual estimates or by borrowing on the faith and credit of the school district and issuing certificates or bonds to secure the payment of the amount borrowed, sufficient to purchase property for a site and to provide the money necessary to erect, equip, and maintain buildings for a free public library and other educational uses.

(2) Bonds provided for in this act shall not be issued until the question of the issuance of those bonds has been submitted to the electors of the district affected and approved by a majority of the electors voting on the question.

(3) Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 347]

(HB 5707)

AN ACT to amend 1899 PA 188, entitled "An act to provide for the taxation of estates and generation-skipping transfers of property; to prescribe the powers and duties of certain personal representatives and state departments; to provide for the assessment and collection of the tax; and to provide for the administration and enforcement of this act," by amending sections 1a, 6, 11, 14, and 17 (MCL 205.201a, 205.206, 205.211, 205.214, and 205.217), section 6 as amended by 1993 PA 54.

The People of the State of Michigan enact:

205.201a Death taxes of estates of non-resident decedents; executor or administrator; duties; filing and form of proof; notice to domiciliary state; final account; applicability; construction.

Sec. 1a. (1) The terms "death tax" and "death taxes", as used in the 5 following subsections, include inheritance, succession, transfer and estate taxes and any taxes levied against the estate of a decedent upon the occasion of his or her death.

(2) Before the expiration of 18 months after the qualification in any probate court in this state of any executor of the will or administrator of the estate of any non-resident decedent, the executor or administrator shall file with the court proof that all death taxes, together with interest or penalties on those taxes, which are due to the state of domicile of the decedent, or to any political subdivision, have been paid or secured, or that no taxes, interest, or penalties are due, as the case may be, unless it appears that letters testamentary or of administration have been issued on the estate of the decedent in the state of his or her domicile, in subsections (3), (4), (5), or (6), called the domiciliary state.

(3) The proof required by subsection (2) may be in the form of a certificate issued by the official or body charged with the administration of the death tax laws of the domiciliary state. If that proof has not been filed within the time limited in subsection (2), and if within that time it does not appear that letters testamentary or of administration have been issued in the domiciliary state, the register of probate shall immediately upon the expiration of the time notify by mail the official or body of the domiciliary state charged with the administration of the death tax laws with respect to that estate, and

shall state in the notice so far as is known to him or her the name, date of death, and last domicile of the decedent, the name and address of each executor or administrator, a summary of the values of the real estate, tangible personalty, and intangible personalty, wherever situated, belonging to the decedent at the time of his or her death, and the fact that the executor or administrator has not filed the proof required in subsection (2). The register shall attach to the notice a plain copy of the will and codicils of the decedent, if he or she died testate, or, if he or she died intestate, a list of his or her heirs and next of kin, so far as is known to such register. Within 60 days after the mailing of the notice the official or body charged with the administration of the death tax laws of the domiciliary state may file with the probate court in this state a petition for an accounting in the estate, and the official or body of the domiciliary state shall, for the purposes of this section, be a party interested for the purpose of petitioning the probate court for the accounting. If the petition is filed within 60 days, the probate court shall order an accounting. When the accounting is filed and approved, the probate court shall decree either the payment of any tax found to be due to the domiciliary state or subdivision of that state or the remission to a fiduciary, appointed or to be appointed by the probate court or other court charged with the administration of estates of decedents of the domiciliary state, of the balance of the intangible personalty after the payment of creditors and expenses of administration in this state.

(4) No final account of an executor or administrator of a non-resident decedent shall be allowed unless 1 of the following applies:

(a) Proof has been filed as required by subsection (2).

(b) Notice under subsection (3) has been given to the official or body charged with the administration of the death tax laws of the domiciliary state, and either of the following applies:

(*i*) That official or body has not petitioned for an accounting under subsection (3) within 60 days after the mailing of the notice.

(*ii*) An accounting has been had under subsection (3), a decree has been made upon the accounting, and it appears that the executor or administrator has paid the sums and remitted such securities, if any, as he was required to pay or remit by such decree.

(c) It appears that letters testamentary or of administration have been issued by the domiciliary state and that no notice has been given under subsection (3).

(5) Subsections (1) to (4), inclusive, shall apply to the estate of a non-resident decedent, only in case the laws of the domiciliary state contain a provision, of any nature or however expressed, whereby this state is given reasonable assurance, as finally determined by the state treasurer, of the collection of its death taxes, interest and penalties from the estates of decedents dying domiciled in this state, when the estates are administered in whole or in part by a probate court, or other court charged with the administration of estates of decedents, in such other state.

(6) Subsections (1) to (5) shall be liberally construed in order to ensure that the domiciliary state of any non-resident decedent whose estate is administered in this state shall receive any death taxes, together with interest and penalties thereon, due to it from the estate of the decedent.

205.206 Tax refund.

Sec. 6. If any debt shall be allowed against the estate of a decedent after the payment of any legacy or distributive share from which any tax has been deducted or upon which it has been paid by the person entitled to the legacy or distributive share, and that person is required to refund the amount of the debts, an equitable proportion of the tax shall,

upon the order of the court, be paid to him or her by the executor, administrator, trustee or other person, if the tax has not been paid to the state of Michigan. When any amount of said tax shall have been paid erroneously to the state of Michigan by reason of the allowance of debts or otherwise, it shall be lawful for the state treasurer, upon satisfactory proof by the order or certificate of the proper court of the allowance of the debts or of the reversal, correction or alteration, in accordance with law, of the order fixing the tax, to draw his or her warrant upon the state treasury for the erroneous payment, to be refunded to the executor, administrator, trustee, person or persons entitled to receive it, and charge the warrant to the fund which receives credit from the payment of taxes under the provisions of this act. However, applications for the refunding of erroneous tax shall be made within 6 months from the allowance of the debts or the reversal, correction or alteration of the order.

205.211 Appraiser; appointment; appraisement of vested and contingent estates; insurance commissioner; duties; money legacy.

Sec. 11. The judge of probate, upon the application of any interested party, including the state treasurer and county treasurers, or upon his or her own motion, shall, as often as and whenever occasion may require, appoint a competent person as appraiser to fix the clear market value at the time of the transfer of property which shall be subject to the payment of any tax imposed by this act. A description of the property and the names and residences of the persons to whom it passes shall be given by the judge of probate to the appraiser. If the property, upon the transfer of which the tax is imposed, is an estate, income or interest for a term of years or for life, or determinable upon any future or contingent estate, or is a remainder or reversion or other expectancy, real or personal, the entire property or fund by which the estate, income or interest is supported, or of which it is a part, shall be appraised immediately after the transfer, or as soon thereafter as may be practicable, at the clear market value as of that date. If the estate, income or interest is of such a nature that its clear market value cannot be ascertained at that time, it shall be appraised in like manner at the time when the value first became ascertainable. The value of every future or contingent or limited estate, income, interest or annuity, dependent upon any life or lives in being, shall be determined by the rule, method or standard of mortality and value employed by the commissioner of the office of insurance and financial services in ascertaining the value of policies of life insurance companies, except that the rate of interest for computing the present value of all future and contingent interests or estates shall be 5% per annum. The commissioner of the office of insurance and financial services shall, upon request of the state treasurer, prepare the tables of values, expectancies and other matters as may be necessary for use in computing, under the provisions of this act, the value of life estates, annuities, reversions and remainders, which shall be printed and furnished by the auditor general to the several judges of probate upon request. The clear market value of the transfer of a money legacy, presently taxable, shall for the purposes of this act be taken to be the face value of the money at the date of death of decedent.

205.214 Collection of unpaid taxes; estate closed without payment.

Sec. 14. If the state treasurer or the treasurer of any county shall have reason to believe that any tax is due and unpaid under this act, after the refusal or neglect of the persons liable therefor to pay the same, he or she shall notify the attorney general in writing of that failure or neglect, and the attorney general may apply, or cause the prosecuting attorney of the county to apply, in behalf of the state, to the probate court for an order requiring the persons liable to pay the tax to appear before the court on a day specified, not more than 3 months after the date of the order, and show cause why the tax

should not be paid. The judge of probate upon such application, and whenever it shall appear to him or her that any such tax accruing under this act has not been paid as required by law, shall issue a citation, and the service of a citation, and the time, manner, and proof of the citation and the hearing and determination of the citation, and the enforcement of the determination or order made by the judge of probate shall conform to the practice of the probate court in like cases made and provided for the service of citations out of the probate court, and the hearing and determination thereon and its enforcement, so far as the same may be applicable. In all cases where an estate has been declared closed without fixing or payment of the tax upon the transfers therein, and the attorney general believes that the transfers are subject to a tax and the real estate in the estate is subject to a lien and anticipates the institution of proceedings for the fixing and enforcing, or the enforcing of the lien when it has been fixed, he or she may file with the register of deeds of the county a notice setting forth the fact together with a description of the real estate claimed to be subject to the lien which shall operate with the same force and effect as a lis pendens under existing statutes. However, the failure to file such notice shall not in any manner prejudice the rights of the state. The judge of probate or the probate clerk or register shall, upon the request of the attorney general, prosecuting attorney, or treasurer of the county, furnish 1 or more transcripts of such decree which shall be docketed and filed by the county clerk of any county of the state without fees, in the same manner and with the same effect as provided by law for filing and docketing transcripts, judgments, and decrees of circuit courts in this state. As a cumulative remedy for the collection of the tax, the state may proceed by an action of assumpsit in any court of competent jurisdiction. Whenever the probate judge issues a citation and undertakes the proceedings specified in this section, he or she shall certify that fact to the county treasurer, together with an itemized bill of all expenses incurred for the services of the citation, and other lawful disbursements not otherwise paid. Upon receipt of the bill, the county treasurer shall pay the bill from the general or contingent fund of the county. In all proceedings to which any county treasurer, or the state treasurer, is cited to appear under sections 11 and 12 of this act and all proceedings arising or instituted under this section, the attorney general shall represent the interests of the state, the compensation and expenses of necessary assistants and the expenses of the attorney general to be paid after approval by the attorney general on the warrant of the state treasurer out of the general fund in the state treasury.

205.217 Record books furnished by state treasurer; contents; entries; form.

Sec. 17. The state treasurer shall furnish to each judge of probate a book, which shall be a public record, in which the judge of probate shall enter a formal order containing the name of every decedent upon whose estate letters of administration or letters testamentary or ancillary letters have issued, the date of death, and place of residence at the time of death of the decedent, the names, places of residence and relationship to the decedent of his or her heirs at law, in case the decedent died intestate or left estate not disposed of by will; the names, places of residence, and relationship to the decedent of the legatees and devisees in the will of the decedent, in case the decedent died testate, the ages of all life tenants and beneficiaries under life estates, the clear market value of the decedent's real and personal property, the clear market value of the property, real and personal, passing to each heir, legatee and devisee, and the clear market value of annuities, life estates, terms of years, and other property of the decedent, or given by the decedent in his or her will and otherwise, as fixed and determined by the judge of probate, and the amount of tax assessed thereon, and the amount of tax assessed on the share of each heir, legatee and devisee, when from the records of the court or the testimony given there

appears to be property in such estate liable to tax under this act. However, a description of real estate need not be given unless the real estate is taxable under this act, in which case a sufficiently definite description shall be given to fully identify the taxable real estate and the persons to whom the several parcels are devised. The judge of probate shall also enter in the book the name, date of death, and place of residence at time of death of every decedent, grantor, vendor or donor who has made a transfer of property in contemplation of death or intended to take effect in possession or enjoyment at or after his or her death, subject to tax under this act; the name and residence of the grantee, vendee or donee and his or her relationship to the grantor, vendor or donor, the clear market value as determined by the judge of probate of the property so transferred by him or her and the tax determined by the court payable thereon. These entries shall be made from data contained in the papers filed in the probate court and testimony taken in any proceedings relating to the estate of the decedent. The judge of probate shall also enter in the book the amount of the real and personal property of the decedent as shown by the inventory thereof when made and filed in his or her office. If the judge of probate determines the amount of tax to be paid upon any legacies or devises or upon the real estate of a decedent or upon the estate of the decedent as a whole before the final determination of the tax by him or her, only such entries need be made in the book in that particular case as refer to the partial determination, and it shall be distinctly stated in the book that it is but a partial determination by the judge of probate of the tax due from the estate. Whenever the determination of the tax in such estate by the judge of probate is general, partial or final, the deductions made by the judge of probate from the full value of the estate shall be particularly specified, so that the several reasons for the deductions made clearly appear upon the record. The record required to be furnished by the state treasurer shall be in the following form, and shall be of such size and so arranged as he or she determines will best meet the requirements of this act:

Abstract of Taxable Inheritances. Vol. No. ..... Page No. .....

State of Michigan.

The Probate Court for the County of .....

At a session of said court held at ..... , in said county the ..... day of ..... , A.D. .....

Present, The Honorable ..... , Probate Judge.

In the matter of the inheritance tax upon transfers in the estate of ..... , deceased.

In this matter it being represented to me and appearing that the said deceased was, at the time of his or her death on the ..... day of ..... , a resident of ..... and possessed property the transfer of which or some interest or estate therein is taxable under the Michigan estate tax act, 1899 PA 188, MCL 205.201 to 205.256; that ..... of ..... was duly and regularly appointed ..... of the said estate and ..... , and that as appears from the inventory on file in this court, the amount of property belonging to said estate is stated to be as follows:

Personal property, $..... ; real property, $.....

It further appears and I hereby find that the debts of said deceased owing at the time of his or her death (exclusive of interest accruing thereafter) amount to $..... ; that the funeral expenses of said deceased amount to $..... ; and that the expenses of administration of the estate of said decedent (exclusive of all items of disbursement for repairs to buildings or other property belonging to, or taxes accruing after death, upon the estate of said deceased, all allowances for the support of widow and children of said deceased, expenses incurred in contesting the will of said deceased, and other items of

disbursement for the benefit of the beneficiaries of said estate, not strictly expenses of administration) amount to the sum of $..... ; the total debts and expenses of administration being $.....

After due and careful investigation, examination and consideration, I find and determine that the clear market value of all of said decedent's personal property and real estate, at the date of his or her death, was as follows: Personal property, $..... ; real property, $..... , and that after deduction therefrom of the total debts and expenses of administration (debts secured upon realty being deducted from the value of the real estate, and debts unsecured and secured on personalty being deducted from the value of the personalty), there remains subject to taxation under the provisions of said act before deducting statutory exemptions, transfers of personal property to the amount of $..... ; and transfers of real property to the amount of $..... ; and that of said transfers certain interests hereinafter set forth in detail in the schedule hereto are not presently taxable by reason of the following contingency, rendering it impossible to determine presently the value of the interests passing and the amount of the tax thereon, namely .....

And I hereby find and determine that the tax upon the presently taxable transfers in said estate amounts to the sum of $..... and find that the several names, residences, relationships and ages, where interest consists of life estates or annuities, of the several beneficiaries, together with the character and amount of the several interests or estates passing thereto, the rate of tax to which each is subject, and the portion of the tax fixed upon, apportioned to, and required to be borne by each of the several taxable transfers, is as set forth in detail in the following schedule:

(The schedule shall contain the following headings for the several columns and space for sufficient entries, remarks, etc.)

A Name of Heir at Law, Legatee or Devisee to whom estate passes	B Residence	C Relationship	D Age of Life Tenant or Annuitant	E Rate of Tax ..... %
F Value of Legacy or Personal Estate Passing	G Value of Personal Estate Exempt	H Value of Legacy or Personal Estate Taxable	I Amount of Tax on Personal Estate	J Value of Real Estate Passing
K Value of Real Estate Exempt	L Value of Real Estate Taxable	M Amount of Tax on Real Estate	N Value of Annuities, Life Estates, etc. Passing	O Value of Annuities, Life Estates, etc. Exempt
P Value of Annuities Life Estates, etc., Taxable	Q Amount of Tax on Annuities, Life Estates, etc.	R Total Amount of Tax		

Remarks: Including descriptions of real estate taxed and any explanations necessary to a complete understanding of the foregoing entries.

.....

Judge of Probate.

The department of treasury may prescribe and furnish to the judge of probate, in lieu of the book and the form prescribed in this section, a form or forms containing such data as is required for proper determination of the tax.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 348]

(HB 5708)

AN ACT to amend 1889 PA 226, entitled "An act to provide for the collection of specific taxes from corporations, copartnerships, parties or persons, subject under any laws of this state to the payment of such taxes; to fix the time when such taxes become a lien upon the property of such corporations, copartnerships, parties or persons, and to define the property to which the lien shall attach; and to repeal Act No. 57 of the session laws of 1872, approved March twenty-ninth, 1872, and Acts No. 10 and 11 of the session laws of 1873, approved February fourteenth, 1873, being sections numbered 1249 to 1256, both inclusive, of Howell's annotated statutes of 1882," by amending sections 1, 2, 3, 4, and 5 (MCL 207.441, 207.442, 207.443, 207.444, and 207.445).

The People of the State of Michigan enact:

207.441 Unpaid specific tax; interest; penalty after demand; collection suit; proceedings; decree; sale; payment.

Sec. 1. Specific taxes imposed by any law of this state upon any corporation, copartnership, party, or person, that remain unpaid after the last day of the month in which by law the specific taxes are payable, are subject to interest computed at the rate of 7 per cent per annum from the day the specific taxes became due to the day of payment. Furthermore, if a specific tax, with the accrued interest is not paid within 10 days after demand for payment is made by the state treasurer, then any corporation, copartnership, party, or person so failing to pay as demanded is subject to a penalty of 2 per cent for each month or fraction of a month, to be computed upon the amount due from the corporation, copartnership, party, or person at the date of the demand for payment. And for the amount so due, including the penalty, the state treasurer shall bring an action in the name of the people of the state of Michigan, before the judge of the circuit court of any county in this state having jurisdiction, in open court, if it shall be in session, otherwise at his or her chambers, for the recovery of the amount due, including the penalty, after not less than 30 days' notice to every such corporation, copartnership, party, or person of the commencement of the action, either by actual service of a copy of the petition of the state treasurer, or by publication, as the court may order, and after proper hearing of all and singular the premises in the petition by the state treasurer set forth, may enter a decree for the amount of the specific taxes, interest, and penalty as provided in this act. Execution shall immediately issue to the sheriff of any county in which the principal office of the

corporation or copartnership is located, or the party or person may reside, commanding him or her to immediately levy the same, together with 10 per cent as his or her fees, by distress and sale, as provided by section 6038 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6038, of any of the property, real or personal, belonging to the corporation, copartnership, party, or person, wherever the property may be found in this state, and to pay over the revenue, reserving his or her fees, to the state treasurer, within 10 days after the same is collected.

207.442 Sale proceeds insufficient; payment refusal; charter rights forfeited.

Sec. 2. If the property so distrained cannot be sold for want of bidders, or if the property of the corporation is insufficient to pay the tax, the sheriff shall immediately return a statement of the same to the state treasurer, and if such corporation neglects or refuses to pay the tax within 30 days after such return by the sheriff, it shall be deemed a forfeiture of all its corporate or chartered rights and privileges.

207.443 Failure to report; tax estimate by state treasurer; notice.

Sec. 3. If a corporation, copartnership, party, or person, doing business in this state, neglects or refuses to make a report as required by law, upon which the amount of specific tax imposed by any law of this state, and due and payable by any corporation, copartnership, party, or person, is computed, the state treasurer shall estimate the amount of specific tax due from and payable by the corporation, copartnership, party, or person, from the best information he or she may be able to obtain, and charge that amount upon the books of his or her office. After making the estimate, the state treasurer shall immediately send by mail or otherwise a written notice signed by him or her to any of the officers or directors of the corporation, or to any member of a copartnership, or to the party or person, of the amount of the specific tax estimated by him or her as due and payable by the corporation, copartnership, party, or person.

207.444 Failure to report after notice; tax collection by state treasurer; failure to pay; forfeitures.

Sec. 4. If, in not less than 40 days after mailing or sending the notice, as provided in section 3, the corporation, copartnership, party, or person refuses or neglects to pay the specific tax so estimated, and no appeal is taken as provided in this act, the state treasurer shall collect the specific taxes in the same manner as is provided in case of failure to pay the taxes after the report required by law has been made, as provided by section 1, and with a like forfeiture of all corporate or chartered rights and privileges in case the property distrained cannot be sold for want of bidders, or is insufficient to pay the tax, and the corporation does not within 30 days of the sheriff's return of the facts, pay the specific tax.

207.445 Appeal; contents; bond; trial proceedings; collection of execution.

Sec. 5. If a corporation is dissatisfied with the estimate so made by the state treasurer, as provided, it may appeal therefrom to the circuit court for the county of Ingham. The appeal shall be transmitted to the county clerk of the county of Ingham, and a copy to the state treasurer within 30 days after the receiving of the estimate, accompanied with a statement in detail, signed and sworn to by an officer of the corporation in its behalf, or by a member of the copartnership, or by the party or person making the appeal, of the objections to the estimate and the reason why the same should not stand as a charge

against the corporation, copartnership, party, or person. The appeal shall also be accompanied by a bond in double the amount of the estimate, with sufficient surety or sureties to be justified before a circuit judge, as to their pecuniary responsibility, and to be approved by him or her, conditioned that such corporation, copartnership, party, or person will prosecute its appeal to effect, and to pay all costs and charges which the court shall award, and also to pay any sum of money which shall appear by the judgment of the court to be due from the corporation, copartnership, party, or person as a specific tax. Upon filing with the clerk of the circuit court of the county of Ingham said appeal, statement and bond, with the approval of the circuit judge evidenced thereon, the court shall proceed to the trial and determination of the appeal, according to the rules of law, allowing a trial by jury of all questions of fact, in cases where a trial may be proper, and questions of law may be carried to the supreme court. Upon the trial of the appeal, the statement and estimate of the state treasurer are prima facie evidence of the amount of the specific tax due and payable by the corporation, copartnership, party, or person. Notice of trial of the appeal shall be served by the corporation upon the attorney general. If 2 regular terms of the court expire after filing the appeal, bond, and statement, and the corporation, copartnership, party, or person has not noticed the same for trial, the appeal, upon motion of the attorney general, shall be dismissed. If the appeal is tried and judgment rendered against the corporation, copartnership, party, or person, execution shall be issued as directed to the sheriff of the county in which the principal office of the corporation or copartnership is located, or in which the party or person may reside, and the sheriff shall proceed to collect the amount of the execution, adding 10 per cent for his or her own fees therein, in a manner like that provided by section 6038 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6038, and pay the revenue over to the state treasurer, within 10 days after the specific taxes are collected.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 349]

(HB 5709)

AN ACT to amend 1931 PA 292, entitled "An act to authorize counties to extend the time of payment of certain drain taxes and highway assessments," by amending section 3 (MCL 211.393).

The People of the State of Michigan enact:

211.393 Delinquent drain taxes or highway assessments; installments; remittance of accrued interest and penalties; interest.

Sec. 3. If any part or parts of the drain taxes or highway assessments have become delinquent, and if the county has advanced money for the payment of the bonds by reason of the delinquency, or if refunding bonds have been issued to extend the time of payment of the bonds, the board of commissioners may, by resolution, at any time before the sale of land for the drain taxes or highway assessments only, or, if the lands shall have been bid off to the state at a tax sale for the drain taxes or highway assessments only, at any time before the lands shall have been deeded by the state treasurer, extend the time of

payment of the delinquent taxes or assessments and divide the same into any number of installments not exceeding the number of the original installments, and may remit all or any part of the accrued interest and penalties. One of the installments shall be levied and collected on the general tax roll for each year following the last installment of the original drain tax or highway assessment of the same district, and interest thereon at 6 per cent from the date of the extension shall be included each year in the amount of the original or extended installment of the tax or assessment to be collected.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 350]

(HB 5710)

AN ACT to amend 1933 PA 133, entitled "An act to authorize the acceptance of bonds and coupons and other obligations of municipalities and special assessment districts and bonds and coupons of the Home Owners Loan Corporation in payment of certain taxes and special assessments under certain conditions, and to prescribe the effect thereof; and to prescribe the powers and duties of certain officials and bodies with respect thereto," by amending sections 3a, 4, and 6 (MCL 211.403a, 211.404, and 211.406).

The People of the State of Michigan enact:

211.403a Resolution authorizing receipt terms; restrictions; conditions.

Sec. 3a. The resolution authorizing the receipt of the bonds and coupons and other obligations in payment of taxes or special assessments may provide the terms, restrictions, and conditions upon which the same shall be so receivable and may provide that the same shall be receivable in payment of taxes or special assessments payable to the local tax-collecting official, the county treasurer, or the state treasurer.

211.404 Resolution; filing of certified copy.

Sec. 4. The governing body of any municipality or special assessment district passing any such resolution shall file a certified copy of the resolution with the state treasurer, with the county treasurer of the county in which the municipality or special assessment district is located, and with the tax collector of the respective municipalities and special assessment districts.

211.406 Tax collecting officers; duties; cancellation of bonds and obligations.

Sec. 6. It shall be the duty of the state treasurer, county treasurer, or other tax collecting officer to accept the bonds and coupons and other obligations of any municipality or special assessment district in full or partial payment of taxes and special assessments, as the case may be, including penalties, interest, and other charges, when the governing body of any municipality or special assessment district has authorized the acceptance, in accordance with the provisions of this act. The turning over to the municipality or special

assessment district of any such bonds and coupons and other obligations shall be considered a full accounting for the collection of the tax or special assessment so paid. The municipality or special assessment district shall cancel the bonds and coupons and other obligations and mark them "paid in full".

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 351]

(HB 5711)

AN ACT to amend 1915 PA 59, entitled "An act to provide for the construction, improvement and maintenance of highways; for the levying, spreading and collecting of taxes and of special assessments therefor; to authorize the borrowing of money and the issuance of bonds under certain restrictions, regulations and limitations; to prescribe the powers and duties of certain officers with reference thereto; and to validate certain proceedings heretofore taken," by amending sections 34, 35, and 67 (MCL 247.434, 247.435, and 247.467).

The People of the State of Michigan enact:

247.434 Taxes; rejection; reassessment.

Sec. 34. If any tax assessed under this act is rejected because of an error in the description of the premises sought to be charged, the tax shall be ordered charged back by the board of supervisors, and reassessed upon the lands in the same manner that unpaid or rejected taxes may be charged back by the state treasurer and reassessed under the general provisions of law applicable to state, county, and township taxes.

247.435 Taxes; apportionment on parcels; notice of hearing; correction of roll.

Sec. 35. If 2 or more parcels of land owned by different persons are assessed as 1 parcel and the frontage of the different parcels upon the improvement are not relatively the same, then upon discovery of the error the county road commissioners or the department of transportation, or any 1 of the several owners, may require the county road commissioners or the state highway commissioner to apportion this tax between the several parcels, upon the principle of benefits derived. The county road commissioners or the department of transportation shall give the parties in interest 5 days' notice of their hearing, by posting a notice of the hearing in a conspicuous place on each of such premises. On apportioning the tax as provided in this section, the county road commissioners or the department of transportation shall change their roll accordingly, and if any rolls have been delivered to the county or township clerks, or to collecting officers, shall certify the change to them. The county or township clerk or other collecting officer shall correct the roll in their hands, and collection shall be made accordingly. This change may be made at any time before final decree is taken by the state treasurer for the sale of the lands for delinquent taxes.

247.467 Tax assessment; irregularities not prejudicial; presumptions; prima facie evidence; absent or omitted records; signing of papers; deeds.

Sec. 67. A tax assessed under this act upon any property or sale of the property shall not be held invalid by any court of this state on account of any irregularity in any assessment, or on account of any tax roll not having been made, or proceeding had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any person other than the owner, or on account of any other irregularity, informality, omission, or want of any matter or form or substance in any proceeding that does not prejudice the property rights of the person whose property is taxed. All proceedings in assessing and levying taxes, and in the sale and conveyance therefor, shall be presumed by all the courts of this state to be legal until the contrary is affirmatively shown. All records, statements and certificates provided for under this act shall be prima facie evidence of the facts therein set forth. The absence of any record of any proceeding or proceedings, or the omission of any mention in any record of any vote or proceeding, or mention of any matter in any statement or certificate that should appear therein under this act, does not affect the validity of any proceeding, tax, or title thereon, if the fact that the vote or proceeding was had or tax authorized is shown by any other record, statement or certificate made evidence by the terms of this act or any other law of this state. A tax or sale of property for any tax shall not be rendered or held invalid by showing that any record, statement, affidavit, certificate, paper, or return cannot be found in the proper office. Unless the contrary is affirmatively shown, the presumption shall be that the record was made, and that the certificate, statement, affidavit, paper, or return was duly made and filed. If any statement, certificate, or record is required to be made or signed by the county road commissioners, that statement, certificate, or record may be made and signed by the members of the commission, or a majority of them, and it is not necessary that other members be present when each signs the statement, certificate, or record. The provisions of this section shall not be construed to authorize any showing impeaching the validity of any deed executed by the state treasurer under this act, but the deed shall be held absolute and conclusive as provided in general tax laws of this state.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 352]

(HB 5712)

AN ACT to amend 1945 PA 327, entitled "An act relating to aeronautics in this state; providing for the development and regulation thereof; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, or registration, or supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and

other aeronautical facilities by the state, by political subdivisions, or by public airport authorities; providing for the incorporation of public airport authorities and providing for the powers, duties, and obligations of public airport authorities; providing for the transfer of airport management to public airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics," by amending section 35 (MCL 259.35).

The People of the State of Michigan enact:

259.35 Aeronautics fund; appropriation.

Sec. 35. There is appropriated all money in and currently credited to the state aeronautics fund created under section 34, for carrying out the purposes and provisions of this act, and to meet the expenses of the department. Upon appropriation, the state treasurer may draw a warrant upon the state treasury to make payments in the amounts and to the persons as directed by the department subject to approval and release by the state administrative board of the authorized amounts. However, funds appropriated under this section or subsequently made available shall not be expended upon any aviation project that is not carried out under the supervision and direction of the department.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 353]

(HB 5713)

AN ACT to amend 1956 PA 40, entitled "An act to codify the laws relating to the laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, bridges, culverts, fords, and the structures and mechanical devices to properly purify the flow of drains; to provide for flood control projects; to provide for water management, water management districts, and subdistricts, and for flood control and drainage projects within drainage districts; to provide for the assessment and collection of taxes; to provide for the investment of funds; to provide for the deposit of funds for future maintenance of drains; to authorize public corporations to impose taxes for the payment of assessments in anticipation of which bonds are issued; to provide for the issuance of bonds by drainage districts and for the pledge of the full faith and credit of counties for payment of the bonds; to authorize counties to impose taxes when necessary to pay principal and interest on bonds for which full faith and credit is pledged; to validate certain acts and bonds; and to prescribe penalties," by amending sections 271 and 323 (MCL 280.271 and 280.323).

The People of the State of Michigan enact:

280.271 Tax collection suits; tax reassessment.

Sec. 271. Any drain taxes that may have been assessed and returned upon any lands under any drain law enacted before this act and remaining unpaid, may be sued for by the commissioner of the county in which the delinquent lands are situated in any court of competent jurisdiction and collected from the owner of the lands or the taxes, if properly returned to the county treasurer, may be ordered charged back by the county board of commissioners and reassessed upon the lands in the same manner that unpaid or rejected taxes may be charged back by the state treasurer and reassessed under the general provisions of law.

280.323 Drains along public highways; consent; disposition of materials; apportionment against state trunk line highway; payment of assessment; certificate of amount due; drains constructed prior to 1923.

Sec. 323. Before a drain is constructed along a public highway, the drain commissioner or drainage board shall consult with and obtain the written consent of the highway authorities having jurisdiction over the highway, as to the proposed location of the drain and the disposition of all material excavated. Whenever an apportionment is made against a state trunk line highway, the amount of the assessment based on the apportionment shall be paid out of any state transportation funds on hand. On or before December 1 of the year when the assessment is made, the drain commissioner or drainage board shall certify to the state treasurer the amount due from the state to the drainage district by reason of the assessment of benefits, and the state treasurer shall, if satisfied of the correctness of such certificate, cause the certificate to be paid within 30 days thereafter.

If a ditch or drain was constructed prior to 1923 primarily for drainage of private lands, and was constructed along a public highway, and if the records including the original survey of the drain are not of public record nor turned over to the county drain commissioner, or have not been entered in the records of the county drain commissioner as a county drain, then the actual location of the drain shall be sufficient to make the drain comply with the provisions of this act with respect to the location thereof, and the drain shall be a county drain upon compliance with the other provisions of this act with respect to county drains. No proceedings shall be instituted for the widening of the drain or the deepening thereof below its original bottom.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 354]

(HB 5714)

AN ACT to repeal 1915 PA 294, entitled "An act to promote the public welfare; to create a commission to be known as the agricultural fair commission; to provide for the appointment of such a commission and to fix their terms of office; to prescribe their

powers and duties; and to make an appropriation to carry out the provisions of this act," (MCL 285.122 to 285.128).

The People of the State of Michigan enact:

Repeal of §§ 285.122 to 285.128.

Enacting section 1. 1915 PA 294, MCL 285.122 to 285.128, is repealed.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 355]

(HB 5717)

AN ACT to amend 1883 PA 197, entitled "An act to provide for the disposition of certain lands granted to the state of Michigan for railroad purposes by acts of congress of June 3, 1856, and March 4, 1879, upon the route from Grand Haven to Flint and thence to Port Huron, in the state of Michigan; to secure the title thereto to bona fide settlers and purchasers; to provide for the further sale thereof, and to provide for the adjustment of certain taxes heretofore assessed thereon," by amending section 10 (MCL 322.460).

The People of the State of Michigan enact:

322.460 Adjustment of amounts due claimants.

Sec. 10. The state treasurer shall adjust the amounts due claimants under this act, and shall draw a warrant upon the state treasury for the amount due in favor of the person entitled to the amount within 3 months after application is made by that person. The balance of the taxes previously assessed upon the lands granted to this state and lying within the counties of Ottawa and Muskegon, upon the route extending from Grand Haven to Owosso and then to Flint, as described in this act and returned by the county treasurers of the counties of Muskegon and Ottawa to the state treasurer as delinquent and unpaid, and all interest and charges since accrued, are hereby canceled, and the state treasurer is hereby directed to credit the counties of Muskegon and Ottawa respectively with the amount of those taxes in all cases in which the tax has been previously charged back to those counties, with all interest and charges accrued upon the amounts charged back. However, the total amount of the credit shall not exceed the total amount the county may now be indebted to the state, and the counties of Muskegon and Ottawa shall credit up to the several townships in their respective counties all of the tax which has been charged back to the townships, or the proportion of the tax the county is credited with by the state.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 356]

(HB 5718)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 33934, 42506, 47104, and 52706 (MCL 324.33934, 324.42506, 324.47104, and 324.52706), section 33934 as added by 1995 PA 59 and sections 42506, 47104, and 52706 as added by 1995 PA 57.

The People of the State of Michigan enact:

324.33934 State leased lands; tax default; procedure for payment; forfeiture of lease; co-owners; partial payment of taxes; certificate of cancellation.

Sec. 33934. (1) If default is made in the payment of taxes to the treasurer of the township, city, or village in which the lands leased are located, the same shall be returned to the county treasurer according to and subject to the provisions of law for the return and collection of unpaid taxes assessed upon real estate. The treasurer of the township, city, or village, at the same time that he or she makes returns to the county treasurer, shall make and transmit to the department a list of the lands so delinquent for taxes and the amount of taxes delinquent upon each description in the list. The county treasurer shall, at the same time he or she makes his or her return of delinquent lands to the department of treasury, make a similar return to the department of all such leasehold interests, the taxes upon which have not been collected, with a statement of the amount thereof. The county treasurer shall not receive payment of the amount of any taxes assessed upon such leasehold interests; but such taxes when returned delinquent by the township treasurer shall be payable only to the department. The department shall provide suitable books and enter in those books the description of every leasehold interest so returned and the taxes thereon. The person holding such interest in any parcel of this land may pay to the department at any time within 1 year after the same becomes a lien on the premises, the taxes assessed thereon, with interest at the rate of 1/2 of 1% per month or fraction thereof, with 4% as a collection fee, from the first day of March last preceding. However, if the taxes are not paid within this time period, the leasehold interest is forfeited because of the nonpayment of the taxes, and within its discretion the department may release the premises to any person for any term of years not exceeding 99 years, upon that person paying to the department all unpaid taxes on the land, together with such rental as may be determined upon under this part by the department.

(2) If the leasehold interest is owned by 2 or more persons, and any 1 or more of the persons neglect or refuse to pay his or her or their proportionate share of the taxes assessed against the leasehold at the date when the taxes become due and payable, then any 1 or more of the owners may pay his or her or their proportionate share of the taxes, and the county treasurer, in his or her return of delinquent lands to the department, shall indicate partial payments of taxes credited to the owner or owners making them. Any owner not having made payment of his or her proportionate share of the taxes may, at any

time within 1 year after the taxes have become a lien on the premises, pay to the department his or her proportionate share of the taxes with interest at the rate of 1% per month or fraction thereof, from the first day of March last preceding. If the proportionate share of taxes of any such owner is not paid within this time period, the interest of the owner in the leasehold is forfeited because of the nonpayment of the taxes, and thereafter within 30 days, such of the owners as have paid their proportionate share of the taxes, upon payment to the department of the amount of the taxes remaining due with interest accrued to the date of forfeiture, shall be entitled to conveyances by the department of the interests in the leasehold that have been forfeited. The interest thus conveyed shall be allotted equally among those owners who shall pay the delinquent taxes with interest as provided in this section.

(3) If default is made by any lessee in the payment of taxes, he or she shall be notified in writing by the department at least 3 months before the date of final forfeiture of the amount due and the penalty for nonpayment and the date upon which forfeiture is to occur.

(4) Upon payment to the department of taxes and interest as provided in this section, the payment amount shall be credited to the county in which such leasehold interests were assessed, in the same manner as taxes and interest are now credited to counties on part-paid state lands.

(5) Immediately upon formal determination by the department that a lease has been forfeited under this part, a certificate of cancellation of the lease shall be executed under the seal of the department and shall be forwarded to the register of deeds of the county where the land is situated. Upon receipt of this certificate, the register of deeds shall at once cause it to be recorded in a suitable book to be provided by the register of deeds. If the lease is of record in the register of deeds, the register of deeds shall note on the lease the fact that a certificate of cancellation has been issued and shall also note the citation to the record of such certificate.

324.42506 Receipts; disposition.

Sec. 42506. All money received from the sale of licenses as provided in this part shall be forwarded to the state treasurer and placed to the credit of the game and fish protection fund created in part 435, and shall be used for the purpose necessary to the protection, propagation, and distribution of game and fur-bearing animals as provided by law.

324.47104 Appropriation; carrying forward unexpended balance.

Sec. 47104. The unexpended balance of any appropriation to implement this part at the end of the year for which the appropriation is made shall be carried forward to the credit of the department, if the department certifies to the state treasurer that the money is needed for the purchase of additional grounds, for making permanent improvements upon any of its property, or for equipment or labor.

324.52706 Department, department of treasury, or other state officer; authority to sell state lands to municipalities for forestry; reversion.

Sec. 52706. The department, the department of treasury, or other state officer having charge of state land, may sell homestead, tax, swamp, or primary school land to municipalities for forestry purposes, at a price fixed by the department, department of treasury, or other state officer. However, land shall not be sold in excess of the amount that may be necessary for the municipality, and any land that is sold shall be suitable for and used

solely for a forestry purpose. When the land described in this section is no longer used for a forestry purpose, the land shall revert to the state.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 357]

(SB 1077)

AN ACT to amend 1974 PA 338, entitled "An act to provide for the creation of public economic development corporations; to prescribe their powers and duties; to provide for their dissolution; to provide for the issuance of notes and other evidence of indebtedness; to provide for the issuance of bonds; to validate bonds, notes, and other evidence of indebtedness; to provide for condemnation of property; to provide for the undertaking of projects relative to the economic development of municipalities; to provide for loans, grants, transfers, and conveyances of funds and property by municipalities, and disbursement of certain funds to public economic development corporations; to provide for the creation of subsidiary neighborhood development corporations by certain economic development corporations; to provide for the receipt by public economic development corporations of funds and property; to provide for industrial and commercial enterprises and for enterprises involved in housing or neighborhood improvement, and furnishings, equipment, and machinery for the industrial and commercial enterprises and housing; to validate the incorporation of de facto economic development corporations and all actions of the de facto corporations; and to provide savings provisions," by amending sections 6a, 7, 8, and 23 (MCL 125.1606a, 125.1607, 125.1608, and 125.1623), section 6a as added and sections 7, 8, and 23 as amended by 1980 PA 501.

The People of the State of Michigan enact:

125.1606a Subsidiary neighborhood development corporation; creation; powers; exemption from prevailing wage and fringe benefit rate requirements; disposition of surplus from sale of property; repayment of bonds or notes.

Sec. 6a. (1) In order to implement section 3(f)(*ii*), a corporation incorporated by a city with a population of greater than 750,000 persons may create subsidiary neighborhood development corporations within the city in which the parent corporation may operate. A subsidiary neighborhood development corporation created pursuant to this subsection shall have power to conduct business solely for the purpose of a project under section 3(f)(*ii*), but in respect to those projects the subsidiary shall have the same powers of a corporation formed under this act, except as may be limited by the parent corporation in the articles of incorporation or bylaws of the subsidiary.

(2) To the extent the project involves training for disadvantaged youths, a subsidiary created pursuant to this section shall be exempt from the requirement of the payment of prevailing wage and fringe benefit rates described in section 8(4)(h).

(3) Any surplus from the sale of property in the involved project area under section 3(f)(*ii*), after payment of principal and interest or other evidences of indebtedness, shall be deposited in a revolving fund of the corporation creating the subsidiary corporation,

which fund shall be restricted to provide revenue for other projects authorized by section 3(f)(*ii*), within the city.

(4) When bonds or notes are sold to implement projects under section 3(f)(*ii*), provision shall be made for the immediate repayment of the bonds or notes at the time all property in the involved project area is sold.

125.1607 Powers of corporation generally.

Sec. 7. (1) In order to accomplish the public purposes set forth in section 2 the corporation may:

(a) Construct, acquire by gift or purchase, reconstruct, improve, maintain, or repair projects and acquire the necessary land, or an interest in land or portions of the land, for the site of a project.

(b) Acquire by gift or purchase the necessary machinery, furnishings, and equipment for a project.

(c) Make secured or unsecured loans, participate in the making of secured or unsecured loans, undertake commitments to make secured or unsecured loans and mortgages, sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, or commence an action to protect or enforce a right conferred upon it by a law, mortgage, loan, contract, or other agreement.

(d) Borrow money and issue its revenue bonds or revenue notes to finance or refinance part or all of the project costs and the costs necessary or incidental to the borrowing of money and issuing of bonds or notes for that purpose, and may secure those bonds and notes by mortgage, assignment, or pledge of any of its money, revenues, income, and properties. Bonds and notes may be issued under this act to acquire and install projects, necessary lands, or an interest in the land or a portion of the land, for the site of the project, and the necessary machinery, furnishings, and equipment for a project notwithstanding that the corporation does not own or propose to own the projects, lands, or machinery, furnishings, and equipment. The corporation for a municipality that has a population of more than 1,000,000 persons may combine part or all of the project costs of more than 1 project for pollution control facilities in a single financing arrangement. However, the bonds and notes for each project for pollution control facilities shall be secured by a separate agreement and collateral for each project.

(e) Enter into leases, lease purchase agreements, installment sales contracts or loan agreements with any person, firm, or corporation for the use or sale of the project.

(f) Mortgage or create security interests in the project, a part of the project, a lease or loan, or the rents, revenues, or sums to be paid during the term of a lease or loan, in favor of holders of bonds or notes issued by the corporation.

(g) Sell and convey the project or any part of the project for a price and at a time as the corporation determines.

(h) Lend, grant, transfer, or convey funds, described in section 27, as permitted by law, but subject to applicable restrictions affecting the use of those funds.

(2) Bonds and notes issued under this act are not subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

125.1608 Designation of project area; certification of approval; preparation and approval of project plan; transfer of employment; contents of project plan; corporation as instrumentality of political subdivision; notice to vacate; corporation to operate project as lessor; issuance of obligations; project plans for agricultural and forestry enterprises.

Sec. 8. (1) The corporation shall designate the project area to the governing body of the municipality for which the corporation is incorporated. The governing body of the municipality for which the corporation is incorporated shall certify its approval of the designation of a project area by resolution.

(2) Before acquiring property, or an interest in land, or incurring obligations for a specific project, other than the acquisition of an option, the corporation shall prepare a project plan and secure the recommendation of the local public agency of the municipality for which the corporation is incorporated, except as provided in section 9(3), the approval of the governing body of each city, village, or township in which all or a part of the project is located, and the approval of the county, if the corporation is an economic development corporation for the county.

(3) The corporation shall certify to the governing body of the municipality for which the corporation is incorporated that at the time the project plan is approved by the corporation, the project shall not have the effect of transferring employment of more than 20 full-time persons from a municipality of this state to the municipality in which the project is to be located. This restriction shall not prevent the approval of a project if the governing body of each municipality from which employment is to be transferred consents by resolution to the transfer.

(4) The project plan shall contain the following, except that agricultural and forestry enterprise projects need only comply with subsection (9) with respect to project plans:

(a) The location and extent of existing streets and other public facilities within the project district area, and shall designate the location, character, and extent of the categories of public and private land uses then existing and proposed for the project area, including residential, recreational, commercial, industrial, educational, and other uses and shall include a legal description of the project area.

(b) A description of existing improvements in the project area to be demolished, repaired, or altered, a description of repairs and alterations, and an estimate of the time required for completion.

(c) The location, extent, character, and estimated cost of the improvements including rehabilitation contemplated for the project area and an estimate of the time required for completion.

(d) A statement of the construction or stages of construction planned, and the estimated time of completion of each stage.

(e) A description of the parts of the project area to be left as open space and the use contemplated for the space.

(f) A description of portions of the project area that the corporation desires to sell, donate, exchange, or lease to or from the municipality, and the proposed terms.

(g) A description of desired zoning changes and changes in streets, street levels, intersections, and utilities.

(h) A statement of the proposed method of financing the project, including, except as provided in section 6a, a statement by a person described in subparagraph (j) indicating the payment to all persons performing work on the construction project of the prevailing

wage and fringe benefit rates for the same or similar work in the locality in which the work is to be performed, and a statement of the ability of the corporation to arrange the financing. The prevailing wage and fringe benefit rates shall be determined under 1965 PA 166, MCL 408.551 to 408.558. A corporation may conclusively rely upon the statement required under this subsection as to compliance with the payment of prevailing wage and fringe benefit rates and any contracts, bonds or notes of any corporation entered into or issued upon reliance on any statement shall not be subsequently voided by reason of the failure to comply with the requirements of this subsection.

(i) A list of persons who will manage or be associated with the management of the project for a period of not less than 1 year from the date of approval of the project plan.

(j) Designation of the person or persons, natural or corporate, to whom the project is to be leased, sold, or conveyed and for whose benefit the project is being undertaken if that information is available to the corporation.

(k) If there is not an express or implied agreement between the corporation and persons, natural or corporate, that the project will be leased, sold, or conveyed to those persons, the procedures for bidding for the leasing, purchasing, or conveying of the project upon its completion.

(*l*) Estimates of the number of persons residing in the project area, and the number of families and individuals to be displaced. If occupied residences are designated for acquisition and clearance by the corporation, a project plan shall include a survey of the families and individuals to be displaced, including their income and racial composition, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(m) A plan for establishing priority for the relocation of persons displaced by the project in new housing in the project area.

(n) Provision for the costs of relocating persons displaced by the project and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894.

(o) A plan for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(p) Other material as the corporation, local public agency, or governing body considers pertinent.

(5) The corporation shall be considered an instrumentality of a political subdivision for purposes of 1972 PA 227, MCL 213.321 to 213.332.

(6) A person shall be given not less than 90 days' written notice to vacate unless modified by court order for good cause.

(7) The corporation shall not operate a project or an enterprise in a project, other than as lessor.

(8) The governing body may utilize the corporation to issue obligations pursuant to section 7 to accomplish the public purposes of the municipality set forth in section 2, and for that purpose may by resolution direct the corporation to take appropriate action as set forth in subsections (1) and (2) with respect to a proposed project.

(9) In the case of project plans for agricultural and forestry enterprises, the following information shall be provided in lieu of the requirements of subsections (2) and (4):

(a) A statement of intention regarding the objectives of the project.

(b) A general description of the kinds of buildings, improvements, storage facilities, restorations, acquisition of machinery, equipment furnishings, leasehold improvements and incidental related costs to be financed.

(c) A statement regarding the length of the project and the maximum amount to be financed over the life of the project.

(d) A statement by the corporation that no zoning change or eminent domain proceedings will be necessary to implement the project.

(e) A description of the process to be followed in implementing the individual transactions that may comprise the project.

125.1623 Borrowing money and issuing revenue bonds or revenue notes; issuing refunding bonds; bonds or notes and interest exempt from taxation; exceptions; liability of municipality on notes or bonds; statement; investment in bonds and notes; deposit of bonds and notes; report; inspection of records and reports; publication and distribution of statement of revenues and expenditures.

Sec. 23. (1) For the purpose of defraying all or part of its project costs, refunding or refunding in advance obligations authorized under this act or obligations authorized under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, by a municipality incorporating a corporation under this act, a corporation may borrow money and issue its revenue bonds or revenue notes. Refunding bonds may be issued by the corporation whether the bonds to be refunded have or have not matured, are or are not redeemable on the date of issuance of the refunding bonds, or are or are not subject to redemption before maturity, and may be issued to pay principal, interest, redemption premiums, or any combination thereof of the obligations to be refunded. The bonds may be issued partly to refund bonds and partly for any other purpose authorized by this act. The refunding bonds may be issued in a principal amount greater than the principal amount of the bonds to be refunded as may be necessary to effect the refunding pursuant to the plan of refunding. The bonds or notes shall be exempt from all taxation except inheritance and transfer taxes and the interest on the bonds or notes shall be exempt from all taxation in the state of Michigan, notwithstanding that the interest may be subject to federal income tax.

(2) The municipality shall not be liable on notes or bonds of the corporation and the notes and bonds shall not be a debt of the municipality. The notes and bonds shall contain on their face a statement to that effect.

(3) The bonds and notes of the corporation may be invested in by all public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by all public officers and the agencies and political subdivisions of this state for any purpose for which the deposit of bonds is authorized.

(4) The corporation shall report to the governing body of the municipality for which the corporation is incorporated and the Michigan economic development corporation not less than once per year, which report shall fully describe the activities of the corporation including a statement of all revenues and expenditures since the previous report.

(5) The financial records, accountings, audit reports, and other reports of public money under the control of the corporation shall be public records and open to inspection. The corporation shall publish in a newspaper of general circulation in the incorporating municipality not more than 120 days after the conclusion of the corporation's operating year a statement of all of its revenues and expenditures for the year and shall distribute copies of the report upon request.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 358]

(SB 1084)

AN ACT to amend 1976 PA 448, entitled "An act to prescribe the powers and duties of municipalities and governmental units to acquire, finance, maintain, and operate generating, transmission, and distribution facilities of electric power and energy, fuel and energy sources and reserves and all necessary related properties, equipment and facilities; to permit the exercise of those powers in joint venture or joint agency agreements; to provide for the issuance of bonds and notes; to prescribe the powers and duties of the municipal finance commission or its successor agency and of certain other state officers and agencies with respect to municipal electric utility financing; to create certain funds and prescribe their operation; to provide for tax exemptions and other exemptions; and to prescribe penalties and provide remedies," by amending section 42 (MCL 460.842), as amended by 1983 PA 120.

The People of the State of Michigan enact:

460.842 Bonds; contractual obligations; resolution; bonds subject to revised municipal finance act; contracts or notes as to moneys advanced or property delivered; contracts pledging full faith and credit of municipality.

Sec. 42. (1) A joint agency may issue bonds to pay all or part of project costs of the joint agency. The bonds shall be payable from and may be issued in anticipation of payment of the proceeds of any of the methods of financing described in section 41 or elsewhere in this act or as may be provided by law. A member municipality of the joint agency may contract as provided in section 43 or may contract to make payments, appropriations, or contributions to the joint agency of the proceeds of taxes, special assessments, or charges imposed and collected by the member municipality or out of other funds legally available, and may pledge its full faith and credit in support of its contractual obligation to the joint agency. The contractual obligation shall not constitute an indebtedness of the municipality within a statutory or charter debt limitation. If the joint agency issues bonds in anticipation of payments, appropriations, or contributions to be made to the joint agency pursuant to contract by a political subdivision having the power to levy and collect ad valorem taxes, the political subdivision may obligate itself by the contract, and thereupon may levy a tax on all taxable property within the political subdivision, which tax as to rate or amount will not be subject to limitation, as provided in section 6 of article IX of the state constitution of 1963, for contract obligations in anticipation of which

bonds are issued to provide sufficient money to fulfill its contractual obligation to the joint agency. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The bonds may be:

(a) Issued for any period of years not exceeding 50.

(b) Issued for a consideration other than cash.

(c) For an amount that includes interest capitalized for a period of not more than 10 years after the date of the bonds.

(d) Secured by revenues, contract payments, funds or investments and securities as determined by the joint agency.

(3) The resolution authorizing bonds may provide for the appointment of 1 or more trustees for bondholders and a trustee may be an individual or corporation domiciled or located within or without this state and may be given appropriate powers whether with or without the execution of an indenture.

(4) Bonds issued by any joint agency under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(5) A municipality or governmental unit may advance money or deliver property to the joint agency to enable it to carry out or finance any of its powers and duties. The joint agency may agree to repay an advance or pay for the property within a period of not more than 10 years, from the proceeds of its bonds or from other funds legally available for that purpose, with or without interest as may be agreed at the time of the advance or delivery. The obligation of the joint agency to make the repayment or payment may be evidenced by contract or note, which contract or note may pledge a source of payment determined by the joint agency.

(6) A municipality desiring to enter into a contract under this section pledging the full faith and credit of the municipality shall authorize, by resolution of its governing body, the execution of the contract. Subsequent to the adoption of the resolution a notice of the contract shall be published in a newspaper of general publication in the municipality, which notice shall state:

(a) That the governing body has adopted a resolution authorizing execution of the contract.

(b) The purpose of the contract.

(c) The source of payment of the municipality's contractual obligation.

(d) The right of referendum on the contract.

(e) Any other information that the governing body determines to be necessary to adequately inform all interested persons of the nature of the obligation.

(7) The contract may be executed and delivered by the municipality upon approval by its governing body without a vote of the electors, but the contract shall not become effective until the expiration of 45 days after the date of publication of the notice. If within the 45-day period a petition signed by at least 10% or 15,000, whichever is the lesser, of the registered electors residing within the limits of the municipality is filed with the clerk of the municipality requesting a referendum upon the contract, the contract shall not become effective until approved by the vote of a majority of the electors of the municipality qualified to vote and voting on the question at a general or special election, which election shall be held within 180 days after the filing of a petition. When a contract

described in this section is to be entered into by any township only on behalf of the unincorporated area of the township, only the registered electors residing within the unincorporated area of the township shall be qualified to sign the petition and vote at the election.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 359]

(SB 639)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 8142 (MCL 500.8142), as amended by 1998 PA 279.

The People of the State of Michigan enact:

500.8142 Priority of distribution of claims from insurer's estate; class of claims; subclasses prohibited; order of distribution; assets in separate account; definitions.

Sec. 8142. (1) Except as provided in subsection (2), the priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds retained for their payment before the members of the next class receive payment. Subclasses shall not be established within a class. The order of distribution of claims is as follows:

(a) Class 1. The costs and expenses of administration, including, but not limited to, the following:

(*i*) The actual and necessary costs of preserving or recovering the insurer's assets.

(*ii*) Compensation for all services rendered in the liquidation.

(*iii*) Any necessary filing fees.

(*iv*) The fees and mileage payable to witnesses.

(*v*) Reasonable attorney's fees.

(*vi*) The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

(*vii*) Debts due to employees for services performed to the extent that they do not exceed $1,000.00 and represent payment for services performed within 1 year before the filing of the petition for liquidation, if the court determines that the payments are reasonably necessary to an orderly and effective administration for the protection of class 2 claimants. Officers and directors are not entitled to the benefit of this priority. This priority is in lieu of any other similar priority authorized by law as to wages or compensation of employees.

(*viii*) Beginning January 3, 1990, the actual and necessary fees of a supervisor appointed pursuant to section 8109 if the liquidation was preceded by supervision pursuant to section 8109 and the fees were not paid at the date of liquidation.

(b) Class 2. Except as otherwise provided in this section, all claims under policies for losses incurred, including third party claims, and all claims of a guaranty association or foreign guaranty association. However, obligations of an insolvent insurer arising out of reinsurance contracts shall not be included in this class. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. For purposes of this section, life insurance and annuity policies include, but are not limited to, individual annuities, group annuities, guaranteed investment contracts, and funding agreement contracts, issued by an insurer. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligation of support or by way of succession at death or as proceeds of life insurance, or as gratuities. A payment by an employer to his or her employee shall not be treated as a gratuity.

(c) Class 3. Claims of the federal government.

(d) Class 4. All claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property that are not under policies and, to the extent not included in class 1, debts due to employees for services performed to the extent that they do not exceed $1,000.00 and represent payment for services performed within 1 year before the filing of the petition for liquidation. Officers and directors are not entitled to the benefit of the priority for debts due to employees for services performed. The priority

for debts due to employees for services performed is in lieu of any other similar priority authorized by law as to wages or compensation of employees.

(e) Class 5. Claims under nonassessable policies for unearned premium or other premium refunds and claims of general creditors.

(f) Class 6. Claims of any state or local government. Claims, including those of any governmental body for a penalty or forfeiture, are allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs incurred. The remainder of the claims shall be postponed to the class of claims under subdivision (i).

(g) Class 7. Claims filed late or any other claims other than claims under subdivisions (h) and (i).

(h) Class 8. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies are limited in accordance with law.

(i) Class 9. The claims of shareholders or other owners. In paying claims pursuant to this class, disinterested shareholders have priority over interested shareholders who are directors or officers who fail to exercise their duties in accordance with section 5240.

(2) If it is provided by written agreement, statute, or rule that the assets in a separate account are not chargeable with liabilities arising out of any other business of the insurer, that part of a claim that includes a separate account shall be satisfied out of the assets in the separate account equal to the reserves maintained in the separate account under the separate account agreement. The remainder of the claim shall be treated as a Class 2 claim against the insurer's estate to the extent that reserves have been established in the insurer's general account pursuant to statute, rule, or the separate account agreement.

(3) As used in this section:

(a) "Separate account" means a separate account authorized under section 925 and established in accordance with the terms of a written agreement or a contract on a variable basis.

(b) "Insurer's estate" means all of the assets of the insurer less any assets held in separate accounts. The following assets shall not be considered separate account assets:

(*i*) Assets that represent money provided by the insurer initially to fund the separate account.

(*ii*) Assets that represent policy reserves that are properly allocable to the general account.

(*iii*) General account investments held in the separate account.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 360]

(HB 4655)

AN ACT to revise the priority of allocation of funds for certain programs and services administered by the department of community health; and to prescribe the powers and duties of certain state agencies and departments.

The People of the State of Michigan enact:

333.1091 Family planning or reproductive services; allocation of funds.

Sec. 1. (1) Except as otherwise provided in this section, it is the policy of this state for the department of community health to give priority under this subsection in the allocation of funds through grants or contracts for educational and other programs and services administered by the department of community health and primarily pertaining to family planning or reproductive health services, or both. This subsection applies to grants or contracts awarded to a qualified entity that does not engage in 1 or more of the following activities:

(a) Performing elective abortions or allowing the performance of elective abortions within a facility owned or operated by the qualified entity.

(b) Referring a pregnant woman to an abortion provider for an elective abortion.

(c) Adopting or maintaining a policy in writing that elective abortion is considered part of a continuum of family planning or reproductive health services, or both.

(2) If each of the entities applying for a grant or contract described in subsection (1) engages in 1 or more of the activities listed in subsection (1)(a) to (c), the department of community health shall give priority to those entities that engage in the least number of activities listed in subsection (1)(a) to (c).

(3) Subsection (1) does not apply if the only applying entity for a grant or contract described in subsection (1) engages in 1 or more of the activities listed in subsection (1)(a) to (c).

(4) Subsection (1) does not apply to grants or contracts awarded by the department of community health other than family planning and pregnancy prevention awards under subpart a of part 59 of title 42 of the Code of Federal Regulations or state appropriated family planning or pregnancy prevention funds.

(5) In applying the priority established in subsection (1), the department of community health shall not take into consideration an activity listed in subsection (1)(a) to (c) if participating in that activity is required under federal law as a qualification for receiving federal funding.

(6) If an entity applying for a contract or grant described in subsection (1) is affiliated with another entity that engages in 1 or more of the activities listed in subsection (1)(a) to (c), the applying entity shall, for purposes of awarding a grant or contract under subsection (1), be considered independent of the affiliated entity if all of the following conditions are met:

(a) The physical properties and equipment of the applying entity are separate and not shared with the affiliated entity.

(b) The financial records of the applying entity and affiliated entity demonstrate that the affiliated entity receives no funds from the applying entity.

(c) The paid personnel of the applying entity do not perform any function or duty on behalf of the affiliated entity while on the physical property of the applying entity or during the hours the personnel are being paid by the applying entity.

(7) The department of community health shall award grants and contracts to qualified entities under this act to ensure that family planning services are adequately available and distributed in a manner that is reflective of the geographic and population diversity of this state. A qualified entity that is awarded a grant or contract must also be capable

of serving the patient census reflected in the contract or grant for which the qualified entity is applying.

(8) As used in this act:

(a) "Affiliated" means the sharing between entities of 1 or more of the following:

(*i*) A common name or other identifier.

(*ii*) Members of a governing board.

(*iii*) A director.

(*iv*) Paid personnel.

(b) "Elective abortion" means the performance of a procedure involving the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Elective abortion does not include either of the following:

(*i*) The use or prescription of a drug or device intended as a contraceptive.

(*ii*) The intentional use of an instrument, drug, or other substance or device by a physician to terminate a woman's pregnancy if the woman's physical condition, in the physician's reasonable medical judgment, necessitates the termination of the woman's pregnancy to avert her death.

(c) "Entity" means a local agency, organization, or corporation or a subdivision, contractee, subcontractee, or grant recipient of a local agency, organization, or corporation.

(d) "Qualified entity" means an entity reviewed and determined by the department of community health to be technically and logistically capable of providing the quality and quantity of services required within a cost range considered appropriate by the department.

Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 361]

(HB 5220)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.1100) by adding section 66.

The People of the State of Michigan enact:

250.1066 "Cesar E. Chavez Way".

Sec. 66. That portion of highway business route 196 in the city of Grand Rapids and the county of Kent beginning at the intersection of business route 196 and Franklin street and continuing south to Clyde Park avenue shall be commemorated as the "Cesar E. Chavez Way".

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 362]

(HB 5611)

AN ACT to amend 1895 PA 16, entitled "An act requiring the secretary of state and the deputy secretary of state and the private secretary and executive clerk of the governor to give bonds for the faithful discharge of their official duties," by amending section 1 (MCL 15.51).

The People of the State of Michigan enact:

15.51 Official bonds of certain state officers; amount; filing.

Sec. 1. The secretary of state and deputy secretary of state of this state, and the private secretary and executive clerk of the governor of this state, shall be required within 20 days after this act takes effect, and their successors in office shall be required within 20 days after entering upon the duties of their respective offices, to give bonds to the people of the state of Michigan with 3 or more sureties to be approved by the state treasurer and attorney general, conditioned for the faithful discharge of their official duties, and for the safe and lawful custody and disposition of the money and property of this state that may be entrusted to them or come within their control.

The bond of the secretary of state shall be in the sum of $25,000.00, that of the deputy secretary of state shall be in the sum of $20,000.00, and the bonds of the private secretary and the executive clerk of the governor shall be each in the sum of $5,000.00. The bonds of the secretary of state and deputy secretary of state shall be filed and kept in the office of the state treasurer, and those of the private secretary and executive clerk shall be filed and kept in the office of the secretary of state.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 363]

(HB 5612)

AN ACT to amend 1958 PA 204, entitled "An act to fix the compensation and mileage of constitutional convention delegates," by amending section 3 (MCL 2.53).

The People of the State of Michigan enact:

2.53 Constitutional convention delegates; payment of compensation and mileage.

Sec. 3. The compensation for services shall be paid semi-monthly, and the mileage shall be paid monthly, by the state treasurer prepared from vouchers submitted by the secretary of the convention, out of appropriations made for the expenses of the convention, in accordance with the accounting laws of this state.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 364]

(HB 5613)

AN ACT to amend 1872 PA 62, entitled "An act regulating trials of impeachment and providing for the expenses thereof," by amending section 15 (MCL 6.15).

The People of the State of Michigan enact:

6.15 Impeachment; compensation of members of court, managers, and other officers; payment.

Sec. 15. The presiding officer and members of the senate, while sitting as a court of impeachment, and the managers elected by the house, shall receive the sum of 5 dollars each per day, and mileage at the rate of 10 cents per mile in going from and returning to their places of residence by the ordinarily traveled routes; and the compensation of the secretary, sergeant-at-arms, and all subordinate officers, clerks, and reporters, shall be an amount as shall be established by the vote of the members of the court. The state treasurer shall, upon presentation of a certificate or certificates signed by the presiding officer and secretary of the senate pay all the expenses of the senate and managers elected by the house, which may be incurred under this act.

This act is ordered to take immediate effect.
Approved May 23, 2002.
Filed with Secretary of State May 23, 2002.

[No. 365]

(HB 5615)

AN ACT to amend 1846 RS 12, entitled "Of certain state officers," by amending section 36 (MCL 15.36).

The People of the State of Michigan enact:

15.36 Oath of office; official bond; time; filing.

Sec. 36. The state officers named in this chapter, the lieutenant governor, deputy secretary of state, and deputy treasurer, shall each, before entering on the execution of his or her office, and within 20 days after receiving official notice of his or her election or appointment, or within 20 days after the commencement of the term of service for which he or she was elected or appointed, take and subscribe the oath of office prescribed in the state constitution of 1963, and deposit the oath of office, with his or her bond, if a bond is required by law, with the secretary of state, who shall file and preserve the oath of office and bond in his or her office.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 366]

(HB 5398)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 760.1 to 777.69) by adding section 37 to chapter VIII.

The People of the State of Michigan enact:

CHAPTER VIII

768.37 Under influence of or impairment by alcoholic liquor or drug as defense prohibited; exception; definitions.

Sec. 37. (1) Except as provided in subsection (2), it is not a defense to any crime that the defendant was, at that time, under the influence of or impaired by a voluntarily and knowingly consumed alcoholic liquor, drug, including a controlled substance, other substance or compound, or combination of alcoholic liquor, drug, or other substance or compound.

(2) It is an affirmative defense to a specific intent crime, for which the defendant has the burden of proof by a preponderance of the evidence, that he or she voluntarily consumed a legally obtained and properly used medication or other substance and did not know and reasonably should not have known that he or she would become intoxicated or impaired.

(3) As used in this section:

(a) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105.

(b) "Consumed" means to have eaten, drunk, ingested, inhaled, injected, or topically applied, or to have performed any combination of those actions, or otherwise introduced into the body.

(c) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

Effective date.

Enacting section 1. This amendatory act takes effect September 1, 2002, and applies to crimes committed on or after that date.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 367]

(HB 5662)

AN ACT to amend 1927 PA 375, entitled "An act to provide for the collection of past due moneys and accounts belonging to the state of Michigan; to create a department therefor; to prescribe the duties of state officers, departments, commissions and institutions in relation thereto; and to make appropriations for defraying the expenses thereof," by amending section 3 (MCL 14.133).

The People of the State of Michigan enact:

14.133 Forwarding of accounts; records; reports.

Sec. 3. Each state officer, department, institution, or commission from time to time shall forward to the department of treasury statements of all delinquent and past due money, specific taxes, and accounts owing or belonging to this state, or any department, commission, or institution of this state, together with any information as may be necessary to enable the department of treasury to carry out the purposes of this act. The department of treasury shall keep an accurate record and account of all those statements; shall enforce payment and collection of those amounts; shall keep an accurate account of all money collected; shall report monthly all collections made to the department, commission, or institution to which that indebtedness has been incurred; and shall pay over monthly to the state treasurer all money collected unless otherwise provided by law.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 368]

(HB 5663)

AN ACT to repeal 1879 PA 200, entitled "An act requiring certain state officers to give bonds before entering upon their official duties," (MCL 15.41); 1948 (2nd Ex Sess) PA 1, entitled "An act to provide for the payment of compensation of the governor, secretary of state, state treasurer, auditor general and attorney general; and to repeal certain acts and parts of acts," (MCL 15.201 to 15.202); and section 3 of 1861 PA 111, entitled "An act relating to deposit accounts, and to interest, exchange and commissions received or paid by the state treasurer," (MCL 21.183).

The People of the State of Michigan enact:

Repeal of §§ 15.41, 15.201 to 15.202, and 21.183.

Enacting section 1. The following acts and parts of acts are repealed:

(a) 1879 PA 200, MCL 15.41.

(b) 1948 (2nd Ex Sess) PA 1, MCL 15.201 to 15.202.

(c) Section 3 of 1861 PA 111, MCL 21.183.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 369]

(HB 5664)

AN ACT to amend 1921 PA 2, entitled "An act to promote the efficiency of the government of the state, to create a state administrative board, to define the powers and duties thereof, to provide for the transfer to said board of powers and duties now vested by law in other boards, commissions, departments and officers of the state, and for the abolishing of certain of the boards, commissions, departments and offices, whose powers and duties are hereby transferred," by amending section 1 (MCL 17.1).

The People of the State of Michigan enact:

17.1 State administrative board; membership; powers and duties.

Sec. 1. There is hereby created a board to be known and designated as the state administrative board of the state of Michigan. The state administrative board shall be composed of the governor, who shall act as chairperson, the lieutenant-governor, the secretary of state, the state treasurer, the attorney general, the director of the state transportation department, and the superintendent of public instruction, and shall possess the powers and perform the duties provided in this act.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 370]

(HB 5665)

AN ACT to amend 1919 PA 71, entitled "An act to provide for the formulation and establishment of a uniform system of accounting and reporting in the several departments, offices, and institutions of the state government, and in all county offices; to provide for the examination of the books and accounts of each state department, office, and institution, and of each county office; to provide for financial reports from all such departments, institutions, and offices, and for the tabulation and publication of comparative financial statistics relating thereto; to provide for the administration of this act; to provide

for the powers and duties of the department of treasury, the auditor general, the library of Michigan and depository libraries, and other officers and entities; to provide penalties; and to provide for meeting the expense authorized by this act," by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 (MCL 21.41, 21.42, 21.43, 21.44, 21.45, 21.46, 21.47, 21.48, 21.49, 21.50, 21.51, and 21.52), the title as amended by 1996 PA 426, section 5 as amended by 1993 PA 196, and sections 11 and 12 as amended by 1985 PA 48; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to provide for the formulation and establishment of a uniform system of accounting and reporting in the several departments, offices, and institutions of the state government, and in all county offices; to provide for the examination of the books and accounts of each state department, office, and institution, and of each county office; to provide for financial reports from all those departments, institutions, and offices, and for the tabulation and publication of comparative financial statistics relating to the departments, institutions, and offices; to provide for the administration of this act; to provide for the powers and duties of the department of treasury, the state treasurer, the library of Michigan and depository libraries, and other officers and entities; to provide penalties; and to provide for meeting the expense authorized by this act.

21.41 Accounting and reporting system; installation by state treasurer; uniformity.

Sec. 1. The state treasurer shall formulate, prescribe, and install a system of accounting and reporting in conformity with the provisions of this act that shall be uniform for every county office and public account of the same class.

21.42 Accounting system; accounts; form and contents.

Sec. 2. The accounting system shall embrace accounts showing all sources of income, the amounts due, collected and received from each source, including all fees collected by county officers whether turned into the county treasury or not, the amount expended for each purpose, bills, and accounts payable; the receipt, use, and disposition of other public property and the income, if any, derived from them. The accounting system shall include other forms of accounts as the state treasurer may consider wise and essential to efficient financial administration of public affairs pertaining to county governments.

21.43 Accounting system; separate accounts for appropriations; contents.

Sec. 3. A separate account shall be kept of each appropriation, or fund, made to or received by each county office, which shall show the date and manner of each payment, the name and address of the person or association of persons to whom paid, and for what purpose paid.

21.44 Accounting system; uniform annual financial reports from county offices; filing; publication; distribution.

Sec. 4. It shall be the duty of each county office to make an annual financial report in accordance with forms prescribed by the state treasurer, which shall be uniform for all accounts of the same class. The reports shall be made in duplicate, 1 copy of which shall, within 6 months after the close of each fiscal year, be filed in the office of the state

treasurer, and shall contain an accurate statement in summarized form showing, for each fiscal year, the amount of all collections and receipts from all sources, and their disposition, all accounts due the public treasury but not collected, the amount of expenditures for every purpose and by what authority authorized, the amount of indebtedness, the cost of operation of all industrial activities and financial results obtained, balance of funds on hand at the close of each fiscal period, together with any other information as may be required by the state treasurer. The substance of these reports shall be arranged by the state treasurer and published at the expense of the state in an annual volume of comparative statistics, and shall be in the form as shall show the comparative receipts from the various sources of revenue and the comparative costs of county government. A sufficient number of copies of the volume shall be published to furnish a copy to each member of the legislature, a copy to each county office, and 200 copies for general distribution.

21.45 State treasurer; examination of accounts; employment and compensation of assistants; traveling expenses.

Sec. 5. The state treasurer is the supervisor of the accounts of all county offices. The state treasurer may examine, or cause to be examined, the books, accounts and financial affairs of each county office. The examination shall be made at least once in each year, or as often as the state treasurer considers it to be for the public good. The state treasurer may employ auditors, examiners, and assistants as he or she considers necessary, the number and compensation of whom shall be subject to the approval of the state administrative board and shall be within the limits of the amount of money appropriated for that purpose. In addition to their compensation, they shall be paid their necessary traveling expenses, which compensation and expenses, when audited and approved by the state treasurer, shall be paid by the state treasurer out of the fund appropriated for that purpose, upon warrant of the proper officer. The state treasurer shall receive his or her actual traveling expenses incurred while engaged in administering the provisions of this act, which shall be paid by the state treasurer out of the funds appropriated for that purpose.

21.46 Examination of accounts; subpoenas; witnesses; production of records.

Sec. 6. Upon demand of the state treasurer, or any person duly appointed by the state treasurer, to make the examinations provided in this act, any and all officers of county governments shall produce, for examination, the books of account and papers of their respective departments, institutions, and offices, and shall truthfully answer all questions relating to that examination. In connection with the examinations, the state treasurer, or any person designated to make the examinations, may issue subpoenas, direct the service of those subpoenas by any police officer, and compel the attendance and testimony of witnesses, may administer oaths and examine those persons as may be necessary, and may compel the production of books and papers. The orders and subpoenas issued by the state treasurer, or by any person charged with the duty of making the examinations as provided in this section, in pursuance of the authority in them vested by provisions of this section, may be enforced upon their application to any circuit court by proceedings in contempt, as provided by law.

21.47 Accounting system; report of examination of accounts; filing; criminal and civil proceedings; prosecution; removal for neglect.

Sec. 7. A report shall be made, in duplicate, of each examination made in accordance with the provisions of this act. The duplicate report shall be signed and verified by the

officer making the examination, 1 copy of which shall be filed with the state treasurer and 1 copy with the county examined. If any examination discloses malfeasance, misfeasance, nonfeasance, or gross neglect of duty on the part of any officer or employee of any county office, for which a criminal penalty is provided by law, an additional copy of the report shall be made and filed with the attorney general, and the attorney general, within 60 days after receipt of that report, shall institute criminal proceedings against the officer or employee, or direct that criminal proceedings be instituted by the prosecuting attorney of the county in which the offense was committed. The attorney general, or the prosecuting attorney, as the case may be, also shall institute civil action in any court of competent jurisdiction for the recovery of any public money, disclosed by any examinations to have been illegally expended, or collected and not accounted for and for the recovery of any public property disclosed to have been converted and misappropriated. Refusal or neglect to comply with the requirements of this section on the part of the attorney general, or on the part of the prosecuting attorney of any county in the state, is sufficient cause for his or her removal from office by the governor.

21.48 Accounting system; adoption by county officers mandatory; refusal; penalties.

Sec. 8. The executive officer of each county office shall adopt and use the books, forms, records and systems of accounting and reporting prescribed by the state treasurer and shall promptly purchase the books, forms, and records as may be necessary to implement their use, in the manner now provided by law for the purchase of those articles. Refusal or neglect on the part of any county officer to provide the books, forms, or records, or to use them, or to make the reports required by this act, or keep the accounts of his or her office as directed by the state treasurer, is sufficient cause for his or her removal from office by the governor. If, after the uniform accounting system has been installed in any county, it becomes necessary for an examiner employed under this act to perform any service, which a county officer has neglected or refused to do, in order to properly continue the system, then the per diem and expense incurred is a proper charge against the county where the service was performed. A statement covering that per diem and expense may be forwarded by the state treasurer to the county clerk who shall immediately issue his or her warrant upon the county treasurer who shall pay it from the general fund of the county. Money so received by the state shall be paid into the state treasury to the credit of the general fund.

21.49 Accounting system; removal for noncompliance; hearing.

Sec. 9. The governor may, and he or she shall upon a finding of guilt, remove from office the officer of any branch of the state government, or county government, who refuses or willfully neglects to keep the accounts of his or her office in the manner and form prescribed by the state treasurer, or to make the reports provided in this act, or who refuses or neglects to comply with any other requirements of this act. The state treasurer shall promptly report to the governor each refusal or neglect and the governor, before taking final action on that report, shall summons the officer complained against to make answer why he or she should not be removed from office.

21.50 Accounting system; audit of department of treasury.

Sec. 10. The department of treasury shall be audited by the auditor general as provided by law.

21.51 Giving or offering to examiner or other employee money, gift, emolument, or thing of value; purposes; misdemeanor; penalty.

Sec. 11. Any person who gives or offers to any examiner, accountant, clerk, or other employee of the department of treasury, any money, gift, emolument, or thing of value for

the purpose of influencing the action of the examiner or other employee, in any matter relating to the examination of any public account authorized by this act, or for the purpose of preventing or delaying the examination of any public account, or for the purpose of influencing the action of the examiner or other employee, in framing, changing, withholding, or delaying any report of any examination of any public account is guilty of a misdemeanor, punishable by a fine of not more than $1,000.00 nor less than $200.00, or imprisonment for not more than 6 months and not less than 30 days, or both.

21.52 Receiving or soliciting money, gift, emolument, or anything of value; purposes; misdemeanor; penalty.

Sec. 12. Any person appointed by the state treasurer to make the examinations provided for under this act, or any officer, clerk, or other employee of the state treasurer, who receives or solicits any money, gift, emolument, or anything of value for the purpose of being influenced in the matter of the examination of any public account authorized by this act, or for the purpose of being influenced to prevent or delay the examination of any public account, is guilty of a misdemeanor, punishable by a fine of not more than $1,000.00 and not less than $200.00, or imprisonment for not more than 6 months and not less than 30 days, or both.

Repeal of § 21.53.

Enacting section 1. Section 13 of 1919 PA 71, MCL 21.53, is repealed.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 371]

(HB 5666)

AN ACT to amend 1935 PA 59, entitled "An act to provide for the public safety; to create the Michigan state police, and provide for the organization thereof; to transfer thereto the offices, duties and powers of the state fire marshal, the state oil inspector, the department of the Michigan state police as heretofore organized, and the department of public safety; to create the office of commissioner of the Michigan state police; to provide for an acting commissioner and for the appointment of the officers and members of said department; to prescribe their powers, duties, and immunities; to provide the manner of fixing their compensation; to provide for their removal from office; and to repeal Act No. 26 of the Public Acts of 1919, being sections 556 to 562, inclusive, of the Compiled Laws of 1929, and Act No. 123 of the Public Acts of 1921, as amended, being sections 545 to 555, inclusive, of the Compiled Laws of 1929," by amending section 12a (MCL 28.12a).

The People of the State of Michigan enact:

28.12a Injury to person or property caused by negligent operation of motor vehicle by state police officer or employee; reimbursement.

Sec. 12a. In case of injury to any person, or property damage, or both, caused by the negligent operation of a motor vehicle belonging to the department of state police by an

officer or employee of the department of state police, a complaint may be filed with the director of the department of state police. An investigation into the accident shall be made as provided in the rules of the department of state police. If that investigation discloses that the accident was due to the negligence of that officer or employee of the department of state police, and was not due to the negligence of any other person, a report of the investigation shall be filed in the office of the director of the department of state police. After examination of the report and, if in the opinion of the director, reimbursement for the injury to, or property damage, or both, is a proper claim, and if the claim does not exceed $200.00, the director shall make recommendation for payment, payable from the appropriation to the department of state police, and shall submit the claim and recommendation to the state administrative board. Notwithstanding any provision of law to the contrary, if the claim and recommendation are approved by the state administrative board, the claim shall be paid.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 372]

(HB 5667)

AN ACT to amend 1943 PA 240, entitled "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; to prescribe and make appropriations for the retirement system; and to prescribe penalties and provide remedies," by amending section 9 (MCL 38.9).

The People of the State of Michigan enact:

38.9 State treasurer as custodian of retirement system funds; powers and duties.

Sec. 9. (1) All bonds or other obligations purchased according to section 8 shall be placed in the hands of the state treasurer, who is hereby designated as custodian of the bonds or other obligations, and it shall be his or her duty to collect the principal and the interest on the bonds or other obligations as they become due and payable, and deposit the principal and interest when collected into the retirement system's funds provided for bonds or other obligations. The administrative board may sell any of the bonds or other obligations upon like resolution, and the proceeds of the bonds or other obligations shall be paid by the purchaser to the state treasurer upon delivery to him or her of those bonds or other obligations by the state treasurer.

(2) The state treasurer shall be the custodian of all other funds of the retirement system and all disbursements shall be paid by the state treasurer upon vouchers authorized by the retirement board and bearing the signature of the authorized officer of the

retirement board. The state treasurer shall give a separate and additional bond in an amount as may be established by the retirement board in the sum of not to exceed $100,000.00 which bond shall be approved by the attorney general and shall be conditioned for the faithful performance of his or her duties as custodian of the funds of the retirement system. The cost of the bond shall be paid out of the expense fund of the retirement board. The bond shall be deposited with the secretary of state and kept in his or her office.

(3) The state treasurer is hereby authorized and directed to deposit any portion of the funds of the retirement system not needed for immediate use in the same manner and subject to all the provisions of law with respect to the deposit of state funds by the state treasurer, and all interest earned on retirement system's funds as may be deposited by the state treasurer under this act shall be collected by him or her and placed to the credit of the retirement fund.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 373]

(HB 5668)

AN ACT to amend 1931 PA 246, entitled "An act to provide for the construction, repair, and maintenance of pavements, sidewalks, and elevated structures on or along public roads and highways; to provide for the levying of taxes and of special assessments; to authorize the borrowing of money and the issuance of bonds; to prescribe the powers and duties of certain state and local agencies and officers; to validate actions taken, special assessments levied, and bonds issued; and to provide for the lighting of certain roads, highways, and bridges," by amending section 10 (MCL 41.280).

The People of the State of Michigan enact:

41.280 Assessment of benefits against township and parcels of land; review; assessment against state lands; numbering of districts.

Sec. 10. The commissioners shall apportion the percentage of the total cost of the improvement which the township at large shall be taxed to pay by reason of the benefit to the public convenience and welfare, which shall not exceed 25% of the total cost of the improvement, and may apportion a percentage of the total cost of the improvement, to be borne by the board of county road commissioners from the county road fund, and shall also apportion the percentage of the benefits to accrue to any piece or parcel of land by reason of the construction of that improvement over and above the sum of the percent assessed against the township at large and the percentage, if any, apportioned to the board of county road commissioners to be paid from the county road fund as provided in this section, which percent of benefit shall be apportioned upon and assessed against the lands benefited, according to the benefits received, and which apportionment shall be announced at the time and place of hearing objections to and equalizing the apportionment of benefits. The assessments of percent benefits shall be subject to review and correction and may be reviewed in the manner provided in this act. All appeals in this act provided for shall be from the apportionment of the percent of benefits. Any state lands, except state tax homestead or state swamp lands under the control of the department of natural resources, benefited by any such improvement, shall be liable to assessment in the same

manner as are privately owned lands. The amount of any assessment on state land shall be certified by the board of county road commissioners, and shall be paid by the state treasurer. Payment shall be made out of any funds in the state treasury appropriated for that purpose. In any case where an assessment is imposed by the board of county road commissioners under this act the state shall have the same right of appeal as is given to owners of other lands. The board of county road commissioners shall designate each assessment district by number, by which number it shall thereafter be known. Whenever any state land is assessed for benefits, the board of county road commissioners shall give 10 days' notice to the state treasurer of the time and place of the hearing of objections on account of the assessment.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 374]

(HB 5669)

AN ACT to amend 1846 RS 14, entitled "Of county officers," by amending section 82 (MCL 51.82).

The People of the State of Michigan enact:

51.82 Sheriff; services to state; payment.

Sec. 82. If a sheriff is required, by any statutory provision, to perform any service, in behalf of the people of this state and for their benefit, that is not chargeable by law to his or her county, or to some officer or other person, his or her account for such services shall be audited by the state treasurer and paid out of the state treasury.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 375]

(HB 5670)

AN ACT to amend 1909 PA 278, entitled "An act to provide for the incorporation of villages and for revising and amending their charters; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness; to validate bonds issued and obligations previously incurred; and to prescribe penalties and provide remedies," by amending section 9 (MCL 78.9).

The People of the State of Michigan enact:

78.9 Proceedings; copy filed with secretary of state; recording; change effected; certificate to state treasurer; time.

Sec. 9. (1) On the filing in the office of the secretary of state and the clerk of the county or counties within which the village is located, of a copy of the petition and of every

resolution, affidavit, or certificate necessarily following a petition, with the certificate of the board of county canvassers attached, showing that the purposes of the petition have been approved by a majority of the electors voting on the petition as provided in this act, the number of votes cast on that proposition and the number cast for and against the proposition, the village is from that date duly and legally incorporated under and by the name designated in that petition, or the territory described in that petition is duly and legally consolidated as 1 village, or attached to or detached from the village named in that petition, as the case may be, and that petition and the subsequent proceedings under that petition shall be duly recorded in each of the village offices in a book to be kept for that purpose. The records or certified copies of the records shall be prima facie evidence of the due and legal incorporation of the village or of the consolidation or change of boundaries prayed for in the petition. Territory detached from any village shall become a part of the township, village or city from which it was originally taken.

(2) The secretary of state shall, within 10 days after the filing in his or her office of the certified copies as required by this section, make and file with the state treasurer a certificate showing the name of the village thus incorporated, a description of the land included within the limits of the village, or in case of a change of boundaries of any village a description of the land attached to or detached from that village.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 376]

(HB 5671)

AN ACT to amend 1895 PA 215, entitled "An act to provide for the incorporation of cities of the fourth class; to provide for the vacation of the incorporation thereof; to define the powers and duties of such cities and the powers and duties of the municipal finance commission or its successor agency and of the department of treasury with regard thereto; to provide for the levy and collection of taxes, borrowing of money, and issuance of bonds and other evidences of indebtedness by cities; to define the application of this act and provide for its amendment by cities subject thereto; to validate such prior amendments and certain prior actions taken and bonds issued by such cities; and to prescribe penalties and provide remedies," by amending section 4 (MCL 102.4).

The People of the State of Michigan enact:

102.4 Thoroughfares; survey; boundaries; recording of descriptions; ordinance to discontinue street; filing with secretary of state.

Sec. 4. The council may cause all public streets, alleys, and public grounds to be surveyed, and may determine and establish their boundaries and cause those surveys and descriptions to be recorded in the office of the city clerk, in a book of street records; and they shall cause surveys and descriptions of all streets, alleys, and public grounds opened, laid out, altered, extended, or accepted and confirmed by the council, to be recorded in like manner; and that record shall be prima facie evidence of the existence of those streets, alleys, or public grounds as in the records described. Every resolution or ordinance discontinuing or vacating any street, alley, or public ground shall also be recorded in the

book of street records, and the record shall be prima facie evidence of all the matters set forth in that book, and a true copy of every resolution or ordinance, containing an accurate description of the lands comprising any street, alley, or public ground, laid out, altered, extended, discontinued, or vacated shall be recorded in the office of the register of deeds for the county where those lands are situated, and shall thereafter be filed in the office of the secretary of state.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 377]

(HB 5672)

AN ACT to amend 1949 PA 123, entitled "An act to provide for the disconnection of land from cities and villages; and to declare the effect thereof," by amending section 4 (MCL 123.34).

The People of the State of Michigan enact:

123.34 Judgment; recording.

Sec. 4. The owner or owners of the land shall record or cause the judgment, or a certified copy of the judgment, to be recorded in the office of the register of deeds of the county or counties where the land is situated, and shall deliver a certified copy of the judgment to the secretary of state by registered mail.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 378]

(HB 5673)

AN ACT to amend 1879 PA 190, entitled "An act in relation to removals from and filling vacancies in certain public offices," by amending section 1 (MCL 201.91).

The People of the State of Michigan enact:

201.91 Vacancy; notice to appointing officer, body, or state treasurer.

Sec. 1. (1) If a vacancy occurs in any public office, and the vacancy may be filled by appointment by the governor or otherwise, notice of that vacancy and of the facts why the vacancy exists, shall, within 10 days after the vacancy occurs, be given in writing to the officer, board or body, having power to fill the vacancy by appointment. The notice shall be given as follows:

(a) If the vacancy is in any county office, except for the county clerk, by the clerk of that county.

(b) If in the office of the circuit judge or judges or recorders of a city court, by the clerk of the county where that officer resides at the time of the vacancy.

(c) If the vacancy is in the office of county clerk of any county, by the judge of probate of that county.

(d) If the vacancy is in the office of secretary of state, by the state treasurer.

(e) In all other cases, by the secretary of state.

(2) If a vacancy occurs in an office the salary for which is paid in whole or part from the state treasury, the officer, board, or body having the appointing power shall immediately after receiving notice of the vacancy notify the state treasurer of that vacancy.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 379]

(HB 5614)

AN ACT to amend 1901 PA 6, entitled "An act to provide for the employment of clerks or assistants in the executive office of this state," by amending section 1 (MCL 10.11).

The People of the State of Michigan enact:

10.11 Additional clerks and assistants; employment; compensation.

Sec. 1. The governor may from time to time employ clerks and assistants in addition to those already provided for by law, for service in his or her department, as the governor may consider necessary, the compensation of those clerks and assistants to be determined by the governor and to be paid from the general fund on the warrant of the state treasurer, in like manner as the salaries of state officers are paid.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 380]

(SB 1168)

AN ACT to amend 1974 PA 370, entitled "An act to provide for payments to certain persons who served in the armed forces of the United States, and to beneficiaries of those persons; to prescribe the powers and duties of the adjutant general and other state offices with respect thereto; to provide for the court of claims; to adjudicate appeals; to provide for acceptance of financial and other assistance from the federal government; to create a veterans' military pay fund in the state treasury; to make appropriations; to prescribe penalties for violations of the provisions of this act; to authorize the issuance of general obligation bonds of the state and to pledge the full faith and credit of the state for the payment of principal and interest thereon; to provide for other matters relating to the bonds and the use of the proceeds of sale of the bonds," by amending section 15 (MCL 35.1035).

The People of the State of Michigan enact:

35.1035 Bonds; series; maturities; interest; prior redemption; registration; form; execution; investment and reinvestment of proceeds; sale; notice; bonds and notes not subject to revised municipal finance act; issuance subject to agency financing reporting act.

Sec. 15. (1) The bonds shall be issued in 1 or more series, each series to be in the principal amount, to be dated, to have the maturities that may be either serial, term, or term and serial, at the lowest possible interest cost, to be subject or not subject to prior redemption and if subject to prior redemption with the call premiums, to be payable at the place or places, to have or have not the provisions for registration as to principal only or as to both principal and interest, to be in the form and to be executed in the manner as shall be determined by resolution to be adopted by the administrative board. The administrative board may in the resolution provide for the investment and reinvestment of bond sales proceeds and any other details for the bonds and security of the bonds as may be deemed to be necessary and advisable. The bonds or any series of the bonds shall be sold for not less than the par value and shall be sold at public sale after publication of a notice of sale in a newspaper circulating in this state, which carries as part of its regular service notices of sale of municipal bonds, at least 7 days before the date fixed for sale of the bonds or series of bonds.

(2) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 381]

(SB 1171)

AN ACT to amend 1982 PA 220, entitled "An act to create a Michigan family farm development authority; to define the powers and duties of the authority; to authorize the making and purchase of loans, deferred payment loans, and grants to certain qualified beginning farmers; to provide tax exemptions; to provide for the issuance and purchase of notes and bonds; to provide for the establishment of funds; and to prescribe criminal penalties," by amending section 13 (MCL 285.263), as amended by 1983 PA 68.

The People of the State of Michigan enact:

285.263 Bonds and notes; general obligations; negotiability; issuance subject to agency financing reporting act.

Sec. 13. (1) The authority may issue its negotiable bonds and notes in a principal amount, which in the opinion of the authority is necessary to provide sufficient funds for achieving its corporate purposes, the payment of interest on bonds and notes of the authority, the establishment of reserves to secure bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The authority may issue renewal notes, issue bonds to pay notes, and if it determines refunding expedient, refund bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded.

(3) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of revenues or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging any particular receipts or revenues.

(4) Whether or not the notes or bonds are of a form or character as to be negotiable instruments under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, the notes or bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

(5) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 382]

(SB 1177)

AN ACT to amend 1964 PA 183, entitled "An act creating the state building authority with power to acquire, construct, furnish, equip, own, improve, enlarge, operate, mortgage, and maintain facilities for the use of the state or any of its agencies; to act as a developer or co-owner of facilities as a condominium project for the use of the state or any of its agencies; to authorize the execution of leases pertaining to those facilities by the building authority with the state or any of its agencies; to authorize the payment of true rentals by the state; to provide for the issuance of revenue obligations by the building authority to be paid from the true rentals to be paid by the state and other resources and security provided for and pledged by the building authority; to authorize the creation of funds; to authorize the conveyance of lands by the state or any of its agencies for the purposes authorized in this act; to authorize the appointment of a trustee for bondholders; to permit remedies for the benefit of parties in interest; to provide for other powers and duties of the authority; and to provide for other matters in relation to the authority and its obligations," by amending section 8 (MCL 830.418), as amended by 1997 PA 127.

The People of the State of Michigan enact:

830.418 Revenue obligations generally.

Sec. 8. (1) By resolution or resolutions of its board, the building authority may provide for the issuance of revenue obligations, which may include revenue bonds, revenue notes,

or other evidences of revenue indebtedness, and refunding revenue bonds or notes, or other refunding evidences of indebtedness, the obligations for which shall not become a general obligation of this state or a charge against this state, but all revenue obligations and the interest on the revenue obligations and the call premiums for the revenue obligations shall be payable solely from true rental, except to the extent paid from the proceeds of sale of revenue obligations and any additional security provided for and pledged, or from other funds as provided in this act, and each revenue obligation shall have such a statement printed on the face of the revenue obligation. If the resolution of the building authority provides for interest coupons to be attached to a revenue obligation, each interest coupon shall have a statement printed on the coupon that the coupon is not a general obligation of this state or the building authority but is payable solely from certain revenues as specified in the revenue obligation. Revenue obligations may be issued for the purpose of paying part or all of the costs of the facilities or for the purpose of refunding or advance refunding, in whole or in part, outstanding revenue obligations issued pursuant to this act whether the obligations to be refunded or advance refunded have matured or are redeemable or shall mature or become redeemable after being refunded. The cost of the facilities may include an allowance for legal, engineering, architectural, and consulting services; interest on revenue obligations becoming due before the collection of the first true rental available for the payment of those revenue obligations; a reserve for the payment of principal, interest, and redemption premiums on the revenue obligations of the authority; and other necessary incidental expenses including, but not limited to, placement fees; fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, or commitments to purchase obligations issued pursuant to this act; fees or charges associated with an agreement to manage payment, revenue, or interest rate exposure; or any other fees or charges for any other security provided to assure timely payment of the obligations.

(2) The proceeds of a revenue obligation issue may be used to pay the cost of facilities that are subject to more than 1 lease if either subdivision (a) or (b) is true:

(a) Both of the following are true:

(*i*) The resolution authorizing the revenue obligations provides for the use of a specific allocable portion of the revenue obligation proceeds to pay the estimated cost of each of the facilities, together with the allocable portion of the reserves, discount, interest on the obligations becoming due before the first true rental available for payment of the obligations, and obligation issuance expense with respect to each facility.

(*ii*) The true rental and other funds of the building authority and other security as provided in this act available for the revenue obligations including other funds as provided in this act are sufficient to pay the allocable portion of the revenue obligation issue for which the true rental and other funds and security are pledged.

(b) The obligation is part of an interim financing pool described in subsection (20).

(3) Revenue obligations that refund outstanding obligations may include the payment of interest accrued, or to accrue, to the earliest or any subsequent date of redemption, purchase, or maturity of the revenue obligations to be refunded, redemption premium, if any, and any commission, service fee, and other expense necessary to be paid in connection with revenue obligations that refund outstanding obligations. Proceeds of refunding revenue obligations may also be used to pay part of the cost of issuance of the refunding revenue obligations, interest on the refunding revenue obligations, a reserve for the payment of principal, interest, and redemption premiums on the refunding revenue obligations, and other necessary incidental expenses including, but not limited to, placement fees; fees or charges for insurance, letters of credit, lines of credit, remarketing

agreements, or commitments to purchase obligations issued pursuant to this act; fees or charges associated with an agreement to manage payment, revenue, or interest rate exposure; or any other fees or charges for any other security provided to assure timely payment of the obligations. The building authority may also provide for the withdrawal of any funds from a reserve created for the payment of principal, interest, and redemption premiums on the refunded obligations and for the deposit of those funds in the reserve for the payment of principal, interest, and redemption premiums on the refunding obligations or may provide for use of that reserve money to pay principal, interest, and redemption premiums on the obligations to be refunded. Obligations issued to refund outstanding obligations may be issued in a principal amount greater than, the same as, or less than the principal amount of the obligations to be refunded, and subject to the maximum rate of interest provided in subsection (8), may bear interest rates that are higher than, the same as, or lower than the interest rates of the obligations to be refunded. If obligations are issued to refund outstanding obligations of the authority, a lease whose rental has been pledged for repayment of the obligations to be refunded shall not be terminated solely by reason of the payment or provision for payment of the obligations to be refunded, and the lease and all of the rights and obligations under the lease remain in full force and effect in accordance with its terms.

(4) Except as otherwise provided in this section, the building authority shall use income or profit derived from the investment of money in a fund or account of the building authority, including the proceeds of sale of the revenue obligations, only for the purpose of paying principal, interest, and redemption premiums on the revenue obligations of the building authority, or for any purpose for which the proceeds of the revenue obligations may be used under this act, as determined by the resolution of the board authorizing the issuance of revenue obligations.

(5) Within limits considered appropriate and established by the board, the board may authorize by resolution a member of the board or the person appointed by the building authority as its chief operating officer or chief staff person, if the authorization limits or prescribes the maximum interest rates, minimum price, maximum principal amount, and the latest maturity date of the obligations, to do any of the following:

(a) Determine interest rates or methods for determining interest rates for, maturities of, principal amounts of, denominations of, dates of issuance of, interest payment dates for, redemption rights and the terms under which redemption rights may be waived, transferred, or sold, prepayment rights with respect to, the purchase price of, and the type of funds for settlement of obligations.

(b) Determine which, if any, letter of credit, line of credit, standby note or bond purchase agreement, bond insurance, or other agreement providing security or liquidity for obligations of the building authority, approved by the board, provides a cost savings and should be entered into in connection with the issuance of the obligations of the building authority.

(c) Take any other action on behalf of the board within limitations established by the board as the board considers necessary in connection with the issuance of obligations of the building authority.

(6) To the extent provided by resolution of the board, principal of, and interest and redemption premiums on, revenue obligations issued for the purpose of paying all or part of the cost of the facilities shall be secured by and payable only from any or all of the following sources:

(a) The true rental derived from the facilities constructed or acquired with the proceeds of the revenue obligations.

(b) The proceeds of revenue obligations.

(c) The reserve, if any, established for the payment of principal of, or interest or redemption premiums on, the obligations.

(d) The proceeds of insurance, a letter of credit, or a line of credit acquired as security for the revenue obligations.

(e) The proceeds of obligations issued to refund the revenue obligations.

(f) The proceeds of the foreclosure or enforcement of a mortgage, security interest, or deed of trust on the facilities financed by the revenue obligations granted by the authority as security for the revenue obligations.

(g) Other funds of the authority not previously pledged for other obligations of the authority, including funds of the authority derived from rentals and other revenues, investment income or profit, or funds or accounts relating to other facilities, and payments received pursuant to an agreement to manage payment, revenue, or interest rate exposure as provided in subsection (19).

(h) Investment earnings and profits on any or all of the sources described in subdivisions (a) to (g).

(7) To the extent provided by resolution of the board, principal of, and interest and redemption premiums on, refunding revenue obligations shall be secured by and payable only from any or all of the following sources:

(a) The true rental derived from the facilities constructed or acquired with the proceeds of the obligations being refunded.

(b) The proceeds of the refunding obligations.

(c) The reserve, if any, established for the payment of the principal of, or interest and redemption premiums on, the refunding obligations or the obligations to be refunded.

(d) The proceeds of insurance, a letter of credit, or a line of credit acquired as security for the revenue obligations.

(e) The proceeds of obligations issued to refund the refunding obligations.

(f) The proceeds of the foreclosure or enforcement of any mortgage, security interest, or deed of trust on the facilities financed from the proceeds of the obligations being refunded, granted by the authority as security for the refunding obligations.

(g) Other funds of the authority not previously pledged for other obligations of the authority, including other funds of the authority derived from rentals and other revenues, investment income or profit, or funds or accounts relating to other facilities, and payments received pursuant to an agreement to manage payment, revenue, or interest rate exposure as provided in subsection (19).

(h) Investment earnings or profits on any of the sources described in subdivisions (a) to (g).

(8) Obligations issued under this act may be either serial obligations or term obligations, or any combination of serial or term obligations. The obligations shall mature not more than 40 years from their date, and in any event not more than 1 year from the due date of the last true rental pledged for the payment of the obligations, and may bear interest at fixed or variable interest rates, or may be without stated interest, but the net interest rate or rates of interest, taking into account any discount on the sale of the obligations, shall not exceed a rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The obligations may be sold at a discount.

(9) Except as otherwise provided in this subsection, in the resolution or resolutions authorizing the issuance of the obligations, the board shall determine the principal amount of the obligations to be issued, the registration provisions, the date of issuance, the

obligation numbers, the obligation denominations, the obligation designations, the obligation maturities, the interest payment dates, the paying agent or paying agents or the method of selection of the agent or agents, the rights of prior redemption of the obligations, and the terms under which redemption rights may be waived, transferred, or sold, the rights of the holders to require prepayment of the principal of or interest on the obligations, the maximum rate of interest, the method of execution of the obligations, and such other provisions respecting the obligations, the rights of the holders of the obligations, the security for the obligations, and the procedures for disbursement of the obligation proceeds and for the investment of the proceeds of obligations and money for the payment of obligations. Rather than making the determinations required by this subsection, the board may authorize a person identified in subsection (5) to make the determinations and take the actions authorized under subsection (5).

(10) The board in the resolution or resolutions authorizing the issuance of obligations may provide for the assignment of the true rental to be paid by the state under the lease or leases to 1 of the paying agents for the obligations or to a trustee, as provided in this act, in which case the state shall pay the rental to the paying agent or trustee. For the purposes and within the limitations set forth in this act, the board may by resolution covenant to issue or cause to be issued, or use its best efforts to issue or cause to be issued, refunding revenue obligations to refund obligations issued under this act.

(11) The board in the resolution, or resolutions, authorizing the obligations may provide for the terms and conditions upon which the holders of the obligations, or a portion of the obligations or a trustee for the obligations, is entitled to the appointment of a receiver. The receiver may enter and take possession of the facility, may lease and maintain the facility, may prescribe rentals and collect, receive, and apply income and revenues thereafter arising from the facility in the same manner and to the same extent that the authority is so authorized. The resolution or resolutions may provide for the appointment of a trustee for the holders of the obligations, may give to the trustee the appropriate rights, duties, remedies, and powers, with or without the execution of a deed of trust or mortgage, necessary and appropriate to secure the obligations, and may provide that the principal of and interest on any obligations issued under this act shall be secured by a mortgage, security interest, or deed of trust covering the facility, which mortgage, security interest, or deed of trust may contain the covenants, agreements, and remedies as will properly safeguard the obligations as may be provided for in the resolution or resolutions authorizing the obligations, including the right to sell the facility upon foreclosure sale, not inconsistent with this act.

(12) All obligations and the interest coupons, if any, attached to the obligations are declared to be fully negotiable and to have all of the qualities incident to negotiable instruments under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, subject only to the provisions for registration of the obligations that may appear on the obligations. The obligations and interest on the obligations are exempt from all taxation by this state or any of its political subdivisions.

(13) The obligations may be sold at private or at public sale under the procedures and subject to the conditions prescribed by resolution of the board.

(14) The building authority may issue additional obligations of equal standing with respect to the pledge of the true rentals and additional security provided pursuant to this act with previously issued obligations of the building authority issued to acquire or construct a facility or facilities, or to refund the obligations, for the purpose of completing, or making additions, improvements, or replacements to, the facility or facilities for which the previous obligations of the authority were issued or to refund all or part of obligations

previously issued for such a facility, under the terms and conditions provided in the resolution authorizing the previous issue of obligations.

(15) The authority shall not have obligations outstanding at any 1 time for any of its corporate purposes in a principal amount totaling more than $2,700,000,000.00, which limitations shall not include principal appreciation as provided in subsection (17) or obligations or portions of obligations used to pay for any of the following:

(a) Amounts set aside for payment of interest becoming due before the collection of the first true rental available.

(b) Amounts set aside for a reserve for payment of principal, interest, and redemption premiums.

(c) Costs of issuance of the obligations and the discount, if any, on sale.

(d) The sums expected to be set aside for the purposes provided in this subsection for any obligations authorized by the authority but not sold. The amount set aside or expected to be set aside for the purposes provided in this subsection shall be conclusively determined by a certificate setting forth the amounts executed by the executive director of the building authority. In addition, there shall be excluded from the limitation obligations issued to refund prior obligations if those prior obligations will not be retired within 90 days after the date of issuance of the refunding obligations. If an obligation is issued to retire a prior obligation within 90 days after the date of issuance of the refunding obligation, the obligation is counted against the limitation when the refunded obligation is retired.

(16) The authority may apply and pledge, if not already pledged, all or any unpledged part of the true rental and other revenues of a facility; income and profit from the investment of money pertaining to a facility; and money in a fund or account of the authority pertaining to a facility to pay the principal, interest, and redemption premiums on revenue obligations of the authority other than those to which the true rental and other revenues, investment income, or profit or funds or accounts pertain; to pay amounts due under an agreement to manage payment, revenue, or interest rate exposure regardless of the obligations or investments to which the agreement relates; or to pay part or all of the cost of additional facilities to be acquired by the authority for the use of the state. The authority may establish a separate fund into which the rental and other revenues, investment income or profit, or money of such a fund or account shall be deposited to be used to pay principal, interest, and redemption premiums on outstanding obligations of the authority or to acquire facilities for the use of this state. The authority shall not acquire a facility unless the acquisition is approved by the state administrative board and by a concurrent resolution of the legislature approved by a majority of the members elected to and serving in each house. The authority may pledge any or all of the foregoing to the payment of revenue obligations of the authority other than those to which they pertain. If the true rental and other revenues, investment income or profit, or the money in funds or accounts to be applied as specified in this subsection pertain to a facility leased to the state and an institution of higher education pursuant to a lease executed and delivered before January 1, 1983, no application or pledge thereof may be made unless approved by the institution of higher education.

(17) If the authority issues an obligation that appreciates in principal amount, the amount of principal appreciation each year on that obligation, after the date of original issuance, shall not be considered to be principal indebtedness for the purposes of the limitation in subsection (15) or any other limitation. The appreciation of principal after the date of original issue shall be considered interest and shall be within the interest rate limitations set forth in this act.

(18) Of the $2,700,000,000.00 authorized under subsection (15), priority shall be determined by the joint capital outlay committee.

(19) In connection with an obligation issued previously or to be issued under this act or an investment made previously or to be made, the board may by resolution authorize and approve the execution and delivery of an agreement to manage payment, revenue, or interest rate exposure. The agreement may include, but is not limited to, an interest rate exchange agreement, an agreement providing for payment or receipt of money based on levels of or changes in interest rates, an agreement to exchange cash flows or series of payments, or an agreement providing for or incorporating interest rate caps, collars, floors, or locks. Subject to a prior pledge or lien created under this act, a payment to be made by the building authority under an agreement described in this subsection is payable, together with other obligations of the building authority, from those sources described in subsections (6) and (7), all with the parity or priority and upon the conditions set forth in the board's resolution. An agreement entered into under this subsection is not a general obligation of this state or the building authority, and the agreement does not count against the limitation on outstanding obligations contained in subsection (15).

(20) The building authority may authorize by resolution a pool of obligations to meet interim financing needs. A pool may be issued in 1 or more series, may relate to 1 or more projects, and is subject to all of the following:

(a) The board's resolution approving the pool shall state at least all of the following:

(*i*) The name or designation of the pool to distinguish it from any other pool issued under this subsection.

(*ii*) The latest date by which an obligation issued under the pool must mature, which shall not be later than 5 years after the date on which the pool is established. The duration of the pool shall be the time from the date on which the pool is established to the latest possible maturity date of obligations issued pursuant to the pool, or sooner as provided by resolution.

(*iii*) The maximum par amount of obligations that may be outstanding at any time during the duration of the pool. The resolution may state the maximum par amount of obligations that may be issued pursuant to the pool.

(*iv*) Other terms of the obligations as provided in subsection (8) or the limits within which the chief operating officer, chief staff person, or member of the board shall determine those terms as provided in subsection (5).

(*v*) The security for obligations issued pursuant to the pool.

(*vi*) Other provisions, not inconsistent with the terms of this act, that the board determines to be necessary or appropriate to the pool.

(b) Proceeds of obligations issued as part of a pool established under this subsection may be used for any of the purposes for which revenue obligations of the building authority may be used as described in subsection (1). However, an obligation shall not be issued with respect to a facility unless all of the following are true:

(*i*) The board approves the financing of the facility pursuant to the pool, which approval may be made at the same time as or after the establishment of the pool.

(*ii*) The board approves the proposed form of lease for the facility, which approval may be made prior to, at the same time as, or after the establishment of the pool.

(*iii*) The state administrative board, an institution of higher education, if applicable, and the legislature have approved the form of the lease as required by section 7, which approval may be made prior to, at the same time as, or after the establishment of the pool.

(*iv*) The aggregate amounts of obligations issued and outstanding with respect to a facility under a pool, together with other obligations that may have been issued and are outstanding with respect to the facility under this act do not exceed the cost of the facility, including allowable interest costs, as approved by the state administrative board, an institution of higher education, if applicable, and the legislature.

(*v*) On or before the issuance of obligations the proceeds of which are to finance the acquisition, construction, renovation, or rehabilitation of the facility, the building authority and the state, and, if applicable, an institution of higher education, enter into the lease or an agreement to construct or acquire the facility, which lease or agreement sets forth the terms and conditions under which the building authority will finance the construction or acquisition of the facility for lease to the state or to the state and any applicable institution of higher education.

(21) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(22) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved May 24, 2002.
Filed with Secretary of State May 24, 2002.

[No. 383]

(SB 1179)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 19603 (MCL 324.19603), as added by 1998 PA 288.

The People of the State of Michigan enact:

324.19603 Bonds; issuance; refund; security; authority of state treasurer; bonds not subject to revised municipal finance act; sale; issuance subject to agency financing reporting act; interest rate agreement.

Sec. 19603. (1) The bonds shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities that may be either serial, term, or both, to bear interest at a rate or rates, to be subject or not subject to prior redemption, and if subject to prior redemption with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board and subject to covenants, directions, restrictions, or rights specified by resolution to be adopted by the

state administrative board as necessary to ensure the marketability, insurability, or tax exempt status of the bonds. The state administrative board shall rotate the services of legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds partly to refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued under this section shall not be counted against the limitation on principal amount provided in the clean Michigan initiative act, 1998 PA 284, MCL 324.95101 to 324.95108. Further, refunding bonds issued under this section are not subject to the restrictions of section 19607.

(3) The state administrative board may approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this part.

(4) The state administrative board may authorize the state treasurer, but only within limitations contained in the authorizing resolution of the board, to do 1 or more of the following:

(a) Sell and deliver and receive payment for the bonds.

(b) Deliver bonds partly to refund bonds and partly for other authorized purposes.

(c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.

(d) Buy issued bonds at not more than their face value.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(5) The bonds are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The bonds or any series of the bonds shall be sold at a price as determined by the state administrative board.

(7) The bonds shall be sold in accordance with a schedule established by the state administrative board.

(8) The issuance of bonds under this section is subject to the agency financing reporting act.

(9) For the purpose of more effectively managing its debt service, the state administrative board may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the state administrative board.

This act is ordered to take immediate effect.
Approved May 28, 2002.
Filed with Secretary of State May 28, 2002.

[No. 384]

(HB 5661)

AN ACT to amend 1897 PA 153, entitled "An act to provide for the payment of expenses in matters in which the state is a party or interested," by amending section 1 (MCL 14.111); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

14.111 Appearance of attorney general in cases for state; expenses; authorization.

Sec. 1. In all cases in which the state is a party or interested, in which the attorney general participates, whenever it becomes necessary to subpoena witnesses or to defray other necessary expenses of that litigation, the attorney general is hereby authorized to pay the amount that he or she considers necessary out of funds appropriated.

Repeal of § 14.112.

Enacting section 1. Section 2 of 1897 PA 153, MCL 14.112, is repealed.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 385]

(SB 1169)

AN ACT to amend 1966 PA 346, entitled "An act to create a state housing development authority; to define the powers and duties of the authority; to establish a housing development revolving fund; to establish a land acquisition and development fund; to establish a rehabilitation fund; to establish a conversion condominium fund; to authorize the making and purchase of loans, deferred payment loans, and grants to qualified developers, sponsors, individuals, mortgage lenders, and municipalities; to establish and provide acceleration and foreclosure procedures; to provide tax exemption; to authorize payments in lieu of taxes by nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations; and to prescribe criminal penalties for violations of this act," by amending sections 22 and 25 (MCL 125.1422 and 125.1425), section 22 as amended by 1999 PA 131 and section 25 as amended by 1993 PA 220.

The People of the State of Michigan enact:

125.1422 Powers of authority.

Sec. 22. The authority shall possess all powers necessary or convenient to carry out this act, including the following powers in addition to other powers granted by other provisions of this act:

(a) To sue and to be sued; to have a seal and to alter the seal at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or

convenient to the exercise of the powers of the authority; and to make, amend, and repeal bylaws and rules.

(b) To undertake and carry out studies and analyses of housing needs within this state and ways of meeting those needs, including data with respect to population and family groups, the distribution of population and family groups according to income, and the amount and quality of available housing and its distribution according to rentals and sales prices, employment, wages, and other factors affecting housing needs and the meeting of housing needs; to make the results of those studies and analyses available to the public and the housing and supply industries; and to engage in research and disseminate information on housing.

(c) To agree and comply with conditions attached to federal financial assistance.

(d) To survey and investigate housing conditions and needs, both urban and rural, throughout this state and make recommendations to the governor and the legislature regarding legislation and other measures necessary or advisable to alleviate any existing housing shortage in this state.

(e) To establish and collect fees and charges in connection with the sale of the authority's publications and the authority's loans, commitments, and servicing, including but not limited to, the reimbursement of costs of financing by the authority, service charges, and insurance premiums as the authority determines to be reasonable and as approved by the authority. Fees and charges shall be determined by the authority and shall not be considered to be interest. The authority may use any accumulated fees and charges and interest income for achieving any of the corporate purposes of the authority, to the extent that the fees, charges, and interest income are not pledged to the repayment of bonds and notes of the authority or the interest on those bonds and notes.

(f) To encourage community organizations to assist in initiating housing projects as provided in this act.

(g) To encourage the salvage of all possible usable housing scheduled for demolition because of highway, school, urban renewal, or other programs by seeking authority for the sponsors of the programs to use funds provided for the demolition of the buildings, to be allocated to those sponsors approved by the authority to defray moving and rehabilitation costs of the buildings.

(h) To engage and encourage research in, and to formulate demonstration projects to develop, new and better techniques and methods for increasing the supply of housing for persons eligible for assistance as provided in this act; and to provide technical assistance in the development of housing projects and in the development of programs to improve the quality of life for all the people of this state.

(i) To make or purchase loans, including loans for condominium units as defined in section 4 of the condominium act, 1978 PA 59, MCL 559.104, and including loans to mortgage lenders, which are unsecured or the repayments of which are secured by mortgages, security interests, or other forms of security; to purchase and enter into commitments for the purchase of securities, certificates of deposits, time deposits, or mortgage loans from mortgage lenders; to participate in the making or purchasing of unsecured or secured loans and undertake commitments to make or purchase unsecured or secured loans; to sell mortgages, security interests, notes, and other instruments or obligations evidencing or securing loans, including certificates evidencing interests in 1 or more loans, at public or private sale; in connection with the sale of an instrument or obligation evidencing or securing 1 or more loans, to service, guarantee payment on, or repurchase the instrument or obligation, whether or not it is in default; to modify or alter mortgages and security interests; to foreclose on any mortgage, security interest, or other form of security; to

finance housing units; to commence an action to protect or enforce a right conferred upon the authority by law, mortgage, security agreement, contract, or other agreement; to bid for and purchase property that was the subject of the mortgage, security interest, or other form of security, at a foreclosure or at any other sale, and to acquire or take possession of the property. Upon acquiring or taking possession of the property, the authority may complete, administer, and pay the principal and interest of obligations incurred in connection with the property, and may dispose of and otherwise deal with the property in any manner necessary or desirable to protect the interests of the authority in the property. If the authority or an entity that provides mortgage insurance to the authority acquires property upon the default of a borrower, the authority may make a mortgage loan to a subsequent purchaser of that property even if the purchaser does not meet otherwise applicable income limitations and purchase price limits.

(j) To set standards for housing projects that receive loans under this act and to provide for inspections to determine compliance with those standards. The standards for construction and rehabilitation of mobile homes, mobile home parks, and mobile home condominium projects shall be established jointly by the authority and the mobile home commission, created in the mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349. However, financing standards shall be established solely by the authority.

(k) To accept gifts, grants, loans, appropriations, or other aid from the federal, state, or local government, from a subdivision, agency, or instrumentality of a federal, state, or local government, or from a person, corporation, firm, or other organization.

(*l*) To acquire or contract to acquire from a person, firm, corporation, municipality, or federal or state agency, by grant, purchase, or otherwise, leaseholds or real or personal property, or any interest in a leasehold or real or personal property; to own, hold, clear, improve, and rehabilitate and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber any interest in a leasehold or real or personal property. This act shall not impede the operation and effect of local zoning, building, and housing ordinances, ordinances relating to subdivision control, land development, or fire prevention, or other ordinances having to do with housing or the development of housing.

(m) To procure insurance against any loss in connection with the property and other assets of the authority.

(n) To invest, at the discretion of the authority, funds held in reserve or sinking funds, or money not required for immediate use or disbursement, in obligations of this state or of the United States, in obligations the principal and interest of which are guaranteed by this state or the United States, or in other obligations as may be approved by the state treasurer.

(o) To promulgate rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(p) To enter into agreements with nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations that provide for regulation by the authority of the planning, development, and management of any housing project undertaken by nonprofit housing corporations, consumer housing cooperatives, limited dividend housing corporations, mobile home park corporations, and mobile home park associations and that provide for the disposition of the property and franchises of those corporations, cooperatives, and associations.

(q) To appoint to the board of directors of a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation,

or mobile home park association, a number of new directors sufficient to constitute a majority of the board notwithstanding other provisions of the articles of incorporation or other provisions of law. Directors appointed under this subsection need not be stockholders or members or meet other qualifications that may be described by the certificate of incorporation or bylaws. In the absence of fraud or bad faith, directors appointed under this subsection shall not be personally liable for debts, obligations, or liabilities of the corporation or association. The authority may appoint directors under this subsection only if 1 or more of the following occur:

(*i*) The nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association has received a loan or advance, as provided for in this act, and the authority determines that the loan or advance is in jeopardy of not being repaid.

(*ii*) The nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association received a loan or advance as provided for in this act and the authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed.

(*iii*) The authority determines that some part of the net income or net earnings of the nonprofit housing corporation is inuring to the benefit of a private individual, firm, corporation, partnership, or association; the authority determines that an unreasonable part of the net income or net earnings of the consumer housing cooperative is inuring to the benefit of a private individual, firm, corporation, partnership, or association; or the authority determines that some part of the net income or net earnings of the limited dividend housing corporation, in excess of that permitted by other provisions of this act, is inuring to the benefit of a private individual, firm, corporation, partnership, or association.

(*iv*) The authority determines that the nonprofit corporation or consumer housing cooperative is in some manner controlled by, under the direction of, or acting in the substantial interest of a private individual, firm, corporation, partnership, or association seeking to derive benefit or gain from, or seeking to eliminate or minimize losses in any dealings or transactions with, the nonprofit corporation or consumer housing cooperative. However, this subparagraph shall apply to individual cooperators in consumer housing cooperatives only in circumstances defined by the authority in its rules.

(*v*) The authority determines that the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association is in violation of the rules promulgated under this section.

(*vi*) The authority determines that the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association is in violation of 1 or more agreements entered into with the authority that provide for regulation by the authority of the planning, development, and management of a housing project undertaken by the nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, mobile home park corporation, or mobile home park association or that provide for the disposition of the property and franchises of the corporation, or cooperative, or association.

(r) To give approval or consent to the articles of incorporation submitted to the authority by a corporation seeking approval as a nonprofit housing corporation, consumer housing cooperative, limited dividend housing corporation, or mobile home park corporation under chapter 4, 5, 6, or 8; to give approval or consent to the partnership agreement, joint venture agreement, trust agreement, or other document of basic organization of a limited

dividend housing association under chapter 7 or mobile home park association under chapter 9.

(s) To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice.

(t) To lease real or personal property and to accept federal funds for, and participate in, federal programs of housing assistance.

(u) To review and approve rental charges for authority-financed housing projects and require whatever changes the authority determines to be necessary. The changes shall become effective after not less than 30 days' written notice is given to the residents of the affected authority-financed housing projects.

(v) To set forth in the various loan documents of the authority those restrictions on the sale, conveyance by land contract, or transfer of residential real property, housing projects, or housing units for which a note is held by the authority and restrictions on the assumption by subsequent purchasers of loans originated by and held by, or originated for purchase by and held by, the authority as the authority determines to be necessary in order to comply with requirements of federal statutes, federal rules or regulations promulgated under sections 551 to 559 of title 5 of the United States Code, 5 U.S.C. 551 to 559, state statutes, or state rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or to obtain and maintain the tax exempt status of authority bonds and notes. However, the authority shall not use a due on sale or acceleration clause solely for the purpose of renegotiating the interest rate on a loan made with respect to an owner-occupied single-family housing unit. Without limiting the authority's power to establish other restrictions, as provided in this section, on the sale, conveyance by land contract, or transfer of residential real property, housing projects, or housing units for which a note is held by the authority and the assumption by subsequent purchasers of loans made or purchased by the authority, the authority shall provide in its loan documents relating to a single family loan that the single family loan may be assumed by a new purchaser only when the new purchaser qualifies under the authority income limitations rules except where such a restriction diminishes or precludes the insurance or a guarantee by an agency of the federal government with respect to the single family loan. A loan made for a mobile home that the borrower does not intend to permanently affix to real property shall become immediately due and payable in the event the mobile home is moved out of the state. Any restrictions on conveyance by sale, conveyance by land contract, or transfer that are authorized in this section shall apply only to loans originated by and held by, or originated for purchase by and held by, the authority and may, at the option of the authority, be enforced by accelerating and declaring immediately due and payable all sums evidenced by the note held by the authority. An acceleration and declaration of all sums to be due and payable on conveyance by sale, land contract, or transfer is not an unreasonable restraint on alienation. An acceleration and declaration, unless otherwise prohibited in this subdivision, of all sums to be due and payable under this subdivision is enforceable in any court of competent jurisdiction. This subdivision is applicable to secured and unsecured loans. This subdivision is also applicable to loan documents utilized in conjunction with an authority-operated program of residential rehabilitation by an entity cooperating or participating with the authority under section 22a(4), which loans are originated with the intent to sell those loans to the authority.

(w) To set forth in the various loan documents of the authority those remedies for the making of a false statement, representation, or pretense or a material misstatement by a borrower during the loan application process. Without limiting the authority's power to pursue other remedies, the authority shall provide in its loan documents that, if a borrower makes a false statement, representation, or pretense or a material misstatement

during the loan application process, the authority, at its option, may accelerate and declare immediately due and payable all sums evidenced by the note held by the authority. An acceleration and declaration of all sums to be due as authorized under this subdivision and payable as provided in this subdivision is enforceable in any court of competent jurisdiction. This subdivision is applicable to secured and unsecured loans.

(x) To collect interest on a real estate loan, the primary security for which is not a first lien on real estate, at the rate of 15% or less per annum on the unpaid balance. This subdivision does not impair the validity of a transaction or rate of interest that is lawful without regard to this subdivision.

(y) To encourage and engage or participate in programs to accomplish the preservation of housing in this state available for occupancy by persons and families of low or moderate income.

(z) To verify for the state treasurer statements submitted by a city, village, township, or county as to exempt properties under section 7d of the general property tax act, 1893 PA 206, MCL 211.7d.

(aa) For the purpose of more effectively managing its debt service, to enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the authority.

(bb) To make working capital loans to contractors or subcontractors on housing projects financed by the authority. The authority shall submit an annual report to the legislature containing the amount, recipient, duration, circumstance, and other related statistics for each capital loan made to a contractor or subcontractor under this subdivision. The authority shall include in the report statistics related to the cost of improvements made to adapt property for use by disabled individuals as provided in section 32b(5) or (6) or section 44(2)(a).

(cc) Subject to rules of the civil service commission, to adopt a code of ethics with respect to its employees that requires disclosure of financial interests, defines and precludes conflicts of interest, and establishes reasonable post-employment restrictions for a period of up to 1 year after an employee terminates employment with the authority.

(dd) To impose covenants running with the land in order to satisfy requirements of applicable federal law with respect to housing assisted or to be assisted through federal programs such as the low income housing tax credit program or the home investment partnerships program by executing and recording regulatory agreements between the authority or such municipality or other entity as may be designated by the authority and the person or entity to be bound. These covenants shall run with the land and be effective with respect to the parties making the covenants and other intended beneficiaries of the covenants, even though there is no privity of estate or privity of contract between the authority and the persons or entities to be bound.

(ee) To impose covenants running with the land in order to satisfy requirements of applicable state or federal law with respect to housing financed by the authority by executing and recording regulatory agreements between the authority and the person or entity to be bound. These covenants shall run with the land and be effective with respect to the parties making the covenants and other intended beneficiaries of the covenants, even though there is no privity of estate or privity of contract between the authority and the persons or entities to be bound. With respect to the application of any applicable environmental laws, this subdivision shall not be construed to grant to the authority any additional rights, privileges, or immunities not otherwise afforded to a private lender that is not in the chain of title for the land.

(ff) To participate in programs designed to assist persons and families whose incomes do not exceed 115% of the greater of statewide median gross income or the area median gross income become homeowners where loans are made by private lenders for purchase by the government national mortgage association, federal national mortgage association, federal home loan mortgage corporation, or other federally chartered organizations. Participation may include providing or funding homeownership counseling and providing some or all of a reserve fund to be used to pay for losses in excess of insurance coverage.

(gg) To invest up to 20% of funds held by or for the authority in escrow accounts for the benefit of the authority or mortgagors of authority-financed housing in loans originated or purchased by the authority, under the conditions prescribed in this subdivision and without the consent of the escrow depositors. In connection with loans described in this subdivision, the authority may charge and retain fees in amounts similar to those charged with respect to similar loans for which the source of funding does not come from escrow funds. The investment authorized by this subdivision shall not be made unless both of the following requirements are met:

(*i*) The return on the loan is approximately equivalent to that which could be obtained from investments of substantially similar credit quality and maturity, as determined by the authority.

(*ii*) The authority agrees to repurchase from its own funds and at the same prices at which the loans were sold to the escrow funds, as adjusted for the accretion of discount or amortization of premium, plus accrued interest, any loans that become delinquent in excess of 30 days. This subdivision does not obligate the authority to purchase a delinquent loan so long as with respect to that loan the authority advances money from its own funds in the amount of the delinquent payments. The authority's election to advance payments does not in any manner abate or cure the delinquency of the loan and the authority may resort to any remedies that would exist in the absence of that payment.

(hh) To acquire, develop, rehabilitate, own, operate, and enter into contracts with respect to the management and operation of real and personal property to use as office facilities by the authority and to enter into leases with respect to facilities not immediately necessary for the activities of the authority.

(ii) To make loans to certain qualified buyers and resident organizations and to make grants to resident organizations as provided in the following:

(*i*) The urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709.

(*ii*) The urban homesteading on vacant land act, 1999 PA 129, MCL 125.2741 to 125.2748.

(*iii*) The urban homesteading in single-family public housing act, 1999 PA 128, MCL 125.2761 to 125.2770.

(*iv*) The urban homesteading in multifamily public housing act, 1999 PA 84, MCL 125.2721 to 125.2734.

125.1425 Bonds and notes; issuance; purposes; issuing renewal notes, bonds to pay notes and refunding bonds; notes or bonds as general obligations and negotiable instruments; revised municipal finance act inapplicable; issuance subject to agency financing reporting act.

Sec. 25. (1) The authority may issue its negotiable bonds and notes in a principal amount, which in the opinion of the authority shall be necessary to provide sufficient funds for achieving its corporate purposes, including the making of loans for housing projects

and the making or purchasing of loans for the rehabilitation of residential real property, the provision of money for the land acquisition and development fund as provided in this act, the payment of interest on bonds and notes of the authority during construction, the establishment of reserves to secure bonds and notes, the provision of money for the housing development fund in order to make noninterest bearing advances to nonprofit housing corporations and consumer housing cooperatives as provided in this act, the provision of money to be used for the land acquisition and development powers and purposes of the authority, the development, rehabilitation, or acquisition of real and personal property for use as office facilities by the authority, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The authority may issue renewal notes, issue bonds to pay notes, and when it determines refunding expedient, refund bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds then outstanding and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption, or payment of the bonds to be refunded. The authority may issue instruments separate from the obligations described in this section that establish a contractual right in the holder of the instrument to require mandatory tender for purchase of the obligations to which the instrument applies for such period of time and subject to such provisions as the authority may determine.

(3) Except as may otherwise be expressly provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of revenues or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging any particular receipts or revenues.

(4) Whether or not the notes or bonds are of a form or character as to be negotiable instruments under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, the notes or bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, subject only to the provisions of the notes or bonds for registration.

(5) A bond issued by the authority is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 386]

(SB 1178)

AN ACT to amend 1985 PA 227, entitled "An act to create the Michigan municipal bond authority and to prescribe its powers and duties; to provide for the issuance of, and terms and conditions for, notes and bonds of the authority; to authorize certain forms of assistance to governmental units including the creation and management of investments; to impose conditions on, grant certain powers to political subdivisions of the state and water suppliers regarding, and allow certain agreements regarding obligations of political

subdivisions of this state and water suppliers purchased by the authority; to exempt the property, income, and operation of the authority, its bonds and notes, and the interest on its bonds and notes from certain taxes; to grant powers and impose duties on officers and agencies of the state, political subdivisions of this state, and water suppliers; to accept and expend certain appropriations; and to repeal acts and parts of acts," by amending section 9 (MCL 141.1059), as amended by 1988 PA 316.

The People of the State of Michigan enact:

141.1059 Bonds or notes of authority; purposes; payment; security; authorization; requirements; validity of signature; sale; revised municipal finance act inapplicable; issuance of bonds subject to agency financing reporting act; interest rate exchange agreement.

Sec. 9. (1) The authority may issue from time to time authority bonds or notes in the principal amounts the authority considers necessary to provide funds for any purposes including, but not limited to, the making of loans; the payment, funding, or refunding of the principal of, interest on, or redemption premiums on bonds or notes issued by the authority whether the bonds or notes or interest to be funded or refunded have or have not become due; the establishment or increase of reserves to secure or to pay authority bonds or notes or interest on those bonds or notes; the payment of interest on the bonds or notes for a period as the authority determines; the funding of a state match requirement for a capitalization grant or to reimburse an advance for that state match requirement; and the payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The bonds or notes of the authority shall not be a general obligation of the authority but shall be payable solely from the revenues or funds, or both, pledged to the payment of the principal of and interest on the bonds or notes as provided in the bond or note authorizing resolution. Authority bonds or notes may be additionally secured by a pledge of any grant or contributions from the United States, this state, a governmental unit, or any person, firm, or corporation, or by a pledge of income or revenues, funds, or money of the authority from any source whatsoever.

(3) Bonds or notes of the authority shall be authorized by resolution of the authority and may be issued in 1 or more series and shall bear the date or dates of issuance; mature at the time or times not exceeding 50 years from the date of their issue; provide sinking fund payments; bear interest at a fixed or variable rate or rates of interest per annum or at no interest; be in the denomination or denominations; be in the form, either coupon or registered; carry the conversion or registration privileges; have the rank or priority; be executed in the manner; be payable from the sources in the medium of payment at the place or places within or without this state; and be subject to redemption at the option of the authority or the holder and with the terms and redemption premiums as the resolution provides.

(4) If a member of the board, the executive director of the authority, or an officer of the authority whose signature or facsimile of a signature appears on a note, bond, or coupon ceases to be a member, executive director, or officer before the delivery of that note or bond, the signature shall, nevertheless, be valid and sufficient for all purposes, the same as if the member, executive director, or officer had remained in office until the delivery.

(5) Bonds or notes of the authority may be sold at public or private sale at the time or times, at the price or prices, and at a discount as the authority determines. An authority bond or note is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101

to 141.2821.

(6) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

(7) For the purpose of more effectively managing its debt service, the authority may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the authority.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 387]

(SB 1180)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 50510 (MCL 324.50510), as added by 1995 PA 57.

The People of the State of Michigan enact:

324.50510 Bonds and notes; purposes; payment; requirements; signature of board member or office of authority; sale of bonds or notes; applicability of other laws; interest rate agreement.

Sec. 50510. (1) The authority may issue from time to time bonds or notes in principal amounts the authority considers necessary to provide funds for any purpose, including, but not limited to, all of the following:

(a) The payment, funding, or refunding of the principal of, interest on, or redemption premiums on bonds or notes issued by the authority whether the bonds or notes or interest to be funded or refunded have or have not become due.

(b) The establishment or increase of reserves to secure or to pay authority bonds or notes or interest on those bonds or notes.

(c) The payment of interest on the bonds or notes for a period as the authority determines.

(d) The payment of all other costs or expenses of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) The bonds or notes of the authority shall not be a general obligation of the authority but shall be payable solely from the revenues or funds, or both, pledged to the payment of the principal of and interest on the bonds or notes as provided in the resolution authorizing the bond or note.

(3) The bonds or notes of the authority:

(a) Shall be authorized by resolution of the authority.

(b) Shall bear the date or dates of issuance.

(c) May be issued as either tax-exempt bonds or notes or taxable bonds or notes for federal income tax purposes.

(d) Shall be serial bonds, term bonds, or term and serial bonds.

(e) Shall mature at such time or times not exceeding 30 years from the date of issuance.

(f) May provide for sinking fund payments.

(g) May provide for redemption at the option of the authority for any reason or reasons.

(h) May provide for redemption at the option of the bondholder for any reason or reasons.

(i) Shall bear interest at a fixed or variable rate or rates of interest per annum or at no interest.

(j) Shall be registered bonds, coupon bonds, or both.

(k) May contain a conversion feature.

(*l*) May be transferable.

(m) Shall be in the form, denomination or denominations, and with the other provisions and terms as is determined necessary or beneficial by the authority.

(4) If a member of the board or any officer of the authority whose signature or facsimile of his or her signature appears on the note, bond, or coupon ceases to be a member or officer before the delivery of that note or bond, the signature shall continue to be valid and sufficient for all purposes, as if the member or officer had remained in office until the delivery.

(5) Bonds or notes of the authority may be sold at a public or private sale at the time or times, at the price or prices, and at a discount as the authority determines. Bonds and notes of the authority are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The bond or note of the authority is not required to be filed under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

(6) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

(7) For the purpose of more effectively managing its debt service, the authority may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the authority.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 388]

(SB 1181)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain

substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 71503 (MCL 324.71503), as amended by 1995 PA 72.

The People of the State of Michigan enact:

324.71503 Bonds; requirements generally.

Sec. 71503. (1) The bonds issued under part 713 shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities that may be either serial, term, or term and serial, to bear interest at a rate or rates, to be subject or not subject to prior redemption and, if subject to prior redemption, with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board, and to be subject to or granting those covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to ensure the marketability, insurability, or tax-exempt status. The state administrative board shall rotate legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds to partly refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued under this section shall not be counted against the limitation on principal amount imposed by the vote of the people on November 8, 1988. Further, refunding bonds issued under this section shall not be subject to the restrictions of section 71507.

(3) The state administrative board may authorize and approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this act.

(4) The state administrative board may authorize the state treasurer, but only within limitations that are contained in the authorizing resolution of the board, to do 1 or more of the following:

(a) Sell and deliver and receive payment of the bonds.

(b) Deliver bonds partly to refund bonds and partly for other authorized purposes.

(c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.

(d) Buy bonds so issued at not more than their face value.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(5) The bonds are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) The bonds or any series of the bonds shall be sold at a price and at a publicly advertised sale or a competitively negotiated sale as determined by the state administrative board. If bonds are issued at a competitively negotiated sale, the state administrative board shall use its best efforts to include firms based in this state in the sale of the bonds.

(7) Except as provided in subsection (8), the bonds shall be sold in accordance with the following schedule, beginning during the first year after December 1, 1988:

(a) Not more than 34% shall be sold during the first year.

(b) Not more than 33% shall be sold during the second year.

(c) Not more than 33% shall be sold during the third year.

(d) After the third year any remaining bonds may be sold at the discretion of the state administrative board.

(8) The state administrative board may alter the schedule for issuance of the bonds provided in subsection (7) if amendments to the internal revenue code of 1986 would impair the tax-exempt status of the bonds.

(9) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

(10) For the purpose of more effectively managing its debt service, the state administrative board may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the state administrative board.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 389]

(SB 1182)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 76703 (MCL 324.76703), as amended by 2001 PA 78.

The People of the State of Michigan enact:

324.76703 Mackinac Island state park commission; gross revenue bonds; purpose; cost; interim receipts or certificates; maximum rate of interest; sale and award of notes; notice; resolution; contents; trust indenture; money received as trust funds; disposition; gross revenue refunding bonds; powers of commission; annual

audit; signature on bonds; attestation; electronic format; issuance of bonds subject to agency financing reporting act; interest rate agreement.

Sec. 76703. (1) The commission may issue its gross revenue bonds in anticipation of the collection of all or any part of its revenues, for the purpose of acquiring, constructing, reconstructing, improving, bettering, extending, restoring, refurbishing, renovating, repairing, equipping, furnishing, any or all, the properties and facilities that it is authorized to acquire, construct, reconstruct, maintain, or operate under this part, including properties and facilities owned by it, and shall pledge to the payment of the interest on and principal of the bonds, all or any part of the revenues derived from the operation of the properties and facilities controlled and operated by the commission. There may be included in the cost for which bonds are to be issued, reasonable allowances for legal, engineering, or fiscal services, interest during construction or reconstruction and for 6 months after the estimated date of completion of the construction or reconstruction or until full revenues are being received from the operation of the facility, and other incidental expenses. The bonds shall be authorized by resolution of the commission and may be issued in 1 or more series, may bear the date or dates, may mature at the time or times not exceeding 30 years from their respective dates, may bear interest at the rate or rates, may be in the form, either coupon or registered, may be executed in the manner, may be payable at the place or places, may be subject to the terms of redemption, with or without premium, and may contain the terms, covenants, and conditions as the resolution or subsequent resolution may provide. Pending preparation of the definitive bonds, interim receipts, or certificates in the form and with the provisions as the commission may determine may be issued to the purchaser or purchasers of the bonds sold pursuant to this part. The bonds and interim receipts and certificates shall be fully negotiable within the meaning of and for all purposes of the negotiable instruments law of this state. The maximum rate of interest on such bonds shall be that set forth for bonds issued under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The sale and award of notes shall be conducted and made by the commission at a public or private sale. If a public sale is held, the notes shall be advertised for sale once not less than 7 days before sale in a publication printed in the English language and circulated in this state, which carries as a part of its regular service notices of the sales of municipal bonds and which has been designated in the resolution as a publication complying with these qualifications. The notice of sale shall be in the form as designated by the commission. Bonds may be sold at a discount as provided in the bond resolution. Bonds issued under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Any resolution authorizing the issuance of bonds under this part or any instrument of trust entered into as authorized by this part may contain covenants, including, but not limited to, any of the following:

(a) The purpose or purposes to which the proceeds of the sale of the bonds may be applied, and the deposit, use, and disposition of the proceeds.

(b) The use, deposit, securing of deposits, and disposition of the revenues of the commission, including the creation and maintenance of reserves.

(c) The issuance of additional bonds payable from the revenues of the commission.

(d) The operation and maintenance of properties of the commission.

(e) The insurance to be carried thereon, and the use, deposit, and disposition of insurance money.

(f) Books of account and the inspection and audit of the books of account and the accounting methods of the commission.

(g) The nonrendering of any free service by the commission.

(h) The preservation of the properties of the commission, so long as any of the bonds remain outstanding, from any mortgage, sale, lease, or other encumbrance not specifically permitted by the terms of the resolution.

(i) The employment of sufficient personnel for the collection of fees and charges incident to the operation of the facility and for the payment of compensation to the personnel out of the fees and charges.

(3) In the discretion of the commission, any bonds issued under this part may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any bank having the right to exercise the powers of a trust company within this state. Any trust indenture described in this subsection may pledge or assign the revenues from the operation of properties of the commission, but shall not convey or mortgage any properties, except the revenues. Any trust indenture or any resolution providing for the issuance of bonds may contain the provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the improvements in connection with which the bonds have been authorized, and the custody, safeguarding, and application of all money, and provisions for the employment of consulting engineers, architects, and landscape architects in connection with the planning, construction, or operation of the improvements. Any trust indenture may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, any trust indenture or resolution may contain other provisions as the commission considers reasonable and proper for the security of the bondholders. The holder of any bond issued under this part or a trustee in his or her behalf may bring suit against the commission and its members, officers, and agents to enforce the provisions and covenants contained in any trust indenture or resolution. All expenses incurred in carrying out the provisions of any trust indenture may be treated as a part of the cost of operation of the improvements for which the bonds are authorized.

(4) Money received pursuant to this part, whether as proceeds from the sale of bonds or as revenues from the operations of properties, or otherwise received by the commission, shall be considered to be trust funds, to be held and applied solely as provided in this part and in the resolution authorizing, or trust indenture securing, its bonds. All money received may be deposited in as received and paid out by any bank or banks selected for the purpose and eligible to hold public money under the laws of this state, the deposits and paying out to be in the manner provided in the resolution or trust indenture. None of the money need be paid into the state treasury.

(5) If the commission has issued any bonds under this part, the commission may subsequently issue and negotiate new bonds under this part for the purpose of providing for the retirement of those outstanding bonds, in whole or in part. The new bonds shall be designated "gross revenue refunding bonds", and except as otherwise provided in the refunding resolution, shall be secured to the same extent and shall have the same source of payment as the bonds that have been refunded, or may be payable from earnings on investments held in trust to pay refunded bonds for the period of time specified in the ordinance authorizing the bonds. The refunding bonds may be issued to include the amount of any premium to be paid upon the calling of the callable bonds to be refunded or any premium necessary to be paid in order to secure the surrender of the noncallable bonds to be refunded, interest to the maturity or redemption date of the bonds to be

refunded, and the cost of issuing the refunding bonds. This section shall not be construed as providing for the redemption of noncallable unmatured bonds without the consent of the holder or holders of the bonds. The refunding bonds may be sold at public sale, may be privately negotiated, or may be exchanged for the obligations to be refunded by the obligations, and if sold, the proceeds shall be deposited in a bank and credited to a special trust account to be used only for the redemption or purchase of the outstanding bonds. If refunding bonds are to be issued and sold for the purpose of refunding noncallable unmatured bonds, those bonds shall be surrendered and canceled at the time of delivery to the purchaser of the refunding bonds, or sufficient funds shall be deposited in trust to pay principal and interest to maturity on noncallable bonds. If refunding bonds are to be issued for the purpose of refunding callable bonds, those bonds shall be surrendered and canceled at the time of delivery to the purchaser of the refunding bonds, or sufficient funds shall be deposited in trust to pay principal, interest, and redemption premium to the earliest redemption date on callable bonds. When the resolution authorizing the bonds to be refunded permits, the borrower may deposit in trust direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States and which do not permit redemption at the option of the issuer, the principal and interest on which when due, without reinvestment, will provide funds sufficient to pay principal, interest, and call premium, when due, on the bonds being refunded.

(6) Notwithstanding the other provisions of this section:

(a) Interest on the bonds may be payable at any time provided in the resolution, and may be set, reset or calculated, or both, as provided in the resolution.

(b) If so authorized in the resolution bonds may be:

(*i*) Made the subject of a put or agreement to repurchase by the commission.

(*ii*) Secured by a letter of credit issued by a bank pursuant to an agreement entered into by the commission or secured by any other collateral.

(*iii*) Callable.

(*iv*) Reissued by the commission once reacquired by the commission pursuant to any put or repurchase agreement.

(c) The commission may by resolution do any of the following:

(*i*) Authorize the issuance of renewal bonds.

(*ii*) Refund, or refund in advance, bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured.

(*iii*) Issue bonds partly to refund bonds and partly for any other purposes authorized by this part.

(*iv*) Buy and sell any bonds issued under this part.

(d) Renewal, refunding, or advance refunding bonds are subject to all of the following:

(*i*) Shall be sold and the proceeds applied to the purchase redemption or payment of the bonds to be renewed or refunded.

(*ii*) May be sold or resold at a public or private sale upon such terms and conditions as the commission may establish in the order.

(*iii*) May pledge the revenues pledged in the issue to be refunded in advance effective when a defeasance has occurred with respect to the original issue.

(e) If authorized by the commission in the resolution authorizing the bonds, any bonds issued may be secured in whole or in part pursuant to a trust or escrow agreement, which agreement may also govern the issuance of renewal bonds, refunding bonds, and advance

refunding bonds. The agreement may authorize the trustee or escrow agent to make investments of any type authorized in the agreement.

(f) Powers specified in this subsection shall be in addition to those set forth in all other subsections and sections of this part.

(7) The commission shall hire an independent certified public accountant approved by the legislative auditor general to perform an annual audit of all of its operations which are required by, or in any way relate to, any covenants made in connection with any bonds issued pursuant to this part.

(8) The bonds may be issued in electronic format only or, if issued in paper copies, shall be signed by the chairperson or vice-chairperson of the commission and attested to by any other officer of the commission authorized to do so by resolution of the commission. The signature of either officer, but not both, may be affixed by facsimile or electronically.

(9) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

(10) For the purpose of more effectively managing its debt service, the commission may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the commission.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 390]

(SB 776)

AN ACT to amend 1988 PA 161, entitled "An act to regulate the providing of certain consumer financial services; to provide for licensing of certain financial institutions; to prescribe powers and duties of certain state departments and agencies; to prohibit certain activities; and to provide for remedies and penalties," by amending sections 2 and 17 (MCL 487.2052 and 487.2067), as amended by 1999 PA 275, and by adding sections 10f, 10g, 10h, 10i, 10j, and 10k.

The People of the State of Michigan enact:

487.2052 Definitions.

Sec. 2. As used in this act:

(a) "Applicant" means a person that has applied to the commissioner to be licensed under this act.

(b) "Bureau" means the office of financial and insurance services of the department of consumer and industry services.

(c) "Business activity" means any activity regulated by any of the financial licensing acts identified under subdivision (d).

(d) "Class I license" means a license issued under this act that authorizes the licensee to engage in all of the activities permitted under the regulatory loan act of 1963, 1939 PA 21, MCL 493.1 to 493.25, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to

493.81, the motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141, 1984 PA 379, MCL 493.101 to 493.114, the sale of checks act, 1960 PA 136, MCL 487.901 to 487.916, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(e) "Class II license" means a license issued under this act that authorizes all of the activities permitted under a class I license except for activities permitted under the sale of checks act, 1960 PA 136, MCL 487.901 to 487.916, loan servicing activities under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(f) "Commissioner" means the commissioner of the office of financial and insurance services or an authorized representative of the commissioner.

(g) "Control person" means a director or executive officer of a licensee or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee.

(h) "Depository financial institution" means a bank, savings and loan association, savings bank, or credit union organized under the laws of this state, another state, the District of Columbia, the United States, or a territory or protectorate of the United States, whose deposits are insured by an agency of the federal government.

(i) "Executive officer" means an officer, member, or partner of a licensee, including chief executive officer, president, vice president, chief financial officer, controller, compliance officer, or any other similar position.

(j) "Financial licensing acts" means the acts listed in subdivision (d).

(k) "Licensee" means a person that is licensed under this act.

(*l*) "Loan servicing activities" means the collection or remittance for a lender, noteowner, noteholder, or the licensee's own account of 4 or more installment payments of the principal, interest, or an amount placed in escrow under a mortgage servicing agreement or a mortgage loan subject to the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, or a mortgage servicing agreement or secondary mortgage loan subject to the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or an agreement with the mortgagor.

(m) "Person" means an individual, corporation, partnership, association, limited liability company, or any other legal entity.

487.2060f Investigation or examination by commissioner; complaint or action; suspension of license; request for hearing; duration of suspension.

Sec. 10f. (1) As provided in section 10(4), the commissioner may investigate or conduct an examination of any person and conduct hearings as the commissioner considers necessary to determine whether a licensee or any other person has violated this act, or whether a licensee has conducted business in a manner that would justify suspension or revocation of its license.

(2) Upon the filing of a complaint or the taking of action against a licensee under section 10(7), the commissioner may issue and serve upon a licensee an order suspending that person's license. The order shall be supported by an affidavit from a person familiar with the facts set forth in the affidavit and shall contain information that an imminent threat of financial loss or threat to the public welfare exists.

(3) Upon service of the order under subsection (2), the licensee shall have 20 days to file with the commissioner a request for a hearing. The hearing shall be scheduled within 20 days of the receipt of a request filed under this subsection.

(4) A suspension of a license under this section shall continue until the commissioner finds that the threat of financial loss or threat to the public welfare no longer exists.

487.2060g Fraud.

Sec. 10g. (1) If in the opinion of the commissioner a person has engaged in fraud, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or control person of a licensee under this act or a licensee or registrant under a financial licensing act. For purposes of this section, "fraud" shall include actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing to be held not more than 60 days after the date of the notice. If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or registrant or from being employed by, an agent of, or control person of any licensee under this act or a licensee or registrant under a financial licensing act.

(4) An order issued under subsection (2) or (3) is effective upon service upon the person. The commissioner shall also serve a copy of the order upon the licensee of which the person is an employee, agent, or control person. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to applicants for loans, mortgage loans, secondary mortgage loans, credit card arrangements, or installment sales credit, borrowers on loans, obligors on installment sale contracts, loan servicing customers, purchasers of mortgage loans or interests in mortgage loans, or purchasers of checks from a licensee, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or control person of any licensee. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect pending the completion of a review as provided under this section and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection (6), the hearing required under subsection (2) to review the suspension shall be held not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a felony involving fraud, dishonesty, or breach of trust, the commissioner may issue an order suspending or prohibiting that person from being a licensee and from being employed by, an agent of, or control person of any licensee under this act or a licensee or registrant under a financial licensing act. After 5 years from the

date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) The commissioner shall mail a copy of any notice or order issued under this section to the licensee of which the person subject to the notice or order is an employee, agent, or control person.

487.2060h Hearing; decision; findings; judicial review; stay.

Sec. 10h. (1) A hearing under section 10 or 10g shall be conducted under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Within 30 days after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that shall include findings of fact supporting the decision and serve upon each party to the proceeding a copy of the decision and an order consistent with the decision.

(2) Except for a consent order, a party to the proceeding, or a person affected by an order issued under section 10 or section 10g may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(3) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (2) does not stay the commissioner's order.

487.2060i Enforcement of order; jurisdiction.

Sec. 10i. The commissioner may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under section 10, 10f, or 10g.

487.2060j Violation as misdemeanor; penalty.

Sec. 10j. Any current or former executive officer, director, agent, or control person who violates a final order issued under section 10g is guilty of a misdemeanor punishable by a fine of not more than $5,000.00 or imprisonment for not more than 1 year, or both.

487.2060k Violation of order; exceptions.

Sec. 10k. A control person who is subject to an order issued under section 10g(6) and who meets all of the following requirements is not in violation of the order:

(a) The control person shall not in any manner, directly or indirectly, participate in the control of a licensee after the date the order is issued.

(b) The control person shall within 6 months after the date the order is final transfer any interest the control person owns in a licensee to an unrelated third party.

487.2067 Prohibited activities or practices.

Sec. 17. A licensee under this act shall not do any of the following:

(a) Engage in the business of a real estate broker or real estate salesperson licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518.

(b) Engage in the business of a pawnbroker licensed under 1917 PA 273, MCL 446.201 to 446.219.

(c) Engage in the business of a debt management company licensed under the debt management act, 1975 PA 148, MCL 451.411 to 451.437.

(d) Entering into a tying arrangement through which the licensee conditions the sale of 1 financial service to a consumer on the agreement by the consumer to purchase 1 or more other financial services from the licensee, an affiliate, or subsidiary of the licensee.

(e) Knowingly permit a person to violate an order that has been issued under this act or any other financial licensing act that prohibits that person from being employed by, an agent of, or a control person of the licensee.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 391]

(SB 777)

AN ACT to amend 1987 PA 173, entitled "An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties," by amending sections 1a, 11, and 22 (MCL 445.1651a, 445.1661, and 445.1672), sections 1a and 22 as amended by 1996 PA 210, and by adding sections 18a, 18b, 18c, 18d, and 18e.

The People of the State of Michigan enact:

445.1651a Definitions.

Sec. 1a. As used in this act, unless the context requires otherwise:

(a) "Affiliate" means a person or group of persons that directly or indirectly through 1 or more intermediaries controls, is controlled by, or is under common control with another person and engaged in a business or transaction regulated by this act.

(b) "Commissioner" means the commissioner of the office of financial and insurance services of the department of consumer and industry services or his or her authorized agent.

(c) "Construction loan" means a mortgage loan for the purpose of constructing a 1-to-4 family dwelling, which loan is approved and closed before completion of the construction of the improvement on the real property.

(d) "Control person" means a director or executive officer of a licensee or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee or registrant.

(e) "Depository financial institution" means a state or nationally chartered bank, a state or federally chartered savings and loan association, savings bank, or credit union, or an entity of the federally chartered farm credit system.

(f) "Executive officer" means an officer, member, or partner of a licensee or registrant, including chief executive officer, president, vice president, chief financial officer, controller, compliance officer, or any other similar position.

(g) "Financial licensing act" means the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, and any of the acts listed in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(h) "Firm commitment" means an underwriting in which a broker-dealer commits to buy the mortgage loan or the entire issue of securities based upon or backed by 1 or more mortgage loans and assumes all financial responsibility for any unsold securities.

(i) "Individual investor" means a person residing in this state or having its principal place of business in this state, other than a bank, savings bank, savings and loan association, credit union, trust company, insurance company, investment company as defined in the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64, pension or profit sharing plan, the assets of which are managed by a bank or trust company or other institutional manager, financial institution, institutional manager, broker-dealer that is a member of the New York stock exchange or registered under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, the federal national mortgage association, the government national mortgage association, the federal home loan mortgage corporation, or a mortgage lender or mortgage servicer.

(j) "License" means a license issued under this act.

(k) "Licensee" means a person licensed or required to be licensed under this act.

(*l*) "Mortgage broker" means a person who, directly or indirectly, does 1 or both of the following:

(*i*) Serves or offers to serve as an agent for a person in an attempt to obtain a mortgage loan.

(*ii*) Serves or offers to serve as an agent for a person who makes or offers to make mortgage loans.

(m) "Mortgage lender" means a person who, directly or indirectly, makes or offers to make mortgage loans.

(n) "Mortgage loan" means a loan secured by a first mortgage on real property located in this state and used, or improved to be used, as a dwelling and designed for occupancy by 4 or fewer families or a land contract covering real property located in this state used, or improved to be used, as a dwelling and designed for occupancy by 4 or fewer families. A mortgage loan does not include a home improvement installment contract under the home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.

(o) "Mortgage servicer" means a person who, directly or indirectly, services or offers to service mortgage loans.

(p) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(q) "Real estate broker" means a broker or associate broker licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518.

(r) "Real estate salesperson" means a salesperson licensed under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518.

(s) "Register" means filing a notice with the commissioner on a form prescribed by the commissioner that notifies the commissioner of the intent to engage in the activities of a mortgage broker, mortgage lender, or mortgage servicer in this state and the payment of any fees required under this act, along with the other documents, proofs, and fees required by the commissioner.

(t) "Registrant" means a person registered or required to be registered under this act.

(u) "Service" means the collection or remittance, or the right or obligation to collect or remit, for a lender, noteowner, noteholder, mortgage servicer, or the licensee's or registrant's own account of 4 or more installment payments of the principal, interest, or an amount

placed in escrow under a mortgage loan, mortgage servicing agreement, or an agreement with the mortgagor.

445.1661 Powers of commissioner generally.

Sec. 11. (1) The commissioner shall exercise general supervision and control over mortgage brokers, mortgage lenders, and mortgage servicers doing business in this state.

(2) In addition to the other powers granted to the commissioner by this act, the commissioner shall have all of the following powers:

(a) To promulgate reasonable rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as necessary to implement and administer this act.

(b) To deny an application for a license.

(c) To conduct examinations and investigations of any person as necessary for the efficient enforcement of this act and the rules promulgated under this act.

(d) To advise the attorney general or the prosecuting attorney of the county in which the business is conducted that the commissioner believes a licensee, registrant, or person is violating this act. The attorney general or prosecuting attorney may take appropriate legal action to enjoin the operation of the business or prosecute violations of this act.

(e) To bring an action in the Ingham county circuit court in the name and on behalf of this state against the licensee, registrant, or any other person who is participating in, or about to participate in, any unsafe or injurious practice or act in violation of this act or a rule promulgated under this act, to enjoin the person from participating in or continuing the practice or engaging in the act.

(f) To order a person to cease and desist from a violation of this act or a rule promulgated under this act in accordance with section 16.

(g) To suspend or revoke a license or registration in accordance with section 29.

(h) To require that restitution be made in accordance with section 29.

(i) To assess a civil fine in accordance with section 29.

(j) To censure a licensee or registrant.

(k) To issue an order to prohibit a person from being employed by, an agent of, or control person of a licensee or registrant as provided under section 18a.

445.1668a Fraud; prohibition; notice; hearing; order.

Sec. 18a. (1) If in the opinion of the commissioner a person has engaged in fraud, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or control person of a licensee or registrant under this act or a licensee or registrant under a financial licensing act. For purposes of this section, "fraud" shall include actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing to be held not more than 60 days after the date of the notice. If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or registrant or from being

employed by, an agent of, or control person of any licensee or registrant under this act or a licensee or registrant under a financial licensing act.

(4) An order issued under subsection (2) or (3) is effective upon service upon the person. The commissioner shall also serve a copy of the order upon the licensee or registrant of which the person is an employee, agent, or control person. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to applicants for mortgage loans, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or control person of any licensee or registrant. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect pending the completion of a review as provided under this section and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection (6), the hearing required under subsection (2) to review the suspension shall be held not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a felony involving fraud, dishonesty, or breach of trust, the commissioner may issue an order suspending or prohibiting that person from being a licensee or registrant and from being employed by, an agent of, or control person of any licensee or registrant under this act or a licensee or registrant under a financial licensing act. After 5 years from the date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) The commissioner shall mail a copy of any notice or order issued under this section to the licensee or registrant of which the person subject to the notice or order is an employee, agent, or control person.

445.1668b Hearing; final decision; judicial review; effect of review on order.

Sec. 18b. (1) A hearing under section 16 or 18a shall be conducted under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Within 30 days after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that shall include findings of fact supporting the decision and serve upon each party to the proceeding a copy of the decision and an order consistent with the decision.

(2) Except for a consent order, a party to the proceeding, or a person affected by an order issued under section 16 or 18a may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(3) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (2) does not stay the commissioner's order.

445.1668c Enforcement of order; jurisdiction.

Sec. 18c. The commissioner may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under section 15, 16, or 18a.

445.1668d Violation as misdemeanor; penalty.

Sec. 18d. Any current or former executive officer, director, agent, or control person who violates a final order issued under section 18a is guilty of a misdemeanor punishable by a fine of not more than $5,000.00 or imprisonment for not more than 1 year, or both.

445.1668e Violation of order; exceptions.

Sec. 18e. A control person who is subject to an order issued under section 18a and who meets all of the following requirements is not in violation of the order:

(a) The control person shall not in any manner, directly or indirectly, participate in the control of a licensee or registrant after the date the order is issued.

(b) The control person shall within 6 months after the date the order is final transfer any interest the control person owns in a licensee or registrant to an unrelated third party.

445.1672 Violations generally.

Sec. 22. It is a violation of this act for a licensee or registrant to do any of the following:

(a) Fail to conduct the business in accordance with law, this act, or a rule promulgated or order issued under this act.

(b) Engage in fraud, deceit, or material misrepresentation in connection with any transaction governed by this act.

(c) Intentionally or due to gross or wanton negligence, repeatedly fail to provide borrowers material disclosures of information as required by law.

(d) Suppress or withhold from the commissioner any information that the licensee or registrant possesses and that, if submitted, would have made the licensee or registrant ineligible for licensing or registration under this act or would have warranted the commissioner's denial of a license application or refusal to accept a registration.

(e) Fail to comply with 1966 PA 125, MCL 565.161 to 565.164, regulating the handling of mortgage escrow accounts by mortgagees.

(f) Until proper disbursement is made, fail to place in a trust or escrow account held by a federally insured depository financial institution in a manner approved by the commissioner any money, funds, deposits, checks, drafts, or other negotiable instruments received by the licensee that the borrower is obligated to pay to a third party, including amounts paid to the holder of the mortgage loan, amounts for property taxes and insurance premiums, or amounts paid under an agreement that requires if the mortgage loan is not closed the amounts paid shall be refunded to the prospective borrower or if the mortgage loan is closed the amounts paid shall be applied to fees and costs incurred at the time the mortgage loan is closed. Fees and costs include, but are not limited to, title insurance premiums and recording fees. Fees and costs do not include amounts paid to cover costs incurred to process the mortgage loan application, to obtain an appraisal, or to receive a credit report.

(g) Refuse to permit an examination or investigation by the commissioner of the books and affairs of the licensee or registrant, or has refused or failed, within a reasonable time, to furnish any information or make any report that may be required by the commissioner under this act.

(h) To be convicted of a felony, or any misdemeanor of which an essential element is fraud.

(i) Refuse or fail to pay, within a reasonable time, those expenses assessed to the licensee or registrant under this act.

(j) Fail to make restitution after having been ordered to do so by the commissioner or an administrative agency, or fail to make restitution or pay damages to persons injured by the licensee's or registrant's business transactions after having been ordered to do so by a court.

(k) Fail to make a mortgage loan in accordance with a written commitment to make a mortgage loan issued to, and accepted by, a person when the person has timely and completely satisfied all the conditions of the commitment before the expiration of the commitment.

(*l*) Require a prospective borrower to deal exclusively with the licensee or registrant in regard to a mortgage loan application.

(m) Take a security interest in real property before closing the mortgage loan to secure payment of fees assessed in connection with a mortgage loan application.

(n) Except as provided under section 18e, knowingly permit a person to violate an order that has been issued under this act or any other financial licensing act that prohibits that person from being employed by, an agent of, or a control person of the licensee or registrant.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 392]

(SB 778)

AN ACT to amend 1981 PA 125, entitled "An act to regulate secondary mortgage loans; to prescribe powers and duties of certain state agencies and officials; to require certain fees; to provide for the establishment of a revolving fund; to provide for the promulgation of rules; and to prescribe civil fines and penalties," by amending sections 1, 6b, and 24 (MCL 493.51, 493.56b, and 493.74), sections 1 and 24 as amended and section 6b as added by 1997 PA 91, and by adding sections 14a, 14b, 14c, 14d, and 14e.

The People of the State of Michigan enact:

493.51 Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as "the secondary mortgage loan act".

(2) As used in this act:

(a) "Broker" means a person who, directly or indirectly, does 1 or both of the following:

(*i*) Serves or offers to serve as an agent for a person attempting to obtain a secondary mortgage loan.

(*ii*) Serves or offers to serve as an agent for a person who makes or offers to make a secondary mortgage loan.

(b) "Commissioner" means the commissioner of the office of financial and insurance services of the department of consumer and industry services and any authorized representatives of the commissioner.

(c) "Control person" means a director or executive officer of a licensee or registrant or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee or registrant.

(d) "Depository financial institution" means a state or nationally chartered bank, state or federal chartered savings and loan association, savings bank, or credit union, or any other institution whose deposits are insured by an agency of the federal government.

(e) "Exclusive broker" means a person that brokers secondary mortgage loans solely to 1 licensee or registrant, is compensated solely by that licensee or registrant, and is indemnified by the licensee or registrant as provided in section 6. The actions or practices of an exclusive broker in brokering a secondary mortgage loan are the actions or practices of the licensee or registrant.

(f) "Executive officer" means an officer, member, or partner of a licensee or registrant, including chief executive officer, president, vice president, chief financial officer, controller, compliance officer, or any other similar position.

(g) "Financial licensing act" means the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, and any act listed in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(h) "Lender" means a person who, directly or indirectly, makes or offers to make secondary mortgage loans.

(i) "Licensee" means a person licensed or required to be licensed under this act. A licensee does not include a depository financial institution.

(j) "Loan servicing customer" means a mortgagor whose secondary mortgage loan is being serviced by a servicer.

(k) "Open-end credit" means credit extended under a plan in which both of the following apply:

(*i*) The licensee or registrant reasonably contemplates repeated transactions.

(*ii*) The amount of credit that may be extended to the borrower during the term of the plan is generally made available to the extent that any part of the outstanding balance is repaid.

(*l*) "Person" means an individual, corporation, partnership, association, or other legal entity.

(m) "Registrant" means a person registered or required to be registered under this act. A registrant does not include a depository financial institution.

(n) "Secondary mortgage loan" means a loan that is not to be repaid within 90 days, that is made to a person for personal, family, or household purposes, and that is secured by a mortgage upon an interest in real property used as a dwelling if the property is subject to a lien of 1 or more prior mortgages. The loan may be secured by other collateral in addition to real property. Notwithstanding the place of execution, nominal or real, of a secondary mortgage loan, if the real property that secures the loan is located in this state, the secondary mortgage loan is subject to this act and all other applicable laws of this state.

(o) "Service" means the collection or remittance for a lender, noteowner, noteholder, or the licensee's own account of 4 or more installment payments of the principal, interest,

or an amount placed in escrow under a secondary mortgage loan, mortgage servicing agreement, or an agreement with the mortgagor.

(p) "Servicer" means a person who, directly or indirectly, services or offers to service secondary mortgage loans.

493.56b Powers of commissioner.

Sec. 6b. (1) The commissioner shall exercise general supervision and control over brokers, lenders, and servicers doing business in this state.

(2) In addition to the other powers granted by this act, the commissioner may do any of the following:

(a) Deny an application for a license or registration.

(b) Conduct examinations and investigations of any person, as necessary to enforce this act and the rules promulgated under this act.

(c) Investigate complaints filed against licensees or registrants.

(d) Advise the attorney general or the prosecuting attorney of the county in which the business is conducted that the commissioner believes a licensee, registrant, or person is violating this act. The attorney general or prosecuting attorney shall bring a legal action to enjoin the operation of the business or prosecute violations of this act.

(e) Bring an action in the Ingham county circuit court to enjoin a person from participating in, continuing to practice, or from engaging in a practice that is an unsafe or injurious practice or that violates this act or a rule promulgated under this act.

(f) Order a person to cease and desist from a violation of this act or a rule promulgated under this act as provided under section 14.

(g) Suspend, revoke, or refuse to issue a license or registration as provided under section 11.

(h) Assess a civil fine as provided under section 27.

(i) Appoint a conservator as provided under section 12a.

(j) Issue an order to prohibit a person from being employed by, an agent of, or control person of, a licensee or registrant as provided under section 14a.

(k) Censure a licensee or registrant.

(3) In the conduct of any examination or investigation under this act, the commissioner may do any of the following:

(a) Issue a subpoena as provided under section 15.

(b) Administer oaths as provided under section 15.

(c) Interrogate a person under oath concerning the business and conduct of affairs of a person subject to this act, and require the production of books, records, or papers relative to the inquiry.

(d) Have free access during regular business hours to the offices, places of business, or other location where the licensee, registrant, or an affiliate of a licensee or registrant, maintains business-related documents, and to the books, accounts, papers, records, files, documents, safes, and vaults of a licensee or registrant. The information obtained during the examination or investigation is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be available for public inspection or copying or divulged to any person except as follows:

(*i*) To the attorney general.

(*ii*) To a regulatory agency.

(*iii*) In connection with an enforcement action brought under this or another applicable act.

(*iv*) To law enforcement officials.

(*v*) To persons authorized by the Ingham county circuit court to receive the information.

(e) Employ independent investigators to conduct a part or all of the investigation, in the case of an investigation other than an examination.

493.64a Fraud.

Sec. 14a. (1) If in the opinion of the commissioner a person has engaged in fraud, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or control person of a licensee or registrant under this act or a licensee or registrant under a financial licensing act. For purposes of this section, "fraud" shall include actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing to be held not more than 60 days after the date of the notice. If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or registrant or from being employed by, an agent of, or control person of any licensee or registrant under this act or a licensee or registrant under a financial licensing act.

(4) An order issued under subsection (2) or (3) is effective upon service upon the person. The commissioner shall also serve a copy of the order upon the licensee or registrant of which the person is an employee, agent, or control person. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to applicants for secondary mortgage loans, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or control person of any licensee or registrant. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect pending the completion of a review as provided under this section and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection (6), the hearing required under subsection (2) to review the suspension shall be held not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a felony involving fraud, dishonesty, or breach of trust, the commissioner may issue an order suspending or prohibiting that person from being a licensee or registrant and from being employed by, an agent of, or control person of any licensee or registrant under this act or a licensee or registrant under a financial licensing

act. After 5 years from the date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) The commissioner shall mail a copy of any notice or order issued under this section to the licensee or registrant of which the person subject to the notice or order is an employee, agent, or control person.

493.64b Hearing; final decision; judicial review; stay of commissioner's order.

Sec. 14b. (1) A hearing under section 14 or 14a shall be conducted under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Within 30 days after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that shall include findings of fact supporting the decision and serve upon each party to the proceeding a copy of the decision and an order consistent with the decision.

(2) Except for a consent order, a party to the proceeding, or a person affected by an order issued under section 14 or 14a may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(3) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (2) does not stay the commissioner's order.

493.64c Enforcement of order; jurisdiction.

Sec. 14c. The commissioner may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under section 8, 14, or 14a.

493.64d Violation as misdemeanor; penalty.

Sec. 14d. Any current or former executive officer, director, agent, or control person who violates a final order issued under section 14a is guilty of a misdemeanor punishable by a fine of not more than $5,000.00 or imprisonment for not more than 1 year, or both.

493.64e Violation of order; exceptions.

Sec. 14e. A control person who is subject to an order issued under section 14a and who meets all of the following requirements is not in violation of the order:

(a) The control person shall not in any manner, directly or indirectly, participate in the control of a licensee or registrant after the date the order is issued.

(b) The control person shall within 6 months after the date the order is final transfer any interest the control person owns in a licensee or registrant to an unrelated third party.

493.74 Licensee or registrant; prohibited conduct.

Sec. 24. (1) A licensee or registrant shall not transfer or assign a secondary mortgage loan or a security directly representing an interest in 1 or more secondary mortgage loans before the disbursement of 75% or more of the proceeds of the secondary mortgage loan to, or for the benefit of, the borrower. This subsection shall not apply to any of the following:

(a) A land contract not considered to be an equitable secondary mortgage.

(b) A loan made under a state or federal government program that allows the lender to escrow more than 25% of the proceeds for a limited period of time.

(c) A construction loan.

(d) A secondary mortgage loan that provides in writing that the loan proceeds shall be disbursed to or for the benefit of the borrower in installments or upon the request of the borrower or upon the completion of renovations or repairs to the dwelling situated on the real property subject to the secondary mortgage loan.

(2) It is a violation of this act for a licensee or registrant to do any of the following:

(a) Suppress or withhold from the commissioner any information that the licensee or registrant possesses that would make the licensee or registrant ineligible for licensing or registration under this act or would warrant the commissioner's denial of a license or registration application.

(b) Violate any provisions of 1966 PA 125, MCL 565.161 to 565.164, regulating the handling of mortgage escrow accounts by mortgagees.

(c) Until proper disbursement is made, fail to place in a trust or escrow account held by a depository financial institution in a manner approved by the commissioner any money, funds, deposits, checks, drafts, or other negotiable instruments received by a broker, lender, or servicer that is the portion of a payment on a secondary mortgage loan that the person is obligated to pay to a third party. The deposits shall include amounts paid to the holder of the secondary mortgage loan, amounts for property taxes and insurance premiums, and amounts paid under an agreement that requires, if the secondary mortgage loan is not closed, the amounts paid shall be refunded to the prospective borrower, or if the secondary mortgage loan is closed, the amounts paid shall be applied to fees and costs incurred at the time the secondary mortgage loan is closed. Fees and costs include, but are not limited to, title insurance premiums and recording fees. Fees and costs do not include amounts paid to cover costs incurred to process the secondary mortgage loan application, to obtain an appraisal, or to receive a credit report.

(d) Refuse to permit an examination or investigation by the commissioner of the books and affairs of the licensee or registrant, or refuse or fail, within a reasonable time, to furnish any information or make a report that may be required by the commissioner under this act.

(e) Be convicted of a felony, or any misdemeanor of which an essential element is fraud.

(f) Refuse or fail to pay within a reasonable time expenses assessed under this act.

(g) Fail to make restitution after having been ordered to do so by the commissioner or an administrative agency, or fail to make restitution or pay damages to persons injured by the licensee's or registrant's business transactions after having been ordered to do so by a court.

(h) Fail to make a secondary mortgage loan pursuant to, and in accordance with, a written commitment to make a secondary mortgage loan issued to, and accepted by, a person when the person has timely and completely satisfied all the conditions of the commitment prior to the expiration of the commitment.

(i) Require a prospective borrower to deal exclusively with the licensee or registrant in regard to a secondary mortgage loan application.

(j) Take a security interest in real property before closing the secondary mortgage loan to secure payment of fees assessed in connection with a secondary mortgage loan application.

(k) Except as otherwise provided under section 14e, knowingly permit a person to violate an order that has been issued under this act or any other financial licensing act

that prohibits that person from being employed by, an agent of, or a control person of the licensee or registrant.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 393]

(SB 779)

AN ACT to amend 1939 PA 21, entitled "An act to define and regulate the business of making regulatory loans; to permit the licensing of persons engaged in that business; to provide for the administration of this act and for the promulgation of rules; and to prescribe penalties," by amending sections 1 and 12 (MCL 493.1 and 493.12), as amended by 2001 PA 270, and by adding sections 9a, 9b, 9c, 9d, 9e, 9f, and 9g.

The People of the State of Michigan enact:

493.1 Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as the "regulatory loan act".

(2) As used in this act:

(a) "Advertising" means publishing or broadcasting, or causing to be published or broadcast, material that has been prepared for public distribution by means of newspapers, magazines, or electronic media. Advertising does not include a stockholder communication, such as an annual report, interim financial report, registration statement, security, prospectus, application for listing a security on a stock exchange, or proxy materials. Advertising does not include a communication addressed to a person who has previously executed a loan agreement relative to that person's account.

(b) "Assets" means liquid assets, collectible loans made in accordance with this act, and personal property acquired in the general conduct of business transacted under this act.

(c) "Commissioner" means the commissioner of the office of financial and insurance services in the department of consumer and industry services.

(d) "Control person" means a director or executive officer of a licensee or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee.

(e) "Executive officer" means an officer, member, or partner of a licensee, including chief executive officer, president, vice president, chief financial officer, controller, compliance officer, or any other similar position.

(f) "Financial licensing act" means any act listed in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(g) "License" means a single license issued to a single place of business.

(h) "Licensee" means a person licensed or required to be licensed under this act.

(i) "Liquid assets" means cash, unrestricted deposits in banks, and readily marketable securities at their then market value.

(j) "Loan" or "regulatory loan" means a loan made by a licensee to an individual for personal, family, or household use.

(k) "Person" means an individual, partnership, association, corporation, limited liability company, or other legal entity.

493.9a Cease and desist order; grounds; notice; failure to appear at hearing; findings; effective date and duration of order.

Sec. 9a. (1) If in the opinion of the commissioner a licensee is, has, or is about to engage in a practice that poses a threat of financial loss or threat to the public welfare or is, has, or is about to violate a law or rule, the commissioner may serve a notice of intention to issue a cease and desist order as provided in subsection (2).

(2) A notice served under this section shall contain a statement of the facts constituting the alleged practice or violation and fix a time and place at which a hearing will be held to determine whether an order to cease and desist should be issued against the licensee.

(3) If the licensee fails to appear at the hearing by a duly authorized representative, the licensee shall have consented to the issuance of the cease and desist order.

(4) In the event of consent under subsection (3) or if, upon the record made at the hearing, the commissioner finds that the practice or violation specified in the notice has been established, the commissioner may serve upon the licensee an order to cease and desist from the practice or violation. The order may require the licensee and its officers, directors, members, partners, trustees, employees, agents, and control persons to cease and desist from the practice or violation and to take affirmative action to correct the conditions resulting from the practice or violation.

(5) Except as provided in subsection (6) or to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, a cease and desist order shall become effective on the date of service.

(6) A cease and desist order issued upon consent shall become effective at the time specified in the order and remain effective and enforceable as provided in the order.

493.9b Investigation or examination by commissioner; complaint or action; suspension of license; request for hearing; duration of suspension.

Sec. 9b. (1) As provided in section 10, the commissioner may investigate or conduct an examination of any person and conduct hearings as the commissioner considers necessary to determine whether a licensee or any other person has violated this act, or whether a licensee has conducted business in a manner that would justify suspension or revocation of its license.

(2) Upon the filing of a complaint or the taking of action against a licensee under section 9c, the commissioner may issue and serve upon a licensee an order suspending that person's license. The order shall be supported by an affidavit from a person familiar with the facts set forth in the affidavit and shall contain information that an imminent threat of financial loss or threat to the public welfare exists.

(3) Upon service of the order under subsection (2), the licensee shall have 20 days to file with the commissioner a request for a hearing. The hearing shall be scheduled within 20 days of the receipt of a request filed under this subsection.

(4) A suspension of a license under this section shall continue until the commissioner finds that the threat of financial loss or threat to the public welfare no longer exists.

493.9c Fraud.

Sec. 9c. (1) If in the opinion of the commissioner a person has engaged in fraud, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or control person of a licensee under this act or a licensee or registrant under a financial licensing act. For purposes of this section, "fraud" shall include actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing to be held not more than 60 days after the date of the notice. If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or registrant or from being employed by, an agent of, or control person of any licensee under this act or a licensee or registrant under a financial licensing act.

(4) An order issued under subsection (2) or (3) is effective upon service upon the person. The commissioner shall also serve a copy of the order upon the licensee of which the person is an employee, agent, or control person. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to applicants for loans, mortgage loans, secondary mortgage loans, credit card arrangements, or installment sales credit, borrowers on loans, obligors on installment sale contracts, loan servicing customers, purchasers of mortgage loans or interests in mortgage loans, or purchasers of checks from a licensee, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or control person of any licensee. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect pending the completion of a review as provided under this section and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection (6), the hearing required under subsection (2) to review the suspension shall be held not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a felony involving fraud, dishonesty, or breach of trust, the commissioner may issue an order suspending or prohibiting that person from being a licensee and from being employed by, an agent of, or control person of any licensee under this act or a licensee or registrant under a financial licensing act. After 5 years from the date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) the commissioner shall mail a copy of any notice or order issued under this section to the licensee of which the person subject to the notice or order is an employee, agent, or control person.

493.9d Hearing; decision; findings; judicial review; stay.

Sec. 9d. (1) A hearing under sections 9, 9a, and 9c shall be conducted under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Within 30 days

after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that shall include findings of fact supporting the decision and serve upon each party to the proceeding a copy of the decision and an order consistent with the decision.

(2) Except for a consent order, a party to the proceeding or a person affected by an order issued under sections 9, 9a, and 9c may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(3) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (2) does not stay the commissioner's order.

493.9e Enforcement of order; jurisdiction.

Sec. 9e. The commissioner may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under section 9, 9a, 9b, or 9c.

493.9f Violation as misdemeanor; penalty.

Sec. 9f. Any current or former executive officer, director, agent, or control person who violates a final order issued under section 9c is guilty of a misdemeanor punishable by a fine of not more than $5,000.00 or imprisonment for not more than 1 year, or both.

493.9g Violation of order; exceptions.

Sec. 9g. A control person who is subject to an order issued under section 9c and who meets all of the following requirements is not in violation of the order:

(a) The control person shall not in any manner, directly or indirectly, participate in the control of a licensee after the date the order is issued.

(b) The control person shall within 6 months after the date the order is final transfer any interest the control person owns in a licensee to an unrelated third party.

493.12 Statements or representations by licensee; lien on real estate; confession of judgment or power of attorney prohibited; note or evidence of indebtedness; blanks; discrimination on basis of sex or marital status prohibited.

Sec. 12. (1) A licensee or other person shall not advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever a false, misleading, or deceptive statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action.

(2) A licensee shall not take a lien upon real estate as security for a loan made under this act, except a lien acquired by execution or otherwise after the entry of a judgment.

(3) A licensee shall not take a confession of judgment or a power of attorney to appear or to confess judgment on behalf of a borrower. A licensee shall not take a note or evidence of indebtedness that does not accurately disclose the actual amount of the loan, the time for which it is made, and the agreed rate of charge, or an instrument in which blanks are left to be filled in after execution.

(4) A licensee shall not discriminate against a person in the extension of credit on the basis of sex or marital status.

(5) Except as provided under section 9g, a licensee shall not knowingly permit a person to violate an order that has been issued under this act or any other financial licensing act that prohibits that person from being employed by, an agent of, or a control person of the licensee.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 394]

(SB 780)

AN ACT to amend 1960 PA 136, entitled "An act in relation to the definition, licensing and regulating of the business of selling and issuing checks, drafts and money orders as a service or for a fee or other consideration; to permit the licensing of persons engaged in such business; to provide for the administration of this act; and to prescribe penalties," by amending sections 2, 12, and 15 (MCL 487.902, 487.912, and 487.915), sections 2 and 12 as amended by 1986 PA 275, and by adding sections 12b, 12c, 12d, 12e, 12f, 12g, and 12h.

The People of the State of Michigan enact:

487.902 Definitions.

Sec. 2. As used in this act:

(a) "Check" means any check, draft, money order, or other instrument for the transmission or payment of money.

(b) "Commissioner" means the commissioner of the office of financial and insurance services and any authorized representative of the commissioner.

(c) "Control person" means a director or executive officer of a licensee or a person who has the authority to participate in the direction, directly or indirectly through 1 or more other persons, of the management or policies of a licensee.

(d) "Executive officer" means an officer, member, or partner of a licensee, including chief executive officer, president, vice president, chief financial officer, controller, compliance officer, or any other similar position.

(e) "Financial licensing act" means the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, and any act listed in section 2 of the consumer financial services act, 1988 PA 161, MCL 487.2052.

(f) "Licensee" means a person licensed under this act.

(g) "Permissible investments" means 1 or more of the following:

(*i*) Cash.

(*ii*) Certificates of deposit or other debt instruments of a financial institution that are insured by an agency of the federal government and readily marketable.

(*iii*) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by member banks of the federal reserve system.

(*iv*) Commercial paper of prime quality as defined by a nationally recognized organization that rates commercial paper.

(*v*) Investment securities that are obligations of the United States or any of its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States, or any obligations of any state, municipality, or any political subdivision of any state or municipality.

(*vi*) Shares in a money market mutual fund, or interest-bearing bills, notes, or bonds.

(*vii*) Common or preferred stock traded on a national securities exchange. Investments in stock under this subparagraph shall not exceed 10% of the amount of permissible investments held by a licensee or 20% of the net worth of the licensee, whichever is less.

(*viii*) Any receivable that is due to any licensee from its agents under an agreement described in section 10a.

(*ix*) A demand borrowing agreement or agreements in an amount or aggregate amount that does not exceed 10% of the net worth of the company liable for payment under the agreement as shown on financial statements certified by a certified public accountant acceptable to the commissioner, which company is a corporation or a subsidiary of a corporation whose capital stock is listed on a national exchange and is not a licensee or agent of a licensee. The borrowing agreements shall be filed with the commissioner.

(*x*) Any other investments approved by the commissioner.

(h) "Person" means an individual, partnership, association, corporation, limited liability company, or any other entity.

(i) "Travelers check" means an instrument for the payment of money or a foreign currency instrument in any denomination, that provides for both of the following:

(*i*) A specimen signature of the purchaser to be completed at the time of purchase of the instrument.

(*ii*) A countersignature of the purchaser, to be completed when the instrument is negotiated.

487.912 License; denial, suspension, or revocation; notice; hearing; appeal; investigations and hearings; subpoena of evidence; oaths and affirmations; noncompliance with subpoena or failure to testify; order.

Sec. 12. (1) A license shall not be denied, suspended, or revoked except on 10 days' notice to the applicant or licensee setting forth in writing the reasons for the denial, suspension, or revocation. Within 5 days after receipt of the notice the applicant or licensee may make written demand for a hearing. The commissioner with reasonable promptness shall hear and determine the matter as provided by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the applicant or licensee considers itself aggrieved by the order of the commissioner, the applicant or licensee may appeal within 30 days from the date of the order to the circuit court in the manner provided by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and shall be entitled to the same judicial review as provided in that act. If an appeal is taken from an order revoking any license, the effect of the order may be stayed by the court pending the final determination of the appeal.

(2) The commissioner may make investigations and conduct hearings as the commissioner considers necessary to determine whether any licensee or any other person has violated

this act, or whether a licensee has conducted business in a manner that would justify suspension or revocation of its license.

(3) The commissioner may subpoena witnesses and documents, papers, books, records, and other evidence in any matter over which the commissioner has jurisdiction, control, or supervision. The commissioner may administer oaths and affirmations to any person whose testimony is required.

(4) If a person fails to comply with a subpoena issued by the commissioner or to testify with respect to any matter concerning which the person may be lawfully questioned, the commissioner may petition the circuit court for Ingham county to issue an order requiring the attendance of the person and the giving of testimony or production of evidence.

487.912b Cease and desist order.

Sec. 12b. (1) If in the opinion of the commissioner a licensee is, has, or is about to engage in a practice that poses a threat of financial loss or threat to the public welfare, or is, has, or is about to violate a law or rule, the commissioner may serve a notice of intention to issue a cease and desist order as provided in subsection (2).

(2) A notice served under this section shall contain a statement of the facts constituting the alleged practice or violation, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should be issued against the licensee.

(3) If the licensee fails to appear at the hearing by a duly authorized representative, the licensee shall have consented to the issuance of the cease and desist order.

(4) In the event of consent under subsection (3), or if upon the record made at the hearing, the commissioner finds that the practice or violation specified in the notice has been established, the commissioner may serve upon the licensee an order to cease and desist from the practice or violation. The order may require the licensee and its officers, directors, members, partners, trustees, employees, agents, and persons exercising control over the business activities of the licensee to cease and desist from the practice or violation and to take affirmative action to correct the conditions resulting from the practice or violation.

(5) Except as provided in subsection (6) or to the extent it is stayed, modified, terminated, or set aside by the commissioner or a court, a cease and desist order shall become effective on the date of service.

(6) A cease and desist order issued upon consent shall become effective at the time specified in the order and remain effective and enforceable as provided in the order.

487.912c Suspension or revocation of order.

Sec. 12c. (1) As provided in section 14, the commissioner may investigate or conduct an examination of any person and conduct hearings as the commissioner considers necessary to determine whether a licensee or any other person has violated this act, or whether a licensee has conducted business in a manner that would justify suspension or revocation of its license.

(2) Upon the filing of a complaint or the taking of action against a licensee under section 12b, the commissioner may issue and serve upon a licensee an order suspending that person's license. The order shall be supported by an affidavit from a person familiar with the facts set forth in the affidavit and shall contain information that an imminent threat of financial loss or threat to the public welfare exists.

(3) Upon service of the order under subsection (2), the licensee shall have 20 days to file with the commissioner a request for a hearing. The hearing shall be scheduled within 20 days of the receipt of a request filed under this subsection.

(4) A suspension of a license under this section shall continue until the commissioner finds that the threat of financial loss or threat to the public welfare no longer exists.

487.912d Fraud.

Sec. 12d. (1) If in the opinion of the commissioner a person has engaged in fraud, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or control person of a licensee under this act or a licensee or registrant under a financial licensing act. For purposes of this section, "fraud" shall include actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.

(2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing to be held not more than 60 days after the date of the notice. If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.

(3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or registrant or from being employed by, an agent of, or control person of any licensee under this act or a licensee or registrant under a financial licensing act.

(4) An order issued under subsection (2) or (3) is effective upon service upon the person. The commissioner shall also serve a copy of the order upon the licensee of which the person is an employee, agent, or control person. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.

(5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.

(6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to purchasers of checks from a licensee, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or control person of any licensee. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect pending the completion of a review as provided under this section and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection (6), the hearing required under subsection (2) to review the suspension shall be held not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a felony involving fraud, dishonesty, or breach of trust, the commissioner may issue an order suspending or prohibiting that person from being a licensee and from being employed by, an agent of, or control person of any licensee under this act or a licensee or registrant under a financial licensing act. After 5 years from the date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) The commissioner shall mail a copy of any notice or order issued under this section to the licensee of which the person subject to the notice or order is an employee, agent, or control person.

487.912e Hearing; final decision; judicial review; stay of commissioner's order.

Sec. 12e. (1) A hearing under section 12b or 12d shall be conducted under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Within 30 days after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that shall include findings of fact supporting the decision and serve upon each party to the proceeding a copy of the decision and an order consistent with the decision.

(2) Except for a consent order, a party to the proceeding, or a person affected by an order issued under section 12b or section 12d may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(3) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (2) does not stay the commissioner's order.

487.912f Enforcement.

Sec. 12f. The commissioner may apply to the circuit court of Ingham county for the enforcement of any outstanding order issued under section 12b, 12c, or 12d.

487.912g Violation as misdemeanor.

Sec. 12g. In addition to any other penalties provided for under this act, any current or former executive officer, director, agent, or control person who violates a final order issued under section 12d is guilty of a misdemeanor punishable by a fine of not more than $5,000.00 or imprisonment for not more than 1 year, or both.

487.912h Violation of order; exceptions.

Sec. 12h. A control person who is subject to an order issued under section 12d and who meets all of the following requirements is not in violation of the order:

(a) The control person shall not in any manner, directly or indirectly, participate in the control of a licensee after the date the order is issued.

(b) The control person shall within 6 months after the date the order is final transfer any interest the control person owns in a licensee to an unrelated third party.

487.915 Violation of act as misdemeanor; penalty; separate offense.

Sec. 15. (1) Except as provided under section 12h, a licensee shall not knowingly permit a person to violate an order that has been issued under this act or any other financial licensing act that prohibits that person from being employed by, an agent of, or a control person of the licensee.

(2) A person that violates this act is guilty of a misdemeanor punishable by a fine of not more than $100.00 or by imprisonment for not more than 90 days, or both. Each

transaction in violation of this act and each day that a violation continues is a separate offense under this section.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 395]

(HB 5850)

AN ACT to amend 1987 PA 230, entitled "An act to authorize certain local governmental units to incorporate municipal health facilities corporations and subsidiary municipal health facilities corporations for establishing, modifying, operating, and managing health services and acquiring, constructing, adding to, repairing, remodeling, renovating, equipping, and re-equipping hospitals and other health care facilities and related purposes; to provide for the application of this act to existing municipal hospitals and for the transfer of ownership of hospital funds and personal property; to validate and ratify the existence, organization, actions, proceedings, and board membership of existing organizations acting as county public hospitals; to provide for the appointment of trustees; to grant certain powers of a public body corporate to health facilities corporations and subsidiary health facilities corporations; to empower certain local governmental units to encumber property for the benefit of, transfer or make property available to, issue bonds to construct facilities to be used by, appropriate funds for, and levy a tax for, municipal health facilities corporations and subsidiary municipal health facilities corporations; to empower certain local governmental units to guarantee obligations of municipal health facilities corporations and subsidiary municipal health facilities corporations and to permit certain local governmental units to pledge their full faith and credit to pay such guaranties; to provide for transfer of ownership or operation of health care facilities and health services to nonprofit health care organizations; to authorize municipal health facilities corporations and subsidiary municipal health facilities corporations to borrow money and issue notes for the purposes of meeting expenses of operation and to issue corporation obligations for the purpose of acquisition, construction, repair, remodeling, equipping or re-equipping of health care facilities and for the refinancing, refunding, or refunding in advance of indebtedness of the municipal health facilities corporations or the subsidiary municipal health facilities corporations or of indebtedness of certain local governmental units undertaken on their behalf; to authorize municipal health facilities corporations and subsidiary municipal health facilities corporations to enter into mortgages, deeds of trust, and other agreements for security which may include provisions for the appointment of receivers; to exempt obligations and property of municipal health facilities corporations and subsidiary municipal health facilities corporations from taxation; and to provide other rights, powers, and duties of municipal health facilities corporations and subsidiary municipal health facilities corporations," by amending sections 401, 406, and 412 (MCL 331.1401, 331.1406, and 331.1412), as amended by 1988 PA 502.

The People of the State of Michigan enact:

331.1401 Board of trustees or subsidiary board; power to borrow money and issue notes; resolution; applicability of revised municipal finance act.

Sec. 401. (1) A board of trustees or subsidiary board may borrow money and issue notes, which shall mature not more than 18 months from the date of their issuance, for the

purpose of meeting current expenses of operation and maintenance of its health care facilities and health services. The resolution authorizing the issuance of the notes shall provide for the pledging of income and revenues of the corporation or subsidiary corporation for the payment of the notes, and may also provide for a special sinking fund into which there shall be paid as collected, a sufficient fund from the revenues of the corporation or subsidiary corporation to retire both the principal and interest of the notes at or before maturity. The resolution may also provide for the mortgaging, pledging, or granting of security interests or other liens in other assets of the corporation or subsidiary corporation as additional security for the payment of the notes.

(2) Except as provided in subsection (3), notes issued under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The issuance of notes described in this subsection is subject to the agency financing reporting act.

(3) Notes issued under this section that pledge the full faith and credit of the corporation are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

331.1406 Corporation obligations generally.

Sec. 406. (1) Corporation obligations shall be authorized by resolution adopted by a majority vote of the members serving on the board of trustees of the corporation or the subsidiary board of the subsidiary corporation issuing the corporation obligations. However, the resolution shall not take effect until issuance of the corporation obligations has been approved by a majority vote of the members serving on the county board of commissioners, city council, or village council and, in the case of issuance of corporation obligations by a subsidiary corporation, also by a majority vote of the members serving on the board of trustees of its parent corporation. Approval of issuance of corporation obligations by the county board of commissioners, city council, or village council and, if applicable, by the board of trustees of the parent corporation, may take place before or after adoption of the resolution authorizing issuance by the issuing corporation or subsidiary corporation.

(2) Corporation obligations shall be dated, have the maturities, bear interest at the times and the rates, be in the denominations, be in the form, either coupon or registered or both and either certificate or book entry, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places and be subject to the terms of redemption and other terms as the resolution provides. Corporation obligations may be sold and remarketed by the corporation or subsidiary corporation or by an authorized officer or agent of the corporation or subsidiary corporation, at public or private sale, at the price or prices, the interest rates, and the maturities as the corporation or subsidiary corporation or an authorized officer or agent of the corporation or subsidiary corporation determines in accordance with limits established by the corporation or subsidiary corporation. The corporation or subsidiary corporation may authorize rates of interest that are variable by reference to 1 or more interest rate indices designated by the corporation or subsidiary corporation or to the rate or rates of interest borne by 1 or more series of obligations of the state or the United States, or to a rate or rates of interest announced by the bank or savings and loan association organized under the laws of the United States or any state as the corporation or subsidiary corporation may designate. The corporation obligations may be sold at a discount and at an interest rate or rates that may be varied by an authorized officer or agent of the corporation or subsidiary corporation within the limits established by the corporation or subsidiary corporation as provided in the resolution. Corporation obligations shall not be sold at a price that would make the interest costs on the money borrowed exceed the maximum interest rate then permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

331.1412 Corporation obligations; statutory provisions to which issuance of obligations subject; legality.

Sec. 412. (1) Except as provided in subsection (2), the corporation obligations shall not be subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The issuance of corporate obligations described in this subsection is subject to the agency financing reporting act.

(2) Corporate obligations for which a local governmental unit pledges its full faith and credit to guarantee payment are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 396]

(HB 4625)

AN ACT to authorize the issuance of general obligation bonds of the state and to pledge the full faith and credit of the state for the payment of principal and interest on the bonds to finance sewage treatment works projects, storm water projects, and nonpoint source projects, that improve the quality of the waters of the state; to pay for issuing the bonds; to provide for other measures relating to the bonds; and to provide for the submission of the question of the issuance of the bonds to the electors of the state.

The People of the State of Michigan enact:

324.95201 Short title.

Sec. 1. This act shall be known and may be cited as the "Great Lakes water quality bond authorization act".

324.95202 Financing sewage treatment works projects, storm water projects, and nonpoint source projects; bonds.

Sec. 2. The state shall borrow a sum not to exceed $1,000,000,000.00 and issue the general obligation bonds of the state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance sewage treatment works projects, storm water projects, and nonpoint source projects, that improve the quality of the waters of the state.

324.95203 Bonds; issuance; conditions and procedures.

Sec. 3. Bonds shall be issued in accordance with conditions and procedures to be established by law.

324.95204 Disposition of bond proceeds.

Sec. 4. The proceeds of the sale of any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be deposited in the state treasury and credited to a restricted fund as provided by law and shall be disbursed from that fund only for the purposes for which the bonds have been authorized, including the expense of issuing the bonds. The proceeds of

sale of any series of the bonds, any premium and accrued interest received on the delivery of the bonds, and any interest earned on the proceeds of the bonds shall be expended for the purposes set forth in this act in a manner as provided by law.

324.95205 Submission of question to electors; vote required.

Sec. 5. The question of borrowing a sum not to exceed $1,000,000,000.00 and the issuance of the general obligation bonds of the state for the purposes set forth in this act shall be submitted to a vote of the electors of the state qualified to vote on the question in accordance with section 15 of article IX of the state constitution of 1963 at the next general election. The question submitted to the electors shall be substantially as follows:

"Shall the state of Michigan finance sewage treatment works projects, storm water projects, and nonpoint source projects, that improve the quality of the waters of the state, by borrowing a sum not to exceed $1,000,000,000.00 and issuing general obligation bonds of the state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, the method of repayment of the bonds to be from the general fund of the state?

Yes .....

No. .....".

324.95206 Submission of question to electors; duties of secretary of state.

Sec. 6. The secretary of state shall perform all acts necessary to properly submit the question prescribed by section 5 to the electors of the state qualified to vote on the question at the next general November election.

324.95207 Vote of majority required.

Sec. 7. Bonds shall not be issued under this act unless the question set forth in section 5 is approved by a majority vote of the registered electors voting on the question.

324.95208 Appropriation from general fund; budget recommendations of governor.

Sec. 8. (1) After the issuance of the bonds authorized by this act, there shall be appropriated from the general fund of the state each fiscal year a sufficient amount to pay promptly, when due, the principal of and interest on all outstanding bonds authorized by this act and the costs incidental to the payment of the bonds.

(2) The governor shall include the appropriation provided for in subsection (1) in his or her annual executive budget recommendations to the legislature.

Conditional effective date.

Enacting section 1. This act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 5892.

(b) House Bill No. 5893.

This act is ordered to take immediate effect.

Approved May 29, 2002.

Filed with Secretary of State May 30, 2002.

Compiler's note: House Bill No. 5892, referred to in enacting section 1, was filed with the Secretary of State May 30, 2002, and became P.A. 2002, No. 397, Eff. November 5, 2002.

House Bill No. 5893, also referred to in enacting section 1, was filed with the Secretary of State May 30, 2002, and became P.A. 2002, No. 398, Eff. November 5, 2002.

[No. 397]

(HB 5892)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 5301 and 5304 (MCL 324.5301 and 324.5304) and by adding parts 52 and 197.

The People of the State of Michigan enact:

PART 52 STRATEGIC WATER QUALITY INITIATIVES

324.5201 Definitions.

Sec. 5201. As used in this part:

(a) "Authority" means the Michigan municipal bond authority created in section 4 of the shared credit rating act, 1985 PA 227, MCL 141.1054.

(b) "Department" means the department of environmental quality.

(c) "Fund" means the strategic water quality initiatives fund created in section 5204.

(d) "Loan" means a loan from the loan program.

(e) "Loan program" means the strategic water quality initiatives loan program established under section 5202.

(f) "Municipality" means that term as it is defined in section 5301.

(g) "On-site septic system" means a natural system or mechanical device used to store, treat, and dispose of sewage from 1 or more dwelling units that utilize a subsurface trench or bed that allows the effluent to be absorbed and treated by the surrounding soil, including a septic tank and tile field system.

324.5202 Strategic water quality initiatives loan program; establishment; purpose; interest rate.

Sec. 5202. (1) The authority in consultation with the department shall establish a strategic water quality initiatives loan program. This loan program shall provide low interest loans to municipalities to provide assistance for improvements to a sewage system for 1 or more of the following:

(a) Improvements to reduce or eliminate the amount of groundwater or storm water entering a sanitary sewer lead or a combined sewer lead.

(b) Upgrades or replacements of failing on-site septic systems that are adversely affecting public health or the environment, or both.

(2) In implementing the loan program, the department shall annually establish the interest rate that will be charged for loans.

324.5203 Loan application by municipality; process and administration; agreement; disposition of money received as repayment.

Sec. 5203. (1) A municipality that wishes to apply for a loan shall submit a loan application to the department in accordance with the application requirements provided in part 53.

(2) The department shall process the loan applications submitted under this part and otherwise administer the fund in accordance with the procedures established pursuant to part 53.

(3) Prior to releasing a loan, the authority in consultation with the department shall enter into a loan agreement with the loan recipient in accordance with part 53.

(4) All money that is received for the repayment of a loan shall be forwarded to the state treasurer for deposit into the fund.

324.5204 Strategic water quality initiatives fund; creation; disposition of money or assets; investment; funds remaining at close of fiscal year; expenditures; fund as security.

Sec. 5204. (1) The strategic water quality initiatives fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. The authority shall act as fiscal agent for the fund in accordance with the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The authority in consultation with the department shall expend money from the fund, upon appropriation, only for loans and for the costs of the authority and the department in administering the fund.

(5) The fund may be pledged as security for bonds to be issued by the authority for the purpose of funding loans if authorized by the state administrative board.

324.5205 Rules.

Sec. 5205. The department may promulgate rules to implement this part.

324.5206 Legislative findings.

Sec. 5206. The legislature finds and declares that the environmental, natural resources, and water quality protection programs implemented under this part are a public purpose and of paramount public concern in the interest of the health, safety, and general welfare of the citizens of this state.

324.5301 Definitions.

Sec. 5301. As used in this part:

(a) "Assistance" means 1 or more of the following activities to the extent authorized by the federal water pollution control act:

(*i*) Provision of loans to municipalities for construction of sewage treatment works projects, stormwater treatment projects, or nonpoint source projects.

(*ii*) Project refinancing assistance.

(*iii*) The guarantee or purchase of insurance for local obligations, if the guarantee or purchase action would improve credit market access or reduce interest rates.

(*iv*) Use of the proceeds of the fund as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by this state, if the proceeds of the sale of the bonds will be deposited into the fund.

(*v*) Provision of loan guarantees for similar revolving funds established by municipalities.

(*vi*) The use of deposited funds to earn interest on fund accounts.

(*vii*) Provision for reasonable costs of administering and conducting activities under title VI of the federal water pollution control act, chapter 758, 101 Stat. 22, 33 U.S.C. 1381 to 1387.

(b) "Authority" means the Michigan municipal bond authority created in the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076.

(c) "Capitalization grant" means the federal grant made to this state by the United States environmental protection agency for the purpose of establishing a state water pollution control revolving fund, as provided in title VI of the federal water pollution control act, chapter 758, 101 Stat. 22, 33 U.S.C. 1381 to 1387.

(d) "Construction activities" means any actions undertaken in the designing or building of sewage treatment works projects, stormwater treatment projects, or nonpoint source projects. Construction activities include, but are not limited to, all of the following:

(*i*) Engineering services.

(*ii*) Legal services.

(*iii*) Financial services.

(*iv*) Design of plans and specifications.

(*v*) Acquisition of land or structural components, or both.

(*vi*) Building, erection, alteration, remodeling, or extension of a sewage treatment works.

(*vii*) Building, erection, alteration, remodeling, or extension of projects designed to control nonpoint source pollution, consistent with section 319 of title III of the federal water pollution control act, chapter 758, 101 Stat. 52, 33 U.S.C. 1329.

(*viii*) Building, erection, alteration, or remodeling of a stormwater treatment project.

(*ix*) Municipal supervision of the project activities described in subparagraphs (*i*) to (*viii*).

(e) "Federal water pollution control act" means chapter 758, 86 Stat. 816, 33 U.S.C. 1251 to 1252, 1253 to 1254, 1255 to 1257, 1258 to 1263, 1265 to 1270, 1273 to 1274, 1281, 1282 to 1293, 1294 to 1301, 1311 to 1313, 1314 to 1326, 1328 to 1330, 1341 to 1346, 1361 to 1375, 1376 to 1377, and 1381 to 1387.

(f) "Fund" means the state water pollution control revolving fund created in the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076, established pursuant to title VI of the federal water pollution control act.

(g) "Fundable range" means those projects, taken in descending order on the priority lists, for which sufficient funds are estimated by the department to exist to provide assistance at the beginning of each annual funding cycle.

(h) "Municipality" means a city, village, county, township, authority, or other public body, including an intermunicipal agency of 2 or more municipalities, authorized or created under state law; or an Indian tribe that has jurisdiction over construction and operation of sewage treatment works or other projects qualifying under section 319 of title III of the federal water pollution control act, chapter 758, 101 Stat. 52, 33 U.S.C. 1329.

(i) "Nonpoint source project" means construction activities designed to reduce nonpoint source pollution consistent with the state nonpoint source management plan pursuant to section 319 of title III of the federal water pollution control act, chapter 758, 101 Stat. 52, 33 U.S.C. 1329.

(j) "Priority list" means the annual ranked listing of projects developed by the department in section 5303 or used by the department pursuant to section 5315.

(k) "Project" means a sewage treatment works project, a stormwater treatment project, or a nonpoint source project, or a combination of these.

(*l*) "Project refinancing assistance" means buying or refinancing the debt obligations of municipalities within the state if construction activities commenced after March 7, 1985 and the debt obligation was incurred after March 7, 1985.

(m) "Sewage treatment works project" means construction activities on any device or system for the treatment, storage, collection, conveyance, recycling, or reclamation of the sewage of a municipality, including combined sewer overflow correction and major rehabilitation of sewers.

(n) "Stormwater treatment project" means construction activities of a municipality on any device or system for the treatment, storage, recycling, or reclamation of storm water that is conveyed by a storm sewer that is separate from a sanitary sewer.

(o) "Tier I project" means a project for which assistance is sought or provided from funds made directly available from the federal capitalization grant or from the Great Lakes water quality bond fund pursuant to section 19708(1)(a).

(p) "Tier II project" means a project for which assistance is sought or provided from funds other than those made directly available from the federal capitalization grant or from the Great Lakes water quality bond fund pursuant to section 19708(1)(a).

324.5304 Assistance; requirements.

Sec. 5304. Subject to sections 5309 and 5310, assistance provided to municipalities to construct sewage treatment works projects, stormwater projects, and nonpoint source projects shall be in accordance with all of the following:

(a) Assistance for approved sewage treatment works projects and stormwater treatment projects shall be provided for projects in the fundable range of the priority list developed pursuant to 5303, and to other projects that may become fundable pursuant to section 5310.

(b) Assistance for approved qualified nonpoint source projects shall be provided for projects in the fundable range of the priority list developed pursuant to section 5303. The director shall annually allocate at least 2% of the available funds to the extent needed to provide assistance to projects on the nonpoint source priority list. If these funds are not awarded, the allocation shall revert to provide assistance to projects on the sewage treatment works priority list.

PART 197 GREAT LAKES WATER QUALITY BOND IMPLEMENTATION

324.19701 Definitions.

Sec. 19701. As used in this part:

(a) "Bonds" means the bonds authorized under the Great Lakes water quality bond authorization act.

(b) "Department" means the department of environmental quality.

(c) "Fund" means the Great Lakes water quality bond fund created in section 19706.

324.19702 Legislative findings.

Sec. 19702. The legislature finds and declares that the environmental, natural resources, and water quality protection programs implemented under this part are a public purpose

and of paramount public concern in the interest of the health, safety, and general welfare of the citizens of this state.

324.19703 Bonds generally.

Sec. 19703. (1) Subject to subsection (2), the bonds shall be issued in 1 or more series, each series to be in a principal amount, to be dated, to have the maturities which may be either serial, term, or both, to bear interest at a rate or rates, to be subject or not subject to prior redemption, and if subject to prior redemption with or without call premiums, to be payable at a place or places, to have or not have provisions for registration as to principal only or as to both principal and interest, to be in a form and to be executed in a manner as shall be determined by resolution to be adopted by the state administrative board and subject to or granting those covenants, directions, restrictions, or rights specified by resolution to be adopted by the state administrative board as necessary to ensure the marketability, insurability, or tax exempt status of the bonds. The state administrative board shall rotate the services of legal counsel when issuing bonds.

(2) The state administrative board may refund bonds issued under this part by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption. The state administrative board may issue bonds partly to refund bonds issued under this part and partly for any other purpose provided by this part. The principal amount of any refunding bonds issued pursuant to this section shall not be counted against the limitation on principal amount provided in the Great Lakes water quality bond authorization act.

(3) The state administrative board may authorize and approve insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds, and any other transaction to provide security to assure timely payment or purchase of any bond issued under this part. The state administrative board may authorize and approve an interest rate exchange or swap, hedge, or similar agreement in connection with the issuance of bonds under this part, payable from the same source as the bonds.

(4) The state administrative board may authorize the state treasurer, but only within limitations contained in the authorizing resolution of the board, to do 1 or more of the following:

(a) Sell and deliver and receive payment for the bonds.

(b) Deliver bonds partly to refund bonds and partly for other authorized purposes.

(c) Select which outstanding bonds will be refunded, if any, by the new issue of bonds.

(d) Buy issued bonds.

(e) Approve interest rates or methods for determining interest rates, including fixed or variable rates, prices, discounts, maturities, principal amounts, purchase prices, purchase dates, remarketing dates, denominations, dates of issuance, interest payment dates, redemption rights at the option of the state or the owner, the place and time of delivery and payment, and other matters and procedures necessary to complete the authorized transactions.

(f) Execute, deliver, and pay the cost of remarketing agreements, insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase bonds or notes, and any other transaction to provide security to assure timely payments or purchase of any bond issued under this part.

(g) Determine the details of, execute, deliver, and pay the cost of any interest rate exchange or swap, hedge, or similar agreement.

(h) Pledge all or any portion of the strategic water quality initiatives fund created in section 5204 to secure bonds issued or to be issued by the Michigan municipal bond authority created in section 4 of the shared credit rating act, 1985 PA 227, MCL 141.1054, for the purpose of funding loans under the strategic water quality initiatives loan program under part 52.

(5) The bonds shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Issuance of the bonds shall be subject to the agency financing reporting act.

(6) The bonds or any series of the bonds shall be sold at public or private sale at such price or may be issued and deposited directly into the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a, or the strategic water quality initiatives fund created in section 5204, as determined by or pursuant to a resolution of the state administrative board.

(7) Not more than 10% of the bonds shall be issued in any year. The first bond issuance shall be structured in such a manner that debt payments do not begin before October 1, 2003.

324.19704 Bonds as negotiable.

Sec. 19704. The bonds shall be fully negotiable under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102. The bonds and the interest on the bonds shall be exempt from all taxation by the state or any political subdivision of the state.

324.19705 Bonds as securities.

Sec. 19705. The bonds are securities in which banks, savings and loan associations, state authorities, investment companies, credit unions, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries may properly and legally invest funds, including capital, belonging to them or within their control.

324.19706 Great Lakes water quality bond fund; creation; subaccounts.

Sec. 19706. (1) The Great Lakes water quality bond fund is created in the state treasury.

(2) The fund shall consist of all of the following:

(a) The proceeds of sales of the bonds sold at public or private sale and any premium and accrued interest received on the delivery of the bonds.

(b) Any interest or earnings generated by the proceeds described in subdivision (a).

(c) Any federal or other funds received.

(3) The department of treasury may establish restricted subaccounts within the fund as necessary to administer the fund.

324.19707 Bond proceeds; disposition; investment; expenditure; tax exempt status; funds remaining at close of fiscal year; annual accounting.

Sec. 19707. (1) The total proceeds of all bonds sold at public or private sale shall be deposited into the fund.

(2) The state treasurer shall direct the investment of the fund.

(3) The bond proceeds shall be expended in an appropriate manner that maintains the tax exempt status of any bonds issued as tax exempt bonds.

(4) The unencumbered balance in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) The department shall provide an annual accounting of bond proceeds spending on a cash basis to the department of treasury. This accounting shall be submitted to the governor, the standing committees of the house of representatives and the senate that primarily address issues pertaining to the protection of natural resources and the environment, and the appropriations committees in the house of representatives and the senate.

324.19708 Funds; transfer; use.

Sec. 19708. (1) Subject to subsections (2) and (3), the state treasurer shall transfer money in the fund as follows:

(a) Ninety percent of the money in the fund shall be deposited into the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a.

(b) Ten percent of the money in the fund shall be deposited into the strategic water quality initiatives fund created in section 5204.

(2) Money in the fund may be used by the department of treasury to pay for the cost of issuing bonds and the costs incurred under section 19703(3).

(3) Money from the fund shall not be used as the state match for receipt of federal funds for purposes of the state water pollution control revolving fund created in section 16a of the shared credit rating act, 1985 PA 227, MCL 141.1066a, at 2002 state match levels. However, if federal revenues become available at higher levels than were provided in 2002, money from the fund may be used to match federal revenues in excess of 2002 levels.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 4625.

(b) House Bill No. 5893.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

Compiler's note: House Bill No. 4625, referred to in enacting section 1, was filed with the Secretary of State May 30, 2002, and became P.A. 2002, No. 396, Imd. Eff. May 30, 2002.

House Bill No. 5893, also referred to in enacting section 1, was filed with the Secretary of State May 30, 2002, and became P.A. 2002, No. 398, Eff. November 5, 2002.

[No. 398]

(HB 5893)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 5303 (MCL 324.5303), as amended by 2001 PA 221.

The People of the State of Michigan enact:

324.5303 Cooperative regional or intermunicipal projects; project plan for tier I or tier II project; documentation; notice; public comment; development of priority list; submission of priority list to legislature; effective date of priority list; other actions not limited; "on-site septic system" defined.

Sec. 5303. (1) Municipalities shall consider and utilize, where possible, cooperative regional or intermunicipal projects in satisfying sewerage needs in the development of project plans.

(2) A municipality may submit a project plan for use by the department in developing a priority list.

(3) The project plan for a tier I project shall include documentation that demonstrates that the project is needed to assure maintenance of, or to progress toward, compliance with the federal water pollution control act or part 31, and to meet the minimum requirements of the national environmental policy act of 1969, Public Law 91-190, 42 U.S.C. 4321, 4331 to 4335, and 4341 to 4347. The documentation shall demonstrate all of the following:

(a) The need for the project.

(b) That feasible alternatives to the project were evaluated taking into consideration volume reduction opportunities and the demographic, topographic, hydrologic, and institutional characteristics of the area.

(c) That the project is cost effective and implementable from a legal, institutional, financial, and management standpoint.

(d) Other information as required by the department.

(4) The project plan for a tier II project shall include documentation that demonstrates that the project is or was needed to assure maintenance of or progress towards compliance with the federal water pollution control act or part 31, and is consistent with all applicable state environmental laws. The documentation shall include all of the following information:

(a) Information to demonstrate the need for the project.

(b) A showing that the cost of the project is or was justified, taking into account available alternatives. Those costs determined by the department to be in excess of those costs justified will not be eligible for assistance under this part.

(5) After notice and an opportunity for public comment, the department shall annually develop separate priority lists for sewage treatment works projects and stormwater treatment projects, for nonpoint source projects, and for projects funded under the

strategic water quality initiatives fund created in section 5204. Projects not funded during the time that a priority list developed under this section is in effect shall be automatically prioritized on the next annual list using the same criteria, unless the municipality submits an amendment to its plan that introduces new information to be used as the basis for prioritization. These priority lists shall be based upon project plans submitted by municipalities, and the following criteria:

(a) That a project complies with all applicable standards in part 31 and the federal water pollution control act.

(b) An application for a segment of a project that received funds under the title II construction grant program or title VI state revolving loan funds of the federal water pollution control act or the strategic water quality initiatives fund created in section 5204 shall be first priority on its respective priority list for funding for a period of not more than 3 years after funds were first committed under those programs.

(c) If the project is a sewage treatment works project or a stormwater treatment project, all of the following criteria:

(*i*) The severity of the water pollution problem to be addressed, maximizing progress towards restoring beneficial uses and meeting water quality standards.

(*ii*) A determination of whether a project is or was necessary to comply with an order, permit, or other document with an enforceable schedule for addressing a municipality's sewage-related water pollution problems that was issued by the department or entered as part of an action brought by the state against the municipality or any component of the municipality. A municipality may voluntarily agree to an order, permit, or other document with an enforceable schedule as described in this subparagraph.

(*iii*) The population to be served by the project. However, the criterion provided in this subparagraph shall not be applied to projects funded by the strategic water quality initiatives fund created in section 5204.

(*iv*) The dilution ratio existing between the discharge volume and the receiving stream.

(d) If the project is a sewage treatment works project, 100 priority points shall be awarded pursuant to R 323.958 of the Michigan administrative code for each of the following that apply to the project:

(*i*) The project addresses on-site septic systems that are adversely affecting the water quality of a water body or represent a threat to public health, provided that soil and hydrologic conditions are not suitable for the replacement of those on-site septic systems.

(*ii*) The project includes the construction of facilities for the acceptance or treatment of septage collected from on-site septic systems.

(e) Rankings for nonpoint source projects shall be consistent with the state nonpoint source management plan developed pursuant to section 319 of title III of the federal water pollution control act, chapter 758, 101 Stat. 52, 33 U.S.C. 1329.

(f) Any other criteria established by the department by rule.

(6) The priority list shall be submitted annually to the chair of the senate and house of representatives standing committees that primarily consider legislation pertaining to the protection of natural resources and the environment.

(7) For purposes of providing assistance, the priority list shall take effect on the first day of each fiscal year.

(8) This section does not limit other actions undertaken to enforce part 31, the federal water pollution control act, or any other act.

(9) As used in this section, "on-site septic system" means that term as defined in section 5201.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 4625.

(b) House Bill No. 5892.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless the question provided for in the Great Lakes water quality bond authorization act is approved by a majority of the registered electors voting on the question at the November 2002 general election.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

Compiler's note: House Bill No. 4625, referred to in enacting section 1, was filed with the Secretary of State May 30, 2002, and became P.A. 2002, No. 396, Imd. Eff. May 30, 2002.

House Bill No. 5892, also referred to in enacting section 1, was filed with the Secretary of State May 30, 2002, and became P.A. 2002, No. 397, Eff. November 5, 2002.

[No. 399]

(HB 5237)

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending section 685 (MCL 168.685), as amended by 1990 PA 329.

The People of the State of Michigan enact:

168.685 Printing name of candidate of new political party on ballot; certificate; petition to form new political party; disqualification and requalification of party; party subject to § 168.686a; prohibited conduct.

Sec. 685. (1) The name of a candidate of a new political party shall not be printed upon the official ballots of an election unless the chairperson and secretary of the state central committee of the party files with the secretary of state, not later than 4 p.m. of the one hundred-tenth day before the general November election, a certificate signed by the chairperson and secretary of the state central committee bearing the name of the party, together with petitions bearing the signatures of registered and qualified electors equal

to not less than 1% of the total number of votes cast for all candidates for governor at the last election in which a governor was elected. The petitions shall be signed by at least 100 registered electors in each of at least 1/2 of the congressional districts of the state. All signatures on the petitions shall be obtained not more than 180 days immediately before the date of filing.

(2) After the date on which a petition is filed, the secretary of state shall not accept additional petition sheets for that petition. The validity and authenticity of the signatures may be determined in the same manner as provided for initiatory and referendary petitions in section 9 of article II of the state constitution of 1963. An official declaration of the sufficiency or insufficiency of a petition filed under this section shall be made by the board of state canvassers not later than 60 days before the general November election.

(3) The petitions shall be in substantially the following form:

PETITION TO FORM NEW POLITICAL PARTY

We, the undersigned, duly registered electors of the city, township of
(strike one)

..... county of ..... state of Michigan, residing at the places set opposite our names, respectfully request the secretary of state, in accordance with section 685 of the Michigan election law, 1954 PA 116, MCL 168.685, to receive the certificate and vignette accompanying this petition, and place the names of the candidates of the ..... party on the ballot at the ..... election.

Warning: A person who knowingly signs petitions to organize more than 1 new state political party, signs a petition to organize a new state political party more than once, or signs a name other than his or her own is violating the provisions of the Michigan election law.

.....

.....

.....

(4) The balance of the petition form shall be substantially as set forth in section 544c. The size of all organizing petitions shall be 8-1/2 inches by 13 inches and shall be printed in the following type sizes: The words "petition to form new political party" and the name of the proposed political party shall be in 24-point boldface type; the word "warning" and the language contained in the warning shall be in 12-point boldface type.

(5) Petitions circulated under this section may be circulated on a countywide basis. A petition that is circulated countywide shall be on a form prescribed by the secretary of state.

(6) If the principal candidate of a political party receives a vote equal to less than 1% of the total number of votes cast for the successful candidate for the office of secretary of state at the last preceding general November election in which a secretary of state was elected, that political party shall not have the name of any candidate printed on the ballots at the next ensuing general November election, and a column shall not be provided on the ballots for that party. A disqualified party may again qualify and have the names of its candidates printed in a separate party column on each election ballot in the manner set forth in subsection (1) for the qualification of new parties. The term "principal candidate" of a political party means the candidate who receives the greatest number of votes of all candidates of that political party for that election.

(7) A political party that complied with this section is subject to section 686a in order to have the name of that party, its vignette, and its candidates appear on the general election ballot.

(8) A person shall not knowingly sign a petition to organize more than 1 new state political party, sign a petition to organize a new state political party more than once, or sign a name other than his or her own on the petition.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 400]

(HB 5454)

AN ACT to amend 1964 PA 170, entitled "An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers and paying damages sought or awarded against them; to provide for the legal defense of public officers and employees; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal certain acts and parts of acts," by amending the title and sections 8 and 9 (MCL 691.1408 and 691.1409), the title as amended by 1986 PA 175.

The People of the State of Michigan enact:

TITLE

An act to make uniform the liability of municipal corporations, political subdivisions, and the state, its agencies and departments, officers, employees, and volunteers thereof, and members of certain boards, councils, and task forces when engaged in the exercise or discharge of a governmental function, for injuries to property and persons; to define and limit this liability; to define and limit the liability of the state when engaged in a proprietary function; to authorize the purchase of liability insurance to protect against loss arising out of this liability; to provide for defending certain claims made against public officers, employees, and volunteers and for paying damages sought or awarded against them; to provide for the legal defense of public officers, employees, and volunteers; to provide for reimbursement of public officers and employees for certain legal expenses; and to repeal acts and parts of acts.

691.1408 Claim or civil action against officer or employee of governmental agency for injuries caused by negligence; services of attorney; payment of claim; judgment for damages; indemnification; payment or settlement of judgment; criminal action against officer or employee of governmental agency; services of attorney; reim-

bursement for legal expenses; liability on governmental agency not imposed.

Sec. 8. (1) Whenever a claim is made or a civil action is commenced against an officer, employee, or volunteer of a governmental agency for injuries to persons or property caused by negligence of the officer, employee, or volunteer while in the course of employment with or actions on behalf of the governmental agency and while acting within the scope of his or her authority, the governmental agency may pay for, engage, or furnish the services of an attorney to advise the officer, employee, or volunteer as to the claim and to appear for and represent the officer, employee, or volunteer in the action. The governmental agency may compromise, settle, and pay the claim before or after the commencement of a civil action. Whenever a judgment for damages is awarded against an officer, employee, or volunteer of a governmental agency as a result of a civil action for personal injuries or property damage caused by the officer, employee, or volunteer while in the course of employment and while acting within the scope of his or her authority, the governmental agency may indemnify the officer, employee, or volunteer or pay, settle, or compromise the judgment.

(2) When a criminal action is commenced against an officer or employee of a governmental agency based upon the conduct of the officer or employee in the course of employment, if the employee or officer had a reasonable basis for believing that he or she was acting within the scope of his or her authority at the time of the alleged conduct, the governmental agency may pay for, engage, or furnish the services of an attorney to advise the officer or employee as to the action, and to appear for and represent the officer or employee in the action. An officer or employee who has incurred legal expenses after December 31, 1975 for conduct prescribed in this subsection may obtain reimbursement for those expenses under this subsection.

(3) This section does not impose liability on a governmental agency.

691.1409 Liability insurance; waiver of defense.

Sec. 9. (1) A governmental agency may purchase liability insurance to indemnify and protect the governmental agency against loss or to protect the governmental agency and an agent, officer, employee, or volunteer of the governmental agency against loss on account of an adverse judgment arising from a claim for personal injury or property damage caused by the governmental agency or its agent, officer, employee, or volunteer. A governmental agency may pay premiums for the insurance authorized by this section out of current funds.

(2) The existence of an insurance policy indemnifying a governmental agency against liability for damages is not a waiver of a defense otherwise available to the governmental agency in the defense of the claim.

This act is ordered to take immediate effect.
Approved May 29, 2002.
Filed with Secretary of State May 30, 2002.

[No. 401]

(SB 1096)

AN ACT to amend 1937 PA 10, entitled "An act to define the use of travel aids by blind persons; to provide protection against accidents to such persons; to require instruction

and examination in certain circumstances; and to provide penalties for violation hereof," by amending sections 1a and 2 (MCL 752.51a and 752.52), section 1a as added and section 2 as amended by 1986 PA 62.

The People of the State of Michigan enact:

752.51a Definitions.

Sec. 1a. As used in this act:

(a) "Blind" means a person who has a visual acuity of 20/200 or less in the better eye with correction, or has limitation of his or her field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

(b) "Cane" means an aid used by a blind pedestrian for travel and identification purposes that is white in color with or without a red tip.

(c) "Crosswalk" means that term as defined in section 10 of the Michigan vehicle code, 1949 PA 300, MCL 257.10.

(d) "Dog guide" means a dog, in harness, that has been formally trained and that is used by a blind person as a travel aid.

(e) "Walker" means an aid used by a blind pedestrian for travel and identification purposes that is white in color or has white legs with or without a red tip.

752.52 Blind pedestrian carrying cane or using dog guide or walker; duty of driver; liability; failure to carry cane or use dog guide or walker; investigation of alleged violation; review of investigative report; informing blind pedestrian of decision.

Sec. 2. (1) A driver of a vehicle shall not approach a crosswalk or any other pedestrian crossing without taking all necessary precautions to avoid accident or injury to a blind pedestrian carrying a cane or using a dog guide or walker.

(2) A driver who approaches a crosswalk or any other pedestrian crossing without taking all necessary precautions to avoid accident or injury to a blind pedestrian carrying a cane or using a dog guide or walker is liable in damages for any injuries caused the blind pedestrian. A blind pedestrian who does not carry a cane or use a dog guide or walker has all of the rights and privileges conferred upon any other pedestrian by the laws of this state. The failure of a blind pedestrian to carry a cane or use a dog guide or walker shall not be treated as evidence of negligence in a civil action for injury to the blind pedestrian or for the blind pedestrian's wrongful death.

(3) If a person alleges to a peace officer a violation of subsection (1), the peace officer shall investigate the alleged violation. The prosecuting attorney shall review the peace officer's investigative report to determine whether a violation of subsection (1) has occurred and whether to issue charges. Upon the request of the blind pedestrian and after reviewing the investigative report, a prosecuting attorney shall inform the blind pedestrian of his or her decision and the reason or reasons supporting that decision.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 402]

(SB 517)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 16221 (MCL 333.16221), as amended by 2000 PA 29.

The People of the State of Michigan enact:

333.16221 Investigation of licensee, registrant, or applicant for licensure or registration; hearings, oaths, and testimony; report; grounds for proceeding under § 333.16226.

Sec. 16221. The department may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The department may hold hearings, administer oaths, and order relevant testimony to be taken and shall report its findings to the appropriate disciplinary subcommittee. The disciplinary subcommittee shall proceed under section 16226 if it finds that 1 or more of the following grounds exist:

(a) A violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully practice the health profession.

(b) Personal disqualifications, consisting of 1 or more of the following:

(*i*) Incompetence.

(*ii*) Subject to sections 16165 to 16170a, substance abuse as defined in section 6107.

(*iii*) Mental or physical inability reasonably related to and adversely affecting the licensee's ability to practice in a safe and competent manner.

(*iv*) Declaration of mental incompetence by a court of competent jurisdiction.

(*v*) Conviction of a misdemeanor punishable by imprisonment for a maximum term of 2 years; a misdemeanor involving the illegal delivery, possession, or use of a controlled substance; or a felony. A certified copy of the court record is conclusive evidence of the conviction.

(*vi*) Lack of good moral character.

(*vii*) Conviction of a criminal offense under sections 520a to 520*l* of the Michigan penal code, 1931 PA 328, MCL 750.520a to 750.520*l*. A certified copy of the court record is conclusive evidence of the conviction.

(*viii*) Conviction of a violation of section 492a of the Michigan penal code, 1931 PA 328, MCL 750.492a. A certified copy of the court record is conclusive evidence of the conviction.

(*ix*) Conviction of a misdemeanor or felony involving fraud in obtaining or attempting to obtain fees related to the practice of a health profession. A certified copy of the court record is conclusive evidence of the conviction.

(*x*) Final adverse administrative action by a licensure, registration, disciplinary, or certification board involving the holder of, or an applicant for, a license or registration regulated by another state or a territory of the United States, by the United States military, by the federal government, or by another country. A certified copy of the record of the board is conclusive evidence of the final action.

(*xi*) Conviction of a misdemeanor that is reasonably related to or that adversely affects the licensee's ability to practice in a safe and competent manner. A certified copy of the court record is conclusive evidence of the conviction.

(c) Prohibited acts, consisting of 1 or more of the following:

(*i*) Fraud or deceit in obtaining or renewing a license or registration.

(*ii*) Permitting the license or registration to be used by an unauthorized person.

(*iii*) Practice outside the scope of a license.

(*iv*) Obtaining, possessing, or attempting to obtain or possess a controlled substance as defined in section 7104 or a drug as defined in section 7105 without lawful authority; or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

(d) Unethical business practices, consisting of 1 or more of the following:

(*i*) False or misleading advertising.

(*ii*) Dividing fees for referral of patients or accepting kickbacks on medical or surgical services, appliances, or medications purchased by or in behalf of patients.

(*iii*) Fraud or deceit in obtaining or attempting to obtain third party reimbursement.

(e) Unprofessional conduct, consisting of 1 or more of the following:

(*i*) Misrepresentation to a consumer or patient or in obtaining or attempting to obtain third party reimbursement in the course of professional practice.

(*ii*) Betrayal of a professional confidence.

(*iii*) Promotion for personal gain of an unnecessary drug, device, treatment, procedure, or service.

(*iv*) Either of the following:

(A) A requirement by a licensee other than a physician that an individual purchase or secure a drug, device, treatment, procedure, or service from another person, place, facility, or business in which the licensee has a financial interest.

(B) A referral by a physician for a designated health service that violates section 1877 of part D of title XVIII of the social security act, 42 U.S.C. 1395nn, or a regulation promulgated under that section. Section 1877 of part D of title XVIII of the social security act, 42 U.S.C. 1395nn, and the regulations promulgated under that section, as they exist on the effective date of the amendatory act that added this sentence, are incorporated by

reference for purposes of this subparagraph. A disciplinary subcommittee shall apply section 1877 of part D of title XVIII of the social security act, 42 U.S.C. 1395nn, and the regulations promulgated under that section regardless of the source of payment for the designated health service referred and rendered. If section 1877 of part D of title XVIII of the social security act, 42 U.S.C. 1395nn, or a regulation promulgated under that section is revised after the effective date of the amendatory act that added this sentence, the department shall officially take notice of the revision. Within 30 days after taking notice of the revision, the department shall decide whether or not the revision pertains to referral by physicians for designated health services and continues to protect the public from inappropriate referrals by physicians. If the department decides that the revision does both of those things, the department may promulgate rules to incorporate the revision by reference. If the department does promulgate rules to incorporate the revision by reference, the department shall not make any changes to the revision. As used in this subparagraph, "designated health service" means that term as defined in section 1877 of part D of title XVIII of the social security act, 42 U.S.C. 1395nn, and the regulations promulgated under that section and "physician" means that term as defined in sections 17001 and 17501.

(*v*) For a physician who makes referrals pursuant to section 1877 of part D of title XVIII of the social security act, 42 U.S.C. 1395nn, or a regulation promulgated under that section, refusing to accept a reasonable proportion of patients eligible for medicaid and refusing to accept payment from medicaid or medicare as payment in full for a treatment, procedure, or service for which the physician refers the individual and in which the physician has a financial interest. A physician who owns all or part of a facility in which he or she provides surgical services is not subject to this subparagraph if a referred surgical procedure he or she performs in the facility is not reimbursed at a minimum of the appropriate medicaid or medicare outpatient fee schedule, including the combined technical and professional components.

(f) Beginning 1 year after the effective date of this act, the department of consumer and industry services shall prepare the first of 3 annual reports on the effect of this amendatory act on access to care for the uninsured and medicaid patients. The department shall report on the number of referrals by licensees of uninsured and medicaid patients to purchase or secure a drug, device, treatment, procedure, or service from another person, place, facility, or business in which the licensee has a financial interest.

(g) Failure to report a change of name or mailing address within 30 days after the change occurs.

(h) A violation, or aiding or abetting in a violation, of this article or of a rule promulgated under this article.

(i) Failure to comply with a subpoena issued pursuant to this part, failure to respond to a complaint issued under this article or article 7, failure to appear at a compliance conference or an administrative hearing, or failure to report under section 16222 or 16223.

(j) Failure to pay an installment of an assessment levied pursuant to the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, within 60 days after notice by the appropriate board.

(k) A violation of section 17013 or 17513.

(*l*) Failure to meet 1 or more of the requirements for licensure or registration under section 16174.

(m) A violation of section 17015 or 17515.

(n) A violation of section 17016 or 17516.

(o) Failure to comply with section 9206(3).

(p) A violation of section 5654 or 5655.

(q) A violation of section 16274.

(r) A violation of section 17020 or 17520.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 403]

(SB 834)

AN ACT to amend 1994 PA 53, entitled "An act to authorize internally pooled investments by certain local governmental units," by amending section 1 (MCL 123.931).

The People of the State of Michigan enact:

123.931 Investments; computerized pool; "local governmental unit" defined; authorization.

Sec. 1. (1) Notwithstanding the provisions of 1943 PA 20, MCL 129.91 to 129.96; the surplus funds investment pool act, 1982 PA 367, MCL 129.111 to 129.118; the local government investment pool act, 1985 PA 121, MCL 129.141 to 129.150; the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140; the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821; or 1948 (1st Ex Sess) PA 31, MCL 123.951 to 123.965, a local governmental unit that maintains or intends to maintain various investments in or as part of a computerized pool and allocates or has allocated portions of the investments to various funds and accounts may continue to do so or may begin to do so if the fund has a written accounting issued at least monthly showing the status of money allocated to each fund and the principal amount of each investment. The interest on the investment may be transferred or expended through pooled concentrated checking accounts or by wire or other transfers. Investments of debt service funds, sinking funds, or other pledged funds relating to 1 or more issues of bonds, notes or other indebtedness of a local governmental unit, may be maintained in or as part of a computerized pool subject to the conditions described in this subsection, unless otherwise prohibited by law or contract, but a computerized pool for such funds shall be maintained separately from any computerized pool for other funds and accounts of the local governmental unit.

(2) As used in this section, "local governmental unit" means a county, city, village, township, drainage district, road commission, building authority, or other municipal or public corporation or authority, and any other governing body described in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) This act authorizes the holding and accounting of electronically pooled investments but is not intended to permit types or categories of investments not currently authorized by law or contract.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 404]

(SB 840)

AN ACT to amend 1971 PA 140, entitled "An act to provide for the distribution of certain state revenues to cities, villages, townships, and counties; to impose certain duties and confer certain powers on this state, political subdivisions of this state, and the officers of both; to create reserve funds; and to establish a revenue sharing task force and provide for its powers and duties," by amending section 17a (MCL 141.917a), as amended by 1987 PA 283.

The People of the State of Michigan enact:

141.917a Withholding amount equivalent to delinquent payments due on emergency municipal loan; withholding payment under act; extent; plan for financing outstanding obligations upon which municipality defaulted; use of amounts withheld; payment of debt service on bonds or notes; agreement assigning or pledging payment; statement; withholding payment to satisfy payment due and owing to state.

Sec. 17a. (1) To the extent required by the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, a municipality granted a loan pursuant to the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, shall have withheld from any payment the city, village, township, or county is eligible to receive, an amount equivalent to any delinquent payments due on the loan.

(2) The state treasurer may withhold all or part of any payment that a city, village, township, or county is eligible to receive under this act to the extent the withholdings are a component part of a plan, developed and implemented under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for financing an outstanding obligation upon which the municipality defaulted. Amounts withheld shall be used to pay, on behalf of the city, village, township, or county, unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding obligation upon which the city, village, township, or county defaulted.

(3) The state treasurer may withhold all or part of any payment that a city or village is eligible to receive under this act, after payment of all money owing to the city or village under this act that, prior to the date of a withholding under this subsection, has been pledged for the payment of debt service on bonds or notes or for the payment of contractual obligations pledged for the payment of debt service on bonds or notes, in an amount necessary to repay loans made to the city or village under section 11(6) of 1951 PA 51, MCL 247.661, after any deduction authorized by section 11(8) of 1951 PA 51, MCL 247.661, has been applied for the repayment of the loan.

(4) Under an agreement entered into by a city, village, township, or county assigning all or a portion of the payment that it is eligible to receive under this act to the Michigan municipal bond authority or pledging that amount for payment of an obligation it incurred with the Michigan municipal bond authority, the state treasurer shall transmit to the Michigan municipal bond authority or a trustee designated by the authority the amount of the payment that is assigned or pledged under the agreement. Notwithstanding the payment dates prescribed by this act for distributions under this act, the state treasurer may advance all or part of a payment that is dedicated for distribution or for which the appropriation authorizing the payment has been made if and to the extent, under the terms of an agreement entered into by a city, village, township, or county and the

Michigan municipal bond authority, the payment that the city, village, township, or county is eligible to receive has been assigned to or pledged for payment of an obligation it incurred with the Michigan municipal bond authority. This subsection does not require the state to make an appropriation to any city, village, county, or township and shall not be construed as creating an indebtedness of the state. Any agreement made pursuant to this subsection shall contain a statement to that effect.

(5) The state treasurer shall withhold all or part of a payment that a city, village, township, or county is eligible to receive under this act to satisfy a payment due and owing to the state or to a state department or agency from the city, village, township, or county unless and to the extent subsection (4) requires otherwise or unless the city, village, township, or county has pledged payments under this act for payment on an obligation issued by the municipality.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 405]

(SB 863)

AN ACT to amend 1980 PA 243, entitled "An act to provide emergency financial assistance for certain municipalities; to create a local emergency financial assistance loan board and to prescribe the powers and duties of this board; to prescribe conditions for granting and receiving loans, to prescribe terms and conditions for the repayment of loans, and to allow the limiting of repayment by a county from specified revenue sources; to impose certain requirements and duties on certain state departments, municipalities of this state, and officials of the state and municipalities of this state; and to prescribe remedies and penalties," by amending section 4 (MCL 141.934), as amended by 1998 PA 528.

The People of the State of Michigan enact:

141.934 Application for loan; resolution; certification of information and conditions; inspection, copying, or auditing of books and records; applicability of subsection (1).

Sec. 4. (1) If the governing body of a municipality desires to request a loan, it shall provide by resolution for the submission of an application to the board for a loan made under this act. The municipality shall certify and substantiate all of the following information and conditions to be eligible for consideration for a loan authorization by the board:

(a) A deficit for the municipality's general fund is projected for the current fiscal year.

(b) That 1 or both of the following have occurred within the 6 months immediately preceding the loan request:

(*i*) The municipality has issued tax anticipation notes or revenue sharing notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(*ii*) The department of treasury has acted upon a request by the municipality to issue tax anticipation notes or revenue sharing notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(c) The municipality meets 1 or more of the following conditions:

(*i*) Its income tax revenue growth rate is .90 or less.

(*ii*) Its local tax base growth rate is 75% or less of the statewide tax base growth rate.

(*iii*) The state equalized valuation of real and personal property within the municipality at the time the loan application is made is less than the state equalized valuation of real and personal property within the municipality in the immediately preceding year.

(d) The municipality submits a long-range plan, that has been approved by the governing body of the municipality, outlining actions to be taken to balance future expenditures with anticipated revenues.

(2) If the board determines it necessary, the board may inspect, copy, or audit the books and records of a municipality.

(3) Subsection (1) does not apply to a loan authorized under section 3(2) or (3).

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 406]

(SB 870)

AN ACT to amend 1956 PA 40, entitled "An act to codify the laws relating to the laying out of drainage districts, the consolidation of drainage districts, the construction and maintenance of drains, sewers, pumping equipment, bridges, culverts, fords, and the structures and mechanical devices to properly purify the flow of drains; to provide for flood control projects; to provide for water management, water management districts, and subdistricts, and for flood control and drainage projects within drainage districts; to provide for the assessment and collection of taxes; to provide for the investment of funds; to provide for the deposit of funds for future maintenance of drains; to authorize public corporations to impose taxes for the payment of assessments in anticipation of which bonds are issued; to provide for the issuance of bonds by drainage districts and for the pledge of the full faith and credit of counties for payment of the bonds; to authorize counties to impose taxes when necessary to pay principal and interest on bonds for which full faith and credit is pledged; to validate certain acts and bonds; and to prescribe penalties," by amending sections 275, 278, 280, 434, 435, 479, and 531 (MCL 280.275, 280.278, 280.280, 280.434, 280.435, 280.479, and 280.531), section 280 as amended by 1983 PA 176 and section 434 as amended by 1980 PA 297.

The People of the State of Michigan enact:

280.275 Drainage district bonds; issuance, terms, sale, premium; sale subject to revised municipal finance act; limitation on payment from county general fund.

Sec. 275. In cases where the issuing of bonds shall have been determined upon, as provided in this act, and subject to the provisions of section 221 of this act, the commissioner may borrow money in anticipation of the collection of the installments and may issue as evidence thereof the bonds of the drainage district as defined in this act. The obligations shall specify on their face that they are payable out of the installments of drain taxes to

be collected, and the amount shall not exceed the aggregate of the installments levied. Bonds issued under this act shall be signed by the commissioner on behalf of the drainage district, shall be countersigned by the county clerk and shall be payable in annual installments equal in number to the installments of taxes, shall mature not earlier than March first and not later than June first of the year following the due dates of the respective installments of taxes. The number of installments shall not exceed 20: Provided, however, That in any drainage district containing a closed drain, any part of whose cross-section has an area exceeding 60 square feet, the number of installments may be, but shall not exceed, 30, and the amount of each installment shall be fixed to correspond as near as may be to the drain commissioner's estimate of the amount of taxes actually collectible each year, and in no case shall bonds mature more than 2 1/2 years after the corresponding installment of taxes. The commissioner shall pledge in the bond the credit of the drainage district, including the lands embraced within the district and the townships, cities, villages, counties, and state trunk line highways assessed at large, in the proportion that they are taxed for the benefits received. The bonds shall be sold subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. If any premium is received on the bonds, the premium shall belong to the fund of the drain. The proceeds derived from the sale of the bonds shall be deposited with the county treasurer to the credit of the drain fund. The county treasurer shall safely keep all the bonds until sold as above provided: Provided, however, That this act shall not be considered to affect any bonds or refunding bonds issued prior to the effective date of this act or any refunding bonds issued to replace the same: Provided further, That no county shall advance or pay out of its general funds any moneys for or on account of principal or interest of any drain bonds issued before the effective date of former Act No. 331 of the Public Acts of 1927, or any refunding bonds issued to replace the same.

280.278 Interest on installments of drain taxes; payment of interest; disposition and use of installments and interest; bank deposits; interest on bonds or notes.

Sec. 278. If bonds or notes are issued and sold by the commissioner, installments of the drain taxes shall bear interest not to exceed a rate which is not greater than 1% per annum more than the average rate of interest on the bonds or notes from the date of the preparation of the assessment roll until due. The bonds or notes may provide, if the commissioner so determines, for the payment of interest semiannually. The installments and the interest shall, as collected, be paid into the county treasury and placed to the credit of the fund of the drain, to be used solely for the payment of bonds or notes as they mature. Money collected in anticipation of the maturity of the bonds or notes shall be deposited by the county treasurer in a bank or banks to be designated by the board of commissioners of the county and the interest received shall belong to the fund. Bonds or notes issued and sold by the commissioner shall bear interest at not to exceed the rate specified in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

280.280 Additional assessments; levy; purposes; surplus; exemption of certain lands from deficiency assessments.

Sec. 280. (1) If there is not sufficient money in the fund in a particular drain at the time of the maturity of the bonds last to mature, or any drain orders, to pay all outstanding bonds or drain orders with interest, or to reimburse the county for money which it has been obliged to advance pursuant to section 275, whether such insufficiency is due to the anticipation of installments as provided in section 279, or to failure to sell any lands for delinquent taxes, or to any other cause, it shall be the duty of the commissioner to at once levy an additional assessment as provided in this act provided in such an amount as will

make up the deficiency which shall be spread in not to exceed 7 annual installments; and if the commissioner determines that the entire amount, if spread in 1 year, would be an undue burden or create unnecessary hardship, he or she may order it spread over any number of years up to but not exceeding 7. If bonds or other evidences of indebtedness are issued pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, to refund the outstanding indebtedness of a drain district, the governing body of such drain district shall provide, subject to the requirements of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, for such additional levies of assessments prior to the maturity of the refunding obligations as necessary to prevent default in payment of interest on the obligations, and the maintenance of a sinking fund for their retirement. Every officer charged with the determination of the amount of taxes to be raised, or the levying of the taxes, shall make or cause to be made the additional levies as provided. Any surplus remaining after the payment of the bonds and interest shall remain in the county treasury and be used for the maintenance of the drain.

(2) The additional assessments shall only apply to drain orders or bonds issued after March 28, 1956 and shall be apportioned, assessed, levied, and collected as provided in the first instance. As to deficiency assessments levied for drain orders or bonds issued after March 28, 1956, there shall be no lands exempted from the levy, except those which at the time of the additional assessments are owned or used as follows:

(a) Lands owned by the United States.

(b) Lands owned by the state of Michigan.

(c) Lands owned by any county, city, village, township, or school district and used for public purposes.

(d) Lands used exclusively for burial grounds.

(e) Lands dedicated to the public and actually used as a highway or alley, and not used for gain.

(3) An additional assessment shall not be levied or collected for the purpose of paying the principal or interest upon any bonds or obligations which have heretofore been held to be invalid, and any such additional assessment shall not be apportioned, assessed, levied, or collected for the purpose of paying any bonds, interest, or obligations for the payment of which assessments have been made.

280.434 Drain project; construction or studies; borrowing money or accepting advances; reimbursement; contract or note as evidence of obligation; full faith and credit; source of payments; applicability of section.

Sec. 434. (1) A drainage district may borrow money or accept the advance of work, material, or money from a public or private corporation, partnership, association, individual, or the federal government or any agency of the federal government for the payment of, or in connection with the construction of, any part of a drain project or for financing a feasibility, practicability, environmental assessment, or impact study of a drain project which may include the payment for easement or land acquisition or engineering and legal fees, or an engineering, environment impact, or assessment study, and be reimbursed by the drainage district, with or without interest as may be agreed, when funds are available. The obligation of the drainage district to make the repayment or reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the drainage district and may be made payable out of the drain assessments made against public corporations at large, or against lands in the drainage district, or out of the proceeds of drain orders, notes, or bonds issued by the drainage district pursuant

to this act or out of any other available funds, and the contract or note shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, unless the principal amount of the obligation shall exceed $300,000.00. However, if the principal amount of the obligation is $300,000.00 or less, then the issuance of the obligation under this section is subject to the agency financing reporting act.

(2) However, any projects in which advances or loans made by any public corporation, the federal government, or any agency of the federal government shall not be limited by this section. This section shall apply to a drain or other project instituted pursuant to any section in this act including a feasibility, practicability, environmental assessment, or impact study.

(3) A county board of commissioners by a majority vote of 2/3 of its members may pledge the full faith and credit of a county for the payment of a note of the drainage district.

280.435 Financing of flood control or drainage projects; contract or agreement with federal government; payments and purposes; determination of necessity; notes or bonds; issuance subject to revised municipal finance act.

Sec. 435. (1) The drain commissioner or drainage board may contract or make agreements with the federal government, or any agency of the federal government, for the financing of a flood control or drainage project or combination of these including the conservation and utilization of soil and water for recreation and other beneficial purposes.

(2) A contract or agreement may include an advance payment of funds from the federal government or any agency of the federal government for financing a feasibility, practicability, environmental assessment, or impact study of a drain or flood control project, or any combination of these including the conservation and utilization of soil and water for recreation and other beneficial purposes. The contract or agreement may include the payment for easements, rights of way, land acquisition, engineering services, legal fees, and any fees or costs for environmental impact statements or assessments studies for the projects.

(3) After the necessity of a project is determined and the first order of determination is filed, the drain commissioner or drainage board may issue notes of indebtedness to the federal government, or any agency of the federal government, to evidence a preliminary advance and may pay those notes from drain assessments made against public corporations at large and against lands in the drainage district, out of the proceeds of drain orders or bonds issued by the drain commissioner or drainage board under this act or out of any other available funds. Bonds of the drainage district issued for the project may be substituted for notes including the interest on the notes. The bonds may be repaid by special assessments in any number of annual installments not exceeding 30.

(4) The drain commissioner or drainage board shall not be required to offer for public sale any notes issued under a contract with the federal government, or any agency of the federal government, for the financing of any project as set forth in this section.

(5) The notes issued in evidence of advance payments are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) All notes or bonds issued under this section shall be considered to be obligations of the drainage district, and the drain commissioner or drainage board may pledge the full faith and credit of the drainage district for the repayment of the notes or bonds.

280.479 Advancements by corporations; reimbursement.

Sec. 479. Any public or private corporation, firm, or individual may advance money for the payment of any part of the cost of a project under this act, in which event it shall be reimbursed by the drainage district, with or without interest as may be agreed, when funds are available. The obligation of the drainage district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the drainage district and may be made payable out of the assessments made against public corporations or out of the proceeds of drain orders or bonds issued by the drainage district pursuant to this act or out of any other available funds, but the contract or note is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

280.531 Advances by corporations; reimbursement.

Sec. 531. Any public or private corporation, firm, or individual may advance money for the payment of any part of the cost of a project under this act, in which event it shall be reimbursed by the drainage district, with or without interest as may be agreed, when funds are available. The obligation of the drainage district to make the reimbursement may be evidenced by a contract or note, which contract or note may pledge the full faith and credit of the drainage district and may be made payable out of the assessments made against public corporations or out of the proceeds of drain orders or bonds issued by the drainage district pursuant to this act or out of any other available funds, but the contract or note is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 407]

(SB 977)

AN ACT to amend 1957 PA 185, entitled "An act to authorize the establishing of a department and board of public works in counties; to prescribe the powers and duties of any municipality subject to the provisions of this act; to authorize the incurring of contract obligations and the issuance and payment of bonds or notes; to provide for a pledge by a municipality of its full faith and credit and the levy of taxes without limitation as to rate or amount to the extent necessary; to validate obligations issued; and to prescribe a procedure for special assessments and condemnation," by amending sections 11, 12, and 25 (MCL 123.741, 123.742, and 123.755).

The People of the State of Michigan enact:

123.741 Methods of financing systems or improvements.

Sec. 11. (1) The acquirement of a water supply, sewage disposal or refuse system, or the making of lake improvements or erosion control systems, or the improvement, enlargement, or extension of any of these may be financed by 1 or more of the following methods:

(a) By the issuance of revenue bonds under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, or any other applicable act.

(b) By the issuance of bonds in anticipation of payments to become due under contracts where 1 or more municipalities agree to pay to the county operating under this act certain sums toward the cost of the acquisition, improvement, enlargement, or extension of a project that may be made under this act.

(c) By the issuance of bonds in anticipation of the payment of special assessments made by the board of public works.

(d) By money advanced by a county operating under this act under agreements with a municipality or municipalities for the repayment of the money.

(e) By money advanced, from time to time, before or during construction of a project by a public corporation, in which event the county operating under this act shall reimburse the corporation, with interest not to exceed 8% per annum or without interest as may be agreed, when funds are available for that purpose. The obligation of the county to make the reimbursement may be evidenced by a contract or note, the contract or note may be made payable out of the payments to be made by municipalities, under contracts as described in section 12 or 15, or out of the proceeds of bonds issued under this act by the county or out of any other available funds. The contract or note is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Bonds issued under this act shall be authorized by an ordinance or a resolution approved by the board of public works and adopted by the county board of commissioners of the county operating under this act. The county board of commissioners is authorized by a 3/5 vote of its members elect, to pledge the full faith and credit of the county for the prompt payment of the principal of and interest on any bonds issued pursuant to this act. The county's full faith and credit may be pledged to the payment of principal and interest on revenue bonds issued under subsection (1)(a). If it becomes necessary for the county operating under this act to advance any money, other than its share of the cost of the project, for the payment of principal and interest, then it shall be entitled to reimbursement from any surplus from time to time existing in the fund from which the principal and interest are primarily payable. If the faith and credit of the county is pledged for the payment of principal of and interest on any bonds issued under this act, the county may, in the case of insufficiency of funds primarily pledged for the payment, pay the funds from its general fund or levy taxes without limitation as to rate or amount in addition to any other taxes that the county is authorized to levy but not in excess of the rate or amount necessary to make up the deficiency. The bonds shall be issued in the name of the county and shall be executed by the chairperson of the county board of commissioners and its county clerk, who shall also cause their facsimile signatures to be affixed to the interest coupons to be attached to the bonds. The county clerk shall also affix to the bonds the seal of the county. Bonds issued under this act are negotiable instruments and shall be serial bonds payable annually, with the first maturity due not more than 5 years and the last maturity not more than 40 years from the date of issue. This subsection shall apply to special assessment bonds as well as other bonds. Annual maturity payable after 5 years from the date of the bonds shall not be less than 1/4 of the amount of any subsequent maturity on the same series of bonds. The bonds shall bear interest at not more than the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, payable semiannually except that the first coupon may be for any number of months not exceeding 10. The bonds and coupons shall be made payable in lawful money of the United States of America and shall be exempt from all taxation by this state or by any taxing authority within this state. The county board of commissioners may authorize the board of public works to sell the bonds in accordance with the laws of this state.

123.742 Contracts authorized; methods of paying contractual obligations; special assessments; exercise of powers; validation of contracts.

Sec. 12. (1) A county operating under this act and any 1 or more municipalities including the county itself may enter into a contract or contracts for the acquisition, improvement, enlargement, or extension of a water supply, a sewage disposal, or a refuse system,

or the making of lake improvements or erosion control systems and for the payment of the costs by the contracting municipalities, with interest, over a period not exceeding 40 years.

(2) In the contract, each contracting municipality may pledge its full faith and credit for the payment of its obligations under the contract. If the municipality has taxing power, it may each year levy a tax in an amount that will be sufficient for the prompt payment of all or part of the contract obligations due before the following year's tax collection. If the contract or an unlimited tax pledge in support of the contract has been approved by the electors, the tax may be in addition to any tax that the municipality may otherwise be authorized to levy and may be imposed without limitation as to rate or amount but shall not be in excess of the rate or amount necessary to pay the contract obligation. The contract is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. For the payment of contractual obligations incurred under this act, a township shall levy a tax only on the taxable property in the unincorporated areas of the township unless the township and a village have agreed that a part of the capacity in the county system allocated to the township by contract pursuant to this act will be used to serve areas in a village located wholly or partly within the township and the village has not itself agreed to purchase the capacity in the county system. If a contracting municipality at the time of its annual tax levy has on hand in cash any amount pledged to the payment of the current obligations for which the tax levy is to be made, then the annual tax levy may be reduced by that amount. For the purpose of obtaining the credit, funds may be raised by a municipality by using 1 or more of the following methods:

(a) By service charges to users of the system or lake improvements.

(b) By special assessment upon lands benefited.

(c) By the exaction of charges for the connection of properties, directly or indirectly, to the system or for the availability of the system to serve properties, directly or indirectly, or at a present or future time.

(d) By setting aside any state collected funds disbursed to the municipality and usable therefor.

(e) By setting aside any other available money.

(3) For the purpose of obtaining the credit, municipalities contracting for the acquisition, improvement, enlargement, or extension of an erosion control system shall levy special assessments upon all lands benefited to cover not less than 3/4 of the total project cost contracted for by the local unit. A municipality may agree to raise all or any part of its contract obligation by any of the methods provided in this section that are available. The powers in this act granted to any municipality shall be exercised by its governing body. A contract entered into before May 12, 1959, which complies with this act, is validated.

123.755 Special assessments; annual installments; interest on unpaid installments; spreading installments on tax rolls; advance payment; issuance of bonds subject to revised municipal finance act.

Sec. 25. (1) The board of public works may provide that the assessments made on any roll shall be payable in 1 or more annual installments, not exceeding 30. The board may vary the principal amount of each installment but an installment shall not be less than 1/4 of the amount of a subsequent installment. Annual installments need not be extended upon the special assessment roll until after confirmation.

(2) All unpaid installments shall bear interest from the date fixed by the board of public works, payable annually, at a rate to be set by the board at the time the special assessment is established, which shall not exceed any of the following:

(a) If bonds are not issued, 8% per annum.

(b) If bonds are issued, the maximum rate permitted to be charged under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Installments of special assessments shall be spread as provided in this act, 1 each year, upon the tax rolls upon which county taxes are spread. The board of public works shall specify the first year of this spread, which shall not be later than the year following that in which the roll was confirmed. The board may provide the times and conditions upon which installments of special assessments may be paid in advance of their due dates.

(4) Bonds issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 408]

(SB 1064)

AN ACT to amend 1990 PA 72, entitled "An act to provide for review, management, planning, and control of the financial operation of units of local government, including school districts; to provide criteria to be used in determining the financial condition of a local government; to permit a declaration of the existence of a local government financial emergency and to prescribe the powers and duties of the governor, other state boards, agencies, and officials, and officials and employees of units of local government; to provide for a review and appeal process; to provide for the appointment and to prescribe the powers and duties of an emergency financial manager; to require the development of financial plans to regulate expenditures and investments by a local government in a state of financial emergency; to set forth the conditions for termination of a local government financial emergency; and to repeal certain acts and parts of acts," by amending sections 12, 21, and 33 (MCL 141.1212, 141.1221, and 141.1233), section 33 as amended by 1992 PA 265.

The People of the State of Michigan enact:

141.1212 Preliminary review by state treasurer; conditions; notice; meeting with local government; informing governor of serious financial problem.

Sec. 12. (1) The state treasurer shall conduct a preliminary review to determine the existence of a local government financial problem if 1 or more of the following occur:

(a) The governing body or the chief administrative officer of a local government requests a preliminary review under this article. The request shall be in writing and shall identify the existing financial conditions that make the request necessary.

(b) The state treasurer receives a written request from a creditor with an undisputed claim that remains unpaid 6 months after its due date against the local government that exceeds the greater of $10,000.00 or 1% of the annual general fund budget of the local government, provided that the creditor notifies the local government in writing at least 30 days before his or her request to the state treasurer of his or her intention to invoke this provision.

(c) The state treasurer receives a petition containing specific allegations of local government financial distress signed by a number of registered electors residing within the jurisdiction of the local government equal to not less than 10% of the total vote cast for all candidates for governor within the jurisdiction of the local government at the last preceding election at which a governor was elected. Petitions shall not be filed under this subdivision within 60 days before any election of the local government.

(d) The state treasurer receives written notification from the trustee, actuary, or at least 10% of the beneficiaries of a local government pension fund alleging that a local government has not timely deposited its minimum obligation payment to the local government pension fund as required by law.

(e) The state treasurer receives written notification that employees of the local government have not been paid and it has been at least 7 days after the scheduled date of payment.

(f) The state treasurer receives written notification from a trustee, paying agent, or bondholder of a default in a bond payment or a violation of 1 or more bond covenants.

(g) The state treasurer receives a resolution from either the senate or the house of representatives requesting a preliminary review under this section.

(h) The local government has violated the conditions of an order issued pursuant to, or of a requirement of, former 1943 PA 202, the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or any other law governing the issuance of bonds or notes.

(i) The local government has violated the conditions of an order issued in the effectuation of the purposes of the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, by the local emergency financial assistance loan board created by the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

(j) The local government has violated the requirements of sections 17 to 20 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.437 to 141.440, and the state treasurer has forwarded a report of this violation to the attorney general.

(k) The local government has failed to comply with the requirements of section 21 of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921, for filing or instituting a deficit recovery plan.

(*l*) The local government fails to provide an annual financial report or audit that conforms with the minimum procedures and standards of the state treasurer and is required under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to 21.55.

(m) The local government is delinquent in the distribution of tax revenues, as required by law, that it has collected for another taxing jurisdiction, and that taxing jurisdiction requests a preliminary review.

(n) A court has ordered an additional tax levy without the prior approval of the governing body of the local government.

(2) In conducting a preliminary review under this section, the state treasurer shall give the local government specific written notification of the review, and the state treasurer shall meet with the local government. At this meeting, the state treasurer shall receive, discuss, and consider information provided by the local government concerning the existence of and seriousness of financial conditions within the local government.

(3) When the state treasurer conducts a preliminary review under this section, he or she shall inform the governor within 30 days after beginning the preliminary review whether or not his or her investigation has determined that a serious financial problem

may exist because 1 or more conditions indicative of a serious financial problem exist within the local government.

141.1221 Additional actions by emergency financial manager.

Sec. 21. An emergency financial manager may take 1 or more of the following additional actions with respect to the local government in which a financial emergency has been determined to exist:

(a) Analyze factors and circumstances contributing to the financial condition of the local government and recommend steps to be taken to correct the condition.

(b) Amend, revise, approve, or disapprove the budget of the local government, and limit the total amount appropriated or expended during the balance of the financial emergency.

(c) Require and approve or disapprove, or amend or revise a plan for liquidating all outstanding debt of the local government.

(d) Require and prescribe the form of special reports to be made by the finance officer of the local government to its governing body, the creditors of the local government, the emergency financial manager, or the public.

(e) Examine all records and books of account, and require under the procedures of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to 21.55, or both, the attendance of witnesses and the production of books, papers, contracts, and other documents relevant to an analysis of the financial condition of the local government.

(f) Make, approve, or disapprove any appropriation, contract, expenditure, or loan, the creation of any new position, or the filling of any vacancy in a permanent position by any appointing authority.

(g) Review payrolls or other claims against the local government before payment.

(h) Exercise all of the authority of the local government to renegotiate existing labor contracts and act as an agent of the unit in collective bargaining with employees or representatives and approve any contract or agreement.

(i) Unless prohibited by law or charter, to consolidate departments or transfer functions from 1 department to another and to appoint, supervise, and, at his or her discretion, remove heads of departments other than elected officials.

(j) Employ or contract for, at the expense of the local government and with the approval of the local emergency financial assistance loan board, auditors and other technical personnel considered necessary to implement this article.

(k) Require compliance with the orders of the emergency financial manager by court action if necessary.

(*l*) Except as restricted by charter or otherwise, sell or otherwise use the assets of the local government to meet past or current obligations, provided the use of assets for this purpose does not endanger public health, safety, or welfare.

(m) Apply for a loan from the state on behalf of the local government, subject to the conditions of the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, in a sufficient amount to pay the expenses of the emergency financial manager and for other lawful purposes.

(n) Approve or disapprove of the issuance of obligations of the local government on behalf of the municipality, subject to the conditions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, and the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(o) Enter into agreements with other local governments for the provision of services.

(p) Exercise the authority and responsibilities affecting the financial condition of the local government as provided in the following acts:

(*i*) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.

(*ii*) The fourth class city act, 1895 PA 215, MCL 81.1 to 113.20.

(*iii*) The charter township act, 1947 PA 359, MCL 42.1 to 42.34.

(*iv*) 1851 PA 156, MCL 46.1 to 46.32.

(*v*) 1966 PA 293, MCL 45.501 to 45.521.

(*vi*) The general law village act, 1895 PA 3, MCL 61.1 to 74.25.

(*vii*) The home rule village act, 1909 PA 278, MCL 78.1 to 78.28.

141.1233 Determination of serious financial problem; conditions; notice.

Sec. 33. (1) The superintendent of public instruction may determine that a school district has a serious financial problem if he or she finds that 1 or more of the following conditions exist:

(a) The school district ended the most recently completed school fiscal year with a deficit in 1 or more of its funds and the superintendent of public instruction has not approved a deficit elimination plan within 3 months after the district's deadline for submission of its annual financial statement.

(b) The school board of the school district adopts a resolution declaring that the school district is in a financial emergency.

(c) The superintendent of public instruction receives a petition containing specific allegations of school district financial distress signed by a number of registered electors residing within the school district equal to not less than 10% of the total vote cast for all candidates for governor within the school district at the last preceding election at which a governor was elected. Petitions shall not be filed under this subdivision within 60 days before any election of the school district.

(d) The superintendent of public instruction receives a written request, from a creditor of the school district with an undisputed claim against the school district, to find the school district has a serious financial problem. The superintendent of public instruction may honor this request only if the claim remains unpaid 6 months after its due date, the claim exceeds the greater of $10,000.00 or 1% of the annual general fund budget of the school district, and the creditor notifies the school district in writing at least 30 days before he or she requests the superintendent of public instruction to find that the school district has a serious financial problem.

(e) The superintendent of public instruction receives written notification from a trustee, paying agent, note or bondholder, or the state treasurer of a violation of 1 or more of the school district's bond or note covenants.

(f) The superintendent of public instruction receives a resolution from either the senate or the house of representatives requesting a review under this section of the financial condition of the school district.

(g) The school district is in violation of the conditions of an order issued pursuant to, or as a requirement of, former 1943 PA 202, the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or any other law governing the issuance of bonds or notes.

(h) The school district is in violation of the requirements of sections 17 to 20 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.437 to 141.440.

(i) The school district fails to provide an annual financial report or audit that conforms with the minimum procedures and standards of the state board and is required under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772.

(j) A court has ordered an additional tax levy without the prior approval of the school board of the school district.

(2) Upon determining that a school district has a serious financial problem, the superintendent of public instruction shall notify the governor and the state board of that determination and of the basis for and findings supporting the determination.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 409]

(SB 1067)

AN ACT to amend 1971 PA 182, entitled "An act to permit a city or village owning and operating a public utility to borrow money for a term not to exceed 5 years for the purpose of purchasing, acquiring, constructing, improving, enlarging, extending or repairing the facilities of the public utility; to issue notes or other evidences of indebtedness therefor; to repay such borrowing from the revenues of the utility; to permit the pledging or assignment of bonds or other securities or evidences of debt held as investments for said public utility to secure such borrowings; and to provide other powers, rights and duties," by amending sections 1 and 2 (MCL 460.461 and 460.462), section 2 as amended by 1983 PA 121.

The People of the State of Michigan enact:

460.461 Loans to cities or villages owning and operating public utilities; evidences of indebtedness; term of loan; security; indebtedness subject to revenue bond act.

Sec. 1. (1) A city or village owning and operating a public utility, without vote of its electors and upon approval of its legislative body, may borrow money and issue and sell its notes or other evidences of indebtedness in the form and on the terms it deems advisable for the purpose of purchasing equipment or fuel, or both, or of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing the facilities of the public utility. Loans shall not be made or notes or other evidences of indebtedness issued for a term exceeding 5 years. Notes or other evidences of indebtedness relating to fuels or supplies shall not exceed a term of 18 months.

(2) Notes or other evidences of indebtedness issued under this act shall not be general obligations of the city or village but shall be secured by and payable from the unencumbered revenues of the utility and other pledges and assignments authorized in this act. The city or village may pledge or assign bonds or other securities or evidences of debt held by it as investments for the public utility as security for the loan and to guarantee its repayment.

(3) Notes or other evidences of indebtedness are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

460.462 Home rule city act inapplicable.

Sec. 2. Section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5, relative to notice of intention to issue an obligation, does not apply to any borrowing under this act.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 410]

(SB 1073)

AN ACT to amend 1929 PA 312, entitled "An act to provide for the incorporation by any 2 or more cities, villages, or townships, or any combination or parts thereof, of a metropolitan district comprising territory within their limits for the purpose of acquiring, owning, and operating parks or public utilities for supplying sewage disposal, drainage, water, or transportation, or any combination thereof; to provide that a district may sell or purchase sewage disposal, drainage rights, water, or transportation facilities; to provide that a district may acquire and succeed to the rights, obligations, and property of such cities, villages, and townships respecting or connected with such functions or public utilities but subject to the approval of a majority of the electors voting thereon; to limit the rate of taxation of a district for its municipal purposes and restrict its powers of borrowing money and contracting debts; to provide the method and vote by which charters may be framed, adopted, and amended and laws and ordinances relating to its municipal concerns may be enacted; to define the powers, rights, and liabilities of a district; to provide for the dissolution of a district; and to prescribe penalties and provide remedies," by amending sections 4 and 5 (MCL 119.4 and 119.5).

The People of the State of Michigan enact:

119.4 Permissive charter provisions.

Sec. 4. Each district incorporated under the provisions of this act may provide in its charter for 1 or more of the following:

(a) For annually levying and collecting taxes in a sum not to exceed 1/2 of 1% of the assessed value of all real and personal property in the district.

(b) For borrowing money on the credit of the district in a sum not to exceed 2% of the assessed value of all real and personal property in the district for the purpose of acquiring, owning, purchasing, constructing, maintaining, or operating parks or public utilities, for supplying sewage disposal, drainage, water, or transportation, or any combination of these. A district may borrow money and issue bonds for any of the purposes described in this subdivision that will impose no liability upon the district but may be paid and secured only by special assessment levied against each parcel for the particular public improvement and for the payment of the bonds that are issued. A district incorporated under the provisions of this act, may, for the purpose of acquiring, owning, purchasing, constructing, or operating any public utility described in this subdivision, issue mortgage bonds that

may be issued beyond the general limit of bonded indebtedness prescribed by this act. A mortgage bond issued beyond the general limits of bonded indebtedness shall not impose any liability upon the district but shall be secured only upon the property and revenues of the public utility, including the franchise, stating the terms upon which, in case of foreclosure, the purchaser may operate the public utility, which franchise shall in no case extend for a longer period than 20 years from the date of the sale of the utility and franchise on foreclosure. A mortgage bond shall be sold for not less than par, bear interest at a rate not in excess of 6%, and the total amount shall not exceed 60% of the original cost of the utility. The charter of any district shall provide for the creation of a sinking fund by setting aside a percentage of the gross or net earnings of the public utility as may be deemed sufficient for the payment of the mortgage bonds at maturity.

(c) For a lien on any property and for taxes for the payment of any bonds issued or for the cost and expense of making any improvement described in this section.

(d) For laying and collecting rents, tolls and excises.

(e) For a special assessment district to provide for the cost and expense of any park or public utility, or combination of a park and public utility, as provided in this section.

(f) For the purchase or condemnation of the franchises, if any exist, and of the property used in the operation of companies or individuals engaged in or operating public utilities for supplying sewage disposal, drainage, water, or transportation, or any combination of these. Each district may in its charter provide that it may make a contract upon the terms, including terms of present or deferred payment and upon the conditions and in the manner as the district may consider proper, to purchase, operate, and maintain any existing public utility property for supplying sewage disposal, drainage, water, or transportation, or any combination of these within or without its limits. If without its limits, the purchase must be incidental to the operation and maintenance of the public utility. A contract shall not bind the district unless the proposition on the contract shall receive the affirmative vote of 3/5 of the electors voting on the proposition at a regular or special election. In the event of any such purchase, the charter amendment and the contract to purchase shall provide for the creation of a sinking fund, into which shall be paid from time to time, from the earnings of the utility, sums sufficient to insure the payment of the purchase price and the performance of the obligations of the contract to the end that the entire cost of the public utility shall eventually be paid from its earnings. The powers in this subdivision are in addition to the other powers provided for in this act, and the exercise of these powers shall not impair or affect the right to exercise any other powers.

(g) For the purchase, gift, or condemnation of private property for any public use or purpose provided for and within the scope of its power. If by condemnation, the provisions of 1911 PA 149, MCL 213.21 to 213.25, or other appropriate provisions may be adopted and used for the purpose of instituting and prosecuting condemnation proceedings.

(h) For the initiative and referendum on all matters within the scope of its powers and for the recall of all its officials.

(i) For altering, amending, or repealing any charter affecting the district.

(j) For the enforcement of all local, police, sanitary, and other regulations as are not in conflict with the general laws of this state.

(k) For a system of civil service.

(*l*) For the exercise of all district powers in the management and control of district property and in the administration of metropolitan district government, whether the powers are expressly enumerated or not. For any act to advance the interest of the district and the good government and prosperity of the district and to pass all laws and ordinances relating to its concerns subject to the constitution and general laws of this

state. The power to acquire a rapid transit system is expressly conferred by this act, which may consist of a tunnel, subway, surface, or elevated system, or any combination of these. A rapid transit system shall be considered to be transportation within the meaning of this act and the provisions relating to other public utilities shall also apply.

(m) A revenue bond issued under this act is subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. All bonds issued under this act, other than revenue bonds, are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

119.5 Powers; restrictions.

Sec. 5. A district shall not do any of the following:

(a) Change the salary or emoluments of any public official after his or her election or appointment or during his or her term of office. The term of any public official shall not be shortened or extended beyond the period for which he or she was elected or appointed, unless he or she resigns or is removed for cause if the office is held for a fixed term.

(b) Adopt a charter or any amendment to a charter unless approved by a majority of the electors of each city, village, or township, voting on the charter or amendment.

(c) Sell any public utility unless approved by a majority vote of the electors of each city, village, or township voting on the proposition.

(d) Make any contract with, or give any official position to, anyone who is in default to the district or city, village, or township comprising the district.

(e) To repudiate any debt by any change in its charter or by consolidation with any other municipality.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 411]

(SB 1076)

AN ACT to amend 1989 PA 292, entitled "An act to authorize certain local governmental units to create certain councils under certain circumstances; to prescribe the powers and duties of councils established under this act; and to authorize certain councils established under this act to levy a property tax," by amending section 19 (MCL 124.669), as amended by 1998 PA 373.

The People of the State of Michigan enact:

124.669 Regulation of land and water; public improvements and services; operation; establishment of divisions, bureaus, and committees; expenses; data collection and storage; feasibility studies; applicability of other laws.

Sec. 19. (1) The articles may authorize a metropolitan area council to propose standards, criteria, and suggested model ordinances to regulate the use and development of land and water within the council area.

(2) To the extent authorized in the articles, a metropolitan area council may plan, promote, finance, issue bonds for, acquire, improve, enlarge, extend, own, construct, replace, or contract for public improvements and services including, but not limited to, the following:

(a) Water and sewer public improvements and services.

(b) Solid waste collection, recycling, and disposal.

(c) Parks, museums, zoos, wildlife sanctuaries, and recreational facilities.

(d) Special use facilities.

(e) Ground and air transportation and facilities, including airports.

(f) Economic development and planning for the metropolitan area council area.

(g) Higher education public improvements and services.

(h) Community foundations as that term is defined in section 261 of the income tax act of 1967, 1967 PA 281, MCL 206.261.

(3) A council established under this act shall not contract for the operation by another person of a public improvement or service acquired by the council pursuant to this act.

(4) A metropolitan area council may establish divisions, bureaus, and committees, including advisory committees. Members of advisory committees shall serve without compensation but may be reimbursed for their reasonable expenses as determined by the council.

(5) A metropolitan area council in cooperation with other agencies and departments of the state and the state universities may develop a center for data collection and storage to be used by the council and other governmental users and may furnish information on subjects such as population, land use, and governmental finances.

(6) A metropolitan area council may study the feasibility of programs relating but not limited to water supply, refuse disposal, surface water drainage, communication, transportation, and other subjects of concern to the participating local governmental units and may institute demonstration projects in connection with the studies.

(7) Revenue bonds issued under this act are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(8) Bonds, other than revenue bonds described in subsection (7), issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 412]

(SB 1078)

AN ACT to amend 1978 PA 639, entitled "An act to authorize the establishing of port authorities in cities and counties; to prescribe the powers and duties of port authorities, cities, and counties; to authorize the incurrence of contract obligations and the issuance and payment of bonds or other evidences of indebtedness; to provide for a pledge by a city or county of its full faith and credit for the payment of contract obligations entered into under this act and the levy of taxes without limitation as to rate or amount to the extent necessary; to validate obligations issued; to provide for the adoption of a port facilities plan; to provide for the financing of the operating budget of port authorities; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 14 and 18 (MCL 120.114 and 120.118), as amended by 1983 PA 23.

The People of the State of Michigan enact:

120.114 Revenue bonds; applicability of revenue bond act; revenue bonds payable solely from revenues or income.

Sec. 14. (1) An authority may provide by resolution for the issuance of revenue bonds of the authority for the purpose of providing funds for paying the cost of port facilities, or for paying the cost of an extension, enlargement, or improvement of a project then under the control of the authority. The bonds issued under this section shall mature at a time or times, not exceeding 40 years after their date of issuance, as the authority may provide.

(2) Revenue bonds issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(3) Revenue bonds issued pursuant to this section shall not be considered to constitute a debt of this state, a political subdivision of this state, the authority, or any constituent unit, or a pledge of the faith and credit of this state or a political subdivision of this state or of the authority or any constituent unit, but shall be payable solely from the revenues or income to be derived from the projects. The revenue bonds shall contain on their face a statement to the effect that the bonds and attached coupons are payable solely from revenues and are not a general obligation of this state, a political subdivision of this state, the authority, or a constituent unit, and neither the faith and credit nor the taxing power of this state, a political subdivision of this state, the authority, or a constituent unit, is pledged to the payment of the principal of or the interest on the bonds.

120.118 Additional bonds for acquisition of port facilities; authorization; resolution; issuance and execution of bonds; seal; negotiable instruments; maturities; payment; tax exemption; issuance of bonds or notes subject to revised municipal finance act.

Sec. 18. (1) In addition to the bonds authorized in section 14, bonds may be issued for the purpose of acquiring port facilities, as follows:

(a) By the issuance of bonds in anticipation of payments to become due under contracts by which 1 or more constituent units agree to pay to an authority operating under this act certain sums toward the cost of the acquisition, improvement, enlargement, or extension of a project that may be made under this act. Contracts are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(b) By money advanced by an authority operating under this act under agreements with a constituent unit or other municipality for the repayment of the money.

(c) By money advanced, from time to time, before or during construction of a project, by a public corporation, for which an authority operating under this act shall reimburse the corporation with interest not to exceed 8% per annum or without interest as may be agreed, when funds are available for reimbursement. The obligation of an authority to make the reimbursement may be evidenced by a contract or note, which contract or note may be made payable out of the payments to be made by constituent units under contracts made pursuant to subdivision (b), or out of the proceeds of bonds issued pursuant to this act by the county or out of any other available funds.

(2) Bonds issued under this section shall be authorized by a resolution adopted by the authority. The bonds shall be issued in the name of the authority and shall be executed by the chairperson and secretary-treasurer of the authority, who shall also cause their facsimile signatures to be affixed to the interest coupons to be attached to the bonds. The authority shall adopt a seal that shall be affixed to the bonds. Bonds issued under this section shall be negotiable instruments and shall mature not more than 40 years after the date of issuance.

The bonds and coupons shall be made payable in lawful money of the United States and shall be exempt from all taxation whatsoever by this state or by any taxing authority within this state.

(3) Bonds or notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 413]

(SB 1079)

AN ACT to amend 1996 PA 381, entitled "An act to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans relating to the designation and treatment of brownfield redevelopment zones; to promote the revitalization of environmentally distressed areas; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing," by amending sections 7, 12, and 17 (MCL 125.2657, 125.2662, and 125.2667), section 7 as amended by 2000 PA 145.

The People of the State of Michigan enact:

125.2657 Powers of authority; determining captured taxable value; transfer of municipality funds to authority.

Sec. 7. (1) An authority may do 1 or more of the following:

(a) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(b) Incur and expend funds to pay or reimburse a public or private person for costs of eligible activities attributable to an eligible property.

(c) As approved by the municipality, incur costs and expend funds from the local site remediation revolving fund created under section 8 for purposes authorized in that section.

(d) Make and enter into contracts necessary or incidental to the exercise of its powers and the performance of its duties, including, but not limited to, lease purchase agreements, land contracts, installment sales agreements, and loan agreements.

(e) On terms and conditions and in a manner and for consideration the authority considers proper or for no monetary consideration, own, mortgage, convey, or otherwise dispose of, or lease as lessor or lessee, land and other property, real or personal, or rights or interests in the property, that the authority determines are reasonably necessary to achieve the purposes of this act, and grant or acquire licenses, easements, and options with respect to the property.

(f) Acquire, maintain, repair, or operate all devices necessary to ensure continued eligible activities on eligible property.

(g) Accept grants and donations of property, labor, or other things of value from a public or private source.

(h) Incur costs in connection with the performance of its authorized functions, including, but not limited to, administrative costs and architect, engineer, legal, or accounting fees.

(i) Study, develop, and prepare the reports or plans the authority considers necessary to assist it in the exercise of its powers under this act and to monitor and evaluate the progress under this act.

(j) Procure insurance against loss in connection with the authority's property, assets, or activities.

(k) Invest the money of the authority at the authority's discretion in obligations determined proper by the authority, and name and use depositories for its money.

(*l*) Make loans, participate in the making of loans, undertake commitments to make loans and mortgages, buy and sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, commence an action to protect or enforce a right conferred upon the authority by a law, mortgage, loan, contract, or other agreement, bid for and purchase property that was the subject of the mortgage at a foreclosure or other sale, acquire and take possession of the property and in that event compute, administer, pay the principal and interest on obligations incurred in connection with that property, and dispose of and otherwise deal with the property, in a manner necessary or desirable to protect the interests of the authority.

(m) Borrow money and issue its bonds and notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, in anticipation of collection of tax increment revenues.

(n) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this act, or other laws that relate to the purposes and responsibilities of the authority.

(2) The authority shall determine the captured taxable value of each parcel of eligible property. The captured taxable value of a parcel shall not be less than zero.

(3) A municipality may transfer the funds of the municipality to an authority or to another person on behalf of the authority in anticipation of repayment by the authority.

125.2662 Bonds and notes of authority.

Sec. 12. (1) The authority may borrow money and issue its negotiable revenue bonds or notes to finance all or part of the costs of eligible activities or of another activity of the authority under this act. Revenue bonds and notes issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. The costs that may be financed by the issuance of revenue bonds or notes may include the costs of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing property in connection with an activity authorized under this act; engineering, architectural, legal, accounting, or financial expenses; the costs necessary or incidental to the borrowing of money; interest on the bonds or notes during the period of construction; a reserve for payment of principal and interest on the bonds or notes; and a reserve for operation and maintenance until sufficient revenues have developed. The authority may secure the bonds and notes by mortgage, assignment, or pledge of the property and all money, revenues, or income received in connection with the property.

(2) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged by the authority immediately shall be subject to the lien of the pledge without a physical delivery, filing, or further act. The lien of a pledge

shall be valid and binding as against parties having claims in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(3) Bonds or notes issued under this section shall be exempt from all taxation in this state except estate and transfer taxes, and the interest on the bonds or notes shall be exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(4) Unless otherwise provided by a majority vote of the members of its governing body, the municipality shall not be liable on bonds or notes of the authority issued under this section and the bonds or notes shall not be a debt of the municipality.

(5) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is supplemental and in addition to all other authority granted by law.

125.2667 Authorization, issuance, and sale of tax increment bonds and notes.

Sec. 17. (1) By resolution of its board, the authority may authorize, issue, and sell its tax increment bonds and notes, subject to the limitations set forth in this section, to finance the purposes of a brownfield plan. The bonds or notes shall be payable in the manner and upon the terms and conditions determined, or within the parameters specified, by the authority in the resolution authorizing issuance of the bonds or notes. The resolution authorizing the bonds shall create a lien on the tax increment revenues and other revenues pledged by the resolution that shall be a statutory lien and shall be a first lien subject only to liens previously created. The resolution may provide the terms upon which additional bonds or notes may be issued of equal standing and parity of lien as to the tax increment revenues and other revenues pledged under the resolution.

(2) The municipality, by majority vote of the members of its governing body, may make a limited tax pledge to support the authority's tax increment bonds or notes or, if authorized by the voters of the municipality, may pledge its unlimited tax full faith and credit for the payment of the principal of and interest on the authority's tax increment bonds or notes.

(3) The bonds or notes issued under this section shall be secured by 1 or more sources of revenue identified in section 7 as sources of financing of activities of the authority, as provided by resolution of the authority.

(4) The bonds and notes of the authority may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for 1 or more of the purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is supplemental and in addition to all other authority granted by law.

(5) The bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except section 503 of the revised municipal finance act, 2001 PA 34, MCL 141.2503.

(6) For bonds issued under this act, the first principal amount maturity date or mandatory redemption date shall be not later than 5 years after the date of issuance and some principal amount shall mature or be subject to mandatory redemption in each subsequent year of the term of the bond.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 414]

(SB 1080)

AN ACT to amend 1987 PA 204, entitled "An act to provide for matters pertaining to a low-level radioactive waste disposal site in this state; to create a low-level radioactive waste authority and prescribe its powers and duties; to create certain boards, committees, and institutes and prescribe their powers and duties; to prescribe the powers and duties of certain persons, municipalities, and counties and state departments and agencies; to provide for certain methods of dispute resolution; to create certain funds; and to provide for an appropriation and the expenditure of certain funds," by amending section 20a (MCL 333.26220a).

The People of the State of Michigan enact:

333.26220a Bonds.

Sec. 20a. (1) For the purpose of financing the project costs associated with the disposal site, the authority may borrow money and issue its revenue bonds payable solely from the disposal site revenues, except to the extent paid from the proceeds of sale of revenue bonds or from any other security provided for and pledged as provided by this act. The bonds shall be serial bonds or term bonds, or a combination of serial bonds and term bonds, and shall be payable as provided in the resolution authorizing the bonds. The last annual principal installment shall not be longer than the estimated period of usefulness of the disposal site for which the bonds were issued as determined by the authority. The resolution of the authority authorizing the issuance of the bonds may provide for sinking fund payments; for the bonds to bear interest at a fixed or variable rate or rates of interest per annum or at no interest; for the establishment of a reserve and the method of funding the reserve; for the investment of bond proceeds and other money held in funds and accounts created by the resolution; for the denomination or denominations of the bonds; for the form, either coupon or registered, of the bonds; for the conversion or registration privileges; for the manner of execution; for the sources, medium of payment, and place or places within or without the state of payment; and that the bond be subject to redemption at the option of the holder or the authority with the terms and redemption premiums as the resolution provides.

(2) Bonds issued may be sold at a discount but may not be sold at a price that would make the interest cost on the money borrowed after deducting any premium or adding any discount exceed 10% per annum or the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, whichever is greater. Bonds of the authority may be sold at public or private sale. Bonds issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Bonds of the authority shall not be in any way a debt or liability of the state and shall not create or constitute an indebtedness, liability, or obligation of the state or constitute a pledge of the faith and credit of the state, but all bonds issued by the authority, unless funded or refunded by bonds issued by the authority, shall be payable solely from revenues or funds pledged or available for their payment from disposal site revenues, or as otherwise provided by this act. The authority shall not be personally liable for an indebtedness, liability, or obligation under this section. Each bond issued under this section shall contain on its face a statement to the effect that the bond is not in any way a debt or liability of the state, that the state is not obligated to pay principal or interest on the bond, that neither the faith and credit nor the taxing power of the state is pledged for the payment of principal of or interest on the bond, and that the authority is obligated to pay the principal of and interest on the bond only from the disposal site revenues.

(4) The authority may authorize and approve an insurance contract, an agreement for a line of credit, a letter of credit, a commitment to purchase bonds, an agreement to remarket bonds or not to call for prior redemption of bonds, swaps, or interest protection agreements including interest rates, hedges, or similar agreements, and any other transaction to provide security to assure timely payment of the bond. The authority may authorize payment from the proceeds of the bond or from other funds available, of the costs of issuance including, but not limited to, fees for placement, charges for replacement, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or agreements to provide security to assure timely payment of the bonds.

(5) A pledge of the disposal site revenues and the funds and accounts pledged by the resolution is valid and binding from the time when the pledge is made. The disposal site revenues pledged and thereafter received by the authority shall be subject to a statutory lien of the pledge without physical delivery of the revenues or money or further act, until payment in full of the principal of and interest upon the bonds, unless the authorizing resolution provides for an earlier discharge of the lien. The lien of a pledge of the disposal site revenue is valid and binding against a party having a claim of any kind in tort, contract, or otherwise against the authority, irrespective of whether that party has notice of the pledge. Neither the resolution authorizing the issuance of the bonds, the trust indenture, nor any other instrument by which a pledge is created need be filed or recorded in order to establish and perfect a lien or security interest in the property pledged.

(6) In the resolution authorizing the issuance of the bonds, the authority may authorize the state treasurer, as agent for the authority, to do 1 or more of the following:

(a) Sell and deliver, and receive payment for, bonds.

(b) Refund bonds by the delivery of new bonds, whether or not the bonds to be refunded have matured or are subject to redemption.

(c) Deliver bonds, partly to refund bonds, and partly for any other authorized purpose.

(d) Buy bonds that have been issued and resell those bonds.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(7) The authority may provide in the resolution authorizing the issuance of the bonds for 1 or more of the following:

(a) A provision that the disposal site revenues shall be pledged for the payment of the bonds.

(b) To covenant that the fees and surcharges provided for by section 19 shall be revised from time to time within the limits permitted by law and under the compact when necessary to insure that the revenues to be derived shall be sufficient to pay the principal of and interest on the bonds issued pursuant to this section and other obligations incurred in connection with the issuance of the bonds.

(c) To establish, make provision for, and make regulation regarding and disposition of reserves or sinking funds.

(d) To covenant with respect to or against limitations on the right to sell or otherwise dispose of property of any kind.

(e) A provision for deposit and expenditure of the proceeds of sale of the bonds and for investment of the proceeds and of other funds relating to the bonds.

(f) To covenant as to the issuance of additional bonds or notes, or as to limitations on the issuance of additional bonds, and on incurring other debts of the authority.

(g) To covenant as to the payment of principal and interest on the bonds, as to the sources and methods of that payment, as to the rank and priority of the bonds with respect to a lien or security, or as to the acceleration of the maturity of the bonds.

(h) To covenant as to the redemption of the bonds, and privileges for exchange of other bonds of the authority.

(i) To covenant as to create or authorize the creation of special funds or money to be held or pledged or otherwise for operating expenses, payment or redemption of bonds, reserves, or other purposes, and as the use and disposition of the money held in these special funds.

(j) To establish the procedure by which the terms of a contract or covenant with or for the benefit of the holders of the bonds may be amended or abrogated, the amount of bonds the holders of which must consent to the amendment of abrogation, and to the manner in which the consent may be given.

(k) To provide for the rights and liabilities, powers, and duties arising upon the breach of a covenant, condition, or obligation, and to prescribe the events of default and the terms and conditions upon which any or all the bonds shall become or may be declared due and payable before maturity, and the terms and conditions upon which such declarations and its consequences may be waived.

(*l*) Provide for the appointment of a trustee, to vest in a trustee property, rights, powers, and duties in trust as the authority determines, which may include all or any of the rights, powers, or duties of a trustee appointed by the holders of bonds or notes, and to limit or abrogate the right of holders of bonds of the authority to appoint a trustee under this section or to limit the rights, powers, and duties of such trustee.

(m) To limit the rights of holders of bonds to enforce a pledge or covenant securing the bonds.

(n) Any other matters of like or different character, which in any way affects the security or protection of the bonds.

(8) Notwithstanding any other restriction contained in any other law, the state and the public officer, governmental unit, or agencies of the state or governmental unit; a bank, trust company, savings bank and institution, savings and loan association, investment company, or other person carrying on a banking business; an insurance company, insurance association, or any other person carrying on an insurance business; or an executor, administrator, guardian, trustee, or other fiduciary may legally invest a sinking fund,

money, or any other fund belonging to them or within their control in bonds or notes issued under this section, and authority bonds shall be authorized security for public deposits. If the interest of the bonds is excluded from gross income for federal income tax purposes, bonds and interest on those bonds shall be exempt from all taxation by the state or a subdivision of the state.

(9) The authority may provide for the issuance of bonds in the amount the authority considers necessary for the purpose of refunding bonds of the authority then outstanding, including the payment of any redemption premium and interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of these bonds. The proceeds of these refunding bonds may be applied to the purchase or retirement at maturity or redemption of outstanding bonds either on the earliest or subsequent redemption date, and pending the application, may be placed in escrow to be applied to the purchase or retirement at maturity or redemption on a date or dates determined by the authority. Pending the application and subject to agreements with the bondholders, the escrowed proceeds may be invested and reinvested in the manner the authority determines, maturing at the time or times as appropriate to assure prompt payment of the principal, interest, and redemption premium, if any, of the outstanding bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, the balance of the proceeds and interest, income, and profits, if any, earned or realized on the investment of the proceeds shall be returned to the authority for use by the authority in any lawful manner. In the resolution authorizing bonds, the authority may provide that the bonds that have been refunded shall be considered paid when there has been deposited in trust money or direct obligations of the United States, or other obligations secured by the foregoing that will provide payments of principal and interest adequate to pay the principal and interest on the refunded bonds as that principal and interest becomes due whether by maturity or prior redemption and that, upon the deposit of the money or obligations, the obligations of the authority to the holders of the refunded bonds are terminated except as to the rights to the money or obligations deposited in trust.

(10) As used in this section:

(a) "Annual principal installment" means a maturity of serial bonds, an amount of term bonds required to be redeemed in that year, or a maturity of term bonds less amounts previously required to be redeemed.

(b) "Bonds" means any note, bond, or other obligation or evidence of indebtedness of the authority.

(c) "Disposal site revenues" means fees and surcharges established by the authority under section 19; other revenues generated by the operation of the disposal site; and other revenues received by the bond holders pursuant to the resolution authorizing the bond, after deduction of reasonable expenses of administration, operation, and maintenance of the disposal site.

(d) "Project costs" means the costs of assurance of title, construction, insurance during construction, acquisition, improvement, enlargement, extension, or repair of the disposal site unit including any engineering, architectural, legal, accounting, financial, surveying, and other expenses incidental to the disposal site. Project costs shall also include interest on the bonds and other obligations of the borrower issued to pay project costs or to secure the timely payment of the bonds, a reserve or an addition to a reserve for payment of principal and interest on the bonds, the amount determined by the authority required for the operation of maintenance of the disposal site until sufficient revenues have developed, and all costs associated with the issuance of the bonds.

(11) The issuance of bonds under this act is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 415]

(SB 1082)

AN ACT to amend 1947 PA 235, entitled "An act to regulate the ownership, extension, improvement and operation of public water and sewage disposal systems lying within 2 or more public corporations; to authorize the acquisition, by any public corporation, of that part of a public water or sewage disposal system lying within its boundaries; and to provide for the payment and security of revenue bonds issued for the construction, acquisition, extension and improvement of such systems," by amending sections 6 and 10 (MCL 123.336 and 123.340).

The People of the State of Michigan enact:

123.336 Disposal system; retirement of bonds; noncallable bonds; bond and interest redemption fund; payment priority; bonds subject to revenue bond act of 1933.

Sec. 6. (1) If there are outstanding revenue bonds issued for the acquisition, construction, extension, or improvement of the system, the bonds may be retired either by the issue of joint refunding bonds on behalf of all the public corporations by concurrent ordinances of their respective legislative or governing bodies, or by the apportionment of the outstanding indebtedness among the several public corporations and assumption by each of its proportion of indebtedness, or the issue by each of revenue refunding bonds or other obligations for its proportion. Unless otherwise provided by contract, the outstanding indebtedness, if the plan of refunding or assumption is adopted by either public corporation, and if there are noncallable bonds the owners of which do not consent to surrender for redemption, exchange, or indorsement, the plan may nevertheless be made effective if provision is made for the subordination of the refunding or assumed bonds to those not consenting and for a separate bond and interest redemption fund for the non-consenting bonds and the deposit of all money required by the ordinance under which the bonds were originally issued for the payment of the non-consenting bonds and reserves before any provision is made for the payment of the refunding or assumed bonds or reserves.

(2) Bonds issued under this section are subject to the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

123.340 Disposal system; operation by joint board or agency as unit; fund payments; depreciation, contingent, and surplus funds; revised municipal finance act inapplicable.

Sec. 10. (1) If the system is operated as a single unit, by a joint board or by 1 public corporation as agent for all, the operating board or agency shall provide for the payment of the necessary amounts into the operation and maintenance fund and into the bond and interest redemption fund for all bonds secured by the revenues of the entire system. The public corporations may, by contract, provide for the joint holding and management of

other revenues or for their apportionment and deposit into separate bond and interest redemption funds for bonds, severally issued or assumed and into separate depreciation, contingent, and surplus funds. Unless otherwise provided by the contract, those revenues shall be divided and paid quarterly or more often into their respective treasuries and set apart by each into the appropriate funds. Unless otherwise provided by the contract, each public corporation shall have control of the construction of extensions and improvements to the system within its boundaries, and shall be entitled to its proportion of the contingent and surplus funds for that purpose.

(2) The contracts described in subsection (1) are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 416]

(SB 1167)

AN ACT to amend 1967 PA 266, entitled "An act to authorize and provide for the issuance of notes of the state, including refunding notes and commercial paper; to provide funds to meet obligations incurred pursuant to appropriations for fiscal years; to provide for the payment of such notes from revenues received during the same fiscal years; and to exempt certain notes and interest on those notes from taxation," by amending section 4 (MCL 17.454).

The People of the State of Michigan enact:

17.454 Use of proceeds of loan restricted; revised municipal finance act inapplicable; issuance of bonds and notes subject to agency financing reporting act.

Sec. 4. (1) The proceeds of any loan under this act shall not be used to pay in advance appropriations to any municipality as defined in section 103 of the revised municipal finance act, 2001 PA 34, MCL 141.2103.

(2) Bonds, notes, and loans issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved June 3, 2002.
Filed with Secretary of State June 3, 2002.

[No. 417]

(HB 5899)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways

of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 801 (MCL 257.801), as amended by 2000 PA 502.

The People of the State of Michigan enact:

257.801 Registration taxes on vehicles; schedules; computation; exemption from ad valorem taxes on vehicles in stock or bond; increase and disposition of certain fees; definitions.

Sec. 801. (1) The secretary of state shall collect the following taxes at the time of registering a vehicle, which shall exempt the vehicle from all other state and local taxation, except the fees and taxes provided by law to be paid by certain carriers operating motor vehicles and trailers under the motor carrier act, 1933 PA 254, MCL 475.1 to 479.43; the taxes imposed by the motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234; and except as otherwise provided by this act:

(a) For a motor vehicle, including a motor home, except as otherwise provided, and a pickup truck or van that weighs not more than 5,000 pounds, except as otherwise provided, according to the following schedule of empty weights:

Empty weights	Fee
0 to 3,000 pounds	$ 29.00
3,001 to 3,500 pounds	32.00
3,501 to 4,000 pounds	37.00
4,001 to 4,500 pounds	43.00
4,501 to 5,000 pounds	47.00
5,001 to 5,500 pounds	52.00
5,501 to 6,000 pounds	57.00
6,001 to 6,500 pounds	62.00
6,501 to 7,000 pounds	67.00
7,001 to 7,500 pounds	71.00
7,501 to 8,000 pounds	77.00
8,001 to 8,500 pounds	81.00
8,501 to 9,000 pounds	86.00
9,001 to 9,500 pounds	91.00
9,501 to 10,000 pounds	95.00
over 10,000 pounds	$ 0.90 per 100 pounds of empty weight

On October 1, 1983, and October 1, 1984, the tax assessed under this subdivision shall be annually revised for the registrations expiring on the appropriate October 1 or after

that date by multiplying the tax assessed in the preceding fiscal year times the personal income of Michigan for the preceding calendar year divided by the personal income of Michigan for the calendar year which preceded that calendar year. In performing the calculations under this subdivision, the secretary of state shall use the spring preliminary report of the United States department of commerce or its successor agency. A van which is owned by an individual who uses a wheelchair or by an individual who transports a resident of his or her household who uses a wheelchair and for which registration plates are issued pursuant to section 803d shall be assessed at the rate of 50% of the tax provided for in this subdivision.

(b) For a trailer coach attached to a motor vehicle, 76 cents per 100 pounds of empty weight of the trailer coach. A trailer coach not under 1959 PA 243, MCL 125.1035 to 125.1043, and while located on land otherwise assessable as real property under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, if the trailer coach is used as a place of habitation, and whether or not permanently affixed to the soil, shall not be exempt from real property taxes.

(c) For a road tractor, truck, or truck tractor owned by a farmer and used exclusively in connection with a farming operation, including a farmer hauling livestock or farm equipment for other farmers for remuneration in kind or in labor, but not for money, or used for the transportation of the farmer and the farmer's family, and not used for hire, 74 cents per 100 pounds of empty weight of the road tractor, truck, or truck tractor. If the road tractor, truck, or truck tractor owned by a farmer is also used for a nonfarming operation, the farmer shall be subject to the highest registration tax applicable to the nonfarm use of the vehicle but shall not be subject to more than 1 tax rate under this act.

(d) For a road tractor, truck, or truck tractor owned by a wood harvester and used exclusively in connection with the wood harvesting operations or a truck used exclusively to haul milk from the farm to the first point of delivery, 74 cents per 100 pounds of empty weight of the road tractor, truck, or truck tractor. A registration secured by payment of the fee as prescribed in this subdivision shall continue in full force and effect until the regular expiration date of the registration. As used in this subdivision, "wood harvester" includes the person or persons hauling and transporting raw materials in the form produced at the harvest site. As used in this subdivision, "wood harvesting operations" does not include the transportation of processed lumber, Christmas trees, or processed firewood for a profit making venture.

(e) For a hearse or ambulance used exclusively by a licensed funeral director in the general conduct of the licensee's funeral business, including a hearse or ambulance whose owner is engaged in the business of leasing or renting the hearse or ambulance to others, $1.17 per 100 pounds of the empty weight of the hearse or ambulance.

(f) For a motor vehicle owned and operated by this state, a state institution, a municipality, a privately incorporated, nonprofit volunteer fire department, or a nonpublic, nonprofit college or university, $5.00 per set; and for each motor vehicle operating under municipal franchise, weighing less than 2,500 pounds, 65 cents per 100 pounds of the empty weight of the motor vehicle, weighing from 2,500 to 4,000 pounds, 80 cents per 100 pounds of the empty weight of the motor vehicle, weighing 4,001 to 6,000 pounds, $1.00 per 100 pounds of the empty weight of the motor vehicle, and weighing over 6,000 pounds, $1.25 per 100 pounds of the empty weight of the motor vehicle.

(g) For a bus including a station wagon, carryall, or similarly constructed vehicle owned and operated by a nonprofit parents' transportation corporation used for school purposes, parochial school or society, church Sunday school, or any other grammar school, or by a nonprofit youth organization or nonprofit rehabilitation facility; or a motor vehicle

owned and operated by a senior citizen center, $10.00 per set, if the bus, station wagon, carryall, or similarly constructed vehicle or motor vehicle is designated by proper signs showing the organization operating the vehicle.

(h) For a vehicle owned by a nonprofit organization and used to transport equipment for providing dialysis treatment to children at camp; for a vehicle owned by the civil air patrol, as organized under sections 40301 to 40307 of title 36 of the United States Code, 36 U.S.C. 40301 to 40307, $10.00 per plate, if the vehicle is designated by a proper sign showing the civil air patrol's name; for a vehicle owned and operated by a nonprofit veterans center; for a vehicle owned and operated by a nonprofit recycling center or a federally recognized nonprofit conservation organization; for a motor vehicle having a truck chassis and a locomotive or ship's body which is owned by a nonprofit veterans organization and used exclusively in parades and civic events; or for an emergency support vehicle used exclusively for emergencies and owned and operated by a federally recognized nonprofit charitable organization, $10.00 per plate.

(i) For each truck owned and operated free of charge by a bona fide ecclesiastical or charitable corporation, or red cross, girl scout, or boy scout organization, 65 cents per 100 pounds of the empty weight of the truck.

(j) For each truck, weighing 8,000 pounds or less, and not used to tow a vehicle, for each privately owned truck used to tow a trailer for recreational purposes only and not involved in a profit making venture, and for each vehicle designed and used to tow a mobile home or a trailer coach, except as provided in subdivision (b), $38.00 or an amount computed according to the following schedule of empty weights, whichever is greater:

Empty weights	Per 100 pounds
0 to 2,500 pounds	$ 1.40
2,501 to 4,000 pounds	1.76
4,001 to 6,000 pounds	2.20
6,001 to 8,000 pounds	2.72
8,001 to 10,000 pounds	3.25
10,001 to 15,000 pounds	3.77
15,001 pounds and over	4.39

If the tax required under subdivision (p) for a vehicle of the same model year with the same list price as the vehicle for which registration is sought under this subdivision is more than the tax provided under the preceding provisions of this subdivision for an identical vehicle, the tax required under this subdivision shall not be less than the tax required under subdivision (p) for a vehicle of the same model year with the same list price.

(k) For each truck weighing 8,000 pounds or less towing a trailer or any other combination of vehicles and for each truck weighing 8,001 pounds or more, road tractor or truck tractor, except as provided in subdivision (j) according to the following schedule of elected gross weights:

Elected gross weight	Fee
0 to 24,000 pounds	$ 491.00
24,001 to 26,000 pounds	558.00
26,001 to 28,000 pounds	558.00
28,001 to 32,000 pounds	649.00
32,001 to 36,000 pounds	744.00
36,001 to 42,000 pounds	874.00
42,001 to 48,000 pounds	1,005.00

48,001 to 54,000 pounds	1,135.00
54,001 to 60,000 pounds	1,268.00
60,001 to 66,000 pounds	1,398.00
66,001 to 72,000 pounds	1,529.00
72,001 to 80,000 pounds	1,660.00
80,001 to 90,000 pounds	1,793.00
90,001 to 100,000 pounds	2,002.00
100,001 to 115,000 pounds	2,223.00
115,001 to 130,000 pounds	2,448.00
130,001 to 145,000 pounds	2,670.00
145,001 to 160,000 pounds	2,894.00
over 160,000 pounds	3,117.00

For each commercial vehicle registered pursuant to this subdivision $15.00 shall be deposited in a truck safety fund to be expended for the purposes prescribed in section 25 of 1951 PA 51, MCL 247.675.

If a truck or road tractor without trailer is leased from an individual owner-operator, the lessee, whether a person, firm, or corporation, shall pay to the owner-operator 60% of the fee prescribed in this subdivision for the truck tractor or road tractor at the rate of 1/12 for each month of the lease or arrangement in addition to the compensation the owner-operator is entitled to for the rental of his or her equipment.

(*l*) For each pole trailer, semitrailer, or trailer, according to the following schedule of empty weights:

Empty weights	Fee
0 to 500 pounds	$ 17.00
501 to 1,500 pounds	24.00
1,501 pounds and over	39.00

(m) For each commercial vehicle used for the transportation of passengers for hire except for a vehicle for which a payment is made pursuant to 1960 PA 2, MCL 257.971 to 257.972, according to the following schedule of empty weights:

Empty weights	Per 100 pounds
0 to 4,000 pounds	$ 1.76
4,001 to 6,000 pounds	2.20
6,001 to 10,000 pounds	2.72
10,001 pounds and over	3.25

(n) For each motorcycle ..... $ 23.00

On October 1, 1983, and October 1, 1984, the tax assessed under this subdivision shall be annually revised for the registrations expiring on the appropriate October 1 or after that date by multiplying the tax assessed in the preceding fiscal year times the personal income of Michigan for the preceding calendar year divided by the personal income of Michigan for the calendar year which preceded that calendar year. In performing the calculations under this subdivision, the secretary of state shall use the spring preliminary report of the United States department of commerce or its successor agency.

Beginning January 1, 1984, the registration tax for each motorcycle shall be increased by $3.00. The $3.00 increase shall not be considered as part of the tax assessed under this subdivision for the purpose of the annual October 1 revisions but shall be in addition to the tax assessed as a result of the annual October 1 revisions. Beginning January 1, 1984,

$3.00 of each motorcycle fee shall be placed in a motorcycle safety fund in the state treasury and shall be used only for funding the motorcycle safety education program as provided for under sections 312b and 811a.

(o) For each truck weighing 8,001 pounds or more, road tractor, or truck tractor used exclusively as a moving van or part of a moving van in transporting household furniture and household effects or the equipment or those engaged in conducting carnivals, at the rate of 80% of the schedule of elected gross weights in subdivision (k) as modified by the operation of that subdivision.

(p) After September 30, 1983, each motor vehicle of the 1984 or a subsequent model year as shown on the application required under section 217 which has not been previously subject to the tax rates of this section and which is of the motor vehicle category otherwise subject to the tax schedule described in subdivision (a), and each low-speed vehicle according to the following schedule based upon registration periods of 12 months:

(*i*) Except as otherwise provided in this subdivision, for the first registration, which is not a transfer registration under section 809 and for the first registration after a transfer registration under section 809, according to the following schedule based on the vehicle's list price:

List Price	Tax
$0 - $6,000.00	$ 30.00
More than $6,000.00 - $7,000.00	$ 33.00
More than $7,000.00 - $8,000.00	$ 38.00
More than $8,000.00 - $9,000.00	$ 43.00
More than $9,000.00 - $10,000.00	$ 48.00
More than $10,000.00 - $11,000.00	$ 53.00
More than $11,000.00 - $12,000.00	$ 58.00
More than $12,000.00 - $13,000.00	$ 63.00
More than $13,000.00 - $14,000.00	$ 68.00
More than $14,000.00 - $15,000.00	$ 73.00
More than $15,000.00 - $16,000.00	$ 78.00
More than $16,000.00 - $17,000.00	$ 83.00
More than $17,000.00 - $18,000.00.	$ 88.00
More than $18,000.00 - $19,000.00	$ 93.00
More than $19,000.00 - $20,000.00	$ 98.00
More than $20,000.00 - $21,000.00	$ 103.00
More than $21,000.00 - $22,000.00	$ 108.00
More than $22,000.00 - $23,000.00	$ 113.00
More than $23,000.00 - $24,000.00	$ 118.00
More than $24,000.00 - $25,000.00	$ 123.00
More than $25,000.00 - $26,000.00	$ 128.00
More than $26,000.00 - $27,000.00	$ 133.00
More than $27,000.00 - $28,000.00	$ 138.00
More than $28,000.00 - $29,000.00	$ 143.00
More than $29,000.00 - $30,000.00	$ 148.00

More than $30,000.00, the fee of $148.00 shall be increased by $5.00 for each $1,000.00 increment or fraction of a $1,000.00 increment over $30,000.00. If a current fee increases or decreases as a result of 1998 PA 384, only a vehicle purchased or transferred after January 1, 1999 shall be assessed the increased or decreased fee.

(*ii*) For the second registration, 90% of the tax assessed under subparagraph (*i*).

(*iii*) For the third registration, 90% of the tax assessed under subparagraph (*ii*).

(*iv*) For the fourth and subsequent registrations, 90% of the tax assessed under subparagraph (*iii*).

For a vehicle of the 1984 or a subsequent model year that has been previously registered by a person other than the person applying for registration or for a vehicle of the 1984 or a subsequent model year that has been previously registered in another state or country and is registered for the first time in this state, the tax under this subdivision shall be determined by subtracting the model year of the vehicle from the calendar year for which the registration is sought. If the result is zero or a negative figure, the first registration tax shall be paid. If the result is 1, 2, or 3 or more, then, respectively, the second, third, or subsequent registration tax shall be paid. A van which is owned by an individual who uses a wheelchair or by an individual who transports a resident of his or her household who uses a wheelchair and for which registration plates are issued pursuant to section 803d shall be assessed at the rate of 50% of the tax provided for in this subdivision.

(q) For a wrecker, $200.00.

(r) When the secretary of state computes a tax under this section, a computation that does not result in a whole dollar figure shall be rounded to the next lower whole dollar when the computation results in a figure ending in 50 cents or less and shall be rounded to the next higher whole dollar when the computation results in a figure ending in 51 cents or more, unless specific fees are specified, and the secretary of state may accept the manufacturer's shipping weight of the vehicle fully equipped for the use for which the registration application is made. If the weight is not correctly stated or is not satisfactory, the secretary of state shall determine the actual weight. Each application for registration of a vehicle under subdivisions (j) and (m) shall have attached to the application a scale weight receipt of the vehicle fully equipped as of the time the application is made. The scale weight receipt is not necessary if there is presented with the application a registration receipt of the previous year which shows on its face the weight of the motor vehicle as registered with the secretary of state and which is accompanied by a statement of the applicant that there has not been a structural change in the motor vehicle which has increased the weight and that the previous registered weight is the true weight.

(2) A manufacturer is not exempted under this act from paying ad valorem taxes on vehicles in stock or bond, except on the specified number of motor vehicles registered. A dealer is exempt from paying ad valorem taxes on vehicles in stock or bond.

(3) The fee for a vehicle with an empty weight over 10,000 pounds imposed pursuant to subsection (1)(a) and the fees imposed pursuant to subsection (1)(b), (c), (d), (e), (f), (i), (j), (m), (o), and (p) shall each be increased by $5.00. This increase shall be credited to the Michigan transportation fund and used to defray the costs of processing the registrations under this section.

(4) As used in this section:

(a) "Gross proceeds" means gross proceeds as defined in section 1 of the general sales tax act, 1933 PA 167, MCL 205.51. However, gross proceeds shall include the value of the motor vehicle used as part payment of the purchase price as that value is agreed to by the parties to the sale, as evidenced by the signed agreement executed pursuant to section 251.

(b) "List price" means the manufacturer's suggested base list price as published by the secretary of state, or the manufacturer's suggested retail price as shown on the label required to be affixed to the vehicle under section 3 of the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1232, if the secretary of state has not at the time of the sale of the vehicle published a manufacturer's suggested retail price for that

vehicle, or the purchase price of the vehicle if the manufacturer's suggested base list price is unavailable from the sources described in this subdivision.

(c) "Purchase price" means the gross proceeds received by the seller in consideration of the sale of the motor vehicle being registered.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 418]

(SB 989)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 8302, 8303, 8304, 8305, 8306, 8309, 8310, 8311, 8312, 8313, 8314, 8317, 8318, 8319, 8322, 8327, 8329, 8330, and 8333 (MCL 324.8302, 324.8303, 324.8304, 324.8305, 324.8306, 324.8309, 324.8310, 324.8311, 324.8312, 324.8313, 324.8314, 324.8317, 324.8318, 324.8319, 324.8322, 324.8327, 324.8329, 324.8330, and 324.8333), section 8319 as amended by 1996 PA 312, and by adding sections 8307a, 8307b, 8307c, 8307d, 8307e, and 8307f; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.8302 Definitions; A to C.

Sec. 8302. (1) "Active ingredient" means an ingredient that will prevent, destroy, repel, or mitigate pests, or that will act as a plant regulator, defoliant, or desiccant or otherwise alter the behavior of plants or products.

(2) "Activity plan" means a plan for the mitigation of groundwater contamination at a specific location, including a time frame for implementation.

(3) "Adulterated" applies to a pesticide if its strength or purity is less than, or significantly greater than, the professed standard or quality as expressed on its labeling or under which it is sold; if a substance was substituted wholly or in part for a pesticide; or if a valuable constituent of the pesticide was wholly or in part abstracted.

(4) "Agricultural commodity" means a plant or part of a plant, or an animal or animal product, produced primarily for sale, consumption, propagation, or other use by human beings or animals.

(5) "Animal" means all vertebrate and invertebrate species, including, but not limited to, human beings and other mammals, birds, fish, and shellfish.

(6) "Antimicrobial pesticide" means a pesticide that is intended to disinfect, sanitize, reduce, or mitigate growth or development of microbial organisms, as defined under the federal insecticide, fungicide, and rodenticide act, chapter 125, 86 Stat. 973, 7 U.S.C. 136 to 136i, 136j to 136r, and 136s to 136y.

(7) "Application season" means a time period of pesticide application, consistent with the category of application, within a calendar year.

(8) "Aquifer" means a geologic formation, a group of formations, or a part of a formation capable of yielding a significant amount of groundwater to wells or springs.

(9) "Aquifer sensitivity" means a hydrogeologic function representing the inherent abilities of materials surrounding the aquifer to attenuate the movement of pesticides into that aquifer.

(10) "Avicide" means a pesticide intended for preventing, destroying, repelling, or mitigating pest birds.

(11) "Building manager" means the person who is designated as being responsible for the building's pest management program and to whom any reporting and notification shall be made pursuant to this part or rules promulgated under this part.

(12) "Certified applicator" means an individual who is authorized under this part to use and supervise the use of a restricted use pesticide.

(13) "Commercial applicator" means a person who is required to be a registered or certified applicator under this part, or who holds himself or herself out to the public as being in the business of applying pesticides. A commercial applicator does not include a person using a pesticide for a private agricultural purpose.

(14) "Commercial building" means any portion of a building that is not a private residence where a business is located and that is frequented by the public.

(15) "Confirmed contaminant" means a contaminant that has been detected in at least 2 groundwater samples collected from the same groundwater sampling point at an interval of greater than 14 days.

(16) "Contaminant" means any pesticide originated chemical, radionuclide, ion, synthetic organic compound, microorganism, or waste that does not occur naturally in groundwater or that naturally occurs at a lower concentration than detected.

(17) "Contamination" means the direct or indirect introduction into groundwater of any contaminant caused in whole or in part by human activity.

324.8303 Definitions; D to G.

Sec. 8303. (1) "Defoliant" means a substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

(2) "Department" means the department of agriculture.

(3) "Desiccant" means a substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(4) "Device" means an instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating a pest; but does not include equipment used for the application of pesticides when sold separately.

(5) "Direct supervision" means directing the application of a pesticide while being physically present during the application. However, direct supervision by a private agricultural applicator means either of the following:

(a) The private agricultural applicator is in the same field or location directing the application of a restricted use pesticide by an uncertified applicator.

(b) The private agricultural applicator supervises the uncertified applicator and is physically present during the initial restricted use pesticide application on an agricultural

commodity or agricultural structure, including calibration, mixing, application, operator safety, and disposal.

(6) "Director" means the director of the department of agriculture or his or her authorized representative.

(7) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, or deliver pesticides in this state.

(8) "Envelope monitoring" means monitoring of groundwater in areas adjacent to properties where groundwater is contaminated to determine the concentration and spatial distribution of the contaminant in the aquifer.

(9) "Environment" includes water, air, land, and all plants and human beings and other animals living therein, and the interrelationships that exist among them.

(10) "EPA" means the United States environmental protection agency.

(11) "FIFRA" means the federal insecticide, fungicide, and rodenticide act, chapter 125, 86 Stat. 973, 7 U.S.C. 136 to 136i and 136j to 136r and 136s to 136y.

(12) "Fungi" means all nonchlorophyll bearing thallophytes; that is, all nonchlorophyll bearing plants of a lower order than mosses and liverworts, as for example rusts, smuts, mildews, molds, yeasts, and bacteria, except those in or on other animals, and except those in or on processed foods, beverages, or pharmaceuticals.

(13) "General use pesticide" means a pesticide that is not a restricted use pesticide.

(14) "Groundwater" means underground water within the zone of saturation.

(15) "Groundwater protection rule" means a rule promulgated under this part that defines a minimum operational standard for structures, activities, and procedures that may have or may contribute to the contamination of groundwater and that defines the scope of a groundwater protection rule, the region of implementation of a groundwater protection rule, and implementation period for those rules. As used in this subsection:

(a) "Structures, activities, and procedures" includes, but is not limited to, mixing, loading, and rinse pads, application equipment, application timing, application rates, crop rotation, and pest control thresholds.

(b) "The scope of a groundwater protection rule" may define a particular pesticide, structure, activity, or procedure or may define pesticides containing specific ingredients.

(c) "The region of implementation of a groundwater protection rule" may include specific soil types or aquifer sensitivity regions or any other geographic boundary.

(16) "Groundwater resource protection level" means a maximum contaminant level, health advisory level, or, if the EPA has not established a maximum contaminant level or a health advisory level, a level established by the director of public health using risk assessment protocol established by rule under this part.

(17) "Groundwater resource response level" means 20% of the groundwater resource protection level. In cases where 20% of the groundwater resource protection level is less than the method detection limit, the method detection limit shall serve as the groundwater resource response level.

324.8304 Definitions; I to M.

Sec. 8304. (1) "Inert ingredient" means an ingredient that is not active.

(2) "Ingredient statement" means:

(a) A statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide.

(b) When the pesticide contains arsenic in any form, the ingredient statement shall include percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(3) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, as for example beetles, bugs, bees, and flies, and to other allied classes or arthropods whose members are wingless and usually have more than 6 legs, as for example spiders, mites, ticks, centipedes, and wood lice.

(4) "Insecticide" means a pesticide intended for preventing, destroying, repelling, or mitigating an insect.

(5) "Integrated pest management" means a pest management system that uses all suitable techniques in a total management system to prevent pests from reaching unacceptable levels or to reduce existing pest populations to acceptable levels.

(6) "Label" means the written, printed, or graphic matter on or attached to the pesticide or device or any of its containers or wrappers.

(7) "Labeling" means the label and all other written, printed, or graphic matter accompanying the pesticide or device, or to which reference is made on the label or in literature accompanying the pesticide or device, and all applicable modifications or supplements to official publications of the EPA, the United States departments of agriculture and interior, the United States departments of education and health and human services, state experiment stations, state agricultural colleges, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(8) "Maximum contaminant level" means that term as it is defined in title XIV of the public health service act, chapter 373, 88 Stat. 1660, 42 U.S.C. 300f to 300j-3, 300j-4 to 300j-9 and 300j-11 to 300j-25, and regulations promulgated under that act.

(9) "Method detection limit" means the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than 0 and is determined from analysis of a sample in a given matrix that contains the analyte.

(10) "Minor use" means the use of a pesticide on a crop, animal, or site where any of the following exist:

(a) The total United States acreage for the crop or site is less than 300,000 acres.

(b) The acreage expected to be treated nationally as a result of that use is less than 300,000 acres annually.

(c) The use does not provide sufficient economic incentive to support the initial registration or continuing registration of the use.

(11) "Misbranded" applies to any pesticide or device if it is an imitation of or is offered for sale under the name of another pesticide, or if its labeling does not comply with labeling requirements of this part, the rules promulgated under this part, FIFRA, or regulations promulgated under FIFRA.

(12) "Molluscicide" means a pesticide intended for preventing, destroying, repelling, or mitigating a mollusk.

324.8305 Definitions; N to P.

Sec. 8305. (1) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, which are unsegmented roundworms with elongated, fusiform, or sac-

like bodies covered with cuticle that inhabit soil, water, plants, or plant parts. A nematode may also be called a nema or eelworm.

(2) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(3) "Pest" means an insect, rodent, nematode, fungus, weed, and other forms of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism, or any other organism that the director declares to be a pest under section 8322, except viruses, fungi, bacteria, nematodes, or other microorganisms in or on living animals.

(4) "Pesticide" means a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating pests or intended for use as a plant regulator, defoliant, or desiccant. Pesticide does not include liquid chemical sterilant products, including any sterilant or subordinate disinfectant claims on such products, for use on a critical or semi-critical device, as defined in section 201 of the federal food, drug, and cosmetic act, chapter 675, 52 Stat. 1040, 21 U.S.C. 321. As used in this subsection:

(a) "Critical device" includes any device that is introduced directly into the human body, either into or in contact with the bloodstream or normally sterile areas of the body.

(b) "Semi-critical device" includes any device that contacts intact mucous membranes but that does not ordinarily penetrate the blood barrier or otherwise enter normally sterile areas of the body.

(5) "Pesticide registration renewal" means the registration of any pesticide that was previously registered by the department.

(6) "Place of business" means a location that is staffed by at least 1 person who independently, without supervision, sells or uses pesticides within this state or where a person exercises the right to control others in the sale or use of pesticides within this state.

(7) "Plant regulator" means a substance or mixture of substances intended through physiological action for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of plants or the produce of plants. Plant regulator does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

(8) "Private agricultural applicator" means a certified applicator who uses or supervises the use of a restricted use pesticide for a private agricultural purpose.

(9) "Private agricultural purpose" means the application of a pesticide for the production of an agricultural commodity on either of the following:

(a) Property owned or rented by the person applying the pesticide or by his or her employer.

(b) Property of another person if applied without compensation, other than trading of personal services between producers of agricultural commodities.

(10) "Protect health and environment" means protection against any unreasonable adverse effects on the environment.

(11) "Public building" means a building that is owned or operated by a federal, state, or local government, including public universities.

324.8306 Definitions; R to W.

Sec. 8306. (1) "Registered applicator" means an individual who is authorized to apply general use pesticides for a private or commercial purpose as provided in this part and in the rules promulgated under this part.

(2) "Ready-to-use pesticide" means a pesticide that is applied directly from its original container consistent with label directions, such as an aerosol insecticide or rodenticide bait pack that does not require mixing or loading prior to application.

(3) "Registrant" means a person who is required to register a pesticide pursuant to this part.

(4) "Restricted use pesticide" means a pesticide classified for restricted use by the EPA or the director.

(5) "Restricted use pesticide dealer" means a person engaged in distributing, selling, or offering for sale restricted use pesticides to the ultimate user.

(6) "Rodenticide" means a pesticide intended for preventing, destroying, repelling, or mitigating rodents.

(7) "School" means public and private schools, grades kindergarten through the twelfth grade.

(8) "Supervise" means directing the application of a pesticide with or without being physically present during the application.

(9) "Unreasonable adverse effect on the environment" means any unreasonable risk to human beings or the environment, taking into account the economic, social, and environmental costs and benefits of the use of a pesticide.

(10) "Use of a pesticide" means the loading, mixing, applying, storing, transporting, and disposing of a pesticide.

(11) "Vendor" means a person who sells or distributes pesticides.

(12) "Violates this part" or "violation of this part" means a violation of this part, a rule promulgated under this part, or an order issued under this part.

(13) "Weed" means a plant which grows where it is not wanted.

324.8307a Distribution, sale, exposure, or offering sale of pesticide; registration required.

Sec. 8307a. (1) Every pesticide distributed, sold, exposed, or offered for sale in this state shall be registered with the director pursuant to this part. The registration shall be submitted on a form provided by the director and shall be renewed annually before July 1. The director shall not register a pesticide under this part unless the registrant has paid all groundwater protection fees and late fees required under part 87, registration fees under this part, and any administrative fines imposed under this part.

(2) A pesticide is considered distributed, sold, exposed, or offered for sale in this state when the offer to sell either originates within this state or is directed by the offeror to persons in this state and received by those persons.

(3) If a registrant distributes identical pesticides under more than 1 brand name, or distributes more than 1 pesticide formulation, each brand or formulation shall be registered as a separate product.

(4) A registrant shall not register a pesticide that contains a substance that is required to be registered with the department unless that substance is also registered with the department.

(5) A pesticide registration applicant shall submit to the director a complete copy of the pesticide labeling and the following, in a format prescribed by the director:

(a) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant.

(b) The full product name of the pesticide and the EPA registration number.

(c) Other information considered necessary by the director.

(6) The applicant shall submit a complete formula of the pesticide proposed for registration, including the active and inert ingredients, when requested by the director and necessary for the director to execute his or her duties under this part. The director shall not use any information relative to formulas of products, trade secrets, or other information obtained under this part for his or her own advantage or reveal such information, other than to his or her authorized representative, the EPA, the department of environmental quality, the department of community health, a court of the state in response to a subpoena, a licensed physician, or in an emergency to a pharmacist or other persons qualified to administer antidotes.

324.8307b Maintenance of registration; renewal; discontinuing registration.

Sec. 8307b. (1) A pesticide that has been registered with the department must continue to be registered as long as the pesticide remains in the channels of trade in this state. It is the registrant's responsibility to maintain the pesticide registration.

(2) It is a violation of this part to continue to distribute a pesticide for which a renewal application, including the required fee, has not been received by the director on or before the last day in June. It is the responsibility of the registrant to obtain and submit an application for renewal of a pesticide registration before the expiration date.

(3) A registrant who intends to discontinue a pesticide registration shall do either of the following:

(a) Terminate further distribution within the state and continue to register the pesticide annually for 2 successive years.

(b) Initiate a recall of the pesticide from distribution in the state prior to the expiration of the registration of the pesticide. Pesticides that do not go through a 2-year discontinuance period and that are found in the channels of trade are subject to registration penalties and all related fees since the product's last year of registration.

324.8307c Registration of pesticide; exception.

Sec. 8307c. Registration is not required under this part if a pesticide is shipped from 1 plant or warehouse to another plant or warehouse operated by the same person and used to make a pesticide that is registered under this part, or if the pesticide is distributed pursuant to an EPA experimental use permit.

324.8307d Prohibited claims.

Sec. 8307d. (1) No person who uses, distributes, exposes, or offers to sell a pesticide shall make claims that the pesticide can be used on sites that are not included in the pesticide labeling.

(2) No person who uses, distributes, exposes, or offers to sell a pesticide shall make claims that the pesticide has characteristics, ingredients, uses, benefits, or qualities that it does not have or that are not allowed under FIFRA.

324.8307e Registration for special local needs.

Sec. 8307e. To register a pesticide for special local needs pursuant to section 24(c) of FIFRA, 7 U.S.C. 136v, or the regulations promulgated under that section, the director shall require the information required under section 8307a(5). A pesticide may be registered

for special local needs if the director determines that all of the following conditions are met:

(a) A special local need exists.

(b) The pesticide's composition warrants the proposed claims for it.

(c) The pesticide's labeling and other submitted material comply with the labeling requirements of FIFRA or regulations promulgated under that act.

(d) It does not cause unreasonable adverse effects on the environment.

(e) The classification for general or restricted use conforms with section 3(d) of FIFRA, 7 U.S.C. 136a.

324.8307f Information requirements.

Sec. 8307f. (1) Upon the director's request, a person who has registered a pesticide shall provide the information necessary to determine its mobility in the environment and its potential to contaminate groundwater. This information may include any of the following:

(a) Water solubility.

(b) Vapor pressure.

(c) Octanol-water partition coefficient.

(d) Soil absorption coefficient.

(e) Henry's law constant.

(f) Dissipation studies including the rate of hydrolysis, photolysis, or aerobic or anaerobic soil metabolism.

(g) Product formulation.

(h) Other information considered necessary by the director.

(2) Information requested under subsection (1) shall be consistent with product registration information required under FIFRA.

(3) As used in this section:

(a) "Aerobic soil metabolism" means chemical degradation in soil in the presence of oxygen.

(b) "Anaerobic soil metabolism" means chemical degradation in soil in the absence of oxygen.

(c) "Henry's law constant" means the ratio of the partial pressure of a compound in air to the concentration of the compound in water at a given temperature.

(d) "Hydrolysis" means a chemical reaction in which water combines with and splits the original chemical creating degradation products.

(e) "Octanol-water partition coefficient" means the ratio of a chemical's concentration in the water-saturated octanol phase to the chemical's concentration in the octanol-saturated water phase.

(f) "Photolysis" means a chemical reaction in which light or radiant energy serves to split the original compound creating degradation products.

(g) "Soil absorption coefficient" means the ratio of absorbed chemical per unit weight of soil or organic carbon to the aqueous solute concentration.

(h) "Vapor pressure" means the pressure exerted by the vapor of a substance when it is under equilibrium conditions.

(i) "Water solubility" means the maximum amount of a material that can be dissolved in water to give a stable solution.

324.8309 Refusing, canceling, or suspending registration; circumstances.

Sec. 8309. The director may refuse to register or may cancel or suspend registration of a pesticide if any of the following circumstances exist:

(a) The pesticide does not meet its EPA registration and labeling claims.

(b) The pesticide labeling and other material required to be submitted does not comply with this part or the rules promulgated under this part.

(c) The pesticide is in violation of this part.

(d) Based on substantial scientific evidence, the director determines that the use of the pesticide is likely to cause an unreasonable adverse effect on the environment, which cannot be controlled by designating the pesticide as a restricted use pesticide, by limiting the uses for which a pesticide may be used or registered, or by other changes to the registration or pesticide label.

324.8310 Restricted use pesticide dealer's license; examination; sales records; summary form of information; sale or distribution of restricted use pesticide; denial, suspension, or revocation of license; maintenance of certain records; confidentiality of information.

Sec. 8310. (1) A restricted use pesticide dealer shall obtain an annual license for each place of business.

(2) The applicant for a license under subsection (1) shall be the person in charge of each business location. The applicant shall demonstrate by written examination his or her knowledge of laws and rules governing the use and sale of restricted use pesticides.

(3) A restricted use pesticide dealer shall forward to the director a record of all sales of restricted use pesticides on forms provided by the director as required by rule. Restricted use pesticide dealers shall keep copies of the records on file for 2 years. These records are subject to inspection by an authorized agent of the director. The records shall, upon request, be supplied in summary form to other state agencies. The summary shall include the name and address of the restricted use pesticide dealer, the name and address of the purchaser, the name of the pesticide sold, and, in an emergency, the quantity sold. Information may not be made available to the public if, in the discretion of the director, release of that information could have a significant adverse effect on the competitive position of the dealer, distributor, or manufacturer.

(4) A restricted use pesticide dealer shall sell or distribute restricted use pesticides for use only by applicators certified under this part.

(5) The director may deny, suspend, or revoke a restricted use pesticide dealer's license for any violation of this part committed by the dealer or the dealer's officer, agent, or employee.

(6) A restricted use pesticide dealer shall maintain and submit to the department records of all restricted use pesticide sales to private applicators and the intended county of application for those pesticides.

(7) Information collected in subsection (6) is confidential business information and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

324.8311 Certification and other requirements; identification; records of certified commercial applicator; submission of summary to director; supervision; following recommended and accepted good practices; governmental agencies subject to part and rules.

Sec. 8311. (1) A person shall not use a restricted use pesticide without first complying with the certification requirements of this part.

(2) A person is not required to be a certified applicator to apply a restricted use pesticide for a private agricultural purpose if the person is under the direct supervision of a certified applicator, unless prohibited by the pesticide label.

(3) Certification requirements for commercial applicators shall include completion of written examinations prescribed by the director. Certification requirements for private agricultural applicators shall provide optional methods of certification to include 1 of the following:

(a) Self-study and examination.

(b) Classroom training and examination.

(c) An oral fact-finding interview administered by an authorized representative of the director when a person is unable to demonstrate competence by examination or classroom training.

(4) At the time of sale, private applicators shall identify the intended county of application of a restricted use pesticide.

(5) A certified commercial applicator shall maintain records of restricted use pesticide applications for 3 years from the date of application and make those records available upon request to an authorized representative of the director during normal business hours.

(6) A commercial applicator shall keep for 3 years from the date of application a record of the pesticide registration number, product name, the formulated amount applied, and application location for all restricted use pesticides used by the commercial applicator. A summary of this information indicating the pesticide registration number, product name, and total formulated amount of pesticide applied to each county during the previous calendar year shall be transmitted to the director before March 1. This summary shall be submitted on forms provided by or approved by the director. Information collected under this subsection is confidential business information and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(7) A certified applicator shall directly supervise the application of a restricted use pesticide if prescribed by the label, this part, or rules promulgated under this part.

(8) A commercial applicator is responsible for pesticide applications made by persons under his or her supervision.

(9) Each person shall follow recommended and accepted good practices in the use of pesticides, including, but not limited to, use of a pesticide in a manner consistent with its labeling.

(10) A federal agency, state agency, municipality, county road commission, or any other governmental agency that uses a pesticide classified for restricted use is subject to this part and the rules promulgated under this part.

324.8312 Completion of certification requirements; application for certified applicator certificate; fee; issuance of certificate; restrictions; grounds for refusal to issue or renew certificate; denying, revoking, or suspending certificate; reasons for denial; display of certificate.

Sec. 8312. (1) To become a certified applicator, an applicant must satisfactorily complete the certification requirements prescribed by the director and categorized according to the various types of pesticide applications prescribed by rule and consistent with the regulations of the EPA.

(2) The application for a certified applicator certificate shall contain information considered to be pertinent by the director.

(3) A certified applicator applicant shall pay the appropriate fee as provided in section 8317.

(4) The director shall issue a certificate to applicants that successfully comply with all certification requirements under this part.

(5) The director may restrict an applicant to use only a certain type of equipment or pesticide upon finding that the applicant is only qualified to use that type of equipment or pesticide.

(6) The director may refuse to issue or renew a certificate if an applicant demonstrates an insufficient knowledge of any item called for in the application or has unsatisfied judgments under this part or rules promulgated under this part against him or her or if the equipment to be used by the applicant is unsafe or inadequate to properly apply pesticides.

(7) The director may at any time deny, revoke, or suspend a private agricultural applicator certificate or a commercial applicator certificate for a violation of this part or upon conviction under section 14 of FIFRA, 7 U.S.C. 136*l*, or upon conviction under a state pesticide law of a reciprocating state in accordance with section 8320.

(8) The director shall inform an applicant who is denied an applicator certificate the reasons why the certificate was denied.

(9) A person shall display his or her certificate upon the request of the director.

324.8313 Commercial applicator; license required; qualifications; form and contents of application; fee; proof of financial responsibility; restriction; grounds for refusal to issue or renew license; denying, revoking, or suspending license; reasons for denial; allowable pesticides; limitations.

Sec. 8313. (1) Commercial applicators who hold themselves out to the public as being in the business of applying pesticides shall obtain a commercial applicator license for each place of business.

(2) A commercial applicator shall be certified under section 8312 and shall have at least 1 of the following in order to qualify for a license:

(a) Service for not less than 2 application seasons as an employee of a commercial applicator or comparable education and experience as determined by the director.

(b) A baccalaureate degree from a recognized college or university in a discipline that provides education regarding pests and the control of pests and 1 application season of service as an employee of a commercial applicator.

(3) The commercial applicator license application shall be on a form provided by the director and shall contain information regarding the applicant's qualifications and proposed operations, the type of equipment to be used by the applicant, and other information considered pertinent by the director.

(4) An application for a commercial applicator license shall be accompanied by the appropriate fee as provided in section 8317.

(5) An application for a commercial applicator license shall be accompanied by proof of sufficient financial responsibility as prescribed by rule.

(6) The director may restrict an applicant to use only a certain type of equipment or pesticide upon finding that the applicant is qualified to use only that type.

(7) The director may refuse to issue or renew a commercial applicator license if the applicant demonstrates insufficient knowledge of an item in the application, or has unsatisfied judgments under this part or a rule promulgated under this part against him or her, or if the equipment used by the applicant is unsafe or inadequate for pesticide applications.

(8) The director may at any time deny, revoke, or suspend a commercial applicator license for a violation of this part or a violation of an order issued under this part, or upon conviction under this part, FIFRA, or a state pesticide law of a reciprocating state in accordance with section 8320.

(9) The director shall inform an applicant who is denied a commercial applicator license the reasons why the license was denied.

(10) A person subject to the licensing requirements in this section shall only apply pesticides that are registered with, or subject to, either United States EPA or this state's laws and rules.

(11) A person subject to the licensing requirements in this section shall not represent that a pesticide application has characteristics, ingredients, uses, benefits, or qualities that it does not have.

(12) A person subject to the licensing requirements in this section shall not represent that a pesticide application is necessary to control a pest when the pest is not present or likely to occur.

324.8314 Commercial application of pesticide; certified or registered applicator; qualifications; temporary registration; fee; program completion form; authorized applications; exemption; displaying registration certificate; training program; denial, revocation, or suspension of certification or registration; documents and forms.

Sec. 8314. (1) A person shall not apply a pesticide for a commercial purpose or in the course of his or her employment unless that person is either a certified applicator or a registered applicator. A person may apply a general use pesticide for a private agricultural purpose without being a certified applicator or registered applicator.

(2) A person who is not subject to the licensing requirement in section 8313 may apply a general use ready-to-use pesticide without being a certified applicator or a registered applicator.

(3) A commercial certified or registered applicator must be at least 18 years of age.

(4) A person who is not subject to the licensing requirements in section 8313 may apply a general use antimicrobial pesticide without being a certified or registered applicator if

there is no potential for movement of an antimicrobial pesticide to affect surface water or groundwater.

(5) A commercial applicator shall only make pesticide applications in the category for which he or she is certified or registered.

(6) A registered applicator shall do all of the following:

(a) Complete a training program that is approved by the director and conducted by a trainer who has the minimum qualifications established by rule. The training program for applicators who apply pesticides for private agricultural purposes may utilize other methods of training and testing as provided in section 8311(1).

(b) Pass a test that is approved by the director.

(c) Possess a valid registration certificate issued by the director.

(7) A trainer shall issue a temporary registration to an applicant who completes an approved training program and passes a test administered by the director. A temporary registration is valid from the time it is issued until the applicant receives a registration certificate from the director. The department shall provide the applicant with the registration certificate upon payment of the fee provided for in section 8317 and when the approved trainer completes and submits a program completion form.

(8) A registered applicator who applies general use pesticides and is not subject to commercial pesticide applicator licensing requirements is exempt from the provisions requiring supervision by a certified applicator.

(9) A person shall display his or her registration certificate upon the request of the director.

(10) A registered applicator shall complete a training program every 3 years to be eligible to renew his or her registration.

(11) The director may at any time deny, revoke, or suspend a certification or registration for a violation of this part or upon conviction under this part, FIFRA, or a state pesticide law of a reciprocating state in accordance with section 8320.

(12) The director shall develop and provide the documents and forms necessary to implement this section.

324.8317 Fees; duration; expiration; nonrefundable.

Sec. 8317. (1) An application submitted under this part shall be accompanied by the following application fee:

(a) For a commercial applicator certification, $75.00.

(b) For a private agricultural applicator certification, $10.00.

(c) For a commercial registered applicator, $45.00.

(d) For a private registered applicator, $10.00.

(2) Certificates for commercial applicators, private agricultural applicators, and registered applicators shall be valid for a period of time of not less than 3 years to be established by rule by the director.

(3) The license application fee for a commercial applicator license is $100.00. The license shall expire on December 31 annually.

(4) The registration application fee for the registration of pesticides sold, offered, exposed for sale, or distributed is $40.00 per product.

(5) The license application fee for a restricted use pesticide dealer's license is $100.00. The license shall expire annually on December 31.

(6) Application fees submitted under this section are not refundable.

324.8318 Pesticide control fund; establishment; revenues; expenditures; disposition of unexpended money.

Sec. 8318. (1) The pesticide control fund is established in the state treasury. The pesticide control fund shall be expended only as provided in this section.

(2) The pesticide control fund shall receive as revenue all fees, penalties, administrative or civil fines, and any payments for costs or reimbursements for expenses of investigations incurred by the department collected under this part, which shall be forwarded by the director to the state treasurer, and the fund may receive as revenue money appropriated by the legislature or from any other source.

(3) The revenue in the pesticide control fund shall be expended to administer and enforce this part, to process applications received under this section, and to develop and improve training programs to ensure the safe and effective use of pesticides.

(4) Money in the fund that is unexpended at the end of the fiscal year shall be carried over to the succeeding fiscal year and shall be expended as provided in subsection (3).

324.8319 Exemptions; supervision by allopathic or osteopathic physician or doctor of veterinary medicine.

Sec. 8319. (1) The certification and registration of applicators and licensing requirements do not apply to any of the following:

(a) Employees of a certified private agricultural applicator while acting under the level of supervision required in this part.

(b) Persons applying general use pesticides for a private agricultural purpose.

(c) Commercial applicators applying general use microbiocides indoors where there is no potential for movement of an antimicrobial pesticide to affect surface water or groundwater. However, this subdivision does not exempt from these requirements the application of antimicrobial pesticides by commercial applicators to plants or planting medium indoors.

(d) Persons not subject to licensing requirements in section 8313 that apply general use pesticides to swimming pools.

(e) Indoor applications of general use antimicrobial pesticides by persons on their own premises or employees of those persons when making applications on those premises as a scheduled and required work assignment in the course of their employment, where there is no potential for movement of an antimicrobial pesticide to affect surface water or groundwater.

(f) Allopathic or osteopathic physicians and doctors of veterinary medicine applying pesticides during the course of their normal practice and their employees and people working under their control while acting under the level of supervision required in subsections (2) and (3).

(g) Persons conducting laboratory type research involving restricted use pesticides.

(2) An allopathic or osteopathic physician or a doctor of veterinary medicine shall supervise the application of a general use pesticide by a competent employee under his or her instruction and control during the course of the normal practice of the allopathic or

osteopathic physician or the doctor of veterinary medicine even if the allopathic or osteopathic physician or the doctor of veterinary medicine is not physically present. An allopathic or osteopathic physician or a doctor of veterinary medicine shall directly supervise the application of a restricted use pesticide by an employee under his or her instruction or control during the course of the normal practice of the allopathic or osteopathic physician or doctor of veterinary medicine by being physically present at the time and place the restricted use pesticide is being applied.

(3) An allopathic or osteopathic physician or doctor of veterinary medicine is subject to the requirements, prohibitions, and penalties of this part and rules promulgated under this part for an application of pesticides by the allopathic or osteopathic physician or the doctor of veterinary medicine and for an application of pesticides by an employee directly or indirectly supervised by the allopathic or osteopathic physician or the doctor of veterinary medicine during the course of the normal practice of the allopathic or osteopathic physician or the doctor of veterinary medicine.

324.8322 Additional powers of director; preliminary order; program on pesticide container recycling and disposal.

Sec. 8322. (1) The director may do all of the following:

(a) Declare as a pest any form of plant or animal life, except viruses, nematodes, bacteria, or other microorganisms on or in living human beings or other animals, that is injurious to health or the environment.

(b) Determine the toxicity of pesticides to human beings. The director shall use the data in support of registration and classification as a guide in this determination.

(c) Determine pesticides, and quantities of substances contained in pesticides, that are injurious to the environment. The director shall use the EPA regulations as a guide in this determination.

(d) Enter into cooperative agreements with agencies of the federal government or any other agency of this state, or an agency of another state, for the purpose of implementing this part and securing uniformity of rules.

(e) Enter and conduct inspections upon any public or private premises or other place, including vehicles of transport, where pesticides or devices are being used or held for distribution or sale, for the purposes of inspecting records, inspecting and obtaining samples of pesticides or devices, and to inspect equipment or methods of application, to assure compliance with this part and the rules promulgated under this part.

(f) Allow only certified applicators to apply a pesticide that is classified as a restricted use pesticide pursuant to subsection (2).

(g) Conduct investigations when there is reasonable cause to believe that a pesticide has been used in violation of this part or the rules promulgated under this part.

(2) In addition to any other authority provided by this part, the director, by administrative order, may:

(a) Classify a pesticide as a restricted use pesticide in accordance with any 1 of the restrictive criteria in 40 C.F.R. 152.170.

(b) Create certification categories in addition to those promulgated by rule.

(3) Prior to classifying a pesticide as a restricted use pesticide under subsection (2), the director shall issue a preliminary administrative order and provide for a 30-day period for public comment and review pertaining to the preliminary order. Prior to issuing the final administrative order, the director shall review and consider any public comments received during the 30-day period. An administrative order classifying a pesticide as a restricted use pesticide shall cite each of the provisions of subsection (2) that justify that classification.

(4) The department shall develop a program on pesticide container recycling and disposal to be approved by the commission of agriculture. The program shall be limited to licensed pesticide dealers and other persons seeking approval from the department for participation in the program.

324.8327 Order to cease use of, or to refrain from intended use of, pesticide; effect of noncompliance; inspection; rescission of order.

Sec. 8327. (1) When the director has probable cause to believe that an applicator is using or intending to use a pesticide in an unsafe or inadequate manner or in a manner inconsistent with its labeling, the director shall order the applicator to cease the use of or refrain from the intended use of the pesticide. The order may be either oral or written and shall inform the applicator of the reason for the order.

(2) Upon receipt of the order, the applicator shall immediately comply with the director's order. Failure to comply constitutes cause for revocation of the applicator's license or certification or registration and subjects the applicator to the penalty imposed under section 8333.

(3) The director shall rescind the order upon being satisfied that the applicator has complied with the order.

324.8329 Order to stop prohibited conduct; proceeding in rem for condemnation; disposition of pesticide or device; award of court costs, fees, storage, and other expenses.

Sec. 8329. (1) When the director has reasonable suspicion that a pesticide or device is distributed, stored, transported, offered for sale, or used in violation of this part, the director may issue an order to stop the prohibited conduct. The person shall immediately comply with the order.

(2) A pesticide or device that is transported, or is in original unbroken packages, or is sold or offered for sale in this state, or is imported from a foreign country, in violation of this part, is liable to be proceeded against in any district court in the district where it is found and seized for confiscation by a process in rem for condemnation if:

(a) In the case of a pesticide, any of the following circumstances exist:

(*i*) It is adulterated or misbranded.

(*ii*) It is not registered pursuant to this part.

(*iii*) Its labeling fails to bear the information required by FIFRA or by regulations promulgated under FIFRA.

(*iv*) Its coloring is different than that required under FIFRA.

(*v*) Any claims or directions for its use differ from the representations made with its registration.

(b) In the case of a device, it is misbranded.

(c) In the case of a pesticide or device, when used in accordance with the requirements imposed under this part it causes unreasonable adverse effects on the environment.

(3) If the pesticide or device is condemned, it shall be disposed of by destruction or sale as the court directs. If the pesticide or device is sold, the proceeds less the court costs shall be credited to the general fund. A pesticide or device shall not be sold contrary to this part or the laws of the jurisdiction in which it is sold. Upon payment of the costs of the condemnation proceedings and the execution and delivery of a sufficient bond conditioned that it shall not be sold or disposed of contrary to this part or the laws of the

jurisdiction in which it is sold, the court may direct that it be delivered to the owner. The proceedings of condemnation cases shall conform as nearly as possible to proceedings in admiralty, except that either party may demand trial by jury of an issue of fact joined in a case, and the proceedings shall be brought by and in the name of the people of the state.

(4) Court costs, fees, storage, and other proper expenses shall be awarded against the person, intervening as claimant of the pesticide or device upon entry of a decree of condemnation.

324.8330 Containers; labels; colored or discolored pesticides; handling, storage, display, or transportation of pesticides; adding or taking substance from pesticide; filing and inspection of shipping data.

Sec. 8330. (1) Pesticides distributed, transported, sold, or exposed or offered for sale in this state shall be in the registrant's or manufacturer's unbroken immediate container and shall have attached to it a label conforming to the labeling requirements as prescribed under this part or the rules promulgated under this part. The unbroken container requirement of this subsection does not apply to an applicator who is transporting a pesticide between the place of storage and the area of application.

(2) A pesticide container shall be free from damage that renders the pesticide unsafe.

(3) A pesticide that is required to be colored shall not be distributed, sold, exposed, or offered for sale unless the pesticide is colored as prescribed.

(4) A pesticide shall be handled, stored, displayed, or transported so that it will not endanger human beings and the environment or endanger food, feed, or other products that are stored, displayed, or transported with the pesticide.

(5) A person shall not detach, alter, deface, or destroy any portion of a label or labeling provided for in this part or rules promulgated under this part, or add a substance to or take a substance from a pesticide in a manner that may defeat the purpose of this part or FIFRA.

(6) A pesticide vendor shall keep on file, subject to inspection by an authorized agent of the director for a period of 1 year, all invoices, freight bills, truckers' receipts, waybills, and similar shipping data pertaining to pesticides that would establish date and origin of the shipments.

324.8333 Violation; administrative fine; warning; action to recover fine; misdemeanors; injunction; action by attorney general; compliance as affirmative defense; gross negligence; applicability of revised judicature act.

Sec. 8333. (1) A person who violates this part is subject to the penalties and remedies provided in this part regardless of whether he or she acted alone or through an employee or agent.

(2) The director, upon finding after notice and an opportunity for a hearing that a person has violated or attempted to violate any provision of this part, may impose an administrative fine of not more than $1,000.00 for each violation of this part.

(3) If the director finds that a violation or attempted violation occurred despite the exercise of due care or did not result in significant harm to human health or the environment, the director may issue a warning instead of imposing an administrative fine.

(4) The director shall advise the attorney general of the failure of a person to pay an administrative fine imposed under this section. The attorney general may bring an action

in a court of competent jurisdiction for the failure to pay an administrative fine imposed under this section.

(5) A person who violates this part or attempts to violate this part is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $5,000.00, or both, for each offense.

(6) The director may bring an action to enjoin a violation of this part or an attempted violation of this part in a court of competent jurisdiction of the county in which the violation occurs or is about to occur.

(7) The attorney general may file a civil action in which the court may impose on any person who violates this part or attempts to violate this part a civil fine of not more than $5,000.00 for each violation or attempted violation. In addition, the attorney general may bring an action in circuit court to recover the reasonable costs of the investigation from any person who violated this part or attempted to violate this part. Money recovered under this subsection shall be forwarded to the state treasurer for deposit into the pesticide control fund created in section 8318.

(8) In defense of an action filed under this section, in addition to any other lawful defense, a person may present evidence as an affirmative defense that, at the time of the alleged violation of this part or attempted violation of this part, he or she was in compliance with label directions and with this part and rules promulgated under this part at the time of the alleged violation.

(9) A civil cause of action does not arise for injuries to any person or property if a private agricultural applicator, or a registered applicator who stores, handles, or applies pesticides only for a private agricultural purpose, was not grossly negligent and stored, handled, or applied pesticides in compliance with this part, rules promulgated under this part, and the pesticide labeling.

(10) Applicable provisions of the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948, apply to civil actions filed pursuant to this part.

Repeal of § 324.8307.

Enacting section 1. Section 8307 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8307, is repealed.

Effective date of § 324.8333.

Enacting section 2. Section 8333 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.8333, as amended by this amendatory act, takes effect 90 days after the date this amendatory act is enacted.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 419]

(SB 627)

AN ACT to amend 1997 PA 16, entitled "An act to regulate the manufacturing and assembling of public playground equipment; and to provide penalties," by amending section 4 (MCL 408.684), as amended by 1998 PA 137.

The People of the State of Michigan enact:

408.684 Public playground equipment; standards.

Sec. 4. A person who for compensation manufactures or assembles public playground equipment that fails to comply with the following standards is subject to a state civil infraction under this act:

(a) The "handbook for public playground safety" published for the U.S. consumer products safety commission, which is incorporated by reference and is based upon recommendations provided to the commission by the COMSIS corporation in March 1990 in "development of human factors criteria for playground equipment safety" by Donna Rattle, Melanie Morrison, and Neil Lerner.

(b) The "standard consumer safety performance specification for playground equipment for public use, ASTM F1487-01", published by the American society for testing and materials, which is incorporated by reference.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 420]

(HB 5475)

AN ACT to amend 1993 PA 354, entitled "An act to revise, consolidate, and codify the laws relating to railroads and their employees; to prescribe powers and duties of certain state and local agencies and officials; to prescribe fees; to create certain funds; to provide for the disposition of certain money; to provide remedies and penalties; and to repeal certain acts and parts of acts," by amending section 309 (MCL 462.309).

The People of the State of Michigan enact:

462.309 Maintenance, renewal, and repair of roadbeds, tracks, culverts, and certain streets or sidewalks.

Sec. 309. (1) A railroad owning tracks across a public street or highway at grade shall at its sole cost and expense construct and thereafter maintain, renew, and repair all railroad roadbed, track, and railroad culverts within the confines of the street or highway, and the streets or sidewalks lying between the rails and for a distance outside the rails of 1 foot beyond the end of the ties. The road authority at its sole cost and expense shall construct or improve if necessary and thereafter maintain, renew, and repair the remainder of the street or highway.

(2) The space between the rails and for a distance outside of the rails of 1 foot beyond the end of the ties shall be surfaced with a material which shall be as durable and as smooth as the adjacent street or highway surfacing, and shall have minimum qualifications not inferior to wooden planks, and shall conform, as nearly as reasonably may be, to the configuration of the adjacent street or highway. In the case of streets and highways constructed or reconstructed after the effective date of this act, the surfacing of planks or other material shall have a minimum length equal to the length between the established curb lines, or, in the absence of curb lines, equal to the length between the established shoulder lines of the street or highway plus 2 feet on each side of the street or highway.

(3) The full cost of maintaining and repairing all existing crossings shall be borne by the respective parties responsible for the work as provided in this act. The cost of improving

an existing crossing, where improvement is necessary, shall be borne in the same manner as provided in this act for maintenance and repair.

(4) Any alteration in the existing elevation of the top of railroad track or highway surface in excess of 1 inch shall be mutually determined by the railroad and road authority; but in case of failure to agree, the parties may apply to the department which may provide for the alteration after hearing. Where the change in elevation of track rails is agreed upon or authorized for purposes other than to conform to the configuration of the adjacent street or highway, the entire cost shall be borne by the party requesting the change.

(5) The railroad shall not perform any work, except emergency repairs, on public streets or highways between the established curb lines, or, in the absence of established curb lines, between the established shoulder lines of the street or highway, without first notifying the road authority having jurisdiction over the street or highway, and without first providing and thereafter maintaining the necessary traffic controls in accordance with the Michigan manual of uniform traffic control devices. The railroad plan for maintaining traffic showing the necessary barricades, lights, flaggers, and traffic detours and other traffic controls shall be approved by the road authority before the work begins.

(6) In cases of sidewalk repair or construction, a railroad shall first be given the right to construct in the same manner as that right is given to individuals, and if it fails, the local unit of government may cause the sidewalk to be constructed at the expense of the railroad, with the cost to be collected in the usual manner as provided in the law governing that local unit of government. In the case of the construction of a railroad upon any public street, lane, alley, or highway, the same shall be on such terms and conditions as shall be agreed upon between the railroad company and the governing body of any city, or the village board of any village, or the township board of any township and the appropriate road authority in which the railroad is located; but the railroad shall not be constructed upon any public street, lane, alley, highway, or private way until damages and compensation are made by the railroad company to the owner or owners of property adjoining the street, lane, alley, highway, or private way and opposite where the railroad is to be constructed, either by agreement between the railroad company and each owner or owners, or as otherwise provided in this act for obtaining property or franchises for the purpose of constructing a railroad.

(7) Nothing in this section shall prohibit a road authority, at its discretion and sole cost and expense, from performing any of the work described in this section provided that the road authority receives approval from and gives notice to the railroad.

(8) Notwithstanding any other provision of this section, neither the railroad nor the road authority shall charge any type of access fee, inspection fee, or right of entry fee in connection with the performance of work described in this section.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 421]

(HB 5521)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide

laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 12m of chapter XVII (MCL 777.12m), as added by 2002 PA 34.

The People of the State of Michigan enact:

CHAPTER XVII

777.12m Chapters 285 to 289; felonies.

Sec. 12m. This chapter applies to the following felonies enumerated in chapters 285 to 289 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
285.83	Pub trst	H	Grain dealers act violations	5
285.279(2)(c)	Property	E	False pretenses under Michigan family farm development act involving $1,000 to $20,000 or with prior convictions	5
285.279(2)(d)	Property	D	False pretenses under Michigan family farm development act involving $20,000 or more or with prior convictions	10
286.455(2)	Pub saf	G	Agriculture — hazardous substance	5
286.929(4)	Pub trst	G	Organic products act violations	4
287.323(1)	Person	C	Dangerous animal causing death	15
287.323(2)	Person	G	Dangerous animal causing serious injury	4
287.679	Pub ord	H	Dead animals — third or subsequent violation	1
287.744(1)	Pub ord	G	Animal industry act violations	5
287.855	Pub saf	G	Agriculture — contaminating livestock/false statement/ violation of quarantine	5

287.967(5)	Pub ord	G	Cervidae producer violations	4
288.223	Pub saf	G	Sale or labeling of oleomargarine violations	3
288.257	Pub saf	G	Margarine violations	3
288.284	Pub trst	H	Selling falsely branded cheese	2
289.5107(2)	Pub saf	F	Adulterated, misbranded, or falsely identified food	4

Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 422]

(SB 645)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 303, 310e, 319, and 732 (MCL 257.303, 257.310e, 257.319, and 257.732), sections 303 and 319 as amended by 2001 PA 159, section 310e as amended by 2000 PA 456, and section 732 as amended by 2001 PA 134.

The People of the State of Michigan enact:

257.303 Operator's or chauffeur's license; issuance; prohibitions and restrictions; revocation; "felony in which a motor vehicle was used" defined.

Sec. 303. (1) The secretary of state shall not issue a license under this act to any of the following persons described in subdivisions (a) through (*l*):

(a) A person, as an operator, who is less than 18 years of age, except as otherwise provided in this act.

(b) A person, as a chauffeur, who is less than 18 years of age, except as otherwise provided in this act.

(c) A person whose license is suspended, revoked, denied, or canceled in any state. If the suspension, revocation, denial, or cancellation is not from the jurisdiction that issued the last license to the person, the secretary of state may issue a license after the expiration

of 5 years from the effective date of the most recent suspension, revocation, denial, or cancellation.

(d) A person who in the opinion of the secretary of state is afflicted with or suffering from a physical or mental disability or disease preventing that person from exercising reasonable and ordinary control over a motor vehicle while operating the motor vehicle upon the highways.

(e) A person who is unable to understand highway warning or direction signs in the English language.

(f) A person who is unable to pass a knowledge, skill, or ability test administered by the secretary of state in connection with the issuance of an original operator's or chauffeur's license, original motorcycle indorsement, or an original or renewal of a vehicle group designation or vehicle indorsement.

(g) A person who has been convicted of, has received a juvenile disposition for, or has been determined responsible for 2 or more moving violations under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state within the preceding 3 years, if the violations occurred before issuance of an original license to the person in this or another state.

(h) A nonresident including a foreign exchange student.

(i) A person who has failed to answer a citation or notice to appear in court or for any matter pending or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, in violation of section 321a, until that person answers the citation or notice to appear in court or for any matter pending or complies with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, as provided under section 321a.

(j) A person not licensed under this act who has been convicted of, has received a juvenile disposition for, or has been determined responsible for a crime or civil infraction described in section 319, 324, or 904. A person shall be denied a license under this subdivision for the length of time corresponding to the period of the licensing sanction that would have been imposed under section 319, 324, or 904 if the person had been licensed at the time of the violation.

(k) A person not licensed under this act who has been convicted of or received a juvenile disposition for committing a crime described in section 319e. A person shall be denied a license under this subdivision for the length of time that corresponds to the period of the licensing sanction that would have been imposed under section 319e if the person had been licensed at the time of the violation.

(*l*) A person not licensed under this act who is determined to have violated section 33b(1) of former 1933 (Ex Sess) PA 8, section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b of this act. The person shall be denied a license under this subdivision for a period of time that corresponds to the period of the licensing sanction that would have been imposed under those sections had the person been licensed at the time of the violation.

(m) The secretary of state may deny issuance of an operator's license until the age of 17 to a person not licensed under this act who was convicted of or received a juvenile disposition for violating or attempting to violate section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school when he or she was less than 14 years of age. A person not issued a license under this subdivision is not eligible to begin graduated licensing training until he or she attains 16 years of age.

(n) The secretary of state may deny issuance of an operator's license to a person less than 21 years of age not licensed under this act who was convicted of or has received a juvenile disposition for violating or attempting to violate section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school when he or she was 14 years of age or older, until 3 years after the date of the conviction or juvenile disposition. A person not issued a license under this subdivision is not eligible to begin graduated licensing training or otherwise obtain an original operator's or chauffeur's license until 3 years after the date of the conviction or juvenile disposition.

(2) Upon receiving the appropriate records of conviction, the secretary of state shall revoke the operator's or chauffeur's license of a person and deny issuance of an operator's or chauffeur's license to a person having any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Any combination of 2 convictions within 7 years for reckless driving in violation of section 626.

(b) Any combination of 2 or more convictions within 7 years for any of the following:

(*i*) A felony in which a motor vehicle was used.

(*ii*) A violation or attempted violation of section 601b(2) or (3), section 601c(1) or (2), section 602a(4) or (5), section 617, section 653a(3) or (4), or section 904(4) or (5).

(*iii*) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(*iv*) A violation or attempted violation of section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(c) Any combination of 2 convictions within 7 years for any of the following or a combination of 1 conviction for a violation or attempted violation of section 625(6) and 1 conviction for any of the following within 7 years:

(*i*) A violation or attempted violation of section 625(1), (3), (4), (5), or (7).

(*ii*) A violation of former section 625(1) or (2) or former section 625b.

(*iii*) A violation or attempted violation of section 625m.

(d) One conviction for a violation or attempted violation of section 315(5), section 601b(3), section 601c(2), section 602a(4) or (5), section 617, section 625(4) or (5), section 653a(4), or section 904(4) or (5).

(e) One conviction of negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(f) One conviction for a violation or attempted violation of section 479a(4) or (5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(g) Any combination of 3 convictions within 10 years for any of the following or 1 conviction for a violation or attempted violation of section 625(6) and any combination of 2 convictions for any of the following within 10 years, if any of the convictions resulted from an arrest on or after January 1, 1992:

(*i*) A violation or attempted violation of section 625(1), (3), (4), (5), or (7).

(*ii*) A violation of former section 625(1) or (2) or former section 625b.

(*iii*) A violation or attempted violation of section 625m.

(3) The secretary of state shall revoke a license under subsection (2) notwithstanding a court order unless the court order complies with section 323.

(4) The secretary of state shall not issue a license under this act to a person whose license has been revoked under this act or revoked and denied under subsection (2) until all of the following occur, as applicable:

(a) The later of the following:

(*i*) The expiration of not less than 1 year after the license was revoked or denied.

(*ii*) The expiration of not less than 5 years after the date of a subsequent revocation or denial occurring within 7 years after the date of any prior revocation or denial.

(b) For a denial under subsection (2)(a), (b), (c), and (g), the person rebuts by clear and convincing evidence the presumption resulting from the prima facie evidence that he or she is a habitual offender. The convictions that resulted in the revocation and denial constitute prima facie evidence that he or she is a habitual offender.

(c) The person meets the requirements of the department.

(5) Multiple convictions or civil infraction determinations resulting from the same incident shall be treated as a single violation for purposes of denial or revocation of a license under this section.

(6) As used in this section, "felony in which a motor vehicle was used" means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

(a) The vehicle was used as an instrument of the felony.

(b) The vehicle was used to transport a victim of the felony.

(c) The vehicle was used to flee the scene of the felony.

(d) The vehicle was necessary for the commission of the felony.

257.310e Graduated licensing.

Sec. 310e. (1) Except as otherwise provided in this act, an operator's or chauffeur's license issued to a person who is 17 years of age or less is valid only upon the issuance of a graduated driver license.

(2) The secretary of state shall designate graduated licensing provisions in a manner that clearly indicates that the person is subject to the appropriate provisions described in this section.

(3) Except as otherwise provided in section 303, a person who is not less than 14 years and 9 months of age may be issued a level 1 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:

(a) Passed a vision test and met health standards as prescribed by the secretary of state.

(b) Successfully completed segment 1 of a driver education course approved by the department of education including a minimum of 6 hours of on-the-road driving time with the instructor.

(c) Received written approval of a parent or legal guardian.

(4) A person issued a level 1 graduated licensing status may operate a motor vehicle only when accompanied either by a licensed parent or legal guardian or, with the permission of the parent or legal guardian, a licensed driver 21 years of age or older. Except as otherwise provided in this section, a person is restricted to operating a motor vehicle with a level 1 graduated licensing status for not less than 6 months.

(5) A person may be issued a level 2 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:

(a) Had a level 1 graduated licensing status for not less than 6 months.

(b) Successfully completed segment 2 of a driver education course approved by the department of education.

(c) Not incurred a moving violation resulting in a conviction or civil infraction determination or been involved in an accident for which the official police report indicates a moving violation on the part of the person during the 90-day period immediately preceding application.

(d) Presented a certification by the parent or guardian that he or she, accompanied by his or her licensed parent or legal guardian or, with the permission of the parent or legal guardian, any licensed driver 21 years of age or older, has accumulated a total of not less than 50 hours of behind-the-wheel experience including not less than 10 nighttime hours.

(e) Successfully completed a secretary of state approved performance road test. The secretary of state may enter into an agreement with another public or private person or agency, including a city, village, or township, to conduct this performance road test. This subdivision applies to a person 16 years of age or over only if the person has satisfied subdivisions (a), (b), (c), and (d).

(6) A person issued a level 2 graduated licensing status under subsection (5) shall remain at level 2 for not less than 6 months and shall not operate a motor vehicle within this state from 12 midnight to 5 a.m. unless accompanied by a parent or legal guardian or a licensed driver over the age of 21 designated by the parent or legal guardian, or except when going to or from employment.

(7) The provisions and provisional period described in subsection (4) or (6) shall be expanded or extended, or both, beyond the periods described in subsection (4) or (6) if any of the following occur and are recorded on the licensee's driving record during the provisional periods described in subsection (4) or (6) or any additional periods imposed under this subsection:

(a) A moving violation resulting in a conviction, civil infraction determination, or probate court disposition.

(b) An accident for which the official police report indicates a moving violation on the part of the licensee.

(c) A license suspension for a reason other than a mental or physical disability.

(d) A violation of subsection (4) or (6).

(8) The provisional period described in subsection (4) shall be extended under subsection (7) until the licensee completes 90 consecutive days without a moving violation, an accident in which a moving violation resulted, accident, suspension, or provisional period violation listed in subsection (7) or until age 18, whichever occurs first. The provisional period described in subsection (6) shall be extended under subsection (7) until the licensee completes 12 consecutive months without a moving violation, accident, suspension, or restricted period violation listed in subsection (7) or until age 18, whichever occurs first.

(9) A person who is not less than 17 years of age may be issued a level 3 graduated licensing status under this subsection if the person has completed 12 consecutive months without a moving violation, an accident in which a moving violation resulted, accident, suspension, or restricted period violation listed in subsection (7) while the person was issued a level 2 graduated licensing status under subsection (5).

(10) Notice shall be given by first-class mail to the last known address of a licensee if the provisions are expanded or extended as described in subsection (7).

(11) A person who violates subsection (4) or (6) is responsible for a civil infraction.

(12) If a person is determined responsible for a violation of subsection (4) or (6), the secretary of state shall send written notification of any conviction or moving violation to a designated parent or guardian of the person.

(13) For purposes of this section:

(a) Upon conviction for a moving violation, the date of the arrest for the violation shall be used in determining whether the conviction occurred within a provisional licensure period under this section.

(b) Upon entry of a civil infraction determination for a moving violation, the date of issuance of a citation for a civil infraction shall be used in determining whether the civil infraction determination occurred within a provisional licensure period under this section.

(c) The date of the official police report shall be used in determining whether a licensee was driving a motor vehicle involved in an accident for which the official police report indicates a moving violation on the part of the licensee or indicates the licensee had been drinking intoxicating liquor.

(14) A person shall have his or her graduated licensing status in his or her immediate possession at all times when operating a motor vehicle, and shall display the card upon demand of a police officer. A person who violates this subsection is responsible for a civil infraction.

(15) This section does not apply to a person 15 years of age or older who is currently enrolled but has not completed a driver education course on April 1, 1997 or who has completed a driver education course but has not acquired his or her driver license on April 1, 1997.

257.319 Mandatory suspension of license; record of conviction for certain crimes; waiver; restricted license; prior convictions.

Sec. 319. (1) The secretary of state shall immediately suspend a person's license as provided in this section upon receiving a record of the person's conviction for a crime described in this section, whether the conviction is under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state.

(2) The secretary of state shall suspend the person's license for 1 year for any of the following crimes:

(a) Fraudulently altering or forging documents pertaining to motor vehicles in violation of section 257.

(b) A violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.

(c) A violation of section 1 of former 1931 PA 214, MCL 752.191, or section 626c.

(d) A felony in which a motor vehicle was used. As used in this section, "felony in which a motor vehicle was used" means a felony during the commission of which the person convicted operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

(*i*) The vehicle was used as an instrument of the felony.

(*ii*) The vehicle was used to transport a victim of the felony.

(*iii*) The vehicle was used to flee the scene of the felony.

(*iv*) The vehicle was necessary for the commission of the felony.

(e) A violation of section 602a(2) or (3) of this act or section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(3) The secretary of state shall suspend the person's license for 90 days for any of the following crimes:

(a) Failing to stop and disclose identity at the scene of an accident resulting in injury in violation of section 617a.

(b) A violation of section 601b(2), section 601c(1), section 626, or section 653a(3).

(c) Malicious destruction resulting from the operation of a vehicle under section 382(1)(b), (c), or (d) of the Michigan penal code, 1931 PA 328, MCL 750.382.

(d) A violation of section 703(2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(4) The secretary of state shall suspend the person's license for 30 days for malicious destruction resulting from the operation of a vehicle under section 382(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.382.

(5) For perjury or making a false certification to the secretary of state under any law requiring the registration of a motor vehicle or regulating the operation of a vehicle on a highway, or for conduct prohibited under section 324(1) or a local ordinance substantially corresponding to section 324(1), the secretary shall suspend the person's license as follows:

(a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 90 days.

(b) If the person has 1 or more prior convictions for an offense described in this subsection within 7 years, for 1 year.

(6) For a violation of section 414 of the Michigan penal code, 1931 PA 328, MCL 750.414, the secretary of state shall suspend the person's license as follows:

(a) If the person has no prior conviction for that offense within 7 years, for 90 days.

(b) If the person has 1 or more prior convictions for that offense within 7 years, for 1 year.

(7) For a violation of section 624a or 624b of this act or section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, the secretary of state shall suspend the person's license as follows:

(a) If the person has 1 prior conviction for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 90 days. The secretary of state may issue the person a restricted license after the first 30 days of suspension.

(b) If the person has 2 or more prior convictions for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue the person a restricted license after the first 60 days of suspension.

(8) The secretary of state shall suspend the person's license for a violation of section 625 or 625m as follows:

(a) For 180 days for a violation of section 625(1) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension, except that the secretary of state shall not issue a restricted license during the first 30 days of suspension.

(b) For 90 days for a violation of section 625(3) if the person has no prior convictions within 7 years. However, if the person is convicted of a violation of section 625(3), for operating a vehicle when, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle was visibly impaired, the secretary of state shall suspend the person's license under this subdivision for 180 days. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(c) For 30 days for a violation of section 625(6) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(d) For 90 days for a violation of section 625(6) if the person has 1 or more prior convictions for that offense within 7 years.

(e) For 180 days for a violation of section 625(7) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license after the first 90 days of suspension.

(f) For 90 days for a violation of section 625m if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(9) For a violation of section 367c of the Michigan penal code, 1931 PA 328, MCL 750.367c, the secretary of state shall suspend the person's license as follows:

(a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 6 months.

(b) If the person has 1 or more convictions for an offense described in this subsection within 7 years, for 1 year.

(10) For a violation of section 315(4), the secretary of state may suspend the person's license for 6 months.

(11) For a violation or attempted violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school, the secretary of state shall suspend the license of a person 14 years of age or over but less than 21 years of age until 3 years after the date of the conviction or juvenile disposition for the violation. The secretary of state may issue the person a restricted license after the first 365 days of suspension.

(12) Except as provided in subsection (14), a suspension under this section shall be imposed notwithstanding a court order unless the court order complies with section 323.

(13) If the secretary of state receives records of more than 1 conviction of a person resulting from the same incident, a suspension shall be imposed only for the violation to which the longest period of suspension applies under this section.

(14) The secretary of state may waive a suspension of a person's license imposed under this act if the person submits proof that a court in another state revoked, suspended, or restricted his or her license for a period equal to or greater than the period of a suspension prescribed under this act for the violation and that the revocation, suspension, or restriction was served for the violation, or may grant a restricted license.

(15) The secretary of state shall not issue a restricted license to a person whose license is suspended under this section unless a restricted license is authorized under this section and the person is otherwise eligible for a license.

(16) The secretary of state shall not issue a restricted license to a person under subsection (8) that would permit the person to operate a commercial motor vehicle that hauls hazardous material.

(17) A restricted license issued under this section shall permit the person to whom it is issued to drive under 1 or more of the following circumstances:

(a) In the course of the person's employment or occupation.

(b) To and from any combination of the following:

(*i*) The person's residence.

(*ii*) The person's work location.

(*iii*) An alcohol or drug education or treatment program as ordered by the court.

(*iv*) The court probation department.

(*v*) A court-ordered community service program.

(*vi*) An educational institution at which the person is enrolled as a student.

(*vii*) A place of regularly occurring medical treatment for a serious condition for the person or a member of the person's household or immediate family.

(18) While driving with a restricted license, the person shall carry proof of his or her destination and the hours of any employment, class, or other reason for traveling and shall display that proof upon a peace officer's request.

(19) Subject to subsection (21), as used in subsection (8), "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Except as provided in subsection (20), a violation or attempted violation of section 625(1), (3), (4), (5), (6), or (7), section 625m, former section 625(1) or (2), or former section 625b.

(b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(20) Except for purposes of the suspensions described in subsection (8)(c) and (d), only 1 violation or attempted violation of section 625(6), a local ordinance substantially corresponding to section 625(6), or a law of another state substantially corresponding to section 625(6) may be used as a prior conviction.

(21) If 2 or more convictions described in subsection (19) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

257.732 Record of cases; forwarding abstract of record or report to secretary of state; statement; abstracts forwarded; noncompliance as misconduct in office; location and public inspection of abstracts; entering abstracts on master driving record; exceptions; informing courts of violations; entering order of reversal in book or index; modifications; abstract as part of written notice to appear; expunction prohibited.

Sec. 732. (1) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways and with those offenses pertaining to the operation of ORVs or snowmobiles for which points are assessed under section 320a(1)(c) or (h). Except as

provided in subsection (15), the municipal judge or clerk of the court of record shall prepare and forward to the secretary of state an abstract of the court record as follows:

(a) Within 14 days after a conviction, forfeiture of bail, or entry of a civil infraction determination or default judgment upon a charge of or citation for violating or attempting to violate this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways.

(b) Immediately for each case charging a violation of section 625(1), (3), (4), (5), (6), or (7) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m in which the charge is dismissed or the defendant is acquitted.

(c) Immediately for each case charging a violation of section 82127(1) or (3), 81134, or 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127, 324.81134, and 324.81135, or a local ordinance substantially corresponding to those sections.

(2) If a city or village department, bureau, or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance substantially corresponding to this act, the city or village department, bureau, or person shall send a full report of each case in which a person pays any amount of money to the city or village department, bureau, or person to the secretary of state upon a form prescribed by the secretary of state.

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state. An abstract shall be certified by signature, stamp, or facsimile signature of the person required to prepare the abstract as correct. An abstract or report shall include all of the following:

(a) The name, address, and date of birth of the person charged or cited.

(b) The number of the person's operator's or chauffeur's license, if any.

(c) The date and nature of the violation.

(d) The type of vehicle driven at the time of the violation and, if the vehicle is a commercial motor vehicle, that vehicle's group designation and indorsement classification.

(e) The date of the conviction, finding, forfeiture, judgment, or civil infraction determination.

(f) Whether bail was forfeited.

(g) Any license restriction, suspension, or denial ordered by the court as provided by law.

(h) The vehicle identification number and registration plate number of all vehicles that are ordered immobilized or forfeited.

(i) Other information considered necessary to the secretary of state.

(4) The clerk of the court also shall forward an abstract of the court record to the secretary of state upon a person's conviction involving any of the following:

(a) A violation of section 413, 414, or 479a of the Michigan penal code, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

(b) A violation of section 1 of former 1931 PA 214.

(c) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle.

(d) A violation of section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to that section.

(e) A violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a.

(f) An attempt to violate, a conspiracy to violate, or a violation of part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, or a local ordinance that prohibits conduct prohibited under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, unless the convicted person is sentenced to life imprisonment or a minimum term of imprisonment that exceeds 1 year for the offense.

(g) An attempt to commit an offense described in subdivisions (a) to (e).

(h) A violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(5) As used in subsections (6) to (8), "felony in which a motor vehicle was used" means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

(a) The vehicle was used as an instrument of the felony.

(b) The vehicle was used to transport a victim of the felony.

(c) The vehicle was used to flee the scene of the felony.

(d) The vehicle was necessary for the commission of the felony.

(6) If a person is charged with a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

"You are charged with the commission of a felony in which a motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver's license shall be suspended by the secretary of state.".

(7) If a juvenile is accused of an act, the nature of which constitutes a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney or family division of circuit court shall include the following statement on the petition filed in the court:

"You are accused of an act the nature of which constitutes a felony in which a motor vehicle was used. If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver's license shall be suspended by the secretary of state.".

(8) If the court determines as part of the sentence or disposition that the felony for which the person was convicted or adjudicated and with respect to which notice was given under subsection (6) or (7) is a felony in which a motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(9) As used in subsections (10) and (11), "felony in which a commercial motor vehicle was used" means a felony during the commission of which the person operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

(a) The vehicle was used as an instrument of the felony.

(b) The vehicle was used to transport a victim of the felony.

(c) The vehicle was used to flee the scene of the felony.

(d) The vehicle was necessary for the commission of the felony.

(10) If a person is charged with a felony in which a commercial motor vehicle was used and for which a vehicle group designation on a license is subject to suspension or revocation under section 319b(1)(c)(*iii*), 319b(1)(d), or 319b(1)(e)(*iii*), or 319b(1)(f)(*i*), the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

"You are charged with the commission of a felony in which a commercial motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a commercial motor vehicle was used, as defined in section 319b of the Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle group designations on your driver's license shall be suspended or revoked by the secretary of state.".

(11) If the judge determines as part of the sentence that the felony for which the defendant was convicted and with respect to which notice was given under subsection (10) is a felony in which a commercial motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(12) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded. The certification shall be filed with the secretary of state not later than 28 days after the end of the period covered by the certification. The certification shall be made upon a form furnished by the secretary of state and shall include all of the following:

(a) The name and title of the person required to forward abstracts.

(b) The court for which the certification is filed.

(c) The time period covered by the certification.

(d) The following statement:

"I certify that all abstracts required by section 732 of the Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period _____ through _____ have been forwarded to the secretary of state.".

(e) Other information the secretary of state considers necessary.

(f) The signature of the person required to forward abstracts.

(13) The failure, refusal, or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office.

(14) Except as provided in subsection (15), the secretary of state shall keep all abstracts received under this section at the secretary of state's main office and the abstracts shall be open for public inspection during the office's usual business hours. Each abstract shall be entered upon the master driving record of the person to whom it pertains.

(15) Except for controlled substance offenses described in subsection (4), the court shall not submit, and the secretary of state shall discard and not enter on the master driving record, an abstract for a conviction or civil infraction determination for any of the following violations:

(a) The parking or standing of a vehicle.

(b) A nonmoving violation that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.

(c) A violation of chapter II that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.

(d) A pedestrian, passenger, or bicycle violation, other than a violation of section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b or a local ordinance substantially corresponding to section 624a or 624b.

(e) A violation of section 710e or a local ordinance substantially corresponding to section 710e.

(16) The secretary of state shall discard and not enter on the master driving record an abstract for a bond forfeiture that occurred outside this state. However, the secretary of state shall retain and enter on the master driving record an abstract of an out-of-state bond forfeiture for an offense that occurred after January 1, 1990 in connection with the operation of a commercial motor vehicle.

(17) The secretary of state shall inform the courts of this state of the nonmoving violations and violations of chapter II that are used by the secretary of state as the basis for the suspension, restriction, revocation, or denial of an operator's or chauffeur's license.

(18) If a conviction or civil infraction determination is reversed upon appeal, the person whose conviction or determination has been reversed may serve on the secretary of state a certified copy of the order of reversal. The secretary of state shall enter the order in the proper book or index in connection with the record of the conviction or civil infraction determination.

(19) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, or settlement to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If the permitted abstract of court record reporting a conviction, civil infraction determination, or settlement originates as a part of the written notice to appear, authorized in section 728(1) or 742(1), the form of the written notice and report shall be as prescribed by the secretary of state.

(20) Except as provided in this act and notwithstanding any other provision of law, a court shall not order expunction of any violation reportable to the secretary of state under this section.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 423]

(SB 1009)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task

forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 16611 (MCL 333.16611).

The People of the State of Michigan enact:

333.16611 Dentist, dental hygienist, or dental assistant; license or authorization required; deep scaling, root planing, and removal of calcareous deposits; qualifications for dental hygienist licensure; administration of intraoral block and infiltration anesthesia by dental hygienist; requirements.

Sec. 16611. (1) An individual shall not engage in the practice of dentistry, the practice as a dental hygienist, or the practice as a dental assistant unless he or she is licensed or otherwise authorized by this article.

(2) Deep scaling, root planing, and the removal of calcareous deposits may only be performed by an individual licensed or otherwise authorized by this article as a dental hygienist or a dentist.

(3) The department shall not issue a dental hygienist's license to an individual unless the individual has graduated from a school or college for dental hygienists whose dental hygiene program is accredited by the commission on dental accreditation of the American dental association and approved by the department. The school or college must be accredited by a regional accrediting agency for colleges, universities, or institutions of higher education that is recognized by the United States department of education and approved by the department and must conduct a curriculum consisting of not less than 2 academic years for dental hygiene graduation with courses at the appropriate level to enable matriculation into a more advanced academic degree program.

(4) Upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a dental hygienist may administer intraoral block and infiltration anesthesia to a patient who is 18 years of age or older if the following criteria are met:

(a) The dental hygienist has successfully completed a course in the administration of local anesthesia offered by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association and approved by the department. A course described in this subdivision must contain a minimum of 15 hours didactic instruction and 14 hours of clinical experience. The courses of instruction shall include content in all of the following:

(*i*) Theory of pain control.

(*ii*) Selection of pain control modalities.

(*iii*) Anatomy.

(*iv*) Neurophysiology.

(*v*) Pharmacology of local anesthetics.

(*vi*) Pharmacology of vasoconstrictors.

(*vii*) Psychological aspects of pain control.

(*viii*) Systemic complications.

(*ix*) Techniques of maxillary anesthesia.

(*x*) Techniques of mandibular anesthesia.

(*xi*) Infection control.

(*xii*) Local anesthesia medical emergencies.

(b) The dental hygienist has successfully completed a state or regional board-administered written examination on local anesthesia within 18 months of completion of the course work required under subdivision (a).

(c) The dental hygienist maintains and can show evidence of current certification in basic or advanced cardiac life support in compliance with R 338.11701 of the Michigan administrative code.

(5) Application for certification in the administration of local anesthesia under subsection (4) is at the discretion of each individual dental hygienist.

(6) As used in this section, "direct supervision" means that a dentist complies with all of the following:

(a) Designates a patient of record upon whom the procedures are to be performed and describes the procedures to be performed.

(b) Examines the patient before prescribing the procedures to be performed and upon completion of the procedures.

(c) Is physically present in the office at the time the procedures are being performed.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 424]

(HB 4217)

AN ACT to provide for standards for contracts involving certain residential and care services; and to provide for remedies.

The People of the State of Michigan enact:

333.26501 Short title.

Sec. 1. This act shall be known and may be cited as the "housing-with-services contract act".

333.26502 Definitions.

Sec. 2. As used in this act:

(a) "Health-related services" means 1 or more of the following:

(*i*) Nursing services.

(*ii*) Nursing services delegated to aides or personal care services including, but not limited to, escort services, reminders, and standby assistance related to dressing or grooming.

(*iii*) Home aide care tasks.

(b) "Housing-with-services establishment" means an establishment regularly providing or offering to provide leased private unit residences accommodating 1 or more adults, and providing or offering to provide for a fee either 1 or more regularly scheduled health-related services or 2 or more regularly scheduled supportive services, whether offered directly by the establishment or by another person by arrangement of the establishment. Housing-with-services establishment does not include an adult foster care facility licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or a health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(c) "Resident" means an individual leasing and residing in a housing-with-services establishment.

(d) "Supportive services" means helping with personal laundry, arranging for medical services, health-related services, social services, or transportation to medical or social services appointments, or providing for at least 1 individual awake and alert in the housing-with-services establishment to contact a service provider in an emergency. Supportive services do not include making referrals or assisting a resident in contacting a service provider of the resident's choice.

333.26503 Contract requirements.

Sec. 3. (1) An establishment shall not function as a housing-with-services establishment for an individual except under a written contract complying with this act.

(2) A contract between a housing-with-services establishment and a resident must be in writing and shall include at least all of the following:

(a) The name, street address, and mailing address of the housing-with-services establishment.

(b) The owner's name and mailing address.

(c) The title and address of the managing agent, whether an owner of a management firm or agency.

(d) The title and business address, if different from the establishment address, of at least 1 individual authorized to accept service of process on behalf of the owner and managing agent.

(e) A statement describing whether the housing-with-services establishment is licensed by a local, state, or federal agency.

(f) The term of the contract described in months or years.

(g) A description of the services the establishment will provide to the resident for the base-rate paid by the resident.

(h) A description of additional services available for an additional fee from the housing-with-services establishment directly or through arrangements with the housing-with-services establishment.

(i) A statement describing the policy of the housing-with-services establishment regarding the outside contracting of services by a resident.

(j) Fee schedules outlining the cost of additional services.

(k) A description of the process through which the contract may be modified, amended, or terminated, including conditions under which a contract may be terminated by the resident or the establishment.

(*l*) A description of the housing-with-services establishment's complaint resolution process.

(m) The resident's designated representative, if any.

(n) The establishment's referral procedure in the event the contract is terminated.

(o) Billing and payment procedures and requirements.

(3) The housing-with-services establishment shall keep the contracts and related documents executed by the establishment and residents for at least 3 years after the date of termination of each contract. Contracts, or copies of the contracts, for current residents shall be kept at the establishment.

333.26504 Compliance with act and state and local codes.

Sec. 4. (1) A housing-with-services establishment shall comply with this act and shall comply with applicable state and local codes.

(2) This act does not mandate a housing-with-services establishment to provide any of the following:

(a) A minimum core of services.

(b) A specific number of residents.

(c) Physical plant or establishment specifications so long as the housing-with-services establishment is in compliance with applicable state and local codes.

333.26505 Rights or responsibilities not limited.

Sec. 5. Nothing in this act limits a person's rights or responsibilities under any other applicable state housing or renting act.

333.26506 Violation of act; contract as void.

Sec. 6. A contract executed in violation of this act is voidable at the option of the resident. The provisions of this section shall not be used as a means to avoid a resident's payment obligation if the contract is not executed in violation of this act.

333.26507 Licensure requirements of adult foster care facility licensing act or article 17 of public health code not limited.

Sec. 7. Nothing in this act limits a facility's responsibilities or obligations to be licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, or under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 425]

(HB 5750)

AN ACT to amend 1984 PA 44, entitled "An act to provide purity and quality standards for motor fuels; to regulate the transfer, sale, dispensing, or offering motor fuels for sale; to provide for an inspection and testing program; to provide for the powers and duties of certain state agencies; to provide for the licensing of certain persons

engaged in the transfer, sale, dispensing, or offering of motor fuels for sale; to regulate stage I and stage II vapor-recovery systems at certain facilities; to provide for fees; and to provide remedies and prescribe penalties," by amending section 4a (MCL 290.644a), as amended by 2002 PA 13.

The People of the State of Michigan enact:

290.644a Testing storage tank at retail outlet to determine water or water-alcohol level; prohibited sales; testing supplies.

Sec. 4a. (1) A storage tank at a retail outlet shall be periodically tested by the retail dealer to insure that the tank does not have water or water-alcohol at the bottom of that tank in an amount greater than 2 inches. If there is more than 2 inches of water or water-alcohol at the bottom of the storage tank, gasoline shall not be sold to a consumer from that tank until the water or water-alcohol level is reduced to a level of less than 2 inches.

(2) Adequate testing supplies, as determined by the department, shall be maintained at the retail outlet and shall also be made available to the department to determine the water or water-alcohol level in the storage tank.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 426]

(SB 1056)

AN ACT to repeal 1955 PA 191, entitled "An act authorizing the state highway commissioner of Michigan to enter into negotiations with the Wisconsin state highway commissioner in the preparation of plans, specifications and designs of an interstate bridge extending from First street in Menominee across the Menominee river to Ogden street in Marinette, Wisconsin, and to provide for the cost and expense of such plans, specifications and designs," (MCL 254.131).

The People of the State of Michigan enact:

Repeal of § 254.131.

Enacting section 1. 1955 PA 191, MCL 254.131, is repealed.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 427]

(HB 5107)

AN ACT to amend 1969 PA 317, entitled "An act to revise and consolidate the laws relating to worker's disability compensation; to increase the administrative efficiency of

the adjudicative processes of the worker's compensation system; to improve the qualifications of the persons having adjudicative functions within the worker's compensation system; to prescribe certain powers and duties; to create the board of worker's compensation magistrates and the worker's compensation appellate commission; to create certain other boards; to provide certain procedures for the resolution of claims, including mediation and arbitration; to prescribe certain benefits for persons suffering a personal injury under the act; to prescribe certain limitations on obtaining benefits under the act; to create, and provide for the transfer of, certain funds; to prescribe certain fees; to prescribe certain remedies and penalties; to repeal certain parts of this act on specific dates; and to repeal certain acts and parts of acts," by amending section 161 (MCL 418.161), as amended by 1996 PA 460.

The People of the State of Michigan enact:

418.161 "Employee" defined; exclusion from coverage of partner or spouse, child, or parent in employer's family; election by employee to be excluded; notice of election; duration of elected exclusion; § 418.141 inapplicable to certain actions.

Sec. 161. (1) As used in this act, "employee" means:

(a) A person in the service of the state, a county, city, township, village, or school district, under any appointment, or contract of hire, express or implied, oral or written. A person employed by a contractor who has contracted with a county, city, township, village, school district, or the state, through its representatives, shall not be considered an employee of the state, county, city, township, village, or school district which made the contract, when the contractor is subject to this act.

(b) Nationals of foreign countries employed pursuant to section 102(a)(1) of the mutual educational and cultural exchange act of 1961, Public Law 87-256, 22 U.S.C. 2452, shall not be considered employees under this act.

(c) Police officers, fire fighters, or employees of the police or fire departments, or their dependents, in municipalities or villages of this state providing like benefits, may waive the provisions of this act and accept like benefits that are provided by the municipality or village but shall not be entitled to like benefits from both the municipality or village and this act; however, this waiver shall not prohibit such employees or their dependents from being reimbursed under section 315 for the medical expenses or portion of medical expenses that are not otherwise provided for by the municipality or village. This act shall not be construed as limiting, changing, or repealing any of the provisions of a charter of a municipality or village of this state relating to benefits, compensation, pensions, or retirement independent of this act, provided for employees.

(d) On-call members of a fire department of a county, city, village, or township shall be considered to be employees of the county, city, village, or township, and entitled to all the benefits of this act when personally injured in the performance of duties as on-call members of the fire department whether the on-call member of the fire department is paid or unpaid. On-call members of a fire department of a county, city, village, or township shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the county, village, city, or township for the purpose of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage.

(e) On-call members of a fire department or an on-call member of a volunteer underwater diving team that contracts with or receives reimbursement from 1 or more counties, cities, villages, or townships shall be entitled to all the benefits of this act when personally injured in the performance of their duties as on-call members of a fire department or as an on-call member of a volunteer underwater diving team whether the on-call member of the fire department or the on-call member of the volunteer underwater diving team is paid or unpaid. On-call members of a fire department shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the fire department for the purpose of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage. On-call members of a volunteer underwater diving team shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the fire department for the purpose of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage.

(f) The benefits of this act shall be available to a safety patrol officer who is engaged in traffic regulation and management for and by authority of a county, city, village, or township, whether the officer is paid or unpaid, in the same manner as benefits are available to on-call members of a fire department under subdivision (d), upon the adoption by the legislative body of the county, city, village, or township of a resolution to that effect. A safety patrol officer or safety patrol force when used in this act includes all persons who volunteer and are registered with a school and assigned to patrol a public thoroughfare used by students of a school.

(g) A volunteer civil defense worker who is a member of the civil defense forces as provided by law and is registered on the permanent roster of the civil defense organization of the state or a political subdivision of the state shall be considered to be an employee of the state or the political subdivision on whose permanent roster the employee is enrolled when engaged in the performance of duty and shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the state or political subdivision for purposes of calculating the weekly rate of compensation provided under this act.

(h) A volunteer licensed under section 20950 or 20952 of the public health code, 1978 PA 368, MCL 333.20950 and 333.20952, who is an on-call member of a life support agency as defined under section 20906 of the public health code, 1978 PA 368, MCL 333.20906, shall be considered to be an employee of the county, city, village, or township and entitled to the benefits of this act when personally injured in the performance of duties as an on-call member of a life support agency whether the on-call member of the life support agency is paid or unpaid. An on-call member of a life support agency shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the county, city, village, or township for purposes of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage.

(i) A volunteer licensed under section 20950 or 20952 of the public health code, 1978 PA 368, MCL 333.20950 and 333.20952, who is an on-call member of a life support agency as

defined under section 20906 of the public health code, 1978 PA 368, MCL 333.20906, that contracts with or receives reimbursement from 1 or more counties, cities, villages, or townships shall be entitled to all the benefits of this act when personally injured in the performance of his or her duties as an on-call member of a life support agency whether the on-call member of the life support agency is paid or unpaid. An on-call member of a life support agency shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the life support agency for the purpose of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage.

(j) If a member of an organization recognized by 1 or more counties, cities, villages, or townships within this state as an emergency rescue team is employed by a state, county, city, village, or township within this state as a police officer, fire fighter, emergency medical technician, or ambulance driver and is injured in the normal scope of duties including training, but excluding activation, as a member of the emergency rescue team, he or she shall be considered to be engaged in the performance of his or her normal duties for the state, county, city, village, or township. If the member of the emergency rescue team is not employed by a state, county, city, village, or township within this state as a police officer, fire fighter, emergency medical technician, or ambulance driver, and is injured in the normal scope of duties, including training, as a member of the emergency rescue team, he or she shall be considered to be an employee of the team. For the purpose of securing the payment of compensation under this act, on activation, each member of the team shall be considered to be covered by a policy obtained by the team unless the employer of a member of the team agrees in writing to provide coverage for that member under its policy. Members of an emergency rescue team shall be considered to be receiving the state average weekly wage at the time of injury, as last determined under section 355, from the team for the purpose of calculating the weekly rate of compensation provided under this act except that if the member's average weekly wage was greater than the state average weekly wage at the time of the injury, the member's weekly rate of compensation shall be determined based on the member's average weekly wage. As used in this subdivision, "activation" means a request by the emergency management coordinator appointed pursuant to section 8 or 9 of the emergency management act, 1976 PA 390, MCL 30.408 and 30.409, made of and accepted by an emergency rescue team.

(k) A political subdivision of this state shall not be required to provide compensation insurance for a peace officer of the political subdivision with respect to the protection and compensation provided by 1937 PA 329, MCL 419.101 to 419.104.

(*l*) Every person in the service of another, under any contract of hire, express or implied, including aliens; a person regularly employed on a full-time basis by his or her spouse having specified hours of employment at a specified rate of pay; working members of partnerships receiving wages from the partnership irrespective of profits; a person insured for whom and to the extent premiums are paid based on wages, earnings, or profits; and minors, who shall be considered the same as and have the same power to contract as adult employees. Any minor under 18 years of age whose employment at the time of injury shall be shown to be illegal, in the absence of fraudulent use of permits or certificates of age in which case only single compensation shall be paid, shall receive compensation double that provided in this act.

(m) Every person engaged in a federally funded training program or work experience program which mandates the provision of appropriate worker's compensation for participants and which is sponsored by the state, a county, city, township, village, or

school district, or an incorporated public board or public commission in the state authorized by law to hold property and to sue or be sued generally, or any consortium thereof, shall be considered, for the purposes of this act, to be an employee of the sponsor and entitled to the benefits of this act. The sponsor shall be responsible for the provision of worker's compensation and shall secure the payment of compensation by a method permitted under section 611. If a sponsor contracts with a public or private organization to operate a program, the sponsor may require the organization to secure the payment of compensation by a method permitted under section 611.

(n) Every person performing service in the course of the trade, business, profession, or occupation of an employer at the time of the injury, if the person in relation to this service does not maintain a separate business, does not hold himself or herself out to and render service to the public, and is not an employer subject to this act.

(2) A policy or contract of worker's compensation insurance, by endorsement, may exclude coverage as to any 1 or more named partners or the spouse, child, or parent in the employer's family. A person excluded pursuant to this subsection shall not be subject to this act and shall not be considered an employee for the purposes of section 115.

(3) An employee who is subject to this act, including an employee covered pursuant to section 121, who is an employee of a limited liability company of not more than 10 members and who is also a manager and member, as defined in section 102 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4102, and who owns at least a 10% interest in that limited liability company, with the consent of the limited liability company as approved by a majority vote of the members, or if the limited liability company has more than 1 manager, all of the managers who are also members, except as otherwise provided in an operating agreement, may elect to be individually excluded from this act by giving a notice of the election in writing to the carrier with the consent of the limited liability company endorsed on the notice. The exclusion shall remain in effect until revoked by the employee by giving notice in writing to the carrier. While the exclusion is in effect, section 141 shall not apply to any action brought by the employee against the limited liability company.

(4) An employee who is subject to this act, including an employee covered pursuant to section 121, who is an employee of a corporation which has not more than 10 stockholders and who is also an officer and stockholder who owns at least 10% of the stock of that corporation, with the consent of the corporation as approved by its board of directors, may elect to be individually excluded from this act by giving a notice of the election in writing to the carrier with the consent of the corporation endorsed on the notice. The exclusion shall remain in effect until revoked by the employee by giving a notice in writing to the carrier. While the exclusion is in effect, section 141 shall not apply to any action brought by the employee against the corporation.

(5) If the persons to be excluded from coverage under this act pursuant to subsections (2) to (4) comprise all of the employees of the employer, those persons may elect to be excluded from being considered employees under this act by submitting written notice of that election to the director upon a form prescribed by the director. The exclusion shall remain in effect until revoked by giving written notice to the director.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 428]

(SB 891)

AN ACT to repeal 1881 PA 182, entitled "An act to provide for the incorporation of pipe line companies, and to define their powers and duties," (MCL 483.201 to 483.228).

The People of the State of Michigan enact:

Repeal of §§ 483.201 to 483.228.

Enacting section 1. 1881 PA 182, MCL 483.201 to 483.228, is repealed.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 429]

(SB 893)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 2123, 2558, 6458, and 6461 (MCL 600.2123, 600.2558, 600.6458, and 600.6461), section 2558 as amended by 1996 PA 214.

The People of the State of Michigan enact:

600.2123 Certified copies as evidence; records of board of control of Saint Mary's Falls ship canal.

Sec. 2123. Copies of all papers, documents, maps, plats, entries, or records filed with the board of control of the Saint Mary's Falls ship canal, or entered in the records of the proceedings of the board of control, certified by the state treasurer of this state to be a true transcript compared by the state treasurer with the original in the office of the board of control, shall be evidence in all courts and proceedings in like manner and to the same extent as the original would be if produced.

600.2558 Fees of sheriff; increase; mileage; liability.

Sec. 2558. (1) The sheriff is entitled to the fees provided in this section and section 2559.

(2) The following fees of the sheriff are allowed:

(a) For taking a bond if the sheriff is authorized to take the bond, $1.50; for a certified copy of the bond, if requested, $1.00.

(b) For every certificate on the sale of real estate, $1.50; and for each copy of the certificate, $1.50, which, together with the register's fee for filing the certificate, shall be collected as other fees on execution.

(c) For taking a bond for the liberties of the jail, $1.50.

(d) For summoning a jury upon a writ of inquiry, attending the jury, and making and returning the inquisition, $5.00.

(e) For summoning a jury pursuant to any precept or summons of any officer in any special proceeding, $5.00, and for attending the jury when required, $5.00.

(f) For bringing up a prisoner upon habeas corpus, $3.00, and for traveling each mile from the jail, 15 cents; for attending any court with that prisoner, $5.00 per day, plus actual necessary expenses.

(g) For attending before any officer with a prisoner for the purpose of having the prisoner surrendered in exoneration of his or her bail, or for attending to receive a prisoner so surrendered, who was not committed at the time, and receiving that prisoner into the sheriff's custody, in either case, $15.00.

(h) For attending a view, when ordered by the court, $15.00 per day, including the time occupied in going and returning.

(i) For making and returning an inventory and appraisal to the appraisers, $10.00 for each day actually employed, and $5.00 for each half day. The court, by rule, may adjust a schedule fixing the amount of appraisal fees if the court considers the statutory fee to be inadequate.

(j) For drafting an inventory, $1.25 for each page and for copying the inventory, 10 cents for each page.

(k) For giving notice for general or special election to the inspectors of the different townships and wards of the county, $1.00 for each township or ward, and the expenses of publishing the notices required by law, those fees and expenses to be paid by the county, as other contingent expenses of the election.

(*l*) For attending the supreme court by the order of the court, $10.00 for each day, to be allowed by the state treasurer on the certificate of the clerk, and paid out of the state treasury, not taxable as costs.

(m) For attending the circuit court, by the order of the court, $15.00 for each day, except in the county of Wayne; not taxable as costs. In the county of Wayne there shall be paid to the deputy sheriffs in actual attendance on the circuit court in the county such compensation as shall be fixed by the board of commissioners in accordance with the county uniform salary plan to be allowed and paid as other contingent charges of the county are paid; the number of deputies shall not exceed 2 for each judge of the third judicial circuit.

(n) For summoning grand or petit jurors to attend the circuit court, $2.00 for each juror summoned, not taxable as costs.

(o) For keeping and providing for a debtor in jail where the debtor is unable to support himself or herself, $1.00 for each day or such sum as shall be fixed by the board of commissioners, to be paid by the creditor each week, in advance, and which sum the creditor shall be entitled to recover from the debtor.

(p) For posting notices on property for foreclosure sales, $16.00 for each posting, plus mileage.

(q) For selling lands on the foreclosure of a mortgage by advertisement; and executing a deed to the purchaser and for all services required on that sale, $50.00.

(r) For each adjournment of the sale of land on the foreclosure of a mortgage by advertisement, $8.00.

(s) For serving notice of a person claiming title under a tax deed, in person and by mail, $16.00 plus mileage

(3) Mileage allowed under subsection (2) shall be computed in the same manner as provided for process served out of the circuit court under section 2559(3).

(4) Any sheriff or other officer who demands or receives any greater fees or compensation for performing any of the services mentioned in this section than as allowed by this section, shall, in addition to all other liabilities now provided by law, be liable to the party injured, for paying the illegal fees, in 3 times the amount so demanded, received, or paid, together with all costs of the action.

(5) Any sheriff or other officer who neglects or refuses any of the services required by law, after the fees specified have been tendered, shall be liable to the party injured for all damages which the party sustains by reason of that neglect or refusal.

600.6458 Court of claims; judgment against state; payment.

Sec. 6458. (1) In rendering any judgment against the state, or any department, commission, board, institution, arm, or agency, the court shall determine and specify in that judgment the department, commission, board, institution, arm, or agency from whose appropriation that judgment shall be paid.

(2) Upon any judgment against the state or any department, commission, board, institution, arm, or agency becoming final, or upon allowance of any claim by the state administrative board and upon certification by the secretary of the state administrative board to the clerk of the court of claims, the clerk of the court shall certify to the state treasurer the fact that that judgment was entered or that the claim was allowed and the claim shall thereupon be paid from the unencumbered appropriation of the department, commission, board, institution, arm, or agency if the state treasurer determines the unencumbered appropriation is sufficient for the payment. In the event that funds are not available to pay the judgment or allowed claim, the state treasurer shall instruct the clerk of the court of claims to issue a voucher against an appropriation made by the legislature for the payment of judgment claims and allowed claims. In the event that funds are not available to pay the judgment or allowed claim, that fact, together with the name of the claimant, date of judgment, date of allowance of claim by the state administrative board and amount shall be reported to the legislature at its next session, and the judgment or allowed claim shall be paid as soon as money is available for that purpose. The clerk shall not certify any judgment to the state treasurer until the period for appeal from that judgment shall have expired, unless written stipulation between the attorney general and the claimant or his or her attorney, waiving any right of appeal or new trial, is filed with the clerk of the court.

(3) The clerk shall approve vouchers under the direction of the court for the payment of the several judgments rendered by the court. All warrants issued in satisfaction of those judgments shall be transmitted to the clerk for distribution; and all warrants issued in satisfaction of claims allowed by the state administrative board shall be transmitted to the secretary of the state administrative board for distribution.

600.6461 Court of claims; clerk's report to legislature; state treasurer and budget director.

Sec. 6461. (1) At the commencement of each session of the legislature and at such other times during the session as he or she may consider proper, the clerk of the court shall report to the legislature the claims upon which the court has finally acted, with a statement of the judgment rendered in each case.

(2) The clerk shall submit a detailed statement of the amount of each claim allowed by the court to the state treasurer and the budget director.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 430]

(SB 917)

AN ACT to amend 1907 PA 130, entitled "An act to provide for refunding to purchasers the price paid to the state on sale of land by the commissioner of the state land office, under section 131 of Act 206 of Public Acts of 1893, as amended by Act 141 of Public Acts of 1901, in cases where the land sold did not belong to the class of lands liable to sale thereunder; for cancelling the conveyance of such lands to the state and restoring the tax liens thereon in favor of the state, which were erroneously cancelled," by amending sections 1, 2, 3, and 4 (MCL 211.451, 211.452, 211.453, and 211.454).

The People of the State of Michigan enact:

211.451 Purchase price refund; conditions.

Sec. 1. Any purchaser of land from this state at any sale previously made, or that may be made, by the department of natural resources under section 131 of the general property tax act, 1893 PA 206, MCL 211.131, may petition the state treasurer for a refund of the purchase price paid for the land if the land purchased did not belong to the class of lands liable to sale by the department of natural resources.

211.452 Purchase price refund; circumstances authorizing.

Sec. 2. If shown by proof satisfactory to the state treasurer that land purchased by the petitioner in the manner set forth in section 1 was occupied by the person having the record title to the land at the time of making and recording the determination relating to the land by the state treasurer and at the time the sale was made to the petitioning purchaser, and that the purchaser never obtained possession or any beneficial use of the land and that he or she acquired no title to the land by the purchase for the reason that, on the date of the determination and the sale, the land was occupied, within the meaning of the statutes under which the sale was assumed to be made to the purchaser, or, in any case where the tax homestead deed issued by the state treasurer to this state has been held invalid by any court of competent jurisdiction in a case that was pending at the time of purchase of the land from the department of natural resources by the petitioner, the state treasurer shall cause the money paid to this state to be refunded to the purchaser, or his or her assignee, with interest on that money at 6% per annum.

211.453 Unrecorded deed; cancellation; release of recorded deed; recording.

Sec. 3. (1) If the deed executed and delivered to the petitioning purchaser by the department of natural resources on a sale is not recorded, the deed shall be delivered to the state treasurer for cancellation.

(2) If the deed has been recorded, the petitioning purchaser shall execute and deliver to the state treasurer a release of the land to this state and shall pay to the state treasurer the cost of recording the release in the office of the register of deeds of the proper county. The state treasurer shall cause the release to be so recorded.

211.454 Cancellation deed to state; certificate of error; recording; tax liens and state bids restored.

Sec. 4. (1) The state treasurer shall cancel the conveyance of the land made by the state treasurer to this state by issuing a certificate of error in the form required by law, and shall cause the certificate of error to be recorded in the office of the register of deeds of the proper county.

(2) The state treasurer shall restore the tax liens in favor of this state upon the land, which were erroneously canceled at the time of the conveyance of the land to this state by the state treasurer. The tax liens and the state bids on those tax liens shall continue and shall have the same force and validity in every respect as if the erroneous cancellation had not been made.

This act is ordered to take immediate effect.
Approved June 5, 2002.
Filed with Secretary of State June 5, 2002.

[No. 431]

(HB 5466)

AN ACT to amend 1954 PA 116, entitled "An act to reorganize, consolidate, and add to the election laws; to provide for election officials and prescribe their powers and duties; to prescribe the powers and duties of certain state departments, state agencies, and state and local officials and employees; to provide for the nomination and election of candidates for public office; to provide for the resignation, removal, and recall of certain public officers; to provide for the filling of vacancies in public office; to provide for and regulate primaries and elections; to provide for the purity of elections; to guard against the abuse of the elective franchise; to define violations of this act; to provide appropriations; to prescribe penalties and provide remedies; and to repeal certain acts and all other acts inconsistent with this act," by amending sections 46, 544c, 590h, and 646a (MCL 168.46, 168.544c, 168.590h, and 168.646a), section 544c as amended by 1999 PA 219, section 590h as added by 1988 PA 116, and section 646a as amended by 1990 PA 7.

The People of the State of Michigan enact:

168.46 Presidential electors; determination by board of state canvassers; certificate of election.

Sec. 46. As soon as practicable after the state board of canvassers has, by the official canvass, ascertained the result of an election as to electors of president and vice-president of the United States, the governor shall certify, under the seal of the state, to the United States secretary of state, the names and addresses of the electors of this state chosen as electors of president and vice-president of the United States. The governor shall also

transmit to each elector chosen as an elector for president and vice-president of the United States a certificate, in triplicate, under the seal of the state, of his or her election.

168.544c Nominating petition; type size; form; contents; circulation and signing; unlawful signature; false statement; misdemeanor; sanctions; applicability of section.

Sec. 544c. (1) A nominating petition shall be 8-1/2 inches by 14 inches in size. On a nominating petition, the words "nominating petition" shall be printed in 24-point boldface type. "We, the undersigned," et cetera shall be printed in 8-point type. "Warning" and language in the warning shall be printed in 12-point boldface type. The balance of the petition shall be printed in 8-point type. The name, address, and party affiliation of the candidate and the office for which petitions are signed shall be printed in type not larger than 24-point. The petition shall be in the following form:

NOMINATING PETITION
(PARTISAN)

We, the undersigned, registered and qualified voters of the city or township of
(strike 1)

..... , in the county of .....

and state of Michigan, nominate,

..... ,
(Name of Candidate)

..... ,
(Street Address or Rural Route) (City or Township)

as a candidate of the ..... party for the office of ..... ,

..... ,
(District, if any)

to be voted for at the primary election to be held on the ..... day of ..... , 20..... .

WARNING

A person who knowingly signs more petitions for the same office than there are persons to be elected to the office or signs a name other than his or her own is violating the provisions of the Michigan election law.

	Printed Name and Signature	Street Address or Rural Route	Zip Code	Date of Signing Mo.	Day	Year
1.						
2.						
3.						
4.						

numbered lines as above

CERTIFICATE OF CIRCULATOR

The undersigned circulator of the above petition asserts that he or she is qualified to circulate this petition and that each signature on the petition was signed in his or her presence; and that, to his or her best knowledge and belief, each signature is the genuine

signature of the person purporting to sign the petition, the person signing the petition was at the time of signing a qualified registered elector of the city or township listed in the heading of the petition, and the elector was qualified to sign the petition.

Circulator—Do not sign or date certificate until after circulating petition.

(Printed Name and Signature of Circulator) (Date)

(City or Township Where Registered)
[or, for petitions under section 482,
"(City or Township Where Qualified to be Registered)"]

(Complete Residence Address (Street and Number or Rural Route)

(Zip Code)

Warning-A circulator knowingly making a false statement in the above certificate, a person not a circulator who signs as a circulator, or a person who signs a name other than his or her own as circulator is guilty of a misdemeanor.

(2) The petition shall be in a form providing a space for the circulator and each elector who signs the petition to print his or her name. The secretary of state shall prescribe the location of the space for the printed name. The failure of the circulator or an elector who signs the petition to print his or her name, to print his or her name in the location prescribed by the secretary of state, or to enter a zip code or his or her correct zip code does not affect the validity of the signature of the circulator or the elector who signs the petition. A printed name located in the space prescribed for printed names does not constitute the signature of the circulator or elector.

(3) At the time of circulation, the circulator of a petition shall be a registered elector of this state. At the time of executing the certificate of circulator, the circulator shall be registered in the city or township indicated in the certificate of circulator on the petition. However, the circulator of a petition under section 482 need only be qualified to be a registered elector of this state at the time of circulation and at the time of executing the certificate of circulator.

(4) The circulator of a petition shall sign and date the certificate of circulator before the petition is filed. A circulator shall not obtain electors' signatures after the circulator has signed and dated the certificate of circulator. A filing official shall not count electors' signatures that were obtained after the date the circulator signed the certificate or that are contained in a petition that the circulator did not sign and date.

(5) Except as provided in section 544d, a petition sheet shall not be circulated in more than 1 city or township and each signer of a petition sheet shall be a registered elector of the city or township indicated in the heading of the petition sheet. The invalidity of 1 or more signatures on a petition does not affect the validity of the remainder of the signatures on the petition.

(6) An individual shall not sign more nominating petitions for the same office than there are persons to be elected to the office. An individual who violates this subsection is guilty of a misdemeanor.

(7) An individual shall not do any of the following:

(a) Sign a petition with a name other than his or her own.

(b) Make a false statement in a certificate on a petition.

(c) If not a circulator, sign a petition as a circulator.

(d) Sign a name as circulator other than his or her own.

(8) An individual who violates subsection (7) is guilty of a misdemeanor punishable by a fine of not more than $500.00 or imprisonment for not more than 93 days, or both.

(9) If after a canvass and a hearing on a petition under section 476 or 552 the board of state canvassers determines that an individual has knowingly and intentionally failed to comply with subsection (7), the board of state canvassers may impose 1 or more of the following sanctions:

(a) Disqualify obviously fraudulent signatures on a petition form on which the violation of subsection (7) occurred, without checking the signatures against local registration records.

(b) Disqualify from the ballot a candidate who committed, aided or abetted, or knowingly allowed the violation of subsection (7) on a petition to nominate that candidate.

(10) If an individual violates subsection (7) and the affected petition sheet is filed, each of the following who knew of the violation of subsection (7) before the filing of the affected petition sheet and who failed to report the violation to the secretary of state, the filing official, if different, the attorney general, a law enforcement officer, or the county prosecuting attorney is guilty of a misdemeanor, punishable by a fine of not more than $500.00 or imprisonment for not more than 1 year, or both:

(a) The circulator of the petition, if different than the individual who violated subsection (7).

(b) If the petition is a nominating petition, the candidate whose nomination is sought.

(c) If the petition is a petition for a ballot question or recall, the organization or other person sponsoring the petition drive.

(11) If after a canvass and a hearing on a petition under section 476 or 552 the board of state canvassers determines that an individual has violated subsection (10), the board of state canvassers may impose 1 or more of the following sanctions:

(a) Impose on the organization or other person sponsoring the petition drive an administrative fine of not more than $5,000.00.

(b) Charge the organization or other person sponsoring the petition drive for the costs of canvassing a petition form on which a violation of subsection (7) occurred.

(c) Disqualify an organization or other person described in subdivision (a) from collecting signatures on a petition for a period of not more than 4 years.

(d) Disqualify obviously fraudulent signatures on a petition form on which a violation of subsection (7) occurred without checking the signatures against local registration records.

(e) Disqualify from the ballot a candidate who committed, aided or abetted, or knowingly allowed a violation of subsection (7) on a petition to nominate that candidate.

(12) If an individual refuses to comply with a subpoena of the board of state canvassers in an investigation of an alleged violation of subsection (7) or (10), the board may hold the canvass of the petitions in abeyance until the individual complies.

(13) A person who aids or abets another in an act that is prohibited by this section is guilty of that act.

(14) The provisions of this section except as otherwise expressly provided apply to all petitions circulated under authority of the election law.

168.590h Qualifying petition; size; type size; form; reference to political party prohibited; prohibited conduct.

Sec. 590h. (1) A qualifying petition for a candidate without political party affiliation shall be the same size and printed in the same type sizes as required in section 544c. The petition shall be in the following form:

QUALIFYING PETITION
(CANDIDATE WITHOUT PARTY AFFILIATION)

We, the undersigned, registered and qualified electors of the city or township of
(strike 1)

..... , in the county of ..... ,

and state of Michigan, nominate

..... ,
(Name of Candidate)

..... ,
(Street Address or R.R.) (City or Township)

as a candidate without party affiliation for the office of

.....
(Title of Office and District)

in order that the name of the candidate be placed without party affiliation on the ballot for the election to be held on the ..... day of ..... , 20..... .

WARNING

Whoever knowingly signs more petitions for the same office than there are persons to be elected to the office or signs a name other than his or her own is violating the Michigan election law.

(2) The balance of the qualifying petition form shall be substantially as set forth in section 544c. A qualifying petition for a candidate without party affiliation shall not contain a reference to a political party.

(3) A person shall not knowingly sign more petitions for the same office than there are persons to be elected to the office or sign a name other than his or her own on the petition.

168.646a Election of local officers; nomination; certification; certifying ballot wording of local or county questions; applicability of section.

Sec. 646a. (1) If a local officer is to be elected at a general November election or on the first Monday of April in an odd numbered year, candidates for the local office shall be nominated in the manner provided by law or charter. If the candidates are to be nominated at a fall primary election, the primary shall be held on the same day as is provided by law for holding the county or state primary election before that election, except as provided in section 646b. If the candidates are to be elected in April, the primary shall be held on the third Monday in February. If candidates for the local office are to be nominated at caucuses, the caucuses shall be held on a date before the date set for the above mentioned primary election or on the Saturday preceding the day of the primary election as determined by the local legislative body at least 20 days preceding the date of the caucus. If candidates are nominated by filing petitions or affidavits, they shall be filed at a time provided by charter but not later than the date of the primary. If a local primary election is to be held on the same day as a state or county primary election, the last day for local candidates to file nominating petitions shall be the same as the last date to file petitions for state and county offices. The names of all local candidates and titles of office shall be certified to the county clerk by the local clerk within 5 days after the last day for filing petitions, and certification of nominees shall be made to that clerk within 5 days after the date on which the primary or caucus was held.

(2) If a local or county question is to be voted on at a primary, special, or general election at which state officers are to be voted for, the ballot wording of the question shall be certified to the local or county clerk at least 70 days before the election. If the wording is certified to a clerk other than the county clerk, the clerk shall certify the ballot wording to the county clerk at least 68 days before the election. Petitions to place a county or local question on the ballot at the election shall be filed with the clerk at least 14 days before the date the ballot wording must be certified to the local clerk. For the year 2002, the certification and filing deadlines prescribed by this subsection do not apply to a local or county ballot question that is required to be placed on the ballot by state statute.

(3) The provisions of this section apply notwithstanding any provisions of law or charter to the contrary, unless an earlier date for the filing of affidavits or petitions, including nominating petitions, is provided in a law or charter, in which case the earlier filing date is controlling.

This act is ordered to take immediate effect.
Approved June 6, 2002.
Filed with Secretary of State June 6, 2002.

[No. 432]

(HB 6114)

AN ACT to amend 1909 PA 279, entitled "An act to provide for the incorporation of cities and for revising and amending their charters; to provide for certain powers and duties; to provide for the levy and collection of taxes by cities, borrowing of money, and issuance of bonds or other evidences of indebtedness; to validate actions taken, bonds issued, and obligations heretofore incurred; to prescribe penalties and provide remedies; and to repeal acts and parts of acts on specific dates," (MCL 117.1 to 117.38) by adding section 3a.

The People of the State of Michigan enact:

117.3a Abolishment of at-large city council; election of members from single-member election districts; ballot question; approval; determination of city council president; adoption of apportionment plan by commission; qualifications of candidates; rules and procedures; amendment of charter.

Sec. 3a. (1) A city that has a population of not less than 750,000 as determined by the most recent federal decennial census and that has a city council composed of 9 at-large council members shall place a question in substantially the following form on the ballot at the general primary election held on Tuesday, August 6, 2002:

> "Shall the existing 9-member at-large city council be abolished, shall the city be reapportioned into 9 single-member election districts, and shall district residency requirements be imposed on candidates for the city council?
>
> Yes (_____)
>
> No (_____).".

(2) The result of the vote shall be canvassed by the local board of canvassers under the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

(3) If the question presented pursuant to subsection (1) is approved, the 9-member at-large city council is abolished on January 1, 2006 and shall be replaced by a city council of 9 members elected from single-member election districts at regular municipal elections beginning with the municipal primary election in 2005. Any charter provision to the contrary notwithstanding, the president of the city council shall be determined by a majority vote of the city council members elected and serving from single-member election districts.

(4) Within 30 days after the question presented pursuant to subsection (1) is approved, the city redistricting commission shall meet as the apportionment commission and adopt an apportionment plan. The city redistricting commission shall consist of 3 members, 2 of whom are appointed by the mayor and 1 of whom is appointed by the city council. The city redistricting commission shall thereafter meet within 30 days after the publication of the latest official figures of the federal decennial census to reapportion the city. To the extent consistent with this act, the procedural aspects of the apportionment process shall be governed by the same statutory procedures as those provided for a county charter commission apportionment pursuant to section 5(4), (5), (6), and (7) of 1966 PA 293, MCL 45.505. One of the 2 members appointed by the mayor under this subsection shall convene the city redistricting commission, sitting as the apportionment commission. As the apportionment commission, the city redistricting commission shall adopt its own rules of procedure. Two members shall constitute a quorum and all actions shall be by a majority vote.

(5) The city redistricting commission shall provide for equal representation for each single-member election district, and each single-member election district shall be as nearly equal in population and compact as is practicable based on the latest federal decennial census. In developing an apportionment plan, the city redistricting commission shall follow the lines used for planning sectors and subcommittees as provided by the city master plan and charter. In subsequent reapportionments, the city redistricting commission apportionment plan shall make only incremental changes to the single-member election district boundaries that are necessary to accommodate population change requirements. Each single-member election district shall be designated by number.

(6) Each candidate for city council shall be a resident of the single-member election district he or she seeks to represent. A city council member's office is vacated if the member moves his or her residence outside of the single-member election district that the member represents.

(7) To comply with and implement this section, the city clerk shall promulgate necessary election rules and procedures consistent with other provisions of the city charter. The city council may amend the charter to comply with the intent and findings of this section in the same manner provided by law and charter for the adoption of an ordinance. However, any charter amendment to comply with the intent and findings of this section shall take effect immediately upon adoption by the council. The city clerk shall file a copy of any charter amendment with the secretary of state and the county clerk of the county in which the city is located. Sections 21 to 25 do not apply to the charter amendment required under this section.

This act is ordered to take immediate effect.
Approved June 6, 2002.
Filed with Secretary of State June 6, 2002.

[No. 433]

(SB 422)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by repealing sections 3520 and 3615 (MCL 600.3520 and 600.3615).

The People of the State of Michigan enact:

Repeal of §§ 600.3520 and 600.3615.

Enacting section 1. Sections 3520 and 3615 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3520 and 600.3615, are repealed.

This act is ordered to take immediate effect.
Approved June 10, 2002.
Filed with Secretary of State June 10, 2002.

[No. 434]

(HB 5556)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 48701 (MCL 324.48701), as added by 1995 PA 57.

The People of the State of Michigan enact:

324.48701 Definitions.

Sec. 48701. As used in this part:

(a) "Amphibian" means any frog, toad, or salamander of the class amphibia.

(b) "Crustacea" means any freshwater crayfish, shrimp, or prawn of the order decapoda.

(c) "Game fish" includes all of the following:

(*i*) Mackinaw or lake trout (Christivomer namaycush).

(*ii*) Brook or speckled trout (Salvelinus fontinalis).

(*iii*) Brown and Loch Leven trout (Salmo trutta).

(*iv*) Rainbow and steelhead trout (Salmo gairdnerii).

(*v*) Landlocked salmon (Salmo salar sebago).

(*vi*) Grayling (Thymallus tricolor and Thymallus montanus).

(*vii*) Largemouth black bass (Huro salmoides).

(*viii*) Smallmouth black bass (Micropterus dolomieu).

(*ix*) Bluegill (Lepomis macrochirus).

(*x*) Pumpkinseed or common sunfish (Lepomis gibbosus).

(*xi*) Black crappie and white crappie, also known as calico bass and strawberry bass (Pomoxis sparoides and pomoxis annularis).

(*xii*) Yellow perch, commonly called perch (Perca flavescens).

(*xiii*) Pike-perch, commonly called walleyed pike (Stizostedion vitreum).

(*xiv*) Northern pike, also known as grass pike or pickerel (Esox lucius).

(*xv*) Muskellunge (Esox masquinongy).

(*xvi*) Sturgeon (Acipenser fulvescens).

(*xvii*) Splake (Salvelinus namaycush x Salvelinus fontinalis).

(*xviii*) Coho salmon (Oncorhynchus kisutch).

(*xix*) Chinook (King) salmon (Oncorhynchus tshawytscha).

(*xx*) Pink salmon (Oncorhynchus gorbuscha).

(d) "Inland waters of this state" means the waters within the jurisdiction of the state except Saginaw river, Lakes Michigan, Superior, Huron, and Erie, and the bays and the connecting waters. The connecting waters between Lake Superior and Lake Huron are that part of the Straits of St. Mary in this state extending from a line drawn from Birch Point Range front light to the most westerly point of Round Island, thence following the shore of Round Island to the most northerly point thereof, thence from the most northerly point of Round Island to Point Aux Pins light, Ontario, to a line drawn due east and west from the most southerly point of Little Lime Island. The connecting waters of Lake Huron and Lake Erie are all of the St. Clair river, all of Lake St. Clair, and all of the Detroit river extending from Fort Gratiot light in Lake Huron to a line extending due east and west of the most southerly point of Celeron Island in the Detroit river.

(e) "Mollusks" means any mollusk of the classes bivalvia and gastropoda.

(f) "Nongame fish" includes all kinds of fish except game fish.

(g) "Nonresident" means a person who is not a resident.

(h) "Nontrout streams" means all streams or portions of streams other than trout streams.

(i) "Open season" means the time during which fish may be legally taken or killed and includes both the first and last day of the season or period designated by this part.

(j) "Reptiles" means any turtle, snake, or lizard of the class reptilia.

(k) "Resident" means either of the following:

(*i*) A person who resides in a settled or permanent home or domicile with the intention of remaining in this state.

(*ii*) A student who is enrolled in a full-time course at a college or university within this state.

(*l*) "Trout lake" means a lake designated by the department in which brook trout, brown trout, or rainbow trout are the predominating species of game fish found in the lake. The department may designate certain trout lakes in which certain species of fish are not desired and in which it is unlawful to use live fish of any kind for bait.

(m) "Trout stream" means any stream or portion of a stream that contains a significant population of any species of trout or salmon as determined by the department. The department shall designate not more than 212 miles of trout streams in which only lures or baits as the department prescribes may be used in fishing, and the department may prescribe the size and number of fish that may be taken from those trout streams. The department shall not restrict children under 12 years old from taking a minimum of 1 fish, except for sturgeon (Acipenser fulvescens), in any trout stream. Any trout stream in a county that includes a city with a population of 750,000 or more shall be so designated. In addition, the department shall issue an order adopting criteria for determining which trout streams should be so designated. Before the department issues the order, the department shall submit the proposed order to the commission. The commission shall receive public comment on the proposed order. The department shall consider any guidance provided by the commission on the proposed order and may make changes to the proposed order based on that guidance.

This act is ordered to take immediate effect.
Approved June 10, 2002.
Filed with Secretary of State June 10, 2002.

[No. 435]

(SB 1172)

AN ACT to amend 1945 PA 47, entitled "An act to authorize 2 or more cities, townships, and villages, or any combination of cities, townships, and villages, to incorporate a hospital authority for planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating 1 or more community hospitals and related buildings or structures and related facilities; to provide for the sale, lease, or other transfer of a hospital owned by a hospital authority to a nonprofit corporation established under the laws of this state for no or nominal monetary consideration; to define hospitals and community hospitals; to provide for changes in the membership therein; to authorize the cities, townships, and villages to levy taxes for community hospital purposes; to provide for the issuance of bonds; to provide for the pledge of assessments; to provide for borrowing money for operation and maintenance and issuing notes for operation and maintenance; to validate elections heretofore held and notes heretofore issued; to validate bonds heretofore issued; to authorize condemnation proceedings; to grant certain powers of a body corporate; to validate and ratify the organization, existence, and membership of entities acting as hospital authorities under the act and the actions taken by hospital authorities and by the members of the hospital authorities; and to prescribe penalties and provide remedies," by amending sections 8 and 8a (MCL 331.8 and 331.8a), section 8a as amended by 1980 PA 104; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

331.8 Bonds; issuance; purpose; liability; payment; sale; interest rate; bonds subject to revised municipal finance act.

Sec. 8. (1) The hospital authority board may issue self-liquidating bonds of the authority in accordance with the provisions of this act, for the purpose of acquiring, purchasing,

constructing, improving, enlarging, or repairing community hospitals or refunding any outstanding bonds previously issued or for the joint purposes of refunding any outstanding bonds together with the issuance of additional bonds for any of the other purposes authorized. The bonds shall not impose any liability upon the cities, villages, and townships included in the hospital authority, other than on the amounts that are assessed against the respective municipalities as provided for in this act, which amounts or any portion of those amounts may be pledged by the governing body of the hospital authority for the payment of the bonds for a period not exceeding 40 years. The amount required to be paid by any municipality under this act shall be considered to be a part of the revenues of the hospital authority and shall be first used to meet the current requirements for the bond and interest redemption fund, including the reserve requirements, for outstanding obligations of the hospital authority. The bonds shall be sold for not less than par and shall bear interest at a rate not in excess of the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Bonds issued for capital improvements under section 8b and bonds issued under this act that are supported by a pledge of the governing body for payment are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) Except as otherwise provided in subsections (1) and (2), bonds issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

331.8a Borrowing money and issuing notes; purpose; resolution; maturity; validation of notes previously issued; bonds and notes subject to agency financing reporting act.

Sec. 8a. (1) The hospital board operating a community hospital under this act may, by a resolution adopted by a majority vote of the entire governing board, borrow money and issue notes, which shall mature not more than 1 year from the date of their issuance, for the purpose of meeting current expenses of operation and maintenance of the hospital. The resolution shall provide for the pledging of income and revenues of the hospital authority for the payment of the notes, and shall also provide for a special sinking fund into which there shall first be paid, as collected, a sufficient sum from the revenues of the hospital authority pledges to retire both the principal and interest of the notes at maturity. The resolution may also provide for the pledging of other assets of the hospital authority as additional security for the payment of the notes. Notes issued under this section and amounts assessed under section 8m are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. Any notes issued by a hospital authority before the effective date of this act or an amendment to this act are hereby validated, ratified, and confirmed as though the notes and the proceedings relating to their issuance had been fully authorized by statutes existing at the time of their issuance.

(2) Except for the bonds described in section 8(2), the issuance of bonds and notes under this act is subject to the agency financing reporting act.

Repeal of § 331.8q.

Enacting section 1. Section 8q of 1945 PA 47, MCL 331.8q, is repealed.

This act is ordered to take immediate effect.
Approved June 10, 2002.
Filed with Secretary of State June 10, 2002.

[No. 436]

(SB 1173)

AN ACT to amend 1969 PA 38, entitled "An act to create a state hospital finance authority to lend money to nonprofit hospitals and nonprofit health care providers for capital improvements or to refinance hospital, health care, and certain retirement housing indebtedness; to provide for the incorporation of local hospital authorities with power to lend money to nonprofit hospitals and nonprofit health care providers for hospital and health care indebtedness or to refinance hospital, health care, and certain retirement housing indebtedness; to construct, acquire, reconstruct, remodel, improve, add to, enlarge, repair, own, lease, and sell hospital and health care facilities; to finance outstanding hospital, health care, and certain retirement housing indebtedness; to authorize the authorities to borrow money and issue obligations to accomplish the purposes of this act, including the refunding or advance refunding of obligations issued by certain entities; to permit the authorities to enter into loans, contracts, leases, mortgages, and security agreements which may include provisions for the appointment of receivers; to exempt obligations and property of the authorities from taxation; and to provide other rights, powers, and duties of the authorities," by amending sections 12 and 42 (MCL 331.42 and 331.72), section 12 as amended by 1994 PA 428 and section 42 as amended by 1992 PA 302; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

331.42 Powers of state authority.

Sec. 12. The state authority has the powers necessary to carry out and effectuate the purposes of this act, including, but not limited to, all of the following:

(a) To sue and be sued, to have a seal and authority to alter that seal at pleasure, to have perpetual succession, to make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers, and to make and amend bylaws.

(b) To solicit and accept gifts, grants, loans, and other aids from any person, corporation, or governmental agency.

(c) To make loans, to participate in the making of loans, to undertake commitments, to make loans and mortgages, to sell loans and mortgages at public or private sale, to modify or alter loans and mortgages, to discharge loans and mortgages, to foreclose on a mortgage or commence an action to protect or enforce a right conferred upon the state authority by a law, mortgage, loan, contract, or other agreement, to bid for and purchase property that was the subject of a mortgage at a foreclosure or at any other sale and to acquire or take possession of that property, to complete, administer, pay the principal and interest on any obligations incurred in connection with acquired property, and to dispose of and otherwise deal with the property in a manner necessary or desirable to protect the interests of the state authority in the property. The loans made by the authority may be secured or unsecured, as the authority determines.

(d) To loan money to hospitals for the purpose of refinancing any outstanding indebtedness of a hospital if the state authority determines the refinancing is necessary to realize the objectives and purposes of this act. A hospital loan made pursuant to this subdivision shall not exceed the amount of the principal, interest, and redemption premium, if any, of the indebtedness to be refinanced that has not been repaid, plus the marketing, financing, legal, and other costs incurred in connection with the refinancing and the issuance of bonds of the state authority issued in whole or in part to provide funds to make the

hospital loan described in this subdivision, including the costs of funding a bond reserve and paying capitalized interest on the bonds for a period not to exceed 1 year after the issuance of the bonds. The determination of the state authority under this subdivision is conclusive except with respect to the approval of the municipal finance commission or its successor agency when prior approval is required.

(e) To charge, impose, and collect fees and charges in connection with its loans, commitments, and servicing including reimbursement of costs of financing by the authority, service charges, insurance premiums, and an allocable share of the operating expenses of the authority and to make provision for increasing those fees and charges, if necessary, as the state authority determines is reasonable and approved by the state authority.

(f) To acquire, hold, and dispose of real or personal property convenient for the accomplishment of the purpose of this act.

(g) To procure insurance against a loss in connection with its property, assets, or activities.

(h) To borrow money and issue its bonds or notes for the money and provide for the rights of the holders of the bonds or notes and to secure the bonds by mortgage, assignment, or pledge of any or all of its properties including any part of the security for its hospital loans. The state shall not be liable on any bonds of the state authority, the bonds and notes are not a debt of the state, and each bond and note shall contain on its face a statement to that effect.

(i) To invest any funds not required for immediate use or disbursement, at its discretion, in any of the following:

(*i*) Obligations of this state, the United States, or an agency of the United States.

(*ii*) Obligations the principal and interest of which are guaranteed by this state or the United States.

(*iii*) Certificates of deposit of a bank that is a member of the federal reserve system.

(*iv*) Certificates of deposit of a savings and loan association that is a member of the federal home loan bank system.

(*v*) Commercial paper that is rated at the time of purchase within the 2 highest classifications established by not less than 2 national rating services and that matures not more than 270 days after the date of purchase.

(*vi*) In United States government or federal agency obligation repurchase agreements.

(*vii*) In bankers' acceptances of United States banks.

(*viii*) In mutual funds composed of investment vehicles that are legal for direct investment by the state authority.

(*ix*) Subject to the approval of the state treasurer, obligations specified by the state authority in a contract with the holders of its bonds or notes.

(j) To engage necessary personnel and to engage the services of private consultants for rendering professional and technical assistance and advice.

(k) To promulgate rules necessary to carry out the purposes of this act and to exercise the powers expressly granted in this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(*l*) To enter into interest rate exchanges or swaps, hedges, or similar agreements with respect to its bonds or notes in the same manner and subject to the same limitations and conditions as provided for a municipality in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

331.72 Bonds and notes; authorization; type; payment; interest; denominations; form; registration privileges; execution; redemption; sale; revised municipal finance act inapplicable; bonds and notes subject to agency financing reporting act.

Sec. 42. (1) The notes and bonds authorized by the state authority or local authority shall be authorized by resolution adopted by a majority vote of the members of the authority. The notes and bonds shall be serial bonds, term bonds, or term and serial bonds and shall bear a date and mature at a time, not exceeding 50 years from the date of issue, as the resolution provides. The notes and bonds shall bear interest at the rate or rates as may be set, reset, or calculated from time to time or may bear no interest as provided in the resolution. The notes and bonds shall be in denominations, be in a form, either coupon or registered or both, carry registration privileges, be executed in a manner, be payable in a medium of payment, at a place or places and, at the times, and be subject to the terms of redemption as the resolution provides. The notes and bonds of the authority may be sold by the authority, at public or private sale, at a price or prices as the authority determines. The bonds may be sold at a discount. The bonds shall not be sold at a price that would make the interest costs on the money borrowed exceed 10% or the maximum interest permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, whichever is greater. Except as otherwise provided in this act, bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

Repeal of § 331.76.

Enacting section 1. Section 46 of the hospital finance authority act, 1969 PA 38, MCL 331.76, is repealed.

This act is ordered to take immediate effect.
Approved June 10, 2002.
Filed with Secretary of State June 10, 2002.

[No. 437]

(HB 4874)

AN ACT to amend 1976 PA 442, entitled "An act to provide for public access to certain public records of public bodies; to permit certain fees; to prescribe the powers and duties of certain public officers and public bodies; to provide remedies and penalties; and to repeal certain acts and parts of acts," by amending section 13 (MCL 15.243), as amended by 2002 PA 130.

The People of the State of Michigan enact:

15.243 Exemptions from disclosure; public body as school district or public school academy; withholding of information required by law or in possession of executive office.

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act any of the following:

(a) Information of a personal nature if public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.

(b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:

(*i*) Interfere with law enforcement proceedings.

(*ii*) Deprive a person of the right to a fair trial or impartial administrative adjudication.

(*iii*) Constitute an unwarranted invasion of personal privacy.

(*iv*) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.

(*v*) Disclose law enforcement investigative techniques or procedures.

(*vi*) Endanger the life or physical safety of law enforcement personnel.

(c) A public record that if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(d) Records or information specifically described and exempted from disclosure by statute.

(e) A public record or information described in this section that is furnished by the public body originally compiling, preparing, or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remain applicable.

(f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:

(*i*) The information is submitted upon a promise of confidentiality by the public body.

(*ii*) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.

(*iii*) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision does not apply to information submitted as required by law or as a condition of receiving a governmental contract, license, or other benefit.

(g) Information or records subject to the attorney-client privilege.

(h) Information or records subject to the physician-patient privilege, the psychologist-patient privilege, the minister, priest, or Christian Science practitioner privilege, or other privilege recognized by statute or court rule.

(i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the deadline for submission of bids or proposals has expired.

(j) Appraisals of real property to be acquired by the public body until either of the following occurs:

(*i*) An agreement is entered into.

(*ii*) Three years have elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.

(k) Test questions and answers, scoring keys, and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.

(*l*) Medical, counseling, or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation.

(m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption does not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under 1947 PA 336, MCL 423.201 to 423.217.

(n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.

(o) Information that would reveal the exact location of archaeological sites. The department of history, arts, and libraries may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites.

(p) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision does not apply after 1 year has elapsed from the time the public body completes the testing.

(q) Academic transcripts of an institution of higher education established under section 5, 6, or 7 of article VIII of the state constitution of 1963, if the transcript pertains to a student who is delinquent in the payment of financial obligations to the institution.

(r) Records of a campaign committee including a committee that receives money from a state campaign fund.

(s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:

(*i*) Identify or provide a means of identifying an informant.

(*ii*) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

(*iii*) Disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have.

(*iv*) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents.

(*v*) Disclose operational instructions for law enforcement officers or agents.

(*vi*) Reveal the contents of staff manuals provided for law enforcement officers or agents.

(*vii*) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.

(*viii*) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.

(*ix*) Disclose personnel records of law enforcement agencies.

(*x*) Identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.

(t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department of consumer and industry services under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:

(*i*) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.

(*ii*) The fact that an allegation was received by the department of consumer and industry services; the fact that the department of consumer and industry services did not issue a complaint for the allegation; and the fact that the allegation was dismissed.

(u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.

(v) Records or information relating to a civil action in which the requesting party and the public body are parties.

(w) Information or records that would disclose the social security number of an individual.

(x) Except as otherwise provided in this subdivision, an application for the position of president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.

(y) Records or information of measures designed to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, and domestic preparedness strategies, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

(2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with section 444 of subpart 4 of part C of the general education provisions act, title IV of Public Law 90-247, 20 U.S.C. 1232g, commonly referred to as the family educational rights and privacy act of 1974. A public body that is a local or intermediate school district or a public school academy shall exempt from disclosure directory information, as defined by section 444 of subpart 4 of part C of the

general education provisions act, title IV of Public Law 90-247, 20 U.S.C. 1232g, commonly referred to as the family educational rights and privacy act of 1974, requested for the purpose of surveys, marketing, or solicitation, unless that public body determines that the use is consistent with the educational mission of the public body and beneficial to the affected students. A public body that is a local or intermediate school district or a public school academy may take steps to ensure that directory information disclosed under this subsection shall not be used, rented, or sold for the purpose of surveys, marketing, or solicitation. Before disclosing the directory information, a public body that is a local or intermediate school district or a public school academy may require the requester to execute an affidavit stating that directory information provided under this subsection shall not be used, rented, or sold for the purpose of surveys, marketing, or solicitation.

(3) This act does not authorize the withholding of information otherwise required by law to be made available to the public or to a party in a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Except as otherwise exempt under subsection (1), this act does not authorize the withholding of a public record in the possession of the executive office of the governor or lieutenant governor, or an employee of either executive office, if the public record is transferred to the executive office of the governor or lieutenant governor, or an employee of either executive office, after a request for the public record has been received by a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of government that is subject to this act.

Effective date.

Enacting section 1. This amendatory act takes effect August 1, 2002.

This act is ordered to take immediate effect.
Approved June 10, 2002.
Filed with Secretary of State June 11, 2002.

[No. 438]

(SB 738)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 2021 (MCL 600.2021).

The People of the State of Michigan enact:

600.2021 Foreign corporations; actions based on forbidden acts; exceptions.

Sec. 2021. (1) If a law of this state prohibits a corporation or an association of individuals from performing an act unless the act is expressly authorized by law, and the

act is done by a foreign corporation, the foreign corporation shall not maintain an action based on that act, or upon any liability or obligation, express or implied, arising out of or made or entered into in consideration of that act.

(2) Subsection (1) does not apply to a foreign corporation subject to the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098, or the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

This act is ordered to take immediate effect.
Approved June 10, 2002.
Filed with Secretary of State June 11, 2002.

[No. 439]

(SB 112)

AN ACT to amend 1967 (Ex Sess) PA 7, entitled "An act to provide for interlocal public agency agreements; to provide standards for those agreements and for the filing and status of those agreements; to permit the allocation of certain taxes or money received from tax increment financing plans as revenues; to permit tax sharing; to provide for the imposition of certain surcharges; to provide for additional approval for those agreements; and to prescribe penalties and provide remedies," by amending sections 2, 3, 4, 10, and 12 (MCL 124.502, 124.503, 124.504, 124.510, and 124.512), section 2 as amended by 1995 PA 108 and section 10 as amended by 1985 PA 10.

The People of the State of Michigan enact:

124.502 Definitions.

Sec. 2. As used in this act:

(a) "Interlocal agreement" means an agreement entered into under this act.

(b) "Local governmental unit" means a county, city, village, township, or charter township.

(c) "Province" means a province of Canada.

(d) "Property" means any real or personal property, as described in section 34c of the general property tax act, 1893 PA 206, MCL 211.34c.

(e) "Public agency" means a political subdivision of this state or of another state of the United States or of Canada, including, but not limited to, a state government; a county, city, village, township, charter township, school district, single or multipurpose special district, or single or multipurpose public authority; a provincial government, metropolitan government, borough, or other political subdivision of Canada; an agency of the United States government; or a similar entity of any other states of the United States and of Canada. As used in this subdivision, agency of the United States government includes an Indian tribe recognized by the federal government before 2000 that exercises governmental authority over land within this state, except that this act or any intergovernmental agreement entered into under this act shall not authorize the approval of a class III gaming compact negotiated under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467.

(f) "State" means a state of the United States.

124.503 Conflicting statutory provisions.

Sec. 3. If any provision of this act conflicts with any other statute of this state providing for the authorization or performance of joint or cooperative agreements or undertakings between public agencies of this state or between public agencies of this state and public agencies of other states or of Canada, the provisions of the other statute shall control.

124.504 Joint exercise of powers.

Sec. 4. A public agency of this state may exercise jointly with any other public agency of this state, with a public agency of any other state of the United States, with a public agency of Canada, or with any public agency of the United States government any power, privilege, or authority that the agencies share in common and that each might exercise separately.

124.510 Approval of certain agreements by governor; exclusions from funds of state; filing of interlocal agreement.

Sec. 10. (1) If funds of this state are to be allocated to carry out, in whole or in part, an agreement under this act or if this state, an agency of the United States government, any other state or political subdivision of any other state, or Canada or a political subdivision of Canada is a party to an agreement under this act, an interlocal agreement, prior to and as a condition precedent to its effectiveness, shall be submitted to the governor who shall determine whether the agreement is in proper form and compatible with the laws of this state.

(2) For the purposes of this section, funds of this state do not include grants, gifts, bequests, or assistance funds given to a public agency that is a party to an interlocal agreement if the purpose of that agreement is to administer those grants, gifts, bequests, or assistance funds according to their terms or to combine the proceeds of the parties' grants, gifts, bequests, or assistance funds for investment purposes.

(3) The governor shall approve an agreement submitted to him or her unless the governor finds that the agreement does not meet the conditions set forth in this act or is not compatible with the laws of this state. If the governor so finds, the governor shall detail in writing addressed to the governing bodies of the public agencies concerned within 90 days the specific respects in which the proposed interlocal agreement fails to meet the requirements of law. The governing bodies of the public agencies concerned shall have 60 days to resubmit the revised interlocal agreement to the governor, who shall approve or disapprove the agreement within 90 days.

(4) Prior to its effectiveness, an interlocal agreement shall be filed with the county clerk of each county where a party to the agreement is located and with the secretary of state.

124.512 Appropriation of funds by public agency; sale, lease, or gift of personnel, services, facilities; receipt of grants-in-aid.

Sec. 12. (1) A public agency entering into an interlocal agreement may appropriate funds and may sell, lease, give, or otherwise supply any party designated to operate the joint or cooperative undertaking any personnel, services, facilities, property, franchises, or funds for the undertaking that may be within its legal power to furnish.

(2) A public agency entering into an interlocal agreement may receive grants-in-aid or other assistance funds from the United States government, this state, or Canada for use in carrying out the purposes of the interlocal agreement.

This act is ordered to take immediate effect.
Approved June 12, 2002.
Filed with Secretary of State June 13, 2002.

[No. 440]

(SB 540)

AN ACT to authorize the state administrative board to convey certain state owned property in Macomb county; to prescribe conditions for the conveyance; and to provide for disposition of the revenue from the conveyance.

The People of the State of Michigan enact:

Conveyance of property located in Clinton township, Macomb county; jurisdiction of department of community health; consideration; description.

Sec. 1. The state administrative board, on behalf of the state, may convey for consideration of not less than fair market value as determined pursuant to section 3, all or any portion of property now under the jurisdiction of the department of community health and located in the township of Clinton, Macomb county, Michigan, and more particularly described as:

A parcel of land in the NE 1/4 of section 7, T2N, R13E, Clinton Township, Macomb County, Michigan, consisting of the north 1354.27 of the following described parcel; commencing at the N 1/4 corner of said section 7; thence N 88°16'00"E 432.03 feet, on the north line of said section 7 to the point of beginning of this description; thence N88°16'00" 887.77 feet, on the north line of said section 7, thence S01°26'00"E 2303.13 feet, on the West line of St. Joseph subdivision (and its extension) to the center of Canal Road; thence N71°21'30"W 762.85 feet, on the center of Canal Road; thence N01°18'30"E 377.58 feet; thence S88°50'00"W 196.94 feet; thence N01°10'00"W(computed as N01°10'12"W) 1658.58 feet, to the point of beginning. The above described parcel contains 26 acres, more or less. Reference to deed recorded in Liber2086, Pages 879 and 880, Macomb County Records.

Description subject to adjustments, restrictions, and easements.

Sec. 2. The parcel in section 1 comprises a total of approximately 26 acres. The description of the parcel in section 1 is approximate, and for the purposes of conveyance is subject to adjustments as the state administrative board or the attorney general considers necessary by survey or other legal description. The conveyance of the parcel in section 1 is subject to any easements, rights-of-way, or restrictions, if any, and restrictions and easements determined by the director of the department of management and budget and approved by the state administrative board as necessary for development of the property.

Determination of fair market value; appraisal.

Sec. 3. The fair market value of the property described in section 1 shall be determined by an appraisal based on using the property for providing services to the mentally ill or developmentally disabled citizens.

Purposes.

Sec. 4. The property described in section 1 shall be conveyed for the purpose of providing outpatient services to indigent persons requiring community health services due to mental illness, aging, substance abuse, or developmental disability, and the deed conveying the property shall provide for both of the following:

(a) That the property shall be used exclusively for providing outpatient services to indigent persons requiring community health services due to mental illness, aging, substance abuse, or developmental disability, for a period of 50 years after the date of the

conveyance and that upon termination of that use or use for any other purpose during that period, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(b) That if the grantee disputes the state's exercise of its rights of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

Quitclaim deed.

Sec. 5. The conveyance authorized by this act shall be by quitclaim deed approved by the attorney general.

Reservation of mineral rights.

Sec. 6. The state shall not reserve the mineral rights to the property conveyed under this act. However, the conveyance authorized under this act shall provide that if the purchaser or any grantee develops any minerals found on, within, or under the conveyed property, the purchaser or any grantee shall pay 1/2 of that revenue to the state, for deposit in the state general fund.

Disposition of net revenue.

Sec. 7. (1) The net revenue received under this act shall be deposited in the state treasury and credited to the general fund.

(2) For the purposes of this section, "net revenues" means the proceeds from the sale of the property described in section 1 less reimbursement for any costs to the state associated with the sale of that property.

This act is ordered to take immediate effect.
Approved June 12, 2002.
Filed with Secretary of State June 13, 2002.

[No. 441]

(HB 4994)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local

ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 16186 (MCL 333.16186), as amended by 1993 PA 80.

The People of the State of Michigan enact:

333.16186 Reciprocity; requirements.

Sec. 16186. (1) An individual who is licensed to practice a health profession in another state or, until January 1, 2004, is licensed to practice a health profession in a province of Canada, who is registered in another state, or who holds specialty certification from another state and who applies for licensure, registration, or specialty certification in this state may be granted an appropriate license or registration or specialty certification upon satisfying the board or task force to which the applicant applies as to all of the following:

(a) The applicant substantially meets the requirements of this article and rules promulgated under this article for licensure, registration, or specialty certification.

(b) Subject to subsection (3), the applicant is licensed, registered, or certified in another state or, until January 1, 2004, is licensed in a province in Canada that maintains standards substantially equivalent to those of this state.

(c) Subject to subsection (3), until January 1, 2004, if the applicant is licensed to practice a health profession in a province in Canada, the applicant completed the educational requirements in Canada or in the United States for licensure in Canada or in the United States.

(d) Until January 1, 2004, if the applicant is licensed to practice a health profession in a province in Canada, that the applicant will perform the professional services for which he or she bills in this state, and that any resulting request for third party reimbursement will originate from the applicant's place of employment in this state.

(2) Before licensing, registering, or certifying the applicant, the board or task force to which the applicant applies may require the applicant to appear personally before it for an interview to evaluate the applicant's relevant qualifications.

(3) For purposes of the amendatory act that added this subsection, an applicant who is licensed in a province in Canada who meets the requirements of subsection (1)(c) and takes and passes a national examination in this country that is approved by the appropriate Michigan licensing board, or who takes and passes a Canadian national examination approved by the appropriate Michigan licensing board, is considered to have met the requirements of subsection (1)(b). This subsection does not apply if the department, in consultation with the appropriate licensing board, promulgates a rule disallowing the use of this subsection for an applicant licensed in a province in Canada.

This act is ordered to take immediate effect.
Approved June 12, 2002.
Filed with Secretary of State June 13, 2002.

[No. 442]

(SB 1278)

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on

certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending section 19 (MCL 208.19), as amended by 2001 PA 278.

The People of the State of Michigan enact:

208.19 Tax base of foreign person.

Sec. 19. (1) Except as otherwise provided in this section, for tax years that begin on or after January 1, 2000, except for a taxpayer that calculates tax base under section 22a, the tax base of a foreign person includes the sum of business income and the adjustments under section 9 that are related to United States business activity, whether or not the foreign person is subject to taxation under the internal revenue code.

(2) A foreign person shall calculate business income under this section.

(3) A foreign person shall calculate compensation by reporting total compensation paid to employees, officers, and directors of the foreign person for services performed in the United States.

(4) Except as otherwise provided in this section, the tax base of a foreign person is subject to all adjustments and other provisions of this act.

(5) As used in this section:

(a) "Business income" means, for a foreign person, gross income attributable to the taxpayer's United States business activity and gross income derived from sources within the United States minus the deductions allowed under the internal revenue code that are related to that gross income. Gross income includes the proceeds from sales shipped or delivered to any purchaser within the United States and for which title transfers within the United States; proceeds from services performed within the United States; and a pro rata proportion of the proceeds from services performed both inside and outside the United States, based on cost of performance.

(b) "Compensation" means, for a foreign person, the daily compensation paid to each employee, officer, and director of the foreign person multiplied by the number of days that the employee, officer, or director has physical contact with the United States in the tax year. Physical contact with the United States for part of a day equals 1 day.

(c) "Permanent establishment" means that term as defined in section 35b(3)(a).

(d) "United States person" means that term as defined in section 7701(a)(30) of the internal revenue code.

(6) For tax years that begin after December 31, 1999 and before January 1, 2001, that portion of the tax base that is attributable to the international operation of aircraft by a foreign corporation whose gross income is exempt under section 883(a) of the internal revenue code is exempt from the tax imposed under this act.

(7) As used in this section and sections 46, 49, and 51, "foreign person" means either of the following:

(a) An individual who is not a United States resident, whether or not the individual is subject to taxation under the internal revenue code.

(b) A person formed under the laws of a foreign country or a political subdivision of a foreign country, whether or not the person is subject to taxation under the internal revenue code.

(8) To calculate business income and the adjustments under section 9 that are related to United States business activity, a foreign person that does not have a permanent establishment in the United States during the tax year or who is not subject to taxation under the internal revenue code for the tax year may use amounts that reasonably approximate the federal taxable income and the permitted deductions the person would have had had the person been subject to the internal revenue code, provided the foreign person does not in the ordinary course of its business maintain tax or financial accounting records in accordance with the tax accounting requirements of the internal revenue code. The tax base of a foreign person described in this subsection shall not include gross income from sales shipped or delivered to any purchaser within the United States and for which title transfers outside the United States.

(9) To calculate business income and the adjustments under section 9 that are related to United States business activity, a Canadian person that is subject to Canadian federal income tax under the income tax act (R.S.C. 1985, c. 1 (5th Supp)) may use amounts properly calculated under the income tax act (R.S.C. 1985, c. 1 (5th Supp)) to reasonably approximate business income and the adjustments under section 9 that are related to United States business activity. Amounts calculated under this subsection shall be presumed to reasonably approximate business income and the adjustments under section 9 that are related to United States business activity. The tax base of a Canadian person shall not include gross income from sales shipped or delivered to any purchaser within the United States and for which title transfers outside the United States.

(10) As used in subsection (9), "Canadian person" means a foreign person that does not have a permanent establishment in the United States during the tax year or that is not subject to taxation under the internal revenue code for the tax year and is either of the following:

(a) An entity formed under the laws of Canada or a province of Canada.

(b) An individual who is physically present in Canada in the aggregate exceeding 182 days in the tax year.

Effectiveness of act.

Enacting section 1. This amendatory act is retroactive and is effective for tax years that begin after December 31, 1999.

This act is ordered to take immediate effect.
Approved June 14, 2002.
Filed with Secretary of State June 14, 2002.

[No. 443]

(SB 1204)

AN ACT to amend 1951 PA 77, entitled "An act providing for the specific taxation of low grade iron ore, of low grade iron ore mining property, and of rights to minerals in lands containing low grade iron ores; to provide for the collection and distribution of the specific tax; to make an appropriation; and to prescribe the powers and duties of the state geologist and township supervisors and treasurers with respect to the specific tax," by amending sections 3 and 4 (MCL 211.623 and 211.624), section 4 as amended by 1994 PA 367.

The People of the State of Michigan enact:

211.623 Specific tax on mining property after production of ore; determination of mine value; "lower lake price" defined.

Sec. 3. (1) Beginning with the first calendar year after production of merchantable ore from a low grade iron ore mining property has been established on a commercial basis, the low grade iron ore mining property shall be subject to a specific tax equal to the average annual production in gross tons during the preceding 5-year period, multiplied by 1.1% or beginning December 31, 2001 through December 31, 2006 0.75% of the mine value per gross ton, based on the average natural iron analysis of shipments for that year of the iron ore pellets or of the concentrated or agglomerated products. A year in which production did not take place shall be excluded in computing the average production but only until the property has a 5-year record of commercial production. Mine value is determined by subtracting from the published lower lake price of Lake Superior iron ore pellets, or the particular concentrated or agglomerated products as of December 31, for the subsequent calendar year, all the transportation and handling costs, including any tax charged for transporting or handling the iron ore pellets or products, from the mining property to Lake Erie ports.

(2) As used in this section, "lower lake price" means the base price of Lake Superior district iron ore pellets or of the particular concentrated or agglomerated products at rail of vessel at lower lake ports as published in "Iron Age" published in New York City, New York, and "Industry Week" published in Cleveland, Ohio. If either "Iron Age" or "Industry Week" is not published or does not publish a price, a replacement trade journal recognized and generally accepted as reliable by the iron ore industry shall be substituted. If "Iron Age" or "Industry Week" do not publish the same price, if 1 of the trade journals publishes 2 different prices, or if the replacement trade journal does not publish a price, the price shall be the generally prevailing market price at which iron ore pellets or concentrated or agglomerated products, of comparable quality and utility, are being offered for sale in comparable quantity by or on behalf of bona fide producers from sources in the continental United States or Canada.

211.624 Minimum specific tax; entering land descriptions on separate roll; spreading and collecting specific tax; return and sale of property for nonpayment of taxes; valuation; property located in more than 1 township; distribution and use of sums collected; specific tax in lieu of ad valorem tax; determining proportion for disbursement and attribution of taxes; payment.

Sec. 4. (1) If the specific tax determined under section 3 is less than the specific tax determined under section 2, then section 2 shall govern.

(2) The township supervisor shall remove from the list of land descriptions assessed and taxed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, the land descriptions of property taxed under this act, and shall enter the land descriptions on a separate roll. The township supervisor shall spread the specific tax against the property and the township treasurer shall collect the specific tax at the same time, in the same manner, and subject to the same collection charges as general property taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. Property listed and taxed under this act shall be subject to return and sale for nonpayment of taxes in the same manner, at the same time, and under the same penalties as property returned and sold for nonpayment of taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. A valuation shall not be determined for a description listed under this act and the property shall not be considered by the county board of commissioners or by the state

board of equalization in connection with county or state equalization for taxation purposes. If a low grade iron ore mining property is located in more than 1 township, the state geologist shall determine the portion attributable to each township. Except as provided in subsections (5) and (6), sums collected under this act shall be distributed by the township treasurer to school districts, this state, and to local governmental units in the same proportion as the general property taxes are distributed. The amounts distributed may be used by the school districts and local governmental units for operating expenses, for capital improvements, and for the accumulation of reserves in a building and site fund or for the payment of interest or principal on bonds.

(3) The tax provided in this act shall be in lieu of an ad valorem tax on any of the following:

(a) The low grade iron ore.

(b) The low grade iron ore mining property.

(c) The mining of the low grade iron ore mining property.

(d) The production of iron ore pellets or other concentrated or agglomerated products.

(e) The iron ore pellets or other concentrated or agglomerated merchantable products.

(f) Land occupied by or used in connection with the mining, transportation, and beneficiation of the ore and shipping of iron ore pellets or other concentrated or agglomerated merchantable products.

(4) For specific taxes levied after 1993, to determine the proportion for the disbursement of taxes under this section and for attribution of taxes under subsection (5) for the specific taxes collected pursuant to this act, the number of mills levied for local school district operating purposes to be used in the calculation shall equal the number of mills for local school district operating purposes levied in 1993 minus the number of mills levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, for the year for which the disbursement is calculated.

(5) For specific taxes levied after 1993 and school operating purposes, the amount that would otherwise be disbursed to a local school district shall be paid instead to the state treasury and credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(6) The proceeds of the specific tax levied under subsection (1) beginning December 31, 2001 through December 31, 2006 shall be distributed as follows:

(a) To school districts and local governmental units the same amount that they would have been entitled to receive if the specific tax rate were 1.1%.

(b) After the distribution under subdivision (a) is made, the remaining proceeds shall be deposited into the state school aid fund.

This act is ordered to take immediate effect.
Approved June 17, 2002.
Filed with Secretary of State June 17, 2002.

[No. 444]

(SB 841)

AN ACT to amend 1981 PA 80, entitled "An act to authorize certain cities and counties to issue general obligation bonds or obligations to fund an operating deficit or projected

operating deficit; to prescribe the powers and duties of the state administrative board; to provide for the levy of ad valorem property taxes to pay the principal and interest on the bonds or obligations; to prescribe certain conditions related to the bonds or obligations; and to provide remedies for enforcement of this act," by amending sections 4 and 7 (MCL 141.1004 and 141.1007), as amended by 1987 PA 279.

The People of the State of Michigan enact:

141.1004 Application for order approving bonds or obligations; resolution; determination of accumulated operating deficit; conditions and determinations; statement; issuance of order; determinations and findings conclusive; maximum amount of bonds or obligations; exceptions; bonds or obligations not subject to revised municipal finance act; agency financing reporting act applicable.

Sec. 4. (1) Before a city may make application to the board for approval to issue bonds or obligations under this act, the legislative body of the city shall determine by resolution that all of the following conditions exist:

(a) The city had an accumulated operating deficit as of the end of the last completed fiscal year or is projected to have an accumulated operating deficit at the end of the current fiscal year. The determination of the existence of an accumulated operating deficit or a projected accumulated operating deficit shall be made in accordance with generally accepted accounting principles.

(b) The amount of the deficit exceeds the amount that the city may borrow from the emergency municipal loan fund pursuant to the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

(c) The amount of the deficit is more than the city can fund by issuing tax anticipation notes under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Before a county may make application to the board for approval to issue bonds or obligations under this act, the legislative body of the county shall determine by resolution that the county had an accumulated operating deficit as of the end of the last completed fiscal year or is projected to have an accumulated operating deficit at the end of the current fiscal year. The determination of the existence of an accumulated operating deficit or a projected accumulated operating deficit shall be made in accordance with generally accepted accounting principles.

(3) If the legislative body of a city or county determines that all of the conditions described in subsection (1) or (2) exist, respectively, it shall also in the same resolution make the following determinations:

(a) The amount of the accumulated operating deficit that was incurred or is projected to exist at the end of the current fiscal year.

(b) The maximum amount of bonds or obligations necessary to fund the deficit and provide funds for the purposes described in section 5.

(4) Before adopting a resolution authorizing the issuance of the bonds or obligations, the city or county shall apply to the secretary of the board for an order approving issuance of the bonds or obligations by the city or county and shall attach to the application a copy of the resolution described in this section.

(5) The board shall require that the city or county provide the board with a statement signed by the chief executive officer of the city or county, if a charter county, or the chairperson of the board of county commissioners, which statement indicates how the city or county intends to avoid future deficits. The statement is a condition that shall be met as part of the application by the city or county to the board for issuance of bonds or obligations under this act.

(6) Within 7 days after receipt of a full and complete application as determined by the board, the board shall issue an order approving issuance of bonds or obligations by the city or county in an amount not exceeding the amount determined to be necessary by the legislative body of the city or county under subsection (3) or denying the application.

(7) After approval of the board, the determinations and findings made by the legislative body of the city or county pursuant to this section are conclusive.

(8) The maximum amount of bonds or obligations that are unlimited or limited tax bonds or obligations that may be issued by a city or county under this act shall not exceed 3% of the state equalized valuation of real and personal property located within the territorial boundaries of the city or county, respectively, or the maximum principal amount of all bonds or obligations that may be issued by a city or county under this act shall not exceed $125,000,000.00. The limitations provided by this subsection do not include bonds or obligations or portions of bonds or obligations used to pay for any of the following:

(a) Amounts set aside for a reserve for payment of principal, interest, and redemption premiums.

(b) Expected costs of issuance of the bonds or obligations.

(c) The amount of any discount.

(d) Bonds or obligations issued to refund outstanding bonds or obligations.

(9) Except as provided in section 7, the issuance of bonds or obligations under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The issuance of bonds or obligations described in this subsection is subject to the agency financing reporting act.

141.1007 Levy of property taxes for payment of principal and interest on bonds or obligations.

Sec. 7. A city or county that issues bonds or obligations that are unlimited or limited tax bonds or obligations under this act shall annually levy sufficient ad valorem property taxes for payment of principal and interest coming due on the bonds or obligations prior to the next collection of taxes as required by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. In determining the amount of the annual levy necessary for the payment of the principal and interest, credit may be taken for other revenues available and pledged for payment of the bonds or obligations. If the bonds or obligations have been approved by a majority vote of the qualified electors of the city or county voting on the question, the levy of taxes for payment of principal and interest on the bonds or obligations is not subject to limitation as to rate or amount, and taxes for the payment of the principal and interest are in addition to all other taxes that the city or county may otherwise be authorized to levy.

This act is ordered to take immediate effect.
Approved June 17, 2002.
Filed with Secretary of State June 17, 2002.

[No. 445]

(SB 859)

AN ACT to amend 1967 (Ex Sess) PA 7, entitled "An act to provide for interlocal public agency agreements; to provide standards for those agreements and for the filing and status of those agreements; to permit the allocation of certain taxes or money

received from tax increment financing plans as revenues; to permit tax sharing; to provide for the imposition of certain surcharges; to provide for additional approval for those agreements; and to prescribe penalties and provide remedies," by amending section 7 (MCL 124.507), as amended by 1985 PA 10.

The People of the State of Michigan enact:

124.507 Administrative commission, board, or council; public body, corporate or politic; appointment and removal of members; operation for profit prohibited; earnings; title to property; powers; authorization and power of separate legal or administrative entity; bonds or notes.

Sec. 7. (1) An interlocal agreement may provide for a separate legal or administrative entity to administer or execute the agreement which may be a commission, board, or council constituted pursuant to the agreement. The entity shall be a public body, corporate or politic for the purposes of this act. The governing body of each public agency shall appoint a member of the commission, board, or council constituted pursuant to the agreement. That member may be removed by the appointing governing body at will. The administrative or legal entity shall not be operated for profit. No part of its earnings shall inure to the benefit of a person other than the public agencies that created it. Upon termination of the interlocal agreement, title to all property owned by the entity shall vest in the public agencies that incorporated it.

(2) A separate legal or administrative entity created by an interlocal agreement shall possess the common power specified in the agreement and may exercise it in the manner or according to the method provided in the agreement. The entity may be, in addition to its other powers, authorized in its own name to make and enter into contracts, to employ agencies or employees, to acquire, construct, manage, maintain, or operate buildings, works, or improvements, to acquire, hold, or dispose of property, to incur debts, liabilities, or obligations that, except as expressly authorized by the parties, do not constitute the debts, liabilities, or obligations of any of the parties to the agreement, to cooperate with a public agency, an agency or instrumentality of that public agency, or another legal or administrative entity created by that public agency under this act, to make loans from the proceeds of gifts, grants, assistance funds, or bequests pursuant to the terms of the interlocal agreement creating the entity, and to form other entities necessary to further the purpose of the interlocal agreement. The entity may sue and be sued in its own name.

(3) No separate legal or administrative entity created by an interlocal agreement shall possess the power or authority to levy any type of tax within the boundaries of any governmental unit participating in the interlocal agreement, or to issue any type of bond in its own name, or to in any way indebt a governmental unit participating in the interlocal agreement.

(4) A separate legal or administrative entity created by an interlocal agreement may be authorized by the interlocal agreement to borrow money and to issue bonds or notes in its name for local public improvements or for economic development purposes as provided in the interlocal agreement.

(5) The entity created by the interlocal agreement shall not borrow money or issue bonds or notes for a sum that, together with the total outstanding bonded indebtedness of the entity, exceeds 2 mills of the taxable value of the taxable property within the local governmental units participating in the interlocal agreement as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(6) Bonds or notes issued under this act are a debt of the entity created by the interlocal agreement and not of the participating local governmental units.

(7) Bonds or notes issued under this act are declared to be issued for an essential public and governmental purpose and, together with interest on those bonds or notes and income from those bonds or notes, are exempt from all taxes.

(8) Bonds or notes issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved June 17, 2002.
Filed with Secretary of State June 17, 2002.

[No. 446]

(SB 987)

AN ACT to amend 1957 PA 4, entitled "An act to provide for the incorporation of municipal authorities to acquire, own and operate water supply and transmission systems; to provide a municipal charter therefor; to prescribe the powers and functions thereof; and to prescribe penalties and provide remedies," by amending sections 15 and 16 (MCL 121.15 and 121.16); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

121.15 Bonds; issuance subject to revised municipal finance act.

Sec. 15. Bonds issued by any authority under the provisions of this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

121.16 Taxes; rates; assessment; levy; collection; subjects.

Sec. 16. The authority shall levy each year a sufficient tax, taking into account the probable delinquency in tax collections, to pay the principal and interest on all bonds lawfully issued by the authority under the provisions of this act, maturing prior to the next tax collection period. Except as otherwise provided by law, the tax for the purpose of paying the bonded indebtedness shall be unlimited as to rate or amount. The tax rate shall be uniform for all territory comprising the authority. The tax rate for all cities, villages, and townships that are members of the authority shall be based and assessed upon the current taxable value of the cities, villages, and townships. On or before August 1 of each year, the authority, by its board of commissioners, shall certify to the tax collecting officers of each city and township comprising the authority the tax rate determined by it to be necessary for the above purposes, and the tax collecting officers shall include the tax rate as a separate item in the next county tax levied in the city or township. All the taxes shall be assessed, levied, collected, and returned in the same manner as county taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, and shall have the same priority rights and bear the same interest and penalties as county taxes. In the levy and collection of the taxes, the tax collecting officials of the cities and townships comprising the authority, and the county treasurers in the event the taxes are returned delinquent, shall be considered to be acting as agents for and on behalf of the authority. All money collected by any tax collecting officer from the tax levied under the provisions of this act shall be transmitted as collected to the authority and used by it solely for the payment of principal and interest on its bonds issued under this act. Any village that is a part of the authority shall be considered a part of the township in which it is located for

the purposes of this section, if the township is a part of the authority. If any village that is a part of the authority is located in a township that is not a part of the authority, the authority shall certify to the township treasurer of the township in which the village is located, the tax rate as determined in this section, and the taxes shall be levied and collected as a part of, and as an independent item in, the county tax bills levied in the village. The subjects of taxation for the authority purposes shall be the same as for state, county, and school purposes under the general law.

Repeal of §§ 121.14 and 121.17.

Enacting section 1. Sections 14 and 17 of the charter water authority act, 1957 PA 4, MCL 121.14 and 121.17, are repealed.

This act is ordered to take immediate effect.
Approved June 17, 2002.
Filed with Secretary of State June 17, 2002.

[No. 447]

(SB 1074)

AN ACT to amend 1925 PA 234, entitled "An act to provide for the creation and establishment of port districts; to prescribe their rights, powers, duties and privileges; to prescribe their powers of regulation in certain cases; to prescribe their powers in respect to acquiring, improving, enlarging, extending, operating, maintaining and financing various projects and the conditions upon which certain of said projects may extend into another state or county," by amending section 32 (MCL 120.32).

The People of the State of Michigan enact:

120.32 Power to borrow in ancitipation of tax.

Sec. 32. (1) A port commission is hereby authorized, prior to the receipt of taxes raised by a levy, to borrow money or issue the warrants of the district in anticipation of the revenues to be derived by the district from the levy of taxes for the purpose described in this act. The warrants shall be redeemed from the first money available from the levy of taxes when collected.

(2) Bonds and notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved June 17, 2002.
Filed with Secretary of State June 17, 2002.

[No. 448]

(SB 1269)

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification

and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 18f (MCL 247.668f), as amended by 1983 PA 82.

The People of the State of Michigan enact:

247.668f Approval of construction; sale price of bonds.

Sec. 18f. If the aggregate maturities of the bonds exceed 15 years, the bonds shall not be issued until the state transportation department has approved the construction to be financed by the proceeds of the bonds. The sale price of the bonds shall not be less than the minimum price specified in the proceedings authorizing their issuance.

This act is ordered to take immediate effect.
Approved June 17, 2002.
Filed with Secretary of State June 17, 2002.

[No. 449]

(SB 1300)

AN ACT to amend 1961 PA 112, entitled "An act to authorize and provide for the issuance, sale, and refunding of bonds, notes, or commercial paper of the state; to provide funds for making loans to school districts for payment of principal and interest on certain

school bonds; to provide for use of moneys repaid to the state by school districts; and to make an appropriation," (MCL 388.981 to 388.985) by adding section 1c.

The People of the State of Michigan enact:

388.981c Bonds and notes; revised municipal finance act inapplicable; agency financing reporting act applicable.

Sec. 1c. (1) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The issuance of bonds or notes under this act is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved June 17, 2002.
Filed with Secretary of State June 17, 2002.

[No. 450]

(SB 1313)

AN ACT to amend 1961 PA 108, entitled "An act to provide for loans by the state of Michigan to school districts for the payment of principal and interest upon school bonds; to prescribe the terms and conditions of the loans and the conditions upon which levies for bond principal and interest shall be included in computing the amount to be so loaned by the state; to prescribe the powers and duties of the superintendent of public instruction and the state treasurer in relation to such loans; to provide for the repayment of such loans; to provide incentives for repayment of such loans; to provide for other matters in respect to such loans; and to make an appropriation," (MCL 388.951 to 388.963) by adding section 3a.

The People of the State of Michigan enact:

388.953a Interest on qualified bonds; amount includable.

Sec. 3a. For the purposes of this act, interest on qualified bonds includes the amount required for the payment of a school district's net interest obligation under an interest rate exchange or swap, hedge, or other agreement entered into pursuant to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved June 17, 2002.
Filed with Secretary of State June 17, 2002.

[No. 451]

(SB 1265)

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification

and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 18c (MCL 247.668c).

The People of the State of Michigan enact:

247.668c Counties; bonds.

Sec. 18c. (1) A county may borrow money and issue bonds to pay all or any portion of the cost of the construction or reconstruction of highways, including limited access highways, which by law a county road commission is authorized to construct or reconstruct, or participate with any other county road commission, city, or village in the construction or reconstruction of, including the construction or the enlargement, reconstruction, or relocation of existing highways and the acquisition of necessary rights-of-way for those highways, and all work incidental to the construction or reconstruction, which bonds shall be issued only upon the written recommendation or approval of the county road commission, and the adoption of a resolution by a majority vote of the county board of commissioners of the county. The resolution shall briefly describe the contemplated highway construction project, the estimated cost of the project, and the amount, maximum rate of interest, and maturity dates of the bonds to be issued and the form of the bonds. The resolution shall contain an irrevocable appropriation providing for the payment of the principal and interest of the bonds from the money received or to be received by the county road commission from the Michigan transportation fund, except to the extent the money has been pledged by contract in accordance with 1941 PA 205, MCL 252.51 to 252.64, before July 1, 1957, for the construction or financing of limited access highways, and except to the extent the moneys have been pledged before July 1, 1957, for the payment

of notes issued under 1943 PA 143, MCL 141.251 to 141.254. A contractual pledge made before July 1, 1957, in accordance with the provisions of 1941 PA 205, MCL 252.51 to 252.64, and a pledge made before July 1, 1957, for the payment of promissory notes under 1943 PA 143, MCL 141.251 to 141.254, shall have and retain its priority of lien or charge against the money distributed by law to the county road commission from the Michigan transportation fund, as contemplated by those acts, and as provided in the contract or resolution authorizing the issuance of bonds or notes under those acts. A pledge made after June 30, 1957, by a county road commission under 1941 PA 205, MCL 252.51 to 252.64, or 1943 PA 143, MCL 141.251 to 141.254, shall have equal standing and priority with a pledge made after June 30, 1957, by the county road commission under this act. The total aggregate amount of bonds that may be issued by a county under this section shall not exceed the amount that will be serviced as to their maximum annual principal and interest requirements by an amount equal to 20% of the moneys received by the county road commission of the county from the Michigan transportation fund during the fiscal year immediately preceding the issuance of the bonds. Bonds may be issued under this section as separate issues or series with different dates of issuance but the aggregate of the bonds shall be subject to the limitations set forth in this act. As additional security for the payment of the bonds, a county, upon adoption of a resolution by a majority of the members of its county board of commissioners, may agree on behalf of the county that if the funds pledged for the payment of the bonds are at any time insufficient to pay the principal and interest on the bonds as the same become due, the county treasurer shall be obligated to advance sufficient money from the general fund of the county to make up the deficiency, and reimbursement shall be made from the first subsequent revenues received by the county road commission from the Michigan transportation fund not pledged or required to be set aside and used for the payment of the principal and interest on bonds, notes, or other evidences of indebtedness.

(2) The total annual amount that may be pledged by a county road commission for the payment of principal and interest on bonds issued pursuant to this section, or the payment of contributions as required by a contract entered into in accordance with section 18d, which contributions are pledged for the payment of bonds, together with total maximum debt service requirements for payment of notes issued under 1943 PA 143, MCL 141.251 to 141.254, shall not exceed 50% of the total amount received by the county road commission from the Michigan transportation fund during the last completed fiscal year ending on June 30 before the issuance of a bond or note or the execution of a contract.

(3) Bonds issued under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 452]

(SB 1248)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide

for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 4v (MCL 205.54v), as added by 1999 PA 116.

The People of the State of Michigan enact:

205.54v Central office equipment or wireless equipment; presumption.

Sec. 4v. (1) The tax levied under this act does not apply to the purchase of machinery and equipment for use or consumption in the rendition of any combination of services, the use or consumption of which is taxable under section 3a(a) or (c) or section 3b of the use tax act, 1937 PA 94, MCL 205.93a and 205.93b, except that this exemption is limited to the tangible personal property located on the premises of the subscriber and to central office equipment or wireless equipment, directly used or consumed in transmitting, receiving, or switching, or in the monitoring of switching of a 2-way interactive communication. As used in this subsection, central office equipment or wireless equipment does not include distribution equipment including cable or wire facilities.

(2) Beginning April 1, 1999, the property under subsection (1) is exempt only to the extent that the property is used for the exempt purposes stated in this section. There is an irrebuttable presumption that 90% of total use is for exempt purposes. This presumption is in effect until April 1, 2006, at which time the presumption shall be reviewed and redetermined by the department of treasury using nonexempt and exempt user information for the previous 12-month period. That redetermined irrebuttable presumption shall be in effect for the following 7 years. The irrebuttable presumption shall be reviewed and redetermined every 7 years after April 1, 2006 and applied to the following 7 years.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 477.

(b) Senate Bill No. 824.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

Compiler's note: Senate Bill No. 477, referred to in enacting section 1, was filed with the Secretary of State June 21, 2002, and became P.A. 2002, No. 455, Imd. Eff. June 21, 2002.

Senate Bill No. 824, also referred to in enacting section 1, was filed with the Secretary of State June 21, 2002, and became P.A. 2002, No. 456, Imd. Eff. June 21, 2002.

[No. 453]

(SB 1124)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving

of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 717 and 719 (MCL 257.717 and 257.719), section 717 as amended by 2000 PA 7 and section 719 as amended by 2002 PA 78.

The People of the State of Michigan enact:

257.717 Maximum permissible width of vehicle or load; operation or movement of implement of husbandry; extension beyond center line of highway; permit; designation of highway for operation of vehicle or vehicle combination; violation as civil infraction; charging owner.

Sec. 717. (1) The total outside width of a vehicle or the load on a vehicle shall not exceed 96 inches, except as otherwise provided in this section.

(2) A person may operate or move an implement of husbandry of any width on a highway as required, designed, and intended for farming operations, including the movement of implements of husbandry being driven or towed and not hauled on a trailer, without obtaining a special permit for an excessively wide vehicle or load under section 725. The operation or movement of the implement of husbandry shall be in a manner so as to minimize the interruption of traffic flow. A person shall not operate or move an implement of husbandry to the left of the center of the roadway from a half hour after sunset to a half hour before sunrise, under the conditions specified in section 639, or at any time visibility is substantially diminished due to weather conditions. A person operating or moving an implement of husbandry shall follow all traffic regulations.

(3) The total outside width of the load of a vehicle hauling concrete pipe, agricultural products, or unprocessed logs, pulpwood, or wood bolts shall not exceed 108 inches.

(4) Except as provided in subsections (2) and (5) and this subsection, if a vehicle that is equipped with pneumatic tires is operated on a highway, the maximum width from the outside of 1 wheel and tire to the outside of the opposite wheel and tire shall not exceed 102 inches, and the outside width of the body of the vehicle or the load on the vehicle shall not exceed 96 inches. However, a truck and trailer or a tractor and semitrailer combination hauling pulpwood or unprocessed logs may be operated with a maximum width of not to exceed 108 inches in accordance with a special permit issued under section 725.

(5) The total outside body width of a bus, a trailer coach, a truck camper, or a motor home shall not exceed 102 inches. However, an appurtenance of a trailer coach, a truck camper, or a motor home that extends not more than 6 inches beyond the total outside body width is not a violation of this section.

(6) A vehicle shall not extend beyond the center line of a state trunk line highway except when authorized by law. Except as provided in subsection (2), if the width of the vehicle makes it impossible to stay away from the center line, a permit shall be obtained under section 725.

(7) The director of the state transportation department, a county road commission, or a local authority may designate a highway under the agency's jurisdiction as a highway on which a person may operate a vehicle or vehicle combination that is not more than 102 inches in width, including load, the operation of which would otherwise be prohibited by this section. The agency making the designation may require that the owner or lessee of the vehicle or of each vehicle in the vehicle combination secure a permit before operating the vehicle or vehicle combination. This subsection does not restrict the issuance of a special permit under section 725 for the operation of a vehicle or vehicle combination. This subsection does not permit the operation of a vehicle or vehicle combination described in section 722a carrying a load described in that section if the operation would otherwise result in a violation of that section.

(8) A person who violates this section is responsible for a civil infraction. The owner of the vehicle may be charged with a violation of this section.

257.719 Height of vehicle; liability for damage to bridge or viaduct; normal length maximum; prohibitions; connecting assemblies and lighting devices; gross weight; violation as civil infraction; definitions.

Sec. 719. (1) A vehicle unloaded or with load shall not exceed a height of 13 feet 6 inches. The owner of a vehicle that collides with a lawfully established bridge or viaduct is liable for all damage and injury resulting from a collision caused by the height of the vehicle, whether the clearance of the bridge or viaduct is posted or not.

(2) Lengths described in this subsection shall be known as the normal length maximum. Except as provided in subsection (3), the following vehicles and combinations of vehicles shall not be operated on a highway in this state in excess of these lengths:

(a) Any single vehicle: 40 feet; any single bus or motor home: 45 feet.

(b) Articulated buses: 65 feet.

(c) Notwithstanding any other provision of this section, a combination of a truck and semitrailer or trailer, or a truck tractor, semitrailer, and trailer, or truck tractor and semitrailer or trailer, designed and used exclusively to transport assembled motor vehicles or bodies, recreational vehicles, or boats, that does not exceed a length of 65 feet. Stinger-steered combinations shall not exceed a length of 75 feet. The load on the combinations of vehicles described in this subdivision may extend an additional 3 feet beyond the front and 4 feet beyond the rear of the combinations of vehicles. Retractable extensions used to support and secure the load that do not extend beyond the allowable overhang for the front and rear shall not be included in determining length of a loaded vehicle or vehicle combination.

(d) Truck tractor and semitrailer combinations: no overall length, the semitrailer not to exceed 50 feet.

(e) Truck and semitrailer or trailer: 59 feet.

(f) Truck tractor, semitrailer, and trailer, or truck tractor and 2 semitrailers: 59 feet.

(g) More than 1 motor vehicle, wholly or partially assembled, in combination, utilizing 1 tow bar or 3 saddle mounts with full mount mechanisms and utilizing the motive power of 1 of the vehicles in combination, not to exceed 55 feet.

(3) Notwithstanding subsection (2), the following vehicles and combinations of vehicles shall not be operated on a designated highway of this state in excess of these lengths:

(a) Truck tractor and semitrailer combinations: no overall length limit, the semitrailer not to exceed 53 feet. All semitrailers longer than 50 feet shall have a wheelbase of 37.5 to 40.5 feet plus or minus 0.5 feet, measured from the kingpin coupling to the center of the

rear axle or the center of the rear axle assembly. Before April 1, 2003, a semitrailer with a length longer than 50 feet shall not operate with more than 2 axles on the semitrailer. After March 31, 2003, a semitrailer with a length longer than 50 feet shall not operate with more than 3 axles on the semitrailer. City, village, or county authorities may prohibit stops of vehicles with a semitrailer longer than 50 feet within their jurisdiction unless the stop occurs along appropriately designated routes, or is necessary for emergency purposes or to reach shippers, receivers, warehouses, and terminals along designated routes.

(b) Truck and semitrailer or trailer combinations: 65 feet, except that a person may operate a truck and semitrailer or trailer designed and used to transport saw logs, pulpwood, and tree length poles that does not exceed an overall length of 70 feet. A person may operate a truck tractor and semitrailer designed and used to transport saw logs, pulpwood, and tree length wooden poles with a load overhang to the rear of the semitrailer which does not exceed 6 feet if the semitrailer does not exceed 50 feet in length.

(c) Truck tractor and 2 semitrailers, or truck tractor, semitrailer, and trailer combinations: no overall length limit, if the length of each semitrailer or trailer does not exceed 28-1/2 feet each, or the overall length of the semitrailer and trailer, or 2 semitrailers as measured from the front of the first towed unit to the rear of the second towed unit while the units are coupled together does not exceed 58 feet.

(d) More than 1 motor vehicle, wholly or partially assembled, in combination, utilizing 1 tow bar or 3 saddle mounts with full mount mechanisms and utilizing the motive power of 1 of the vehicles in combination, not to exceed 75 feet.

(4) The following combinations and movements are prohibited:

(a) A truck shall not haul more than 1 trailer or semitrailer, and a truck tractor shall not haul more than 2 semitrailers or 1 semitrailer and 1 trailer in combination at any 1 time, except that a farm tractor may haul 2 wagons or trailers, or garbage and refuse haulers may, during daylight hours, haul up to 4 trailers for garbage and refuse collection purposes, not exceeding in any combination a total length of 55 feet and at a speed limit not to exceed 15 miles per hour.

(b) A combination of vehicles or a vehicle shall not have more than 11 axles, except when operating under a valid permit issued by the state transportation department or a local authority with respect to a highway under its jurisdiction.

(c) Any combination of vehicles not specifically authorized under this section is prohibited.

(d) A combination of 2 semitrailers pulled by a truck tractor, unless each semitrailer uses a fifth wheel connecting assembly which conforms to the requirements of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22.

(e) A vehicle or a combination of vehicles shall not carry a load extending more than 3 feet beyond the front of the lead vehicle.

(f) A vehicle described in subsections (2)(e) and (3)(d) employing triple saddle mounts unless all wheels that are in contact with the roadway have operating brakes.

(5) All combinations of vehicles under this section shall employ connecting assemblies and lighting devices that are in compliance with the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22.

(6) The total gross weight of a truck tractor, semitrailer, and trailer combination or a truck tractor and 2 semitrailers combination that exceeds 59 feet in length shall not exceed a ratio of 400 pounds per engine net horsepower delivered to clutch or its equivalent specified in the handbook published by the society of automotive engineers, inc. (SAE), 1977 edition.

(7) A person who violates this section is responsible for a civil infraction. The owner of the vehicle may be charged with a violation of this section.

(8) As used in this section:

(a) "Designated highway" means a highway approved by the state transportation department or a local authority with respect to a highway under its jurisdiction.

(b) "Length" means the total length of a vehicle, or combination of vehicles, including any load the vehicle is carrying. Length does not include safety and energy conservation devices including, but not limited to, impact absorbing bumpers, rear view mirrors, turn signal lamps, marker lamps, steps and hand holds for entry and egress, flexible fender extensions, mud flaps, or splash and spray suppressant devices; load induced tire bulge; refrigeration or heating units; or air compressors attached to the vehicle. A safety or energy conservation device shall be excluded from a determination of length only if it is not designed or used for the carrying of cargo, freight, or equipment. Semitrailers and trailers shall be measured from the front vertical plane of the foremost transverse load supporting structure to the rearmost transverse load supporting structure.

(c) "Stinger-steered combinations" means a truck tractor and semitrailer combination in which the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 454]

(SB 415)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 72113.

The People of the State of Michigan enact:

324.72113 Michigan heritage water trail program.

Sec. 72113. (1) The Great Lakes center for maritime studies at western Michigan university, in conjunction with the department, the department of history, arts, and libraries, and the Michigan 4-H youth conservation council, shall develop a plan for a statewide recognition program to be known as the "Michigan heritage water trail program". This program shall be designed to do all of the following:

(a) Establish a method for designating significant water corridors in the state as Michigan heritage water trails.

(b) Provide recognition for the historical, cultural, recreational, and natural resource significance of Michigan heritage water trails.

(c) Establish methods for local units of government to participate in programs that complement the designation of Michigan heritage water trails.

(d) Assure that private property rights along Michigan heritage water trails are not disturbed or disrupted, or restricted by the state or local units of government.

(2) Within 1 year after the effective date of the amendatory act that added this section, the center for maritime studies at western Michigan university, in conjunction with the department, the department of history, arts, and libraries, and the Michigan 4-H youth conservation council, shall submit a copy of the plan developed under subsection (1) to the standing committees of the legislature with jurisdiction primarily pertaining to natural resources and the environment.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 455]

(SB 477)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 3a (MCL 205.93a), as amended by 1998 PA 366.

The People of the State of Michigan enact:

205.93a Tax for use or consumption; services.

Sec. 3a. (1) The use or consumption of the following services is taxed under this act in the same manner as tangible personal property is taxed under this act:

(a) Except as provided in section 3b, intrastate telephone, telegraph, leased wire, and other similar communications, including local telephone exchange and long distance telephone service that both originates and terminates in Michigan, and telegraph, private line, and teletypewriter service between places in Michigan, but excluding telephone service by coin-operated installations, switchboards, concentrator-identifiers, interoffice circuitry and their accessories for telephone answering service, and directory advertising proceeds.

(b) Rooms or lodging furnished by hotelkeepers, motel operators, and other persons furnishing accommodations that are available to the public on the basis of a commercial and business enterprise, irrespective of whether or not membership is required for use of the accommodations, except rooms and lodging rented for a continuous period of more than 1 month. As used in this act, "hotel" or "motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, nudist camps, apartment hotels, resort lodges and cabins, camps operated by other than nonprofit organizations but not including those licensed

under 1973 PA 116, MCL 722.111 to 722.128, and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than 1 month and accommodations furnished by hospitals or nursing homes.

(c) Except as provided in section 3b, interstate telephone communications that either originate or terminate in this state and for which the charge for the service is billed to a Michigan service address or phone number by the provider either within or outside this state including calls between this state and any place within or without the United States of America outside of this state. However, if the tax under this act is levied at a rate of 6%, this subdivision does not apply to a wide area telecommunication service or a similar type service, an 800 prefix service or similar type service, an interstate private network and related usage charges, or an international call either inbound or outbound.

(d) The laundering or cleaning of textiles under a sale, rental, or service agreement with a term of at least 5 days. This subdivision does not apply to the laundering or cleaning of textiles used by a restaurant or retail sales business. As used in this subdivision, "restaurant" means a food service establishment defined and licensed under the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(2) If charges for intrastate telecommunications services or telecommunications services between this state and another state and other billed services not subject to the tax under this act are aggregated with and not separately stated from charges for telecommunications services that are subject to the tax under this act, the nontaxable telecommunications services and other nontaxable billed services are subject to the tax under this act unless the service provider can reasonably identify charges for telecommunications services not subject to the tax under this act from its books and records that are kept in the regular course of business.

(3) If charges for intrastate telecommunications services or telecommunications services between this state and another state and other billed services not subject to the tax under this act are aggregated with and not separately stated from telecommunications services that are subject to the tax under this act, a customer may not rely upon the nontaxability of those telecommunications services and other billed services unless the customer's service provider separately states the charges for nontaxable telecommunications services and other nontaxable billed services from taxable telecommunications services or the service provider elects, after receiving a written request from the customer in the form required by the provider, to provide verifiable data based upon the service provider's books and records that are kept in the regular course of business that reasonably identify the nontaxable services.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 824.

(b) Senate Bill No. 1248.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

Compiler's note: Senate Bill No. 824 was filed with the Secretary of State June 21, 2002, and became P.A. 2002, No. 456, Imd. Eff. June 21, 2002.

Senate Bill No. 1248, also referred to in enacting section 1, was filed with the Secretary of State June 21, 2002, and became P.A. 2002, No. 452, Imd. Eff. June 21, 2002.

[No. 456]

(SB 824)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending sections 3, 4, and 4q (MCL 205.93, 205.94, and 205.94q), section 3 as amended by 2002 PA 110, section 4 as amended by 2001 PA 39, and section 4q as added by 1999 PA 117, and by adding section 3b; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

205.93 Tax rate; penalties and interest; presumption; collection; price tax base; exemptions; services, information, or records.

Sec. 3. (1) There is levied upon and there shall be collected from every person in this state a specific tax for the privilege of using, storing, or consuming tangible personal property in this state at a rate equal to 6% of the price of the property or services specified in section 3a or 3b. Penalties and interest shall be added to the tax if applicable as provided in this act. For the purpose of the proper administration of this act and to prevent the evasion of the tax, it is presumed that tangible personal property purchased is subject to the tax if brought into the state within 90 days of the purchase date and is considered as acquired for storage, use, or other consumption in this state.

(2) The tax imposed by this section for the privilege of using, storing, or consuming a vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft shall be collected before the transfer of the vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft, except a transfer to a licensed dealer or retailer for purposes of resale that arises by reason of a transaction made by a person who does not transfer vehicles, ORVs, mobile homes, aircraft, snowmobiles, or watercraft in the ordinary course of his or her business done in this state. The tax on a vehicle, ORV, snowmobile, and watercraft shall be collected by the secretary of state before the transfer of the vehicle, ORV, snowmobile, or watercraft registration. The tax on a mobile home shall be collected by the department of consumer and industry services, mobile home commission, or its agent before the transfer of the certificate of title. The tax on an aircraft shall be collected by the department of treasury. Notwithstanding any limitation contained in section 2 and except as provided in this subsection, the price tax base of any vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft subject to taxation under this act shall be not less than its retail dollar value at the time of acquisition as fixed pursuant to rules promulgated by the department. The price tax base of a new or previously owned car or truck held for resale by a dealer and that is not exempt under section 4(1)(c) is the purchase price of the car or truck multiplied by 2.5% plus $30.00 per month beginning with the month that the dealer uses the car or truck in a nonexempt manner.

(3) The following transfers or purchases are not subject to use tax:

(a) A transaction or a portion of a transaction if the transferee or purchaser is the spouse, mother, father, brother, sister, child, stepparent, stepchild, stepbrother, stepsister, grandparent, grandchild, legal ward, or a legally appointed guardian with a certified letter of guardianship, of the transferor.

(b) A transaction or a portion of a transaction if the transfer is a gift to a beneficiary in the administration of an estate.

(c) If a vehicle, ORV, mobile home, aircraft, snowmobile, or watercraft that has once been subjected to the Michigan sales or use tax is transferred in connection with the organization, reorganization, dissolution, or partial liquidation of an incorporated or unincorporated business and the beneficial ownership is not changed.

(d) If an insurance company licensed to conduct business in this state acquires ownership of a late model distressed vehicle as defined in section 12a of the Michigan vehicle code, 1949 PA 300, MCL 257.12a, through payment of damages in response to a claim or when the person who owned the vehicle before the insurance company reacquires ownership from the company as part of the settlement of a claim.

(4) The department may utilize the services, information, or records of any other department or agency of state government in the performance of its duties under this act, and other departments or agencies of state government are required to furnish those services, information, or records upon the request of the department.

205.93b Tax for use or consumption; mobile telecommunications services.

Sec. 3b. (1) The use or consumption of mobile telecommunications services is subject to the tax levied under this act in the same manner as tangible personal property regardless of where the mobile telecommunications services originate, terminate, or pass through, subject to all of the following:

(a) Mobile telecommunications services provided to a customer, the charges for which are billed by or for the customer's home service provider, are considered to be provided by the customer's home service provider if the customer's place of primary use for the mobile telecommunications services is in this state. If the customer's place of primary use for mobile telecommunications services is outside of this state, the mobile telecommunications services are not subject to the tax levied under this act.

(b) A home service provider is responsible for obtaining and maintaining a record of the customer's place of primary use. Subject to subsection (2), in obtaining and maintaining a record of the customer's place of primary use, a home service provider may do all of the following:

(*i*) Rely in good faith on information provided by a customer as to the customer's place of primary use.

(*ii*) Treat the address used for a customer under a service contract or agreement in effect on August 1, 2002 as that customer's place of primary use for the remaining term of the service contract or agreement, excluding any extension or renewal of the service contract or agreement.

(c) Notwithstanding section 9 and subject to subsection (5), if the department chooses to create or provide a database that complies with the provisions of 4 U.S.C. 119, a home service provider shall use that database to determine the assignment of the customer's place of primary use to this state. If a database is not provided by the department, a home service provider may use an enhanced zip code to determine the assignment of the customer's place of primary use to this state. A home service provider that uses a database provided by the department is not liable for any tax that otherwise would be due solely as a result of an error or omission in that database. A home service provider that uses an enhanced zip code is not liable for any tax that otherwise would be due solely as a result of an assignment of a street address to another state if the home provider exercised due diligence to ensure that the appropriate street addresses are assigned to this state.

(d) If a customer believes that the amount of the tax levied under this act or that the home service provider's record of the customer's place of primary use is incorrect, the customer shall notify the home service provider in writing and provide all of the following information:

(*i*) The street address of the customer's place of primary use.

(*ii*) The account name and number for which the customer requests the correction.

(*iii*) A description of the error asserted by the customer.

(*iv*) Any other information that the home service provider reasonably requires to process the request.

(e) Not later than 60 days after the home service provider receives a request under subdivision (d) or subsection (5)(b), the home service provider shall review its record of the customer's place of primary use and the customer's enhanced zip code to determine the correct amount of the tax levied under this act. If the home service provider determines that the tax levied under this act or its record of the customer's place of primary use is incorrect, the home service provider shall correct the error and refund or credit any tax erroneously collected from the customer. A refund under this subdivision shall not exceed a period of 4 years. If the home service provider determines that the tax levied under this act and the customer's place of primary use are correct, the home service provider shall provide a written explanation of that determination to the customer. The procedures prescribed in this subdivision and in subdivision (d) are the first course of remedy available to a customer requesting a correction of the provider's record of place of primary use or a refund of taxes erroneously collected by the home service provider.

(2) If the department makes a final determination that the home service provider's record of a customer's place of primary use is incorrect, the home service provider shall change its records to reflect that final determination. The corrected record of a customer's place of primary use shall be used to calculate the tax levied under this act prospectively, from the date of the department's final determination. The department shall not make a final determination under this subsection before the department has notified the customer that the department has found that the home service provider's record of the customer's place of primary use is incorrect and the customer has been afforded an opportunity to appeal that finding. An appeal to the department shall be conducted according to the provision of section 22 of 1941 PA 122, MCL 205.22.

(3) Notwithstanding section 8 and subject to section 5, if the department makes a final determination under subsection (2) that a customer's place of primary use is incorrect, a home service provider is not liable for any taxes that would have been levied under this act if the customer's place of primary use had been correct.

(4) If charges for mobile telecommunications services and other billed services not subject to the tax levied under this act are aggregated with and not separately stated from charges for mobile telecommunications services that are subject to the tax levied under this act, the nontaxable mobile telecommunications services and other billed services are subject to the tax levied under this act unless the home service provider can reasonably identify billings for services not subject to the tax levied under this act from its books and records kept in the regular course of business.

(5) If charges for mobile telecommunications services and other billed services not subject to the tax levied under this act are aggregated with and not separately stated from charges for mobile telecommunications services that are subject to the tax levied under this act, a customer may not rely upon the exempt status for those mobile

telecommunications services and other billed services unless 1 or more of the following conditions are satisfied:

(a) The customer's home service provider separately states the charges for mobile telecommunications services that are exempt and other exempt billed services from taxable mobile telecommunications services.

(b) The home service provider elects, after receiving a written request from the customer in the form required by the home service provider, to identify the exempt mobile telecommunications services and other exempt billed services by reference to the home service provider's books and records kept in the regular course of business.

(6) This section is repealed as of the date of entry of a final judgment by a court of competent jurisdiction that substantially limits or impairs the essential elements of sections 116 to 126 of title 4 of the United States Code, 4 U.S.C. 116 to 126, and that final judgment is no longer subject to appeal.

(7) For an air-ground radiotelephone service, the tax under this act is imposed at the location of the origination of the air-ground radiotelephone service in this state as identified by the home service provider or information received by the home service provider from its servicing carrier.

(8) As used in this section:

(a) "Air-ground radiotelephone service" means that term as defined in 47 C.F.R. part 22.

(b) "Commercial mobile radio service" means that term as defined in 47 C.F.R. 20.3.

(c) "Charge", "charges", or "charge for mobile telecommunications services" means any charge for, or associated with, the provision of commercial mobile radio service, or any charge for, or associated with, a service provided as an adjunct to a commercial mobile radio service, that is billed to a customer by or for the customer's home service provider regardless of whether individual transmissions originate or terminate within the licensed service area of the home service provider.

(d) "Customer" means 1 of the following, but does not include a reseller or a serving carrier:

(*i*) The person who contracts with the home service provider for mobile telecommunications services.

(*ii*) If the end user of mobile telecommunications services is not the contracting party, then the end user of the mobile telecommunications service. This subparagraph applies only for the purpose of determining the place of primary use.

(e) "Enhanced zip code" means a United States postal zip code of 9 or more digits.

(f) "Home service provider" means the facilities-based carrier or reseller that enters into a contract with a customer for mobile telecommunications services.

(g) "Licensed service area" means the geographic area in which a home service provider is authorized by law or contract to provide commercial mobile radio services to its customers.

(h) "Mobile telecommunications services" means commercial mobile radio services that originate and terminate in the same state or originate in 1 state and terminate in another state. Mobile telecommunications services do not include prepaid mobile telecommunications services or air-ground radiotelephone service.

(i) "Place of primary use" means the residential street address or the primary business street address within the licensed service area of the home service provider at which a customer primarily uses mobile telecommunications services.

(j) "Prepaid mobile telecommunications service" means the advance purchase of exclusive mobile telecommunications services, which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, if the remaining units of service are known by the provider of the service on a continuous basis.

(k) "Reseller" means a telecommunications services provider who purchases telecommunications services from another telecommunications services provider and then resells the telecommunications services, uses the telecommunications services as a component part of a mobile telecommunications service, or integrates the telecommunications services into a mobile telecommunications service. Reseller does not include a serving carrier.

(*l*) "Serving carrier" means a facilities-based telecommunications services provider that contracts with a home service provider for mobile telecommunications services to a customer outside of the home service provider's or reseller's licensed service area.

205.94 Exemptions.

Sec. 4. (1) The tax levied under this act does not apply to the following, subject to subsection (2):

(a) Property sold in this state on which transaction a tax is paid under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, if the tax was due and paid on the retail sale to a consumer.

(b) Property, the storage, use, or other consumption of which this state is prohibited from taxing under the constitution or laws of the United States, or under the constitution of this state.

(c) Property purchased for resale, demonstration purposes, or lending or leasing to a public or parochial school offering a course in automobile driving except that a vehicle purchased by the school shall be certified for driving education and shall not be reassigned for personal use by the school's administrative personnel. For a dealer selling a new car or truck, exemption for demonstration purposes shall be determined by the number of new cars and trucks sold during the current calendar year or the immediately preceding year without regard to specific make or style according to the following schedule of 0 to 25, 2 units; 26 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but not to exceed 25 cars and trucks in 1 calendar year for demonstration purposes. Property purchased for resale includes promotional merchandise transferred pursuant to a redemption offer to a person located outside this state or any packaging material, other than promotional merchandise, acquired for use in fulfilling a redemption offer or rebate to a person located outside this state.

(d) Property that is brought into this state by a nonresident person for storage, use, or consumption while temporarily within this state, except if the property is used in this state in a nontransitory business activity for a period exceeding 15 days.

(e) Property the sale or use of which was already subjected to a sales tax or use tax equal to, or in excess of, that imposed by this act under the law of any other state or a local governmental unit within a state if the tax was due and paid on the retail sale to the consumer and the state or local governmental unit within a state in which the tax was imposed accords like or complete exemption on property the sale or use of which was subjected to the sales or use tax of this state. If the sale or use of property was already subjected to a tax under the law of any other state or local governmental unit within a state in an amount less than the tax imposed by this act, this act shall apply, but at a rate measured by the difference between the rate provided in this act and the rate by which the previous tax was computed.

(f) Property sold to a person engaged in a business enterprise and using and consuming the property in the tilling, planting, caring for, or harvesting of the things of the soil or in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth. At the time of the transfer of that tangible personal property, the transferee shall sign a statement, in a form approved by the department, stating that the property is to be used or consumed in connection with the production of horticultural or agricultural products as a business enterprise. The statement shall be accepted by the courts as prima facie evidence of the exemption. This exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land used in the production of agricultural products as a business enterprise and includes a portable grain bin, which means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts. This exemption does not include transfers of food, fuel, clothing, or similar tangible personal property for personal living or human consumption. This exemption does not include tangible personal property permanently affixed and becoming a structural part of real estate.

(g) Property or services sold to the United States, an unincorporated agency or instrumentality of the United States, an incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States, the American red cross and its chapters or branches, this state, a department or institution of this state, or a political subdivision of this state.

(h) Property or services sold to a school, hospital, or home for the care and maintenance of children or aged persons, operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans' organization, or a corporation incorporated under the laws of this state, if not operated for profit, and if the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and if the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or a restricted group. The tax levied does not apply to property or services sold to a parent cooperative preschool. As used in this subdivision, "parent cooperative preschool" means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently enrolled in the preschool that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed by the department of consumer and industry services pursuant to 1973 PA 116, MCL 722.111 to 722.128.

(i) Property or services sold to a regularly organized church or house of religious worship except the following:

(*i*) Sales in which the property is used in activities that are mainly commercial enterprises.

(*ii*) Sales of vehicles licensed for use on the public highways other than a passenger van or bus with a manufacturer's rated seating capacity of 10 or more that is used primarily for the transportation of persons for religious purposes.

(j) A vessel designed for commercial use of registered tonnage of 500 tons or more, if produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of a vessel of 500 tons or more engaged in interstate commerce.

(k) Property purchased for use in this state where actual personal possession is obtained outside this state, the purchase price or actual value of which does not exceed $10.00 during 1 calendar month.

(*l*) A newspaper or periodical classified under federal postal laws and regulations effective September 1, 1985 as second-class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established at least 2 years, and published at least once a week, and a copyrighted motion picture film. Tangible personal property used or consumed in producing a copyrighted motion picture film, a newspaper published more than 14 times per year, or a periodical published more than 14 times per year, and not becoming a component part of that film, newspaper, or periodical is subject to the tax. After December 31, 1993, tangible personal property used or consumed in producing a newspaper published 14 times or less per year or a periodical published 14 times or less per year and that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical is exempt from the tax under this subdivision. A claim for a refund for taxes paid before January 1, 1999 under this subdivision shall be made before June 30, 1999. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical and consequently not subject to tax, includes an advertising supplement inserted into and circulated with a newspaper or periodical that is otherwise exempt from tax under this subdivision, if the advertising supplement is delivered directly to the newspaper or periodical by a person other than the advertiser, or the advertising supplement is printed by the newspaper or periodical.

(m) Property purchased by persons licensed to operate a commercial radio or television station if the property is used in the origination or integration of the various sources of program material for commercial radio or television transmission. This subdivision does not include a vehicle licensed and titled for use on public highways or property used in the transmitting to or receiving from an artificial satellite.

(n) A person who is a resident of this state who purchases an automobile in another state while in the military service of the United States and who pays a sales tax in the state where the automobile is purchased.

(o) A vehicle for which a special registration is secured in accordance with section 226(12) of the Michigan vehicle code, 1949 PA 300, MCL 257.226.

(p) A hearing aid, contact lenses if prescribed for a specific disease that precludes the use of eyeglasses, or any other apparatus, device, or equipment used to replace or substitute for any part of the human body, or used to assist the disabled person to lead a reasonably normal life when the tangible personal property is purchased on a written prescription or order issued by a health professional as defined by section 4 of former 1974 PA 264, or section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501, or eyeglasses prescribed or dispensed to correct the person's vision by an ophthalmologist, optometrist, or optician.

(q) Water when delivered through water mains or in bulk tanks in quantities of not less than 500 gallons.

(r) A vehicle not for resale used by a nonprofit corporation organized exclusively to provide a community with ambulance or fire department services.

(s) Tangible personal property purchased and installed as a component part of a water pollution control facility for which a tax exemption certificate is issued pursuant to part 37 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air pollution control facility for which a tax exemption certificate is issued pursuant to part 59 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5901 to 324.5908.

(t) Tangible real or personal property donated by a manufacturer, wholesaler, or retailer to an organization or entity exempt pursuant to subdivision (h) or (i) or section 4a(a) or (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

(u) The storage, use, or consumption by a domestic air carrier of an aircraft purchased after December 31, 1992 but before October 1, 1996 for use solely in the transport of air cargo that has a maximum certificated takeoff weight of at least 12,500 pounds. For purposes of this subdivision, the term "domestic air carrier" is limited to entities engaged in the commercial transport for hire of cargo or entities engaged in the commercial transport of passengers as a business activity.

(v) The storage, use, or consumption by a domestic air carrier of an aircraft purchased after June 30, 1994 but before October 1, 1996 that is used solely in the regularly scheduled transport of passengers. For purposes of this subdivision, the term "domestic air carrier" is limited to entities engaged in the commercial transport for hire of cargo or entities engaged in the commercial transport of passengers as a business activity.

(w) The storage, use, or consumption by a domestic air carrier of an aircraft, other than an aircraft described under subdivision (v), purchased after December 31, 1994 but before October 1, 1996, that has a maximum certificated takeoff weight of at least 12,500 pounds and that is designed to have a maximum passenger seating configuration of more than 30 seats and used solely in the transport of passengers. For purposes of this subdivision, the term "domestic air carrier" is limited to entities engaged in the commercial transport for hire of cargo or entities engaged in the commercial transport of passengers as a business activity.

(x) The storage, use, or consumption of an aircraft by a domestic air carrier after September 30, 1996 for use solely in the transport of air cargo, passengers, or a combination of air cargo and passengers, that has a maximum certificated takeoff weight of at least 6,000 pounds. For purposes of this subdivision, the term "domestic air carrier" is limited to a person engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity. The state treasurer shall estimate on January 1 each year the revenue lost by this act from the school aid fund and deposit that amount into the school aid fund from the general fund.

(y) The storage, use, or consumption of an aircraft by a person who purchases the aircraft for subsequent lease to a domestic air carrier operating under a certificate issued by the federal aviation administration under 14 C.F.R. part 121, for use solely in the regularly scheduled transport of passengers.

(z) Property or services sold to an organization not operated for profit and exempt from federal income tax under section 501(c)(3) or 501(c)(4) of the internal revenue code of 1986, 26 U.S.C. 501; or to a health, welfare, educational, cultural arts, charitable, or benevolent organization not operated for profit that has been issued before June 13, 1994 an exemption ruling letter to purchase items exempt from tax signed by the administrator of the sales, use, and withholding taxes division of the department. The department shall reissue an exemption letter after June 13, 1994 to each of those organizations that had an exemption letter that shall remain in effect unless the organization fails to meet the requirements that originally entitled it to this exemption. The exemption does not apply to sales of tangible personal property and sales of vehicles licensed for use on public highways, that are not used primarily to carry out the purposes of the organization as stated in the bylaws or articles of incorporation of the exempt organization.

(aa) The use or consumption of services described in section 3a(a) or (c) or 3b by means of a prepaid telephone calling card, a prepaid authorization number for telephone use, or a charge for internet access.

(bb) The purchase, lease, use, or consumption of the following by an industrial laundry after December 31, 1997:

(*i*) Textiles and disposable products including, but not limited to, soap, paper, chemicals, tissues, deodorizers and dispensers, and all related items such as packaging, supplies, hangers, name tags, and identification tags.

(*ii*) Equipment, whether owned or leased, used to repair and dispense textiles including, but not limited to, roll towel cabinets, slings, hardware, lockers, mop handles and frames, and carts.

(*iii*) Machinery, equipment, parts, lubricants, and repair services used to clean, process, and package textiles and related items, whether owned or leased.

(*iv*) Utilities such as electric, gas, water, or oil.

(*v*) Production washroom equipment and mending and packaging supplies and equipment.

(*vi*) Material handling equipment including, but not limited to, conveyors, racks, and elevators and related control equipment.

(*vii*) Wastewater pretreatment equipment and supplies and related maintenance and repair services.

(2) The property or services under subsection (1) are exempt only to the extent that the property or services are used for the exempt purposes if one is stated in subsection (1). The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.

205.94q Central office equipment or wireless equipment; presumption.

Sec. 4q. (1) The tax levied under this act does not apply to the purchase of machinery and equipment for use or consumption in the rendition of any combination of services, the use or consumption of which is taxable under section 3a(a) or (c) or 3b except that this exemption is limited to the tangible personal property located on the premises of the subscriber and to central office equipment or wireless equipment, directly used or consumed in transmitting, receiving, or switching, or in the monitoring of switching of a 2-way interactive communication. As used in this subsection, central office equipment or wireless equipment does not include distribution equipment including cable or wire facilities.

(2) Beginning April 1, 1999, the property under subsection (1) is exempt only to the extent that the property is used for the exempt purposes stated in this section. There is an irrebuttable presumption that 90% of total use is for exempt purposes. This presumption is in effect until April 1, 2006, at which time the presumption shall be reviewed and redetermined by the department of treasury using nonexempt and exempt user information for the previous 12-month period. That redetermined irrebuttable presumption shall be in effect for the following 7 years. The irrebuttable presumption shall be reviewed and redetermined every 7 years after April 1, 2006 and applied to the following 7 years.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 477.

(b) Senate Bill No. 1248.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

Compiler's note: Senate Bill No. 477, referred to in enacting section 1, was filed with the Secretary of State June 21, 2002, and became P.A. 2002, No. 455, Imd. Eff. June 21, 2002.

Senate Bill No. 1248, also referred to in enacting section 1, was filed with the Secretary of State June 21, 2002, and became P.A. 2002, No. 452, Imd. Eff. June 21, 2002.

[No. 457]

(HB 5992)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 3 (MCL 205.53), as amended by 1980 PA 164.

The People of the State of Michigan enact:

205.53 License required to engage in business for which privilege tax imposed; application; fee; bond or deposit; renewal; exemptions; suspension and restoration of license; violation as misdemeanor; penalty.

Sec. 3. (1) If a person engages or continues in a business for which a privilege tax is imposed by this act, the person shall, under rules the department prescribes, apply for and obtain from the department a license to engage in and to conduct that business for the current tax year. When the department considers it necessary in order to secure the collection of the tax or if an applicant taxpayer has at any time failed, refused, or neglected to pay any tax or interest or penalty upon a tax or has attempted to evade the payment of any tax or interest or penalty upon a tax by means of petition in bankruptcy, or if applicant taxpayer is a corporation and the department has reason to believe that the management or control of the corporation is under persons who have failed to pay any tax or interest or penalty upon a tax under this act, the department shall require a surety bond payable to the state of Michigan, upon which the applicant or taxpayer shall be the obligor, in the sum of not less than $1,000.00 nor more than $25,000.00. The surety bond shall be conditioned that the applicant or taxpayer shall comply with this act and shall promptly file true reports and pay the taxes, interest, and penalties provided for or required by this act. The bonds shall be approved as to the amount and surety by the department. The applicant or taxpayer may in lieu of the surety bond deposit a sum of money with the department in an amount the department determines to guarantee the payment of the tax, interest, and penalty and compliance with this act. However, the amount determined by the department shall not exceed the estimated tax payable during a 1-year period. The applicant or taxpayer shall be licensed to engage in and conduct the business. The department may require the applicant or taxpayer to furnish other and further bond as it considers necessary within the limits in this section, after giving a 30-day notice in writing. The license shall be renewed annually if the taxpayer pays the tax accrued to the state under this act. A person shall not engage or continue in a business taxable under this act without securing a license. A person, firm, or corporation engaged solely in industrial processing or agricultural producing under this act and who makes no sales at retail within the meaning of this act is not required to have a license.

(2) The revenue commissioner or his or her designee, after notice and hearing, may suspend the license of a person who violates or fails to comply with this act or a rule promulgated by the department under this act. The revenue commissioner or his or her designee may restore licenses after suspension. If a person engages in business taxable under this act while his or her license is in suspension, the tax imposed under this act is imposed and payable with respect to that business.

(3) A person who engages in any business in this state that is taxable under this act and who fails to secure from the revenue commissioner or his or her designee a license to engage in that business or who continues to engage in business after the license has expired or was suspended by the revenue commissioner or his or her designee is guilty of a misdemeanor punishable by a fine of not more than $1,000.00 or imprisonment for not more than 1 year, or both.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 458]

(HB 5832)

AN ACT to amend 1988 PA 466, entitled "An act to authorize and require the appointment of a state veterinarian within the department of agriculture; to protect the human food chain and the livestock and aquaculture industries of the state through prevention, control, and eradication of infectious, contagious, or toxicological diseases of livestock and other animals; to prevent the importation of certain nonindigenous animals under certain circumstances; to safeguard the human population from certain diseases that are communicable between animals and humans; to prevent or control the contamination of livestock with certain toxic substances through certain livestock or livestock products; to provide for indemnification for livestock under certain circumstances; to provide for certain powers and duties for certain state agencies and departments; to provide for the promulgation of rules; to provide for certain hearings; to provide for remedies and penalties; and to repeal acts and parts of acts," by amending sections 3, 4, 6, 8, 9, 11b, 12, 13a, 14, 16, 19, 22, 30a, 30b, 33, and 44 (MCL 287.703, 287.704, 287.706, 287.708, 287.709, 287.711b, 287.712, 287.713a, 287.714, 287.716, 287.719, 287.722, 287.730a, 287.730b, 287.733, and 287.744), sections 3, 4, 6, 8, 9, 12, 14, 16, 19, 30a, 30b, 33, and 44 as amended and sections 11b and 13a as added by 2000 PA 323 and section 22 as amended by 1996 PA 369; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

287.703 Definitions; A to F.

Sec. 3. (1) "Accredited veterinarian" means a veterinarian approved by the administrator of the United States department of agriculture, animal and plant health inspection service in accordance with provisions of 9 C.F.R. part 161, and considered preapproved to perform certain functions of federal and cooperative state/federal programs.

(2) "Animal" means mollusks, crustaceans, and vertebrates other than human beings including, but not limited to, livestock, exotic animals, aquaculture, and domestic animals.

(3) "Animal movement certificate" means animal movement authorization established in a manner approved and issued by the director that contains, at a minimum, the following information regarding animals or an animal:

(a) The point of origin and point of destination.

(b) Official identification.

(c) Anticipated movement date.

(d) Any required official test results for bovine tuberculosis.

(4) "Aquaculture" means the commercial husbandry of aquaculture species on the approved list of aquaculture species under the Michigan aquaculture development act, 1996 PA 199, MCL 286.871 to 286.884, including, but not limited to, the culturing, producing, growing, using, propagating, harvesting, transporting, importing, exporting, or marketing of any products, coproducts, or by-products of fish, crustaceans, mollusks, reptiles, and amphibians, reared or cultured under controlled conditions in an aquaculture facility.

(5) "Aquaculture facility" means that term as defined under the Michigan aquaculture development act, 1996 PA 199, MCL 286.871 to 286.884.

(6) "Approved vaccine" means a veterinary biological administered to livestock or other animals to induce immunity in the recipient and approved by the state veterinarian.

(7) "Carcasses" means the dead bodies of animals, poultry, or aquaculture. Carcasses do not include rendered products.

(8) "Cattle" means all bovine (genus bos) animals, bovinelike animals (genus bison) also commonly referred to as American buffalo or bison and any cross of these species unless otherwise specifically provided.

(9) "Cattle importation lot" means a premises registered with the department and used only to feed cattle in preparation for slaughter.

(10) "Commingling" means concurrently or subsequently sharing or subsequent use by livestock or other domestic animals of the same pen or same section in a facility or same section in a transportation unit where there is physical contact or contact with bodily excrements, aerosols, or fluids from other livestock or domestic animals.

(11) "Consignee" means the person receiving the animals at the point of destination named on the official interstate or intrastate health certificate, official interstate certificate of veterinary inspection or animal movement certificate, entry authorization form, fish disease inspection report, owner-shipper statement, or sales invoice.

(12) "Contagious disease" means an illness due to a specific infectious agent or suspected infectious agent or its toxic products which arises through transmission of that agent or its products from an infected animal, or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector, or the inanimate environment, or via an airborne mechanism.

(13) "Dealer" means any person required to be licensed under 1937 PA 284, MCL 287.121 to 287.131, and engaged in the business of buying, receiving, selling, exchanging, transporting, negotiating, or soliciting the sale, resale, exchange, transportation, or transfer of livestock.

(14) "Department" means the Michigan department of agriculture.

(15) "Direct movement" means transfer of animals to a destination without unloading the animals en route and without exposure to any other animals or bodily excrements, aerosols, or fluids from other animals.

(16) "Director" means the director of the Michigan department of agriculture or his or her authorized representative.

(17) "Disease" means any animal health condition with potential for economic impact, public or animal health concerns, or food safety concerns.

(18) "Distribute" means to deliver other than by administering or dispensing a veterinary biological.

(19) "Domestic animal" means those species of animals that live under the husbandry of humans.

(20) "Emergency fish diseases" means certain infectious diseases of fish that are transmissible directly or indirectly from 1 fish to another and are not known to exist within the waters of the state. Emergency fish diseases include, but are not limited to, viral hemorrhagic septicemia, infectious hematopoietic necrosis, ceratomyxosis, and proliferative kidney disease.

(21) "Equine" means all animals of the equine family which includes horses, asses, jacks, jennies, hinnies, mules, donkeys, burros, ponies, and zebras.

(22) "Exhibition or exposition" means a congregation, gathering, or collection of livestock that are presented or exposed to public view for show, display, swap, exchange, entertainment, educational event, instruction, advertising, or competition. Exhibition or exposition does not include livestock for sale at public stockyards, auctions, saleyards, and livestock yards licensed under the provisions of 1937 PA 284, MCL 287.121 to 287.131.

(23) "Exhibition facility" means any facility used or intended to be used for public view, show, display, swap, exchange, entertainment, advertisement, educational event, or competition involving livestock. Exhibition facility does not include a public stockyard, an auction saleyard, and a livestock yard where livestock are accepted on consignment and the auction method is used in the marketing of the livestock.

(24) "Exhibitor" means any person who presents livestock for public display, exhibition, or competition or enters livestock in a fair, show, exhibition, or exposition.

(25) "Exotic animal" means those animals that are not native to North America.

(26) "Fair" means a competition and educational exhibition of agricultural commodities and manufactured products for which premiums may be paid and which is conducted by an association or governmental entity.

(27) "Feral swine" means swine which have lived their life or any part of their life as free roaming or not under the husbandry of humans.

287.704 Definitions; F to I.

Sec. 4. (1) "Fish disease inspection report" means a document available from the Great Lakes fishery commission completed by a fish health official giving evidence of inspections and diagnostic work performed.

(2) "Fish health official" means a fish health specialist identified by member agencies of the Great Lakes fish disease control committee to the chair of the Great Lakes fish disease control committee responsible for conducting fish-hatchery inspections and the issuance of inspection reports.

(3) "Flock" means all of the poultry on 1 premises or, upon the discretion of the department, a group of poultry that is segregated from all other poultry for at least 21 days.

(4) "Garbage" means any animal origin products, including those of poultry and fish origin, or other animal material resulting from the handling, processing, preparation, cooking, and consumption of foods. Garbage includes, but is not limited to, any refuse of any type that has been associated with any such material at any time during the handling, preparation, cooking, or consumption of food. Garbage does not include rendered products or manure.

(5) "Grade" means an animal for which no proof of registration with an appropriate breed registry is provided.

(6) "Hatchery" means incubators, hatchers, and auxiliary equipment on 1 premises operated and controlled for the purpose of hatching poultry.

(7) "Hatching poultry eggs" means eggs for use in a hatchery to produce young poultry or to produce embryonated eggs.

(8) "Herd or flock of origin" means any herd or flock in which animals are born and remain until movement or any herd or flock which animals remain for at least 30 days immediately following direct movement into the herd or flock from another herd or flock. Herd or flock of origin includes the place of origin, premises of origin, and farm of origin.

(9) "Infectious disease" means an infection or disease due to the invasion of the body by pathogenic organisms.

(10) "Isolated" means the physical separation of animals by a physical barrier in such a manner that other animals do not have access to the isolated animals' body, excrement, aerosols, or discharges, not allowing the isolated animals to share a building with a common ventilation system with other animals, and not allowing the isolated animals to be within 10 feet of other animals if not sharing a building with a common ventilation system. Isolated animals have a feed and water system separate from other animals.

287.706 Definitions; O to W.

Sec. 6. (1) "Official calfhood vaccinate" means female cattle that are vaccinated by an accredited veterinarian with a United States department of agriculture approved brucella abortus vaccine in accordance with procedures and at an age approved by the director.

(2) "Official identification" means an identification ear tag, tattoo, electronic identification, or other identification approved by the United States department of agriculture or the department.

(3) "Official interstate health certificate" or "official interstate certificate of veterinary inspection" means a printed form adopted by any state that documents the information required under section 20 and that is issued for animals being imported to or exported from this state within 30 days before the importation or exportation of the animals it describes. A photocopy of an official interstate health certificate or an official interstate certificate of veterinary inspection is considered an official copy if certified as a true copy by the issuing veterinarian or a livestock health official of the state of origin.

(4) "Official test" means a sample of specific material collected from an animal by an accredited veterinarian, state or federal veterinary medical officer, or other person authorized by the director and analyzed by a laboratory certified by the United States department of agriculture or the department to conduct the test, or a diagnostic injection administered and analyzed by an accredited veterinarian or a state or federal veterinary medical officer. An official test is conducted only by an accredited veterinarian or a state or federal veterinary medical officer except under special permission by the director.

(5) "Official vaccination" means a vaccination that the director has designated as reportable, administered by an accredited veterinarian or a state or federal veterinary medical officer, and documented on a form supplied by the department.

(6) "Originate" refers to direct movement of animals from a herd or flock of origin.

(7) "Over 19 months of age" means cattle that have the first pair of permanent incisor teeth visibly present unless the owner can document the exact age. Parturient or postparturient heifers, regardless of their age, are considered over 19 months of age.

(8) "Person" means an individual, partnership, corporation, cooperative, association, joint venture, or other legal entity including, but not limited to, contractual relationships.

(9) "Poultry" means, but is not limited to, chickens, guinea fowl, turkeys, waterfowl, pigeons, doves, peafowl, and game birds that are propagated and maintained under the husbandry of humans.

(10) "Prior entry permit" means a code that is obtained from the department for specific species of livestock imported into the state that is recorded on the official interstate health certificate or official interstate certificate of veterinary inspection before entry into the state.

(11) "Privately owned cervid" means all species of the cervid family including, but not limited to, deer, elk, moose, and all other members of the family cervidae raised or maintained in captivity for the production of meat and other agricultural products, sport, exhibition, or any other purpose. A privately owned cervid at large will continue to be considered a privately owned cervid as long as it bears visible identification.

(12) "Privately owned cervid farm" means any private or public premises that contains 1 or more privately owned cervids and does not have any privately owned cervids removed by the hunting method.

(13) "Privately owned cervid ranch" means any private or public premises that contains 1 or more privately owned cervids and has privately owned cervids removed by the hunting method.

(14) "Privately owned white-tailed deer or elk ranch" means any private or public premises that contain 1 or more privately owned white-tailed deer or privately owned elk and has privately owned white-tailed deer or privately owned elk removed by the hunting method.

(15) "Pullorum-typhoid" means a disease of poultry caused by both salmonella pullorum and salmonella gallinarum.

(16) "Pullorum-typhoid clean flock" means a flock that receives and maintains this status by fulfilling the requirements prescribed in the national poultry improvement plan.

(17) "Quarantine" means enforced isolation of any animal or group of animals or restriction of movement of an animal or group of animals, equipment, or vehicles to or from any structure, premises, or area of this state including the entirety of this state.

(18) "Ratite" means flightless birds having a flat breastbone without the keellike prominence characteristic of most flying birds. Ratites include, but are not limited to, cassowaries, kiwis, ostriches, emus, and rheas.

(19) "Reasonable assistance" means safely controlling an animal by corralling, stabling, kenneling, holding, tying, chemically restraining, or confining by halter or leash or crowding the animal in a safe and sensible manner so an examination or testing procedure considered necessary by the director can be performed.

(20) "Rendered products" means waste material derived in whole or in part from meat of any animal or other animal material and other refuse of any character whatsoever that has been associated with any such material at any time during the handling, preparation, cooking, or consumption of food that has been ground and heat-treated to a minimum temperature of 230 degrees Fahrenheit to make products including, but not limited to, animal protein meal, poultry protein meal, fish protein meal, grease, or tallow. Rendered products also include bakery wastes, eggs, candy wastes, and domestic dairy products including, but not limited to, milk.

(21) "Reportable disease" means an animal disease on the current reportable animal disease list maintained by the state veterinarian that poses a serious threat to the livestock industry, public health, or human food chain.

(22) "Slaughter facility premises" means all facilities, buildings, structures, including all immediate grounds where slaughtering occurs under federal or state inspection, or otherwise authorized by the director.

(23) "Sow" means any female swine that has farrowed or given birth to or aborted 1 litter or more.

(24) "State veterinarian" means the chief animal health official of the state as appointed by the director under section 7, or his or her authorized representative.

(25) "Swine" means any of the ungulate mammals of the family suidae.

(26) "Terminal operation" means a facility for cattle, privately owned cervids, and goats to allow for continued growth and finishing until such time as the cattle, privately owned cervids, and goats are shipped directly to slaughter.

(27) "Toxic substance" means a natural or synthetic chemical in concentrations which alone or in combination with other natural or synthetic chemicals presents a threat to the health, safety, or welfare to human or animal life or which has the capacity to produce injury or illness through ingestion, inhalation, or absorption through the body surface.

(28) "Toxicological disease" means any condition caused by or related to a toxic substance.

(29) "U.S. registered shield" means a tattoo authorized and approved by the United States department of agriculture for use by an accredited veterinarian to designate cattle that have been vaccinated against brucellosis using an approved brucella abortus vaccine.

(30) "Veterinarian" means a person licensed to practice veterinary medicine under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, or under a state or federal law applicable to that person.

(31) "Veterinary biological" means all viruses, serums, toxins, and analogous products of natural or synthetic origin, or products prepared from any type of genetic engineering, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms, and the antigenic or immunizing components of microorganisms intended for use in the diagnosis, treatment, or prevention of diseases in animals.

(32) "Waters of the state" means groundwaters, lakes, rivers, and streams and all other watercourses and waters within the jurisdiction of the state and also the Great Lakes bordering the state.

(33) "Wild animal" means any nondomesticated animal or any cross of a nondomesticated animal.

287.708 State veterinarian; powers and duties generally.

Sec. 8. (1) Under the direction of the director, the state veterinarian shall do all of the following:

(a) Develop and enforce policy and supervise activities to carry out this act and other state and federal laws, rules, and regulations that pertain to the health and welfare of animals in this state on public or private premises.

(b) Promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the use of veterinary biologicals including diagnostic biological agents.

(c) Maintain a list of reportable animal diseases. The state veterinarian shall review and update the list annually and more often if necessary.

(d) Maintain a list of veterinary biologicals whose sale, distribution, use, or administration by any person is reported to the director when requested by the director within 10 working days of the sale, distribution, use, or administration. The state veterinarian shall review and update the list annually and more often if necessary.

(e) Develop and implement scientifically based surveillance and monitoring programs for reportable diseases when the director determines, with advice and consultation from the livestock industry and veterinary profession, that these programs would aid in the control or eradication of a reportable disease or strengthen the economic viability of the industry.

(2) The state veterinarian may require that the importation and use of veterinary biologicals or biological agents be reported to the department and may restrict the use of certain veterinary biologicals to veterinarians when the disease or veterinary biological involved has a substantial impact on public health, animal health, or animal industry.

(3) Unless otherwise prohibited by law, the state veterinarian may enter upon any public or private premises to enforce this act.

(4) A person shall not give false information in a matter pertaining to this act and shall not impede or hinder the director in the discharge of his or her duties under this act.

(5) Upon demand of the director, a person transporting livestock shall produce documentation that contains the origin of shipment, registration or permit copies or documentation, documentation demonstrating shipping destination, and any other proof that may be required under this act.

(6) The director may waive any testing requirements after epidemiologic review.

287.709 Animal affected with reportable disease or contaminated with toxic substance; moving restrictions and requirements; designation of high risk areas; exemption; conduct of bovine tuberculosis testing.

Sec. 9. (1) A person who discovers, suspects, or has reason to believe that an animal is either affected by a reportable disease or contaminated with a toxic substance shall immediately report that fact, suspicion, or belief to the director. The director shall take appropriate action to investigate the report. A person possessing an animal affected by, or suspected of being affected by, a reportable disease or contaminated with a toxic substance shall allow the director to examine the animal or collect diagnostic specimens. The director may enter premises where animals, animal products, or animal feeds are suspected of being contaminated with an infectious or contagious disease, or a disease caused by a toxic substance and seize or impound the animal products or feed located on the premises. The director may withhold a certain amount of animal products or feed for the purpose of controlled research and testing. A person who knowingly possesses or harbors affected or suspected animals shall not expose other animals to the affected or suspected animals or otherwise move the affected or suspected animals or animals under quarantine except with permission from the director.

(2) A person owning animals shall provide reasonable assistance to the director during the examination and necessary testing procedures.

(3) The director may call upon a law enforcement agency to assist in enforcing the director's quarantines, orders, or any other provisions of this act.

(4) A person shall not remove or alter the official identification of an animal. A person shall not misrepresent an animal's identity or the ownership of an animal. A person shall not misrepresent the animal's health status to a potential buyer.

(5) The director shall devise and implement a program to compensate livestock owners for livestock that die, are injured, or need to be destroyed for humane reasons due to injury occurring while the livestock are undergoing mandatory or required testing for a reportable disease.

(6) Any medical or epidemiological information that identifies the owners of animals and is gathered in connection with the reporting of a discovery, suspicion, or reason to believe that an animal is either affected by a reportable disease or contaminated with a toxic substance, or information gathered in connection with an investigation of the reporting of a discovery, suspicion, or reason to believe that an animal is affected by a reportable disease or contaminated with a toxic substance is confidential, is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and is not open to public inspection without the individual's consent unless public inspection is necessary to protect the public or animal health as determined by the director. Such medical or epidemiological information that is released to a legislative body shall not contain information that identifies a specific owner.

(7) As used in subsections (8) to (10):

(a) "Disease free zone" means any area in the state with defined dimensions determined by the department in consultation with the United States department of agriculture to be free of bovine tuberculosis in livestock.

(b) "Infected zone" means any area in the state with defined dimensions in which bovine tuberculosis is present in livestock and separated from the disease free zone by a surveillance zone as determined by the department in consultation with the United States department of agriculture.

(c) "Official intrastate health certificate or official intrastate certificate of veterinary inspection" means a printed form adopted by the department and completed and issued by an accredited veterinarian that documents an animal's point of origin, point of destination, official identification, and any required official test results.

(d) "Prior movement permit" means prior documented permission given by the director before movement of livestock.

(e) "Surveillance zone" means any area in the state with defined dimensions that is located adjacent and contiguous to an infected zone as determined by the department in consultation with the United States department of agriculture.

(8) The director may develop, implement, and enforce scientifically based movement restrictions and requirements including official bovine tuberculosis test requirements, prior movement permits, official intrastate health certificates or animal movement certificates to accompany movement of animals, and official identification of animals for movement between or within a disease free zone, surveillance zone, and an infected zone, or any combination of those zones.

(9) The department shall comply with the following procedures before issuing zoning requirements described in subsection (8) that assure public notice and opportunity for public comment:

(a) Develop scientifically based zoning requirements with advice and consultation from the livestock industry and veterinary profession.

(b) Place the proposed zoning requirements on the commission of agriculture agenda at least 1 month before final review and order by the director. During the 1-month period described in this subdivision, written comments may be submitted to the director and the director shall hold at least 1 public forum within the affected areas.

(c) Place the proposed zoning requirements at least 1 month before implementation in a newspaper of each county within the proposed zoning requirement area and at least 2 newspapers having circulation outside of the proposed zoning requirement area.

(10) The director may revise or rescind movement restrictions and other requirements described in subsection (8), pursuant to this section, and any revision or revocation of such

movement restrictions or other requirements shall comply with the procedure set forth in subsection (9) unless the revision does not alter the boundary of a previously established zone.

(11) As used in subsections (12) to (32):

(a) "High-risk area" means an area designated by the director where bovine tuberculosis has been diagnosed in livestock.

(b) "Intrastate movement" means movement from 1 premises to another within this state. Intrastate movement does not include the movement of livestock from 1 premises within the state directly to another premises within the state when both premises are a part of the same livestock operation under common ownership and both premises are directly interrelated as part of the same livestock operation. Except that when intrastate movement causes livestock to cross from 1 zone into another zone, livestock must meet the testing requirements for their zone of origin.

(c) "Potential high-risk area" means an area determined by the director in which bovine tuberculosis has been diagnosed in wild animals only.

(d) "Whole herd" means any isolated group of cattle, privately owned cervids, or goats maintained on common ground for any purpose, or 2 or more groups of cattle, privately owned cervids, or goats under common ownership or supervision geographically separated but that have an interchange or movement of cattle, privately owned cervids, or goats without regard to health status as determined by the director.

(e) "Whole herd test" means a test of any isolated group of cattle or privately owned cervids 12 months of age and older or goats 6 months of age or older maintained on common ground for any purpose; 2 or more groups of cattle, goats, or privately owned cervids under common ownership or supervision geographically separated but that have an interchange or movement of cattle, goats, or privately owned cervids without regard to health status as determined by the director; or any other test of an isolated group of livestock considered a whole herd test by the director.

(12) This section does not exempt dairy herds from being tested in the manner provided for by grade "A" pasteurized milk ordinance, 2001 revision of the United States public health service/food and drug administration, with administrative procedures and appendices, set forth in the public health service/food and drug administration publication no. 229, and the provisions of the 1995 grade "A" condensed and dry milk products and condensed and dry whey-supplement I to the grade "A" pasteurized milk ordinance, 2001 revisions, and all amendments to those publications thereafter adopted pursuant to the rules that the director may promulgate.

(13) The director may establish high-risk areas and potential high-risk areas based upon scientifically based epidemiology. The director shall notify the commission of agriculture and publish public notice in a newspaper of each county with general circulation in any area designated as a high-risk or potential high-risk area.

(14) All cattle and goat herds located in high-risk areas shall be whole herd bovine tuberculosis tested at least once per year. After the first whole herd bovine tuberculosis test, testing shall occur between 10 and 14 months from the anniversary date of the first test. This section does not prevent whole herd testing by the owner or by department mandate at shorter intervals. When 36 months of testing fails to disclose a newly affected herd within the high-risk area or any portion of the high-risk area, the director shall remove the high-risk area designation from all or part of that area.

(15) Terminal operations located in high-risk areas in this state are exempt from the requirements of subsection (14) and shall be monitored by a written surveillance plan approved by the director.

(16) All cattle and goat herds located in potential high-risk areas shall be whole herd bovine tuberculosis tested within 6 months after the director has established a potential high-risk area or have a written herd plan with a targeted whole herd bovine tuberculosis testing date. When all herds meet the testing requirements imposed in this subsection, the director shall remove the potential high-risk area designation.

(17) Terminal operations located in potential high-risk areas in this state are exempt from the requirements of subsection (16) and may be monitored by a written surveillance plan approved by the director.

(18) Each owner of any privately owned cervid herd within a high-risk area shall cause an annual whole herd bovine tuberculosis test to be conducted on all privately owned cervids 12 months of age and older within the herd and all cattle and goats 6 months of age and older in contact with the cervids. Following the initial annual whole herd test, subsequent whole herd tests shall be completed at 9- to 15-month intervals. This section does not prevent whole herd testing by the owner or by department mandate at shorter intervals.

(19) Each owner of any privately owned cervid ranch within a high-risk area may elect to undergo a tuberculosis slaughter surveillance plan approved by the director in lieu of the annual whole herd testing. This slaughter surveillance plan must include examination of animals removed from the herd for detection of tuberculosis. Examination must be performed by a state or federal veterinarian or accredited veterinarian. The number to be examined at each testing interval shall include adult animals and must be equal to the amount necessary to establish an official tuberculosis monitored herd as defined in the bovine tuberculosis eradication uniform methods and rules, effective January 22, 1999, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(20) All cattle and goat herds, except livestock assembled at feedlots where all animals are fed for slaughter before 24 months of age, that are located in any area outside a high-risk area or a potential high-risk area in this state shall be whole herd bovine tuberculosis tested between January 1, 2000 and December 31, 2003. Privately owned cervid herds located in the non-high-risk areas or potential high-risk areas shall be tested per sections 30c and 30d. The director may order testing for any reportable disease in any geographical area or in any herd to accomplish surveillance necessary for the state of Michigan to participate in the national tuberculosis eradication program, to complete epidemiologic investigations for any reportable disease, or in any instance where a reportable disease is suspected. The director may establish a surveillance testing program for cattle and goats to replace the testing protocol and meet the intrastate movement requirements under subsections (22) and (23). A person shall not sell or offer for sale, move, or transfer any livestock that originate from a herd or area under order for testing by the director unless the livestock have met the requirements of the order issued under this subsection. If a person does not cause a herd to be tested in compliance with this order, the director shall notify the person responsible for management of the herd of the necessity for testing to occur and the deadline for testing to occur and shall quarantine any herd that has not been tested until such time as the testing can be completed by state or federal regulatory veterinarians or accredited veterinarians.

(21) Terminal operations and privately owned cervid premises located in any area outside a high-risk area or a potential high-risk area in this state may be exempted from subsection (18) and may be monitored by a written surveillance plan approved by the director.

(22) Subject to subsection (24), cattle and goats originating in an area not designated as a high-risk area moving intrastate shall meet at least 1 of the following until the zone, area, or the entirety of the state from which they originate receives tuberculosis-free status from the United States department of agriculture or under other circumstances as approved by the director:

(a) Originate directly from a herd that has received an official negative whole herd bovine tuberculosis test within the 24 months before the intrastate movement.

(b) Has received an individual official negative bovine tuberculosis test within 60 days before the intrastate movements.

(c) Has originated directly from an accredited bovine tuberculosis-free herd as defined in title 9 of the code of federal regulations and the bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(23) Subject to subsection (24), cattle and goats originating in a high-risk area that move intrastate shall meet at least 1 of the following until the zone, area, or the entirety of the state from which they originate is no longer designated as a high-risk area by the director or under other circumstances as approved by the director:

(a) Originate directly from a herd that has received an official negative whole herd bovine tuberculosis test within the 12 months before the intrastate movement.

(b) Has received an individual official negative bovine tuberculosis test within 60 days before the intrastate movements.

(c) Has originated directly from an accredited bovine tuberculosis-free herd as defined in title 9 of the code of federal regulations and the bovine tuberculosis eradication: uniform methods and rules effective January 22, 1999, approved by veterinary services of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(24) Cattle and goats not meeting subsection (22) or (23) may be sold through a livestock auction market for slaughter only. Slaughter must occur within 5 days after the sale. The buyer of livestock sold for slaughter shall provide verification that the slaughter occurred within 5 days after sale upon request of the director. Failure of a buyer of livestock sold for slaughter to comply with this subsection subjects that buyer to the penalties and sanctions of this act.

(25) Privately owned cervids moving intrastate shall meet requirements under section 30b.

(26) Bovine tuberculosis testing required under this section shall be an official test. Accredited veterinarians under contract and approved under this subsection may be paid by the department for testing services. Approved veterinarians paid by the department or the United States department of agriculture for bovine tuberculosis testing required by this section must attend an initial bovine tuberculosis educational seminar approved by the director.

(27) Bovine tuberculosis testing shall be conducted by the department, United States department of agriculture, or accredited veterinarians.

(28) Individual livestock that have been injected and are undergoing bovine tuberculosis testing shall not be removed from the premises where the test is administered until the test is read except as permitted by the director.

(29) With advice and consultation from the livestock industry and veterinary profession, the director shall pay to a producer for assistance approved by the Michigan commission of agriculture for whole herd bovine tuberculosis testing required in subsections (14), (16), (18), and (20).

(30) The director shall pay to an operator or owner of a livestock auction market on a 50/50 cost share basis for chutes, gates, and remodeling to expedite identification of livestock for bovine tuberculosis surveillance and eradication.

287.711b Official identification.

Sec. 11b. (1) All cattle, goats, sheep, and privately owned cervids shall bear official identification before they leave a premises.

(2) Compliance with this section regarding official identification is the responsibility of the owner.

(3) Official identification shall be supplied by the department.

287.712 Quarantine.

Sec. 12. (1) The director may issue a quarantine on animals, equipment, vehicles, structures, premises, or any area in the state, including the entire state if necessary, for the purpose of controlling or preventing the spread of a known or suspected infectious, contagious, or toxicological disease.

(2) A person shall not move animals that are under quarantine without permission from the director.

(3) A person shall not allow animals under quarantine to mingle or have contact with other animals not under quarantine without permission by the director.

(4) A person shall not import into this state an animal from another state or jurisdiction if that animal is under quarantine by the other state or jurisdiction unless that person obtains prior permission from the director.

(5) A person shall not import into this state an animal species from an area under quarantine for that species for any infectious, contagious, or toxicological disease unless permission is granted from the director.

(6) The director may prescribe procedures for the identification, inventory, separation, mode of handling, testing, treatment, feeding, and caring for both quarantined animals and animals within a quarantined area to prevent the infection or exposure of nonquarantined or quarantined animals to infectious, contagious, or toxicological diseases.

(7) The director may prescribe procedures required before any animal, structure, premises, or area or zone in this state, including the entirety of the state if necessary, are released from quarantine.

(8) An animal found running at large in violation of a quarantine may be killed by a law enforcement agency. The director may enlist the cooperation of a law enforcement agency to enforce the provisions of this quarantine. A law enforcement agency killing an animal due to a quarantine under this section is not subject to liability for the animal.

287.713a Terminal operation.

Sec. 13a. (1) A terminal operation may be a lot, parcel, pasture, premises, facility, or confined area.

(2) A terminal operation shall be registered with the department on an application form provided by the department.

(3) Registration shall not be issued unless the terminal operation has been inspected by the director and found to meet the requirements of this section.

(4) A terminal operation shall not allow or permit drainage from the terminal operation to flow into areas accessible to livestock, livestock feed, or livestock feed storage areas other than the cattle, privately owned cervids, and goats in the terminal operation.

(5) A terminal operation is constructed and operated to deter cattle, privately owned cervids, and goats in the terminal operation from making contact with animals other than those in the terminal operation.

(6) If a vehicle transporting cattle, privately owned cervids, and goats from a terminal operation completes the load at additional farms, all of which are en route to a slaughter facility, all cattle, privately owned cervids, and goats must remain on the vehicle and no animals are allowed to unload.

(7) A terminal operation may accept individual livestock that have not been tested for bovine tuberculosis provided that the herd of origin has been tested according to requirements of this act or when other requirements as determined by the director have been met.

(8) Aborted fetuses and animals that die in a terminal operation shall be disposed of in compliance with section 57 of the Michigan penal code, 1931 PA 328, MCL 750.57, and 1982 PA 239, MCL 287.651 to 287.683, regarding burial of dead animals.

(9) If an animal gives birth while in the terminal operation, both of the following apply:

(a) The offspring are restricted to the terminal operation and may leave only as described in subsection (10).

(b) The newborn animal must be officially identified within 30 days after birth.

(10) Cattle, privately owned cervids, and goats shall only exit a terminal operation by being transported directly to a slaughtering establishment, directly to another registered terminal operation, or through a livestock auction market for slaughter only, or to a veterinary hospital or clinic where the animal is not commingled with other animals unless permission is granted by the director to move the cattle, privately owned cervids, or goats to another premises. If cattle, privately owned cervids, or goats exit a terminal operation through a livestock auction market, the director may request verification that the animals were sold for slaughter and that the slaughter occurred 5 days after sale. Moving directly to a slaughtering establishment or directly to another registered terminal operation includes stopping at a premises to load other animals being transported to the slaughtering establishment or terminal operation without unloading any animals.

(11) Cattle, privately owned cervids, and goats in a terminal operation are exempt from official bovine tuberculosis testing as required in section 9(14), (16), and (20).

(12) A conveyance vehicle used to transport cattle, privately owned cervids, and goats from a terminal operation shall be cleaned and disinfected after use with a disinfectant applied in accordance with label instructions.

(13) The director may inspect any terminal operation and records of the terminal operation at any reasonable time to determine whether requirements established by this act are being met. The director shall make a reasonable attempt to notify the owner/operator before any inspection.

(14) Terminal operation records shall include all of the following:

(a) Identification of all cattle, privately owned cervids, and goats. As used in this subdivision, "identification" means official identification, including electronic identification, or permanent identification approved and supplied by the director.

(b) The date cattle, privately owned cervids, or goats were added to the terminal operation.

(c) The complete name and address of the person or dealer from whom the cattle, privately owned cervids, or goats were obtained.

(d) The complete street address of the premises from which the cattle, privately owned cervids, or goats were obtained.

(e) The complete name and street address of the slaughterhouse, veterinary hospital or clinic, livestock auction market, or terminal operation where the cattle, privately owned cervids, or goats were sent.

(f) The date the cattle, privately owned cervids, or goats were removed from the terminal operation.

(15) A terminal operation that purchases livestock from a dealer may provide the department the name of the dealer in order to fulfill the record requirements imposed under this section.

(16) Livestock entering terminal operations must bear official identification or official identification must be applied within 10 days of arrival.

287.714 Seizure, slaughter, destruction, or other disposition of livestock or domestic animals; notice; disposal of animals, animal products, and animal feeds; indemnification; appraisals and inventories; records; affidavit; appraisal certificate; annual budget; release of claim against state; applicability of right to indemnity; cleaning and disinfecting premises; repopulation of premises; cooperating and coordinating with secretary of agriculture; reports.

Sec. 14. (1) If the director determines that the control or eradication of a disease or condition of livestock warrants entry onto property where livestock or domestic animals are located, the director shall order the entry onto property where livestock or domestic animals are located and authorize seizure, slaughter, destruction, or other disposition of individual livestock or domestic animals or the entire herd, flock, or school. If the director has signed an order for the slaughter, destruction, or other disposition of livestock or domestic animals, the director shall notify the attorney general and the house and senate appropriations committees and the department of management and budget on the issue of indemnity under this section. The director may approve facilities and procedures for the orderly disposal of animals, animal products, and animal feeds for the purpose of controlling or preventing the spread of an infectious, contagious, or toxicological disease. The director may select a site or method for the disposal with the advice of the director of the department of environmental quality.

(2) The director may, under rules promulgated by the department, allow indemnification for the slaughter, destruction, or other disposition of livestock or domestic animals due to livestock diseases or toxicological contamination. If the director has signed an order for the slaughter, destruction, or other disposition of livestock or domestic animals, the owner may apply for indemnification. The director shall appraise and inventory the condemned livestock or domestic animals. The appraisals and inventories shall be on forms approved by the director. The director shall use agricultural pricing information from commercial livestock or domestic animal auction markets and other livestock or domestic animal market information as determined by the director to determine the value of condemned livestock or domestic animals.

(3) Except as otherwise provided in subsection (5), indemnification for individual livestock or domestic animals within a herd, flock, or school shall be based upon 100% of the fair market value of that type of livestock or domestic animal on the date of the appraisal and marketable for the purpose for which the livestock or domestic animal was intended, not to exceed $4,000.00 for each livestock or domestic animal. The appraisal determination shall not delay the slaughter, destruction, or disposition of the livestock or domestic animals. The indemnification amount under this subsection shall include a deduction for any compensation received, or to be received, from any other source including, but not limited to, indemnification by the United States department of agriculture, insurance, salvage value, or any monetary value obtained to encourage disposal of infected or exposed livestock or domestic animals in accordance with a disease control or eradication program. The owner shall furnish to the department all records indicating other sources of indemnity. An affidavit signed by the owner attesting to the amount of compensation for the livestock received or to be received from any other source shall accompany the appraisal certificate before indemnification under this section.

(4) Except as otherwise provided in subsection (5), indemnification for entire herd, flock, or school depopulations of livestock or domestic animals shall be based upon 100% of the fair market value of that type of animal on the date of the appraisal and marketable for the purpose for which the livestock or domestic animal was intended, not to exceed an average of $4,000.00 per animal in the flock, herd, or school. The appraisal determination shall not delay depopulation. The indemnification amount under this section shall include a deduction for any compensation received, or to be received, from any other source including, but not limited to, indemnification by the United States department of agriculture, insurance, salvage value, or any monetary value obtained to encourage disposal of infected or exposed livestock or domestic animals in accordance with a disease control or eradication program. The owner shall furnish to the department all records indicating other sources of indemnity. An affidavit signed by the owner attesting to the amount of compensation for the livestock or domestic animals received, or to be received, from any other source shall accompany the appraisal certificate prior to indemnification under this section.

(5) The department may provide for indemnity pursuant to this section not to exceed $100,000.00 per order, from any line item in the annual budget for the department in the applicable fiscal year. Any agreement greater than $100,000.00 entered into between the department and an owner of livestock shall contain a provision indicating that, notwithstanding the terms of the agreement, indemnification shall be subject to specific appropriations by the legislature and not be paid from department funds.

(6) Acceptance of compensation under this act constitutes a full and complete release of any claim the owner has against the state of Michigan, its departments, agencies, officers, employees, agents, and contractors to the extent these persons were acting on behalf of the state, within the scope of their employment with the state or under the direction of the state, its departments, agencies, officers, or employees, arising out of testing, purchase, removal, slaughter, destruction, and other disposition of the owner's animals.

(7) The right to indemnity from the state for animals condemned and ordered slaughtered, destroyed, or otherwise disposed of by the director applies only to native livestock and native domestic animals. Indemnification shall not apply to livestock or domestic animals determined by the department to be imported without meeting import requirements such as official interstate health certificate or official interstate certificate of veterinary inspection, required testing, required vaccination, or for livestock or domestic animals determined by the department to have been illegally moved within this state. An

owner is not entitled to indemnity from the state for an animal that comes into the possession of the owner with the owner's knowledge that the animal is diseased or is suspected of having been exposed to an infectious, contagious, or toxicological disease. In addition, the director shall not indemnify an owner for animals that have been exposed to an animal that comes in to the possession of the owner with the owner's knowledge that the animal is diseased or is suspected of having been exposed to an infectious, contagious, or toxicological disease.

(8) A premises that has been depopulated shall be cleaned and disinfected as prescribed by the director.

(9) Repopulation of the premises, except as approved by the director, shall not confer eligibility for future indemnity under this section.

(10) The department may cooperate and coordinate with the secretary of the United States department of agriculture or the secretary's authorized representative or other governmental departments or agencies regarding indemnification under this section.

(11) Not less than annually, within 60 days after the close of the fiscal year, the director shall make a written report to the standing committees of the house of representatives and senate having jurisdiction on agricultural and farming issues. The report will include the following:

(a) The amount expended by the department for bovine tuberculosis eradication during the preceding fiscal year.

(b) An explanation of the expenditures made by the department for bovine tuberculosis eradication during the preceding fiscal year.

(c) The status of bovine tuberculosis eradication efforts in Michigan.

(12) Not less than annually, within 60 days after the close of the fiscal year, the director of the department of natural resources shall make a written report to the standing committees of the house of representatives and senate having jurisdiction on agricultural and farming issues. The report will include the following:

(a) The amount expended by the department of natural resources for bovine tuberculosis eradication during the preceding fiscal year.

(b) An explanation of the expenditures made by the department of natural resources for bovine tuberculosis eradication during the preceding fiscal year.

287.716 Slaughter, destruction, or other disposition of livestock; branding and identification.

Sec. 16. (1) Livestock ordered to be slaughtered, destroyed, or otherwise disposed of by the director because of tuberculosis shall be branded on the left hip with a letter "T" not less than 2 inches high, and a tag designated as a reactor tag by the director shall be placed in the left ear. Tuberculosis reactor cattle, bison, and goats as defined in title 9 of the code of federal regulations and the bovine tuberculosis eradication: uniform methods and rules effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate shall also be identified by a permanent and legible tuberculosis tattoo and spray of yellow paint on the left ear. The director may refrain from the branding, tattooing, ear painting, and reactor tagging if slaughter, destruction, or other disposition of the entire herd is under the director's direct control or if individual animals are sent to a diagnostic laboratory or to disposal under an official seal and secured transport limit.

(2) Tuberculosis reactor cattle, bison, goats, and privately owned cervids as defined in title 9 of the code of federal regulations and the bovine tuberculosis eradication: uniform methods and rules effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate shall remain on the premises where they were located until a state or federal permit for movement has been obtained. Movement for destruction shall be within 15 days after classification as a reactor.

(3) Livestock ordered to be slaughtered, destroyed, or otherwise disposed of by the director because of brucellosis shall be branded on the left hip with a letter "B" not less than 2 inches high, and a tag designated as a reactor tag by the director shall be placed in the left ear. An exposed animal in a brucellosis infected or quarantined herd shall be branded on the left hip with a letter "S" not less than 2 inches high before a permit shall be issued to slaughter, destroy, or otherwise dispose of the animal for slaughter. The director may refrain from the branding and identification if slaughter, destruction, or other disposition of the entire herd is under the director's direct control, if animals are moved under official seal and secured transport unit, or if individual animals are sent to a diagnostic laboratory in a manner approved by the director.

(4) Livestock ordered slaughtered, destroyed, or otherwise disposed of for infectious, contagious, or toxicological diseases other than tuberculosis or brucellosis shall be identified and slaughtered, destroyed, or otherwise disposed of in a manner approved by the director.

287.719 Imported livestock; requirements.

Sec. 19. (1) Livestock imported into this state shall meet any and all requirements under appropriate provisions of this act and shall be accompanied by 1 of the following:

(a) An official interstate health certificate.

(b) An official interstate certificate of veterinary inspection.

(c) An owner-shipper statement or sales invoice if consigned directly to slaughter, or if nonnative neutered cattle imported directly to a cattle importation lot.

(d) A "report of sales of hatching eggs, chicks, and poults" (vs form 9-3) for participants in the national poultry improvement plan.

(e) A "permit for movement of restricted animals" (vs form 1-27), if prior approval is granted by the director.

(f) A fish disease inspection report for aquaculture only.

(g) Permission from the director.

(2) Brucellosis or tuberculosis officially classified suspect or reactor cattle shall not be imported into this state.

(3) A person shall not import or move intrastate livestock known to be affected with or exposed to chronic wasting disease, tuberculosis, or brucellosis, as determined by an official test, without permission of the director.

(4) The director may require that a prior entry permit be obtained for certain classifications of livestock.

(5) Any person, consignee, dealer, or livestock market operator must ensure that any testing required under this act, any official identification required under this act, and any requirements for official interstate or intrastate health certificate, official interstate or intrastate certificate of veterinary inspection, animal movement certificate, owner-shipper statement, sales invoice, "report of sales of hatching eggs, chicks, and poults" (vs form 9-3),

"permit for movement of restricted animals" (vs form 1-27), or prior entry permit have been fulfilled before accepting any animals on such a certificate and that a true copy is provided to the director upon request.

(6) Livestock shall not be diverted to premises other than the destination site named on the official interstate or intrastate health certificate, official interstate or intrastate certificate of veterinary inspection, owner-shipper statement, sale invoice, entry authorization form, exit authorization form, prior movement form, vs form 9-3, or vs form 1-27.

(7) Livestock imported for exhibition shall meet the requirements prescribed by this act for importation of breeding animals of that species and shall be accompanied by a copy of an official interstate health certificate or an official interstate certificate of veterinary inspection issued by an accredited veterinarian from the state of origin.

(8) The director may refuse entry into this state of livestock that the director has reason to believe may pose a threat to the public health or health of livestock. Livestock imported into this state shall not originate from a herd under quarantine unless accompanied by permission issued by the director. The director may waive specific requirements if it is determined that livestock imported from a certain area or state are not a threat to the public health or health of livestock.

(9) If the director determines that there is a threat to public health or a threat to the health of animals in this state, the director may require additional testing and vaccination requirements for animals imported or to be imported into this state.

287.722 Animal imported without required official tests or documents.

Sec. 22. (1) If an animal is imported into this state without the required official tests or documents, the director may do any or all of the following:

(a) Quarantine the animal.

(b) Require that the required tests or documents be performed or obtained at the owner's expense.

(c) Require the animal be returned to the state of origin within 10 days after such notification.

(d) Order the slaughter, destruction, or other disposition of the livestock, if it is determined by the director that the control or eradication of a disease or condition of the livestock is warranted. Livestock determined to be imported without meeting import requirements are not eligible for indemnity.

(e) Allow a direct movement of the animal or animals to slaughter by permit.

(f) Allow legal importation into another state.

(2) If the official test result or proof of shipment of the animal back to the state of origin has not been received within 15 days after notification, the director may order that the required tests be performed by a department veterinarian, at the owner's or importer's expense.

287.730a Privately owned cervidae.

Sec. 30a. (1) Privately owned cervids, except those consigned directly to a state or federally inspected slaughter facility premises, shall not be imported into this state unless accompanied by an official interstate health certificate or official interstate certificate of veterinary inspection.

(2) Privately owned cervids imported into this state shall be individually identified by an official identification. The official identification shall be listed on the official interstate health certificate or official interstate certificate of veterinary inspection.

(3) Privately owned cervids 6 months of age or older imported into this state, except those consigned directly to a state or federally inspected slaughter facility premises, shall originate directly from a certified brucellosis-free cervid herd as defined in brucellosis in cervidae: uniform methods and rules, effective September 30, 1998, or shall test negative to an official test for brucellosis within 30 days before importation.

(4) Privately owned cervids 1 year of age or older imported into this state, except those consigned directly to a state or federally inspected slaughter facility premises, must comply with 1 of the following before importation:

(a) Originate directly from an official tuberculosis accredited herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(b) Originate directly from an official tuberculosis qualified or monitored herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, and receive an official negative test for tuberculosis within 90 days before importation.

(c) Be isolated from all other animals until it receives 2 official negative tuberculosis tests conducted no less than 90 days apart, with the first test conducted no more than 120 days before importation.

(5) All privately owned cervids less than 1 year of age imported into this state, except those consigned directly to a state or federally inspected slaughter facility premises, must comply with 1 of the following before importation:

(a) Originate directly from an official tuberculosis accredited herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(b) Be born in and originate directly from an official tuberculosis qualified or monitored herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(c) Be a purchased addition originating directly from an official tuberculosis qualified or monitored herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, and receive an official negative test for tuberculosis within 90 days before importation.

(d) Be isolated from all other animals until it receives 2 official negative tuberculosis tests conducted not less than 90 days apart, with the first test conducted no more than 120 days before importation.

(6) Privately owned cervids with a response other than negative to any tuberculosis test or brucellosis test are not eligible for interstate movement into this state without permission from the director.

(7) Privately owned cervids known to be affected with or exposed to tuberculosis or brucellosis are not eligible for interstate movement into this state without permission from the director.

287.730b Privately owned cervidae; intrastate movement.

Sec. 30b. (1) All live privately owned cervids moving from 1 premises to another premises within this state shall be officially identified with an identification approved by the director.

(2) All live privately owned cervids 6 months of age or older moving from 1 premises to another premises within this state, except those consigned directly to a state or federally inspected slaughter facility premises, shall comply with 1 of the following:

(a) Originate directly from an official tuberculosis accredited, qualified, or monitored herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, and be accompanied by a copy of the current official letter from the Michigan department of agriculture verifying herd status.

(b) Originate directly from a herd that has received an official negative tuberculosis test of all privately owned cervids 12 months of age or older and all cattle and goats 6 months of age and older in contact with the herd within 24 months before movement.

(c) Originate directly from a herd that has received an official negative tuberculosis test of all privately owned cervids 12 months of age or older and all cattle and goats 6 months of age or older in contact with the herd more than 24 months before movement, receive an individual negative official test for tuberculosis within 90 days before movement, and be accompanied by a copy of the official tests for tuberculosis verifying that testing.

(d) Be isolated from all other animals until it receives 2 official negative tuberculosis tests conducted not less than 90 days apart, with the first test conducted not more than 120 days before movement.

(3) All live privately owned cervids less than 6 months of age moving from 1 premises to another premises within this state, except those consigned directly to a state or federally inspected slaughter facility premises, must comply with 1 of the following:

(a) Originate directly from an official tuberculosis accredited, qualified, or monitored herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, be identified by an official identification, and be accompanied by a copy of the current official letter from the Michigan department of agriculture verifying the herd status.

(b) Originate directly from a herd that has received an official negative tuberculosis test of all privately owned cervids 12 months of age or older and all cattle and goats 6 months of age and older in contact with the herd within 24 months before movement.

(c) Originate directly from a herd that has received an official negative tuberculosis test of all privately owned cervids 12 months of age or older and all cattle and goats 6 months of age or older in contact with the herd more than 24 months before movement and be accompanied by an official permit for movement of privately owned cervids less than 6 months of age within Michigan or an official interstate health certificate issued by

an accredited veterinarian, and remain at the destination stated on the permit or official interstate health certificate until it receives an official negative tuberculosis test when it reaches 6 months of age, but not more than 8 months of age. For purposes of this section, the age of the privately owned cervids shall be determined by the age placed on the official permit for movement of privately owned cervids less than 6 months of age in Michigan or the official interstate health certificate issued by the accredited veterinarian. A copy of the official test for tuberculosis and a copy of the official permit for movement of privately owned cervids less than 6 months of age within Michigan or the official interstate health certificate shall be forwarded to the department within 10 days following completion of the testing.

(4) Privately owned cervids with a response other than negative to any tuberculosis test are not eligible for intrastate movement without permission from the director.

(5) Privately owned cervids known to be affected with or exposed to tuberculosis shall not be moved intrastate without permission from the director.

(6) The department shall keep a current database on privately owned cervids premises in this state. The database shall include the owner's name, the owner's current address, location of privately owned cervids, species of privately owned cervids at the premises, and the approximate number of privately owned cervids at the premises.

287.733 Livestock sold at livestock auction market; identification.

Sec. 33. (1) Livestock sold at a livestock auction market shall be handled and housed in facilities and pens in a manner approved by the director. The alleys and sale rings used for livestock auction shall be appropriately cleaned and disinfected before each day's sale. The pens, facilities, and the procedures for cleaning and disinfecting shall be approved by the director.

(2) All cattle, bison, goats, and privately owned cervids presented at any livestock auction market in Michigan shall be identified as required in the bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, and approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(3) Cattle, bison, goats, and privately owned cervids that are marketed for immediate slaughter shall be identified by official ear tag, sale tag, or official back tag in a manner designed to trace the animals to the premises of origin.

(4) Cattle, bison, goats, and privately owned cervids consigned for slaughter or that do not meet intrastate testing requirements for movement from 1 premises to another shall be sold for slaughter only and be moved directly to slaughter. Livestock auction markets or sale yard management shall not sell livestock to any buyer that does not certify in a signed statement that such animals removed from the premises shall be moved directly to a slaughter establishment and slaughtered within 5 days after movement. Before animals are removed by the buyer, sale management shall require that the buyer provide the slaughter destination information for each animal removed from the premises.

287.744 Felonies; penalty; violation of act or rule as misdemeanor; costs and attorney fees; powers of director; failure to pay fine; civil action and penalties; remedies and sanctions as independent and cumulative powers of department.

Sec. 44. (1) A person who commits 1 or more of the following is guilty of a felony punishable by a fine of not less than $1,000.00 and not more than $50,000.00, or imprison-

ment of not more than 5 years, or both, and shall not receive any indemnification payments at the discretion of the director:

(a) Intentionally contaminating or exposing livestock to an infectious, contagious, or toxicological disease for the purpose of receiving indemnification from the state or causing the state to destroy affected livestock.

(b) Intentionally making a false statement on an application for indemnification or reimbursement from the state.

(c) Intentionally violating a condition of quarantine authorized under section 12 or movement restrictions and other requirements authorized under section 9.

(d) Intentionally importing into this state, without permission from the director, diseased livestock or livestock exposed to an infectious, contagious, or toxicological disease.

(e) Intentionally misrepresenting the health, medical status, or prior treatment for an infectious, contagious, or toxicological disease of livestock to facilitate movement or transfer of ownership to another person.

(f) Intentionally infecting or contaminating an animal with, or intentionally exposing an animal to, a reportable disease other than for bona fide research as approved by a research institution licensed by the state of Michigan or a federal agency.

(2) Except as otherwise provided under subsections (1) and (2), a person who violates this act, a rule promulgated under this act, a quarantine authorized under section 12, or movement restrictions and other requirements authorized under section 9 is guilty of a misdemeanor, punishable by a fine of not less than $300.00 or imprisonment of not less than 30 days, or both.

(3) The court may allow the department to recover reasonable costs and attorney fees incurred in a prosecution resulting in a conviction for a violation of subsections (1) and (2). Costs assessed and recovered under this subsection shall be paid to the state treasury and credited to the department for the enforcement of this act.

(4) Except as otherwise provided in subsection (1), the director, upon finding that a person has violated this act, a rule promulgated under this act, a quarantine authorized under section 12, or movement restrictions and other requirements authorized under section 9, may do the following:

(a) Issue a warning.

(b) Impose an administrative fine of not more than $1,000.00 for each violation after notice and an opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) Issue an appearance ticket as described and authorized by sections 9a to 9g of chapter 4 of the code of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g, with a fine of not less than $300.00 or imprisonment of not less than 30 days, or both.

(5) The director shall advise the attorney general of the failure of any person to pay an administrative or civil fine imposed under this section. The attorney general shall bring a civil action in a court of competent jurisdiction to recover the fine and costs and fees including attorney fees. Civil penalties and administrative fines collected shall be paid to the state treasury.

(6) The remedies and sanctions under this act are independent and cumulative. The use of a remedy or sanction under this act does not bar other lawful remedies and sanctions and does not limit criminal or civil liability. Notwithstanding the provisions of this act, the department may bring an action to do 1 or more of the following:

(a) Obtain a declaratory judgment that a method, act, or practice is a violation of this act.

(b) Obtain an injunction against a person who is engaging, or about to engage, in a method, act, or practice that violates this act.

Repeal of § 287.743a.

Enacting section 1. Section 43a of the animal industry act, 1988 PA 466, MCL 287.743a, is repealed.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 459]

(HB 5778)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 949 (MCL 600.949), as amended by 1980 PA 69.

The People of the State of Michigan enact:

600.949 Investigation of applicants to state bar of Michigan; duty of law enforcement officers; fingerprinting required; disposition of fingerprint records.

Sec. 949. (1) It is the duty of all state, county, and city law enforcement officers to aid the state bar of Michigan and the board of law examiners in any investigation of the conduct of members of the bar, and the character and fitness of persons who apply for admission or reinstatement to the bar, and to furnish all available information about the members or persons.

(2) The board of law examiners shall require that an applicant for admission to the state bar of Michigan be fingerprinted to determine whether the applicant has a record of criminal convictions in this state or in other states. The board of law examiners shall submit the fingerprints and the appropriate state and federal fees, which shall be borne by the applicant, to the department of state police for a criminal history check. The department of state police may then forward the fingerprints to the federal bureau of investigation for a criminal history check. The information obtained as a result of the fingerprinting of an applicant shall be limited to officially determining the character and fitness of the applicant for admission to the state bar of Michigan. After approval of the applicant by the board of law examiners, all fingerprint records shall be returned to the applicant or destroyed.

(3) All fingerprint records being held by the state bar of Michigan shall be destroyed.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 460]

(HB 6043)

AN ACT to amend 1975 PA 197, entitled "An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials," (MCL 125.1651 to 125.1681) by adding section 3d.

The People of the State of Michigan enact:

125.1653d Establishment or amendment of authority, district, or plan; notice; publication or posting.

Sec. 3d. An ordinance enacted by a municipality that has a population of greater than 1,000 and less than 2,000 establishing an authority, creating a district, or approving a development plan or tax increment financing plan, or an amendment to an authority, district, or plan, and all actions taken or to be taken under that ordinance, including the issuance of bonds, are ratified and validated notwithstanding that notice for the public hearing on the establishment of the authority, creation of the district, or approval of the development plan or tax increment financing plan, or on the amendment, was not published, posted, or mailed at least 20 days before the hearing, provided that the notice was either published or posted at least 10 days before the hearing or that the authority was established in 1990 by a municipality that filed the ordinance with the secretary of state not later than July 1991. This section applies only to an ordinance or an amendment adopted by a municipality before January 1, 1999 and shall include any bonds or amounts to be used by the authority to pay the principal of and interest on bonds that have been issued or that are to be issued by the authority or the incorporating municipality. An authority for which an ordinance or amendment to the ordinance establishing the authority has been published before February 1, 1991 is considered for purposes of section 3(3) to have promptly filed the ordinance or amendment to the ordinance with the secretary of state if the ordinance or amendment to the ordinance is filed with the secretary of state before December 31, 2002. The validity of the proceedings or findings establishing an authority described in this section, or of the procedure, adequacy of notice, or findings with respect to the approval of a development plan or tax increment financing plan for an authority described in this section is conclusive with respect to the capture of tax increment revenues for a bond issued after June 1, 2002 and before June 1, 2006. As used in this section, "notice was either published or posted" means either publication or posting of the notice occurred at least once.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 461]

(HB 5758)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 5419 (MCL 324.5419), as added by 2001 PA 165; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.5419 Arsenic testing program; repeal of section.

Sec. 5419. (1) The department shall implement an arsenic testing program. The arsenic testing program shall provide free testing of private drinking water wells for the presence of arsenic in geographic areas of the state where the department knows or suspects that there are levels of arsenic above the federal drinking water standard of 10 parts per billion.

(2) In promoting free drinking water tests under the arsenic testing program, the department shall encourage households containing senior citizens, children, and individuals with medical illnesses to have their drinking water tested.

(3) After the department conducts a test on the level of arsenic in water from a drinking water well, the department shall notify the resident or residents of the household of the level of arsenic in the drinking water sample and whether that level exceeds the federal drinking water standard for arsenic of 10 parts per billion. In addition to the results of the arsenic test, the department shall provide the resident or residents with educational materials about groundwater contamination and shall identify other substances for which the resident or residents may want to consider having the drinking water tested.

(4) The department shall establish an arsenic education program that will produce educational materials to be made available to local health departments in geographic areas of the state that the department knows to contain levels of arsenic above the federal drinking water standard of 10 parts per billion. In addition, the department shall make this information available on the department website.

(5) By October 1, 2002, the department shall, based upon data available to the department and in conjunction with local health departments, produce maps on a county by county basis to denote geographic areas that the department knows to contain arsenic, nitrates, or volatile organic compounds. The maps shall be available to local health departments and local public libraries and shall be posted on the department's website.

(6) By March 15, 2002 and September 30, 2002, the department shall submit a report to the legislature on the status of the implementation of this section.

(7) The department may promulgate rules to implement this section.

(8) As used in this section:

(a) "Local health department" means that term as it is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

(b) "Federal drinking water standard for arsenic" means the standard promulgated under section 1412 of part B of title XIV, popularly known as the safe drinking water act, of the public health service act, chapter 373, 88 Stat. 1660, 42 U.S.C. 300g-1.

(9) This section is repealed effective September 30, 2003.

Repeal of enacting section 1 of 2001 PA 165.

Enacting section 1. Enacting section 1 of 2001 PA 165 is repealed.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 462]

(HB 5927)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to

reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 901, 912, 914, 916, 917, 917a, 918, 922, 924, 932, 934, 938, 942, 943, 944, 946, and 947 (MCL 500.901, 500.912, 500.914, 500.916, 500.917, 500.917a, 500.918, 500.922, 500.924, 500.932, 500.934, 500.938, 500.942, 500.943, 500.944, 500.946, and 500.947), sections 901, 917, 943, and 946 as amended and section 917a as added by 1994 PA 226, section 922 as amended by 1991 PA 79, and section 942 as amended by 1984 PA 90, and by adding section 902.

The People of the State of Michigan enact:

500.901 Asset requirements for insurers.

Sec. 901. (1) Each domestic insurer shall maintain assets in cash or as defined in this chapter in a total amount at least equal to the sum of its liabilities including its reserves as required by this act, plus an amount equal to the lesser of the following:

(a) The minimum capital and surplus required to be maintained by sections 408 and 410.

(b) One of the following:

(*i*) For a fraternal benefit society regulated under chapter 81a, $1,000,000.00.

(*ii*) $7,000,000.00.

(2) For purposes of meeting the assets required by subsection (1), the following apply:

(a) The value of all computers shall not exceed 2% of the assets required by subsection (1) and the value of each computer shall not exceed the original cost of the computer amortized over a period not to exceed 3 years. For purposes of this section, "computer" means an electronic data processing system, composed of 1 or more components, that utilizes storage and processing mechanization and has a direct automatic means of input and output, including, but not limited to, central processing units, data input/output channels, main storage or memory, and peripheral devices for systems control, data input, output, or temporary or permanent storage of information, and associated reusable media required by these devices and operating systems software.

(b) Title insurers may include their net investment in their title plant.

(c) Assets described in sections 946 and 947 that are encumbered with prior liens that affect the salability of the asset to a material extent shall not be used to satisfy the requirements of subsection (1). For purposes of this subdivision, liens that do not affect the salability of the asset to a material extent are real estate taxes or assessments that are not delinquent, liens against an asset for which an insurer is insured against loss by title insurance, and any other liens that in the aggregate are not in excess of 5% of the fair market value of the asset. Assets described in sections 946 and 947 shall not be used to satisfy more than 20% of the requirements of subsection (1). This subdivision does not apply to assets described in section 942.

(d) Amounts receivable from broker/dealers registered under the securities exchange act of 1934, chapter 404, 48 Stat. 881, or from the issuer of a security or asset in connection with the disposition of assets qualified to satisfy subsection (1) may be included, provided the amount is not more than 5 business days past the date of disposition.

(e) Assets not otherwise defined in this chapter may be used as qualified assets for purposes of subsection (1) if the assets are rated investment grade by a securities rating organization approved by the commissioner.

(f) No more than 20% of the assets required by subsection (1) shall be high-yield, high-risk obligations. As used in this subdivision, "high-yield, high-risk obligations" means obligations that are not in 1 of the top 2 numbered classifications of bonds reported in the insurer's annual financial statement on a form approved by the commissioner.

(3) The sum of the liabilities and reserves computed for purposes of this section may be reduced by 1 or more of the following:

(a) A reinsurance balance recoverable or other credit due from a reinsurer that complies with existing or other applicable rules or orders promulgated or issued by the commissioner, to the extent that the balance recoverable or other credit due may be used to offset a liability as authorized in an insurer's annual statement concerning its affairs filed pursuant to section 438.

(b) Policy loans secured by policies included in the liabilities and reserves but not in excess of the cash surrender value of the policies.

(c) Premium notes secured by letters of credit, security trust funds, or unearned premium reserves.

(d) The net amount of insurance premiums and annuity considerations booked but deferred and not yet due. Reduction under this subdivision shall not be allowed for credit life and credit accident and health premiums deferred and uncollected, whether individual or group, except as allowed pursuant to subdivision (e).

(e) Amounts receivable from an agent, agency, policyholder, or other person that does not have control of more than 10% of all the insurer's agents' balances, and that is not affiliated with the insurer on policies with an effective date not more than 1 month old to the extent that the amounts are offset by unearned premium reserves on the same policies.

(f) Amounts receivable from a person to the extent the amounts offset liabilities or amounts payable to that person. Receivables and payables with respect to reinsurance may be allowed so long as the reinsurance contract has a right of offset provision. A reduction under this subdivision shall not be allowed for agents' balances or uncollected premiums as defined by subdivision (e).

(4) Assets, liabilities, and reserves under subsection (1) shall exclude assets, liabilities, and reserves included in separate accounts established in accordance with section 925. The value of income due and accrued in respect to assets required by subsection (1) may be included in the total amount. The assets shall not be valued at more than the actual value as ascertained in a manner approved by the commissioner, except those assets described in sections 912, 914, 918, 934, 938, and 942 that have a fixed term and rate, if amply secured and not in default as to principal and interest which may be valued as follows: if purchased at par, the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made. The purchase price shall not be taken at a higher figure than the actual market value at the time of purchase.

(5) The commissioner may permit other assets not specifically described in this section to be used as qualified assets for purposes of subsection (1), as long as the assets are financially equivalent to those assets described in sections 910 to 947, are approved by the commissioner as adequate as to quality and liquidity to secure the liabilities they support, and are valued in a manner approved by the commissioner.

(6) No more than 5% of the assets required by subsection (1) shall be invested in, loaned to, receivable from, secured by, leased or rented to, or deposited with 1 person or 1

group of affiliated persons or invested in 1 parcel of real estate. In calculating this restriction, the following apply:

(a) For purposes of this section, each issue of mortgage-backed securities secured by residential mortgage pools and rated investment grade by a securities rating organization approved by the commissioner, and each issue of asset-backed security rated investment grade by a securities rating organization approved by the commissioner, shall be considered a separate person regardless of other obligations issued by the same or affiliated issuer.

(b) This restriction does not apply to mortgage-related securities issued by the federal home loan mortgage corporation or the federal national mortgage association.

(c) This restriction does not apply to the extent that the principal and interest are fully guaranteed by the United States or any state.

(d) This restriction does not apply to assets invested in, loaned to, receivable from, secured by, leased or rented to, or deposited with an affiliate of the insurer that is authorized to transact insurance in any state or Canada.

(e) For an alien insurer that is an insurer authorized to transact the business of life insurance, for purposes of this subsection the 5% restriction applies to the total assets of the insurer, excluding assets included in separate accounts, as reported in the total business annual statement filed by the insurer with its domiciliary authority.

(f) This restriction does not apply to the value of a noninsurance affiliate that is owned solely by the insurer as described in subsection (7)(c).

(g) This restriction does not apply to the value of a noninsurance affiliate that is not owned solely by the insurer if the value of the noninsurance affiliate is determined in accordance with procedures approved by the commissioner and if the investment in the noninsurance affiliate is approved by the commissioner as adequate in quality and liquidity to secure the liabilities of the insurer.

(7) The assets referred to in subsection (1) shall not include assets invested in, loaned to, receivable from, secured by, leased or rented to, or deposited with a person that is, directly or indirectly, owned or controlled by the insurer or that, directly or indirectly, owns, controls, or is affiliated with the insurer as control is defined in section 115, except as follows:

(a) Amounts receivable from, secured by, leased or rented to, or deposited with an insurer affiliated with the insurer may be included if the amount receivable is not more than 90 days past due and its affiliated insurer complies with this section.

(b) Amounts invested in an affiliated publicly traded investment company that is registered and regulated under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64, may be included.

(c) The value of a noninsurance affiliate that is owned solely by the insurer may be included. The value of the noninsurance affiliate shall be the value of all assets qualifying under this section in excess of the assets required by this section, but shall not exceed the value determined by the securities valuation office of the national association of insurance commissioners. In support of the noninsurance affiliate's value, the insurer shall submit to the commissioner an audited financial statement for the noninsurance affiliate supplemented with a list of qualifying assets and associated values.

(d) Amounts invested in a noninsurance affiliate that is not owned solely by the insurer may be included if the investment in the noninsurance affiliate is approved by the commissioner as adequate in quality and liquidity to secure the liabilities of the insurer.

The value of the noninsurance affiliate shall be the value determined in accordance with procedures adopted by the commissioner.

(e) The assets required by subsection (1) may include the value of amounts invested in or loaned to an affiliate authorized to transact insurance in any state or in Canada in an amount equal to the assets that would qualify for compliance with this section that are held by the affiliate and are in excess of the amount of assets that would be required for the affiliate by this section, prorated to reflect the extent of the insurer's investment in or loans to the affiliate. Qualified assets for purposes of subsection (1) include loans, other than surplus notes, to an affiliate authorized to transact insurance in any state or in Canada provided that the affiliate has assets in excess of the amount of assets that are required for the affiliate under subsection (1). With the commissioner's approval, surplus notes may be treated as an investment for purposes of this section.

(f) Amounts loaned to a noninsurance affiliate may be included if the loans are rated investment grade by a securities rating organization approved by the commissioner. The insurer shall submit documentation satisfactory to the commissioner in support of the investment grade rating.

(8) An insurer may comply with this section if the insurer elects to provide alternative security to Michigan policyholders and claimants satisfactory to the commissioner or elects to deposit funds or securities of the kind described in section 912, or other securities acceptable to the commissioner, registered in the name of the state treasurer of Michigan, designated as exclusively held and deposited for the sole benefit of Michigan policyholders, claimants, and creditors pursuant to section 8141a, in an amount, at market value, considered adequate by the commissioner to secure Michigan policyholders, but not less than the greater of the aggregate sum of 100% of Michigan direct unpaid losses and unpaid loss adjustment expense plus 100% of Michigan direct unearned premiums and policy and contract reserves or the direct premiums written in Michigan during the most recent 12 months available in filed statements. Direct unpaid losses and unpaid loss adjustment expenses shall include a provision for incurred but not reported losses and associated loss adjustment expense. The deposit shall be a special deposit and shall be subject to special deposit claims for the benefit of Michigan policyholders and claimants pursuant to section 8141a. The deposit of funds required by this subsection shall be increased by adjustment each quarter. A decrease to the deposited fund may be made annually only upon a satisfactory showing by the insurer to the commissioner that a decrease in the deposit is justified. The commissioner may require the special deposits set forth in this subsection as a condition for any insurer to transact insurance in this state if the commissioner finds that a special deposit is necessary for the protection of Michigan policyholders and claimants.

(9) Compliance with subsection (1) is the obligation of each insurer, fund, or fraternal benefit society authorized to transact the business of insurance in this state. Failure to comply shall limit the insurer, fund, or fraternal benefit society under the remainder of this act. If, at any time following compliance with the requirements of this section, an insurer, fund, or fraternal benefit society fails to maintain compliance, the commissioner shall notify the insurer, fund, or fraternal benefit society that it has failed to maintain compliance with this section. Within 30 business days after notification by the commissioner of noncompliance with the provisions of this section, an insurer shall file a plan to restore compliance with this section. Failure of the insurer to file a plan shall create a presumption that the insurer is not safe, reliable, and entitled to public confidence. The commissioner, upon written request by the insurer, may grant a period of time within which to restore compliance. The period of time may be granted only if the commissioner is satisfied the insurer is safe, reliable, and entitled to public confidence; is satisfied the

insurer would suffer a material financial loss from an immediate forced conversion of its assets; and approves the plan filed by the insurer for restoring compliance within the time granted. If the plan is not approved by the commissioner, or if the plan is approved, and, at the end of 1 year the insurer still does not comply with the requirements of this section, the commissioner may grant additional time to comply, or the commissioner may suspend, revoke, or limit the certificate of authority of the insurer pursuant to section 436.

(10) The requirements of this section constitute a discrete determination of financial solidity and liquidity and are not intended to apply to other provisions of this act with respect to financial condition or to the accounting practices and procedures governing the preparation of financial statements pursuant to section 438.

500.902 Investments by domestic insurer; amount in qualified asset required; definition.

Sec. 902. (1) Except as otherwise provided in sections 942(7), (10), and (11), 943(2), and 946(4), this chapter does not prohibit the investment of a domestic insurer's capital and surplus in any asset otherwise permitted to be held by any other person or corporation under the laws of this state, provided the domestic insurer maintains qualified assets as described in this chapter in the amounts specified in section 901.

(2) As used in this section, "qualified assets" means cash and those assets described in sections 910 to 947.

500.912 Qualified assets; description; limitation on governmental securities.

Sec. 912. (1) Qualified assets for purposes of section 901 include all of the following:

(a) In the bonds or other evidences of indebtedness of the United States, or of the dominion of Canada, or any state, province, or territory or public instrumentality of the United States, or the dominion of Canada, or in the valid public debt, bonds, or other evidence of indebtedness of any city, county, township, village, school district, or any other political subdivision having the power to levy taxes, of any state or territory of the United States or province of the dominion of Canada, if the state, province, municipality, or other political subdivision has not, in the 3 years preceding the time of such investment, failed to pay its debt or any part of its debt or the interest due on the debt, or any part of the interest due on the debt. Delay, not exceeding 6 months, in the payment of any installment of principal or interest shall not be construed as failure to pay.

(b) In the bonds or other evidences of indebtedness of any political subdivision of the United States, or any state or county in the United States, or any agency, public instrumentality, or authority created by the United States, or any state or county in the United States, or any political subdivision of the state or county, if, by statutory or other legal requirements, those obligations are payable, as to both principal and interest, from adequate special revenues pledged or otherwise appropriated or by law required to be provided for the purpose of payment.

(c) In governmental securities of this or any foreign government, or governmental subdivisions or authorities or instrumentalities, not otherwise provided for in this section subject to the limitations in subdivisions (a) and (b) prescribed for other governmental securities.

(2) A domestic insurer's investment in governmental securities is subject to the limitations in section 901(2)(f).

500.914 Qualified assets as guaranteed interest bonds.

Sec. 914. Qualified assets for purposes of section 901 include bonds or other securities, the interest of which is guaranteed by the United States government pursuant to any act of congress enacted before, on, or after January 1, 1957.

500.916 Qualified assets as federal financing agency stock.

Sec. 916. If any agency or corporation is established by the federal government with authority to purchase, discount, or loan money upon the security of real estate mortgages but requiring membership or ownership of capital stock in that federal agency or corporation for any insurer organized under the laws of this state to avail itself of the full privileges of selling, rediscounting, or borrowing money upon those mortgages, then qualified assets for purposes of section 901 include the amount of capital stock that is required by the federal law or the rules of the governing body of the federal agency or corporation.

500.917 Mortgage-backed securities; certain securities described in secondary mortgage market enhancement act of 1984 subject to limitations; definition.

Sec. 917. (1) Qualified assets for purposes of section 901 include mortgage-backed securities backed by pools of residential mortgages and rated investment grade by a securities rating organization approved by the commissioner. Any securities described in section 106 of title I of the secondary mortgage market enhancement act of 1984, Public Law 98-440, 15 U.S.C. 77r-1, shall be subject to all the limitations prescribed by this chapter for investments not guaranteed by the full faith and credit of the United States.

(2) As used in this section, "mortgage-backed securities" means securities representing an ownership interest in, or as to which payments are secured directly or indirectly by, a pool of mortgages or by the cash flows generated by a pool of mortgages and shall include, but are not limited to, mortgage pass-through securities and collateralized mortgage obligations.

500.917a Definitions; asset-backed securities.

Sec. 917a. (1) As used in this section:

(a) "Asset-backed securities" means securities, other than those governed by section 917, representing loans to, participations in loans to, or equity interests in a person that has as its primary activity the acquisition and holding of assets, directly or through a trustee, for the benefit of its debt or equity holders and includes, but is not limited to, structured securities, pass-through certificates, and other securitized obligations.

(b) "Assets" means pools of assets consisting of either interest bearing obligations or contractual obligations representing the right to receive payment from the assets.

(c) "Structured securities" means asset-backed securities that have been divided into 2 or more classes where the payment of interest on or principal of any class of the securities has been allocated in a manner that may not be directly proportional to interest or principal received by the issuer of the securities on the underlying assets.

(d) "Pass-through certificate" means an asset-backed security, whether or not mortgage-related, where the payment of interest or principal on the security is directly proportional to interest or principal received by the issuer of the security on the underlying assets.

(2) Qualified assets for purposes of section 901 include asset-backed securities that are rated investment grade by a securities rating organization approved by the commissioner. Asset-backed securities that are secured by or represent an undivided interest in a single asset or pool of assets or in the cash flows generated by those assets, including without limitation, structured securities and pass-through certificates, are subject to all the limitations prescribed by this chapter for investments not guaranteed by the full faith and credit of the United States.

500.918 Qualified assets by solvent institution; authorization; mortgage loans; equipment trust certificates; fixed interest bearing obligations.

Sec. 918. Qualified assets for purposes of section 901 include lawfully authorized obligations issued, assumed, or guaranteed by any solvent institution created or existing under the laws of the United States or of any state, district, or territory of the United States, or of Canada or any province of Canada, that are not in default as to principal or interest and that are qualified under any of the following clauses:

(a) Obligations secured by the mortgage of property or the pledge of adequate collateral if, during any 3, including the last 2, of the 5 fiscal years next preceding the time of investment, the net earnings of the issuing, assuming, or guaranteeing institution available for fixed charges, as determined in accordance with standard accounting practice, have been not less than the total of its fixed charges for such year on an overall basis nor less than 1-1/2 times its fixed charges for such year on a priority basis after excluding interest requirements on obligations junior to such issue as to security.

(b) In equipment trust certificates of railroad companies organized under the laws of any state of the United States or of Canada or of any province of Canada, payable within 20 years from their date of issue, in annual or semiannual installments, beginning not later than the fifth year after such date, and which certificates are a first lien on the specific equipment pledged as security for the payment which are either the direct obligations of the railroad companies or guaranteed by them, or are executed by trustees holding title to the equipment.

(c) Fixed interest bearing obligations other than those described in subdivisions (a) and (b), if the net earnings of the issuing, assuming, or guaranteeing institution available for fixed charges during each of any 3, including the last 2, of the 5 fiscal years next preceding the time of investment, shall have been not less than 1-1/2 times the total of its fixed charges for such year.

500.922 Qualified assets in stocks, bonds, or evidences of corporate indebtedness; authorization.

Sec. 922. Qualified assets for purposes of section 901 include stocks, bonds, and other evidence of indebtedness of solvent corporations as approved by its board of directors or a committee of the board entrusted with the investment of the company's funds. The insurer may hold the stocks, bonds, and other evidences of indebtedness as an investment.

500.924 Qualified assets in preferred stock; authorization; conditions.

Sec. 924. Qualified assets for purposes of section 901 include preferred stocks of any company organized under the laws of the United States, a state of the United States, or the District of Columbia, if the company has continuously and regularly paid the dividends provided for by the preferred stock during the 5 years preceding the investment; except that with respect to preferred stocks issued within the 5-year period, the dividend payments requirement applies only from the date of issuance, and in those cases the net

earnings of the company and its subsidiaries available for fixed charges of the company and its subsidiaries and the net earnings of any predecessor organizations and their subsidiaries, if any, available for fixed charges of the predecessor organizations and their subsidiaries, must have averaged an amount per annum for the 5 fiscal years preceding the making of the investment at least equal to 2 times the total of the annual interest charges (including amortization of debt discount and expense) and dividends guaranteed, if any, and the preferred dividend requirement on a pro forma basis.

500.932 Qualified assets in shares of savings and loan associations.

Sec. 932. Qualified assets for purposes of section 901 include shares of any building and loan association or savings and loan association, either state chartered or federally chartered.

500.934 Qualified assets in farm loan bonds, intermediate credit bank loans, central bank for cooperatives, home loan banks, federal savings and loan insurance corporation obligations; authorization.

Sec. 934. Qualified assets for purposes of section 901 include farm loan bonds, consolidated or otherwise, issued by the federal land banks pursuant to the federal farm loan act, as amended; in collateral trust debentures or other similar obligations, consolidated or otherwise, issued by federal intermediate credit banks pursuant to the federal farm loan act, as amended; in debentures, consolidated or otherwise, issued by the central bank for cooperatives or banks for cooperatives pursuant to the farm credit act of 1933, as amended; in obligations issued pursuant to the provisions of the federal home loan bank act, approved July 22, 1932, as amended; and in interest-bearing obligations of the federal savings and loan insurance corporation issued pursuant to title 4 of the national housing act, approved June 27, 1934, as amended.

500.938 Qualified assets.

Sec. 938. Qualified assets for purposes of section 901 include all of the following:

(a) Any negotiable paper or other evidence of indebtedness secured by any of the classes of securities in which insurance companies may lawfully invest funds pursuant to sections 912 and 918.

(b) Negotiable notes secured by pledge of stock of national or state banks, which have a surplus equal in amount to 25% of the paid in capital stock provided those loans do not exceed 85% of the market value of the stock and the total amount of the loan on bank secured collateral does not exceed 15% of the capital and surplus of the insurance company.

(c) For other than a life insurer, loans secured as collateral by corporate stocks and securities eligible for investment under section 922 but no loan shall be made of more than 50% of the fair market value of those stocks and securities.

500.942 Qualified assets in real estate loans; purchase of loan or certificate of participation.

Sec. 942. (1) Qualified assets for purposes of section 901 include real estate loans secured by first liens upon improved or income bearing real estate, including also improved farmland and improved business and residential properties, or that are secured by first mortgages or deeds of trust on leasehold estates having an unexpired term equivalent to the term of the mortgage, inclusive of the term or terms that may be provided by enforceable options of renewal. Vacant property, at least 60% of which is under contract

of sale and the contract or contracts in connection therewith trusteed or pledged as additional collateral, is income bearing real estate within the meaning of this section.

(2) Real estate is not encumbered within the meaning of this section because it is subject to lease in whole or in part and rents or profits are reserved to the owner or because it is subject to an easement for a right of way.

(3) A loan secured by real estate shall be in the form of obligations secured by mortgage, trust deed, or other such instrument upon real estate, and an insurer may purchase an obligation so secured when the entire amount of the obligation is sold to the insurer, except that an insurer may purchase a part of an obligation if the investment of each participant is not less than $50,000.00 at the time of the insurer's investment, if all other participants are insurers, banks, savings and loan associations, or any other financial institution as that term is defined in the Gramm-Leach-Bliley act, Public Law 106-102, 113 Stat. 1338, 12 U.S.C. 1811, and if the entire indebtedness of which participation is a part would qualify under the provisions of this section, and either the insurer holds a senior participation, giving it substantially the rights of a first mortgagee, or each participation is of equal rank.

(4) Except as otherwise provided in this subsection, any portion of a loan that exceeds 66-2/3% of the appraised value, at the time of the loan, of the real estate constituting or offered as security and any loan the term of which exceeds 5 years is not a qualified asset for purposes of section 901. However, the following loans are qualified assets for the purposes of section 901:

(a) A loan on land improved with permanent buildings used for agriculture or pasture in an amount not to exceed 75% of the appraised value, at the time of the loan, of the real estate constituting or offered as security if the loan is secured by an amortized mortgage, deed of trust, or other instrument under the terms of which the installment payments are sufficient to amortize on not to exceed an annual basis of 40% or more of the principal of the loan within a period of not more than 10 years.

(b) A loan on single family residential property in an amount not to exceed 80% of the appraised value, at the time of the loan, of the real estate offered as security, if the loan is secured by a mortgage, deed of trust, or other instrument for a term of not more than 35 years.

(c) Subject to subsection (6), a loan on multifamily residential property in an amount not to exceed 85% of the appraised value, at the time of the loan, of the real estate offered as security, if the loan is secured by a mortgage, deed of trust, or other instrument for a term of not more than 35 years.

(d) A loan in an amount not to exceed 75% of the appraised value of the real estate offered as security and for a term not longer than 35 years, if the real estate is improved if it is not used for agriculture or pasture, and if the loan is secured by a mortgage, deed of trust, or other instrument for a term of not more than 35 years.

(5) The limitations and restrictions in subsection (4) do not apply to real estate loans that are insured under the provisions of title II of the national housing act, chapter 847, 48 Stat. 1247, 12 U.S.C. 1707 to 1709, 1710 to 1715g, 1715k to 1715r, and 1715t to 1715z-1, by the federal housing administration, to loans insured under the Canadian national housing act of 1954 by the central mortgage and housing corporation, or to real estate loans that are guaranteed as to principal by the United States government or Canadian government or an agency or instrumentality of the United States or Canadian government.

(6) If the total amount of multifamily residential loans that exceed 75% of the appraised value of the real estate offered as security for those loans is greater than 20% of an

insurer's mortgage portfolio, the portion of those loans that exceed 75% of the appraised value shall not be treated as a qualified asset for purposes of section 901.

(7) An insurer shall not make any such loan unless an appraisal has been made in writing by a competent appraiser appointed or employed by the insurer and filed with the investment committee authorized to approve the loan.

(8) Qualified assets for the purposes of section 901 include a loan or certificate of participation secured by a loan made on a single-family residential property in an amount not to exceed 95% of the appraised value, at the time of the loan, of the real estate offered as security, if the loan is secured by a mortgage, deed of trust, or other instrument for a term of not more than 35 years, and the loan is insured by a private mortgage insurer approved by the federal home loan mortgage corporation and the federal national mortgage association and is licensed to do business in the state of Michigan.

(9) Qualified assets for the purposes of section 901 include real estate loans that do not qualify as first mortgages as described in subsections (1) and (3). Total investments that may be treated as qualified assets under this subsection shall not exceed 25% of the insurer's total investments in real estate loans as described in subsections (1) and (3).

(10) A domestic insurer shall not invest more than 10% of its surplus in real estate loans that exceed the appraised value limitations under subsection (4), (6), or (8) unless the real estate loan is the result of a restructuring of an existing real estate loan and the insurer provides written notice to the commissioner on or before the date of the restructuring. The commissioner may increase the 10% investment limit of this section to 20% for an insurer who demonstrates to the commissioner's satisfaction the soundness of a particular investment or investment strategy that would cause the insurer to exceed the lower limit. If the loans under this subsection exceed 5% of an insurer's assets within any 12-month period, no other loans may be made pursuant to this subsection except with the commissioner's prior approval.

(11) A domestic insurer shall not invest more than 20% of its mortgage portfolio in multifamily residential mortgages that exceed 75% of the appraised value, at the time of the loan, of the real estate offered as security.

500.943 Qualified assets; derivative instruments and transactions.

Sec. 943. (1) Qualified assets for purposes of section 901 include derivative instruments only if the insurer is able to demonstrate to the commissioner through cash flow testing or other appropriate analyses both the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of transactions.

(2) Before engaging in a derivative transaction and with board of director approval, a domestic insurer shall do all of the following:

(a) Establish written guidelines to be used for effecting or maintaining derivative transactions. The guidelines shall be available to the commissioner on request and shall meet all of the following:

(*i*) Address investment or, if applicable, underwriting objectives and risk constraints, such as credit risk limits.

(*ii*) Address permissible derivative transactions and the relationship of those transactions to its operations.

(*iii*) Require compliance with internal control procedures.

(b) Have a system for determining whether a derivative instrument used in a hedging or replication transaction is effective.

(c) Have a credit risk management system for over-the-counter derivative transactions that measures credit risk exposure using counter party exposure amount.

(d) Determine whether the insurer has adequate professional personnel, technical expertise, and systems to implement investment practices involving derivatives.

(e) Determine that the derivative program is prudent and that the level of risk is appropriate for the insurer given the level of capitalization and expertise available to the insurer.

(3) Except as provided in section 222(7), written guidelines prepared pursuant to subsection (2), if furnished to the commissioner, are confidential and privileged, are not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action.

(4) The commissioner may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this section, including, but not limited to, the establishment of all of the following:

(a) Financial solvency standards.

(b) Valuation standards.

(c) Reporting requirements.

(5) An insurer shall include all counter party exposure amounts in determining compliance with the limitations in section 901(6).

(6) In measuring the net amount of credit risk exposure using counter party exposure amount, all of the following apply:

(a) The net amount of credit risk equals the market value of the over-the-counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurer or zero if the liquidation of the derivative instrument would not result in a final cash payment to the insurer.

(b) If over-the-counter derivative instruments are entered into pursuant to a written master agreement that provides for netting of payments owed by the respective parties, and the domiciliary jurisdiction of the counter party is either within the United States or, if not within the United States, within a foreign jurisdiction approved as eligible for netting, the net amount of credit risk is the greater of zero or the net sum of the market value of the over-the-counter derivative instruments entered into pursuant to the agreement, the liquidation of which would result in a final cash payment to the insurer and the market value of the over-the-counter derivative instruments entered into pursuant to the agreement, the liquidation of which would result in a final cash payment by the insurer to the business entity.

(7) As used in subsection (6), market value shall be determined for open transactions at the end of the most recent quarter of the insurer's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurer or placed in escrow by 1 or both parties.

(8) As used in this section:

(a) "Cap" means an agreement obligating the seller to make payments to the buyer with each payment based on the amount by which a reference price or level or the performance or value of 1 or more underlying interests exceeds a predetermined number, sometimes called the strike rate or strike price.

(b) "Collar" means an agreement to receive payments as the buyer of an option, cap, or floor, and to make payments as the seller of a different option, cap, or floor.

(c) "Collateralized mortgage obligation" means an asset-backed security that has cash flows originating directly or indirectly from underlying mortgage assets.

(d) "Counter party exposure amount" means the net amount of credit risk attributable to a derivative instrument entered into with a business entity other than through a qualified exchange or qualified foreign exchange or cleared through a qualified clearinghouse such as an over-the-counter derivative instrument.

(e) "Derivative instrument" means any agreement, option, or instrument, or any series or combinations of an agreement, option, or instrument to make or take delivery of, or assume or relinquish, a specified amount of 1 or more underlying interests, or to make a cash settlement in lieu of 1 or more underlying interests, or that has a price, performance, value, or cash flow based primarily upon the actual or expected price, yield, level, performance, value, or cash flow of 1 or more underlying interests. Derivative instruments include options, warrants, caps, floors, collars, swaps, swaptions, forwards, futures, and any other substantially similar agreements, options, or instruments, or any series or combinations and any further agreements, options, or instruments included under rules promulgated by the commissioner. Derivative instruments do not include collateralized mortgage obligations, other asset-backed securities, principal-protected structured securities, or instruments that an insurer is otherwise permitted to invest in or receive under this chapter other than under this section. The sale or purchase of a derivative instrument by an insurer in connection with a written investment policy that insulates the purchaser from the risk of default of an underlying financial instrument shall be treated as a derivative and not as insurance for purposes of this act.

(f) "Derivative transaction" means a transaction involving the use of 1 or more derivative instruments. For purposes of this section, dollar roll transactions, repurchase transactions, reverse repurchase transactions, and securities lending transactions are not derivative transactions.

(g) "Floor" means an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor rate or price, exceeds a reference price, level, performance, or value of 1 or more underlying interests.

(h) "Forward" means an agreement, other than a future, to make or take delivery in the future of 1 or more underlying interests, or effect a cash settlement, based on the actual or expected price, level, performance, or value of the underlying interests. Forward includes spot transactions effected within customary settlement periods, when-issued purchases, or other similar cash market transactions.

(i) "Future" means an agreement traded on a futures exchange, to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance, or value of 1 or more underlying interests.

(j) "Hedging transaction" means a derivative transaction that is entered into and maintained to manage the risk of a change in the value, yield, price, cash flow, or quantity of assets or liabilities that the insurer has acquired or incurred or anticipates acquiring or incurring or the currency exchange rate risk related to assets or liabilities that an insurer has acquired or incurred or anticipates acquiring or incurring.

(k) "Option" means an agreement giving the buyer the right to buy or receive, known as a call option, sell or deliver, known as a put option, enter into, extend, or terminate or effect a cash settlement based on the actual or expected price, spread, level, performance, or value of 1 or more underlying interests.

(*l*) "Replication transaction" means a derivative transaction or combination of derivative transactions effected either separately or in conjunction with cash market investments included in the insurer's investment portfolio in order to replicate the risks and returns of another authorized transaction, investment, or instrument or to operate as a substitute for cash market transactions. A derivative transaction entered into by the insurer as a hedging transaction is not a replication transaction.

(m) "Structured security" means an obligation whose principal or interest payments are determined partially or entirely by reference to an index, market, event, or asset unrelated to the issuer's ability to pay.

(n) "Swap" means an agreement to exchange or to net payments at 1 or more times based on the actual or expected price, yield, level, performance, or value of 1 or more underlying interests.

(o) "Swaption" means an option to purchase or sell a swap at a given price and time or at a series of prices and times. A swaption does not mean a swap with an embedded option.

(p) "Underlying interest" means the assets, liabilities, other interests, or a combination of assets, liabilities, or other interests underlying a derivative instrument such as any 1 or more securities, currencies, rates, indices, commodities, or derivative instruments.

(q) "Warrant" means an instrument that gives the holder the right to purchase or sell the underlying interest at a given price and time or at a series of prices and times outlined in the warrant agreement.

(9) The amendatory act that added this subsection does not affect the validity of any derivative transaction entered into or derivative instrument acquired by an insurer before the effective date of the amendatory act that added this subsection.

500.944 Accounts receivable; includable as qualified assets.

Sec. 944. Qualified assets for purposes of section 901 include the value of any amounts receivable from insurers authorized to transact insurance in this state.

500.946 Home office, lands, and buildings; includable as qualified assets.

Sec. 946. (1) Subject to the limitations in section 901, qualified assets for purposes of section 901 include a home office, lands, and buildings as follows:

(a) A building in which the insurer has its principal home office and the land upon which the building stands.

(b) Real estate requisite for its accommodation in the convenient transaction of its business.

(c) Other real estate requisite or desirable for the protection or enhancement of the value of real estate described under subdivisions (a) and (b).

(2) Any parcel of real estate acquired under this section may include excess space for rental to others or if the excess is reasonably required in order to have a building that would be an economic unit.

(3) Real estate under this section may be subject to a mortgage.

(4) Any real estate investment under this section that would result in a total real estate investment in excess of 10% of a domestic insurer's capital and surplus shall not be made until a certificate of permission for the purchase or construction of the property is granted by the commissioner. The commissioner may require an appraisal of the property considered for investment by 3 qualified appraisers, appointed by the commissioner for the purpose of the appraisal, and their certification to the commissioner of a valuation of

the property at least equal to the amount that is proposed to be invested in the property by the insurer.

500.947 Income producing real estate and housing projects; includable as qualified assets.

Sec. 947. (1) Subject to the limitations in section 901, qualified assets for purposes of section 901 include real estate or any interest in real estate, acquired by the insurer for the purpose, under its franchise, of construction, development, maintenance, operation, or lease as an investment for the production of income, or for the purpose, under its franchise, of constructing, maintaining, or operating housing projects including incidental retail and service facilities.

(2) Subject to the limitations in section 901, qualified assets for purposes of section 901 include real estate conveyed or mortgaged in good faith, by way of security for debts or in satisfaction for debts, or purchased at sales on judgments, decrees, or mortgages in favor of the insurer or acquired in the process of settling claims asserted under its policies.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 463]

(SB 928)

AN ACT to amend 1935 PA 120, entitled "An act to prescribe a method for the fingerprinting of residents of the state, and to provide for the recording and filing thereof by the central records division of the department of state police," by amending section 3 (MCL 28.273), as added by 1985 PA 175.

The People of the State of Michigan enact:

28.273 Fingerprinting and criminal record check; fee; report.

Sec. 3. (1) The department of state police may charge a fee, not to exceed $15.00, or, until October 1, 2004, not to exceed $30.00, for taking and processing the fingerprints and completing a criminal record check of a resident of this state when the impression of the fingerprints are requested for employment-related or licensing-related purposes. A fee shall not be collected under this section if a fee for taking and processing fingerprints is provided for under any other law. The fee shall not exceed the actual cost of taking and processing the impression of the fingerprints and completing a criminal record check on that person. The fee shall be collected and forwarded to the state police by the licensing body or the employer.

(2) The department of state police shall submit a written report to the secretary of the senate and the clerk of the house of representatives by October 1, 2003 stating whether the fee increase provided under the amendatory act that added this subsection is sufficient to support the actual costs of fingerprinting and what the actual costs of fingerprinting are.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 464]

(HB 5361)

AN ACT to amend 1974 PA 300, entitled "An act to regulate the practice of servicing and repairing motor vehicles; to proscribe unfair and deceptive practices; to provide for training and certification of mechanics; to provide for the registration of motor vehicle repair facilities; to provide for enforcement; and to prescribe penalties," by amending section 17 (MCL 257.1317), as amended by 1988 PA 254.

The People of the State of Michigan enact:

257.1317 Inspections; time; announced and unannounced; violations.

Sec. 17. (1) The registered facility or a facility required to be registered under this act shall be open to inspection by the administrator and other law enforcement officials during reasonable business hours. During reasonable business hours, the administrator and other law enforcement officials may make periodic unannounced inspections of the premises, parts records, and parts inventories of facilities.

(2) A person who hinders, obstructs, or otherwise prevents an inspection is in violation of this act.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 465]

(SB 965)

AN ACT to amend 1933 PA 94, entitled "An act to authorize public corporations to purchase, acquire, construct, improve, enlarge, extend, or repair public improvements within or without their corporate limits, and to own, operate, and maintain the same; to authorize the condemnation of property for such public improvements; to provide for the imposition and collection of charges, fees, rentals, or rates for the services, facilities, and commodities furnished by such public improvements; to provide for the issuance of bonds and refunding bonds payable from the revenues of public improvements; to provide for a pledge by public corporations of their full faith and credit and the levy of taxes without limitation as to rate or amount to the extent necessary for the payment of the bonds, or for advancing money from general funds for payment of bonds; to provide for payment, retirement, and security of such bonds; to provide for the imposition of special assessment bonds for the purpose of refunding outstanding revenue bonds; to prescribe the powers and duties of the department of treasury and of the municipal finance commission or its successor agency relative to such bonds and relative to private activity bonds issued by a state or local governmental entity; to provide for other matters in respect to such public improvements and bonds and to validate action taken and bonds issued; and to prescribe penalties and provide remedies," by amending sections 3, 7, 12, 16, 22, 24, 26, 27, 28, and 30 (MCL 141.103, 141.107, 141.112, 141.116, 141.122, 141.124, 141.126, 141.127, 141.128, and 141.130), section 3 as amended by 1992 PA 305, sections 7, 12, and 27 as amended by 1985 PA 26, sections 16, 28, and 30 as amended by 1983 PA 76, and section 24 as amended by 1988 PA 228, and by adding sections 12a and 12b.

The People of the State of Michigan enact:

141.103 Definitions.

Sec. 3. As used in this act:

(a) "Public corporation" means a county, city, village, township, school district, port district, or metropolitan district of the state or a combination of these if authorized by law to act jointly; an authority created by or under an act of the legislature; or a municipal health facilities corporation or subsidiary municipal health facilities corporation incorporated as provided in the municipal health facilities corporations act, 1987 PA 230, MCL 331.1101 to 331.1507.

(b) "Public improvements" means only the following improvements: housing facilities; garbage disposal plants; rubbish disposal plants; incinerators; transportation systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems; sewage disposal systems, including sanitary sewers, combined sanitary and storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of sewage or industrial wastes; storm water systems, including storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of storm water; water supply systems, including plants, works, instrumentalities, and properties used or useful in connection with obtaining a water supply, the treatment of water, or the distribution of water; utility systems for supplying light, heat, or power, including plants, works, instrumentalities, and properties used or useful in connection with those systems; approved cable television systems, approved cable communication systems, or telephone systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems; automobile parking facilities, including within or as part of the facilities areas or buildings that may be rented or leased to private enterprises serving the public; yacht basins; harbors; docks; wharves; terminal facilities; elevated highways; bridges over, tunnels under, and ferries across bodies of water; community buildings; public wholesale markets for farm and food products; stadiums; convention halls; auditoriums; dormitories; hospitals and other health care facilities; buildings devoted to public use; museums; parks; recreational facilities; reforestation projects; aeronautical facilities; and marine railways; or any right or interest in or equipment for these improvements. The term "public improvement" means the whole or a part of any of these improvements or of any combination of these improvements or any interest or participation in these improvements, as determined by the governing body. The definition contained in this subdivision does not broaden or enlarge the extent of a particular public improvement made by a public corporation.

(c) "Borrower" means a public corporation exercising the power to issue bonds as provided in this act.

(d) "Governing body" means for a county, the board of commissioners; for a city, the body having legislative powers; for a village, the body having legislative powers; for a township, the township board; for a school district, the board of education; for a port district, the port commission; for a metropolitan district, the legislative body of the district; for a municipal health facilities corporation, the board of trustees; for a nonprofit subsidiary municipal health facilities corporation, the nonprofit subsidiary board; and for an authority, the body in which is lodged general governing powers. If the charter of a public corporation or applicable law provides that a separate board has general management over a public improvement, "governing body" means, with respect to that public improvement, the separate board, subject to review by the legislative body of the public corporation as the charter or law may provide. Unless the charter or law specifically

provides otherwise, the separate board shall adopt the bond authorizing ordinance, but shall not pledge full faith and credit.

(e) "Rates" means the charges, fees, rentals, and rates that may be fixed and imposed for the services, facilities, and commodities furnished by a public improvement.

(f) "Revenues" means the income derived from the rates charged for the services, facilities, and commodities furnished by a public improvement. Revenues include, to the extent provided in the authorizing ordinance, earnings on investment of funds of the public improvement and other revenues derived from or pledged to operation of the public improvement.

(g) "Net revenues" means the revenues of a public improvement remaining after deducting the reasonable expenses of administration, operation, and maintenance of the public improvement.

(h) "Project cost" or "costs" means the costs of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing a public improvement, including any engineering, architectural, legal, accounting, financial, and other expenses incident to the public improvement. Project costs include interest on the bonds, and other obligations of the borrower issued to pay project costs, during the period of construction and until full revenues are developed. Project costs include a reserve or addition to a reserve for payment of principal and interest on the bonds and the amount required for operation and maintenance until sufficient revenues have developed.

(i) "Ordinance" means an ordinance, resolution, or other appropriate legislative enactment of the governing body of a public corporation.

(j) "Approved cable television system" or "approved cable communication system" means a cable television or communication system to which 1 of the following applies:

(*i*) A municipality acquires or establishes the system either before January 1, 1987 or before a system is established in that municipality by a private person.

(*ii*) A municipality acquires or establishes the system after a system is established in that municipality by a private person and after approval by a majority of the electors in the affected area of that municipality voting on the question of the sale of revenue bonds to finance the acquisition or establishment of the municipal system.

141.107 Bonds; issuance; form; term; interest; exclusion from net bonded indebtedness; registration; pledge of funds; statutory first lien.

Sec. 7. (1) For the purpose of defraying the whole or a part of project costs, a public corporation may borrow money and issue its negotiable bonds. The bonds shall not be issued unless and until authorized by an ordinance, which shall set forth a brief description of the contemplated project, the estimated cost of the project, and the amount, maximum rate of interest, and time of payment of the bonds. The bonds shall be serial bonds or term bonds, or a combination of serial and term bonds, and shall be payable semiannually or annually by maturity of serial bonds or maturity or required redemption of term bonds. The last annual principal installment shall be not longer than the estimated period of usefulness of the public improvement for which the bond is issued, but the last installment shall not be more than 40 years from the date of the bond. The bonds shall bear interest, payable as provided in the authorizing ordinance, except that the first interest installment shall be payable not later than 10 months following the delivery date of the bonds. The bonds and coupons shall be substantially in the form provided in the authorizing ordinance and shall be executed in the manner prescribed in the bond, which may be by facsimile signature or signatures. The bonds and the interest on the bonds shall be made payable in

lawful money of the United States, and shall be exempt from taxation by this state or by any taxing authority within this state. The public corporation may provide that the redemption of term bonds may be satisfied in whole or in part by the purchase and cancellation of term bonds otherwise required to be redeemed. As used in this subsection, "annual principal installment" means a maturity of serial bonds, an amount of term bonds required to be redeemed in that year, or a maturity of term bonds less amounts previously required to be redeemed.

(2) The principal of and interest on the bonds shall be payable, except as provided in this act, solely from the net revenues derived from the operation of the public improvement purchased, acquired, constructed, improved, enlarged, extended, or repaired from the proceeds of the bonds, as shall be pledged to the bonds in the authorizing ordinance, which may include if the ordinance so provides, net revenues derived by reason of future improvements, enlargements, extensions, or repairs to the improvement, and payments made to the public corporation issuing the bonds by any other governmental entity pursuant to another law of this state or the United States for payment of principal and interest on the bonds, even though the payments are made from or include grants or other funds provided by this state or the United States or the proceeds of taxes levied on taxable property as provided by other law.

(3) As additional security for the payment of bonds that are used to finance the local share of projects that receive more than 25% of financing from federal or state grants or that are being initially purchased, in whole or in part, by the Michigan municipal bond authority created under the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076, or if specifically authorized by another law pertaining to the public improvements for which bonds are to be issued under this act, a public corporation, by majority vote of the elected members of its governing body, may include as a part of the ordinance authorizing the issuance of the bonds a pledge of its full faith and credit for payment of the principal of an interest on the bonds. For bonds issued for airports or airport improvements under the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208, a public corporation, by majority vote of the elected members of its governing body, may agree that if funds pledged for payment of bonds are not sufficient to pay principal and interest on the bonds as the bonds become due, the public corporation shall advance sufficient funds out of its general funds for the payment if the proceeds of the bonds are used exclusively within the territorial limits of the county in which the political corporation is located. If a pledge is made, and the net revenues primarily pledged to the payment are insufficient to make a payment, the public corporation shall be obligated to pay the bonds and interest on the bonds in the same manner and to the same extent as other general obligation bonds of the public corporation, including the levy, when necessary, of a tax on all taxable property in the public corporation without limitation as to rate or amount, in addition to all other taxes that the public corporation is authorized to levy, but not exceeding the rate or amount necessary to make the payment. If a public corporation makes payment from taxes or general funds pursuant to a full faith and credit pledge or agreement to advance, it shall be reimbursed from net revenues subsequently received by the public improvement for which the bonds are issued that are not otherwise pledged or encumbered. A bond or coupon issued under this act shall not be general obligation or constitute an indebtedness of the borrower unless its full faith and credit are pledged. Unless a public corporation pledges its full faith and credit for the payment of bonds issued pursuant to this act, or unless otherwise exempt, the amount of the bonds shall not be included in computing the net bonded indebtedness of the public corporation for the purposes of debt limitations imposed by any statutory or charter provisions. Bonds may

be made registerable as to principal, or principal and interest, under terms and conditions determined by the governing body of the borrower.

(4) The governing body in the ordinance authorizing the bonds or in an agreement entered into under section 7a(1)(a) may pledge any funds established by the ordinance or agreement for the payment of the bonds or other obligations of the public corporation under the agreement and create a statutory first lien in favor of the holders of the bonds or a party subject to the agreement.

141.112 Bonds; discount; sale price; interest; competitive or negotiated sale; notice; publication.

Sec. 12. (1) Bonds issued under this act may be sold at a discount but may not be sold at a price that would make the interest cost on the money borrowed after deducting any premium or adding any discount exceed 10% per annum or the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, whichever is greater, and may bear a stated rate of interest or no rate of interest.

(2) A public corporation may sell bonds at a competitive sale or a negotiated sale as determined in the authorizing ordinance. If a public corporation determines to sell a bond at a negotiated sale, the governing body shall expressly state the method and reasons for choosing a negotiated sale instead of a competitive sale in the resolution or ordinance authorizing the issuance or sale of the bonds.

(3) Bonds sold at a competitive sale shall not be sold until notice by publication at least 7 days before the sale in a publication printed in the English language and circulated in this state that carries as a part of its regular service notices of the sale of municipal bonds.

(4) A public corporation shall award a bond sold at a competitive sale to the bidder whose bid meets all specifications and requirements and results in the lowest interest cost to the public corporation, unless all bids are rejected.

(5) A public corporation may accept bids for the purchase of a bond made in person, by mail, by facsimile, by electronic means, or by any other means authorized by the public corporation.

141.112a Bonds subject to revised municipal finance act.

Sec. 12a. (1) Bonds issued under this act for which a municipality pledges its full faith and credit are also subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except for part VI and section 503 of the revised municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613, and MCL 141.2503.

(2) For bonds issued under this act, the first principal amount maturity date or mandatory redemption date shall be not later than 5 years after the date of issuance and some principal amount shall mature or be subject to mandatory redemption in each subsequent year of the term of the bond.

(3) As used in this section, "municipality" means that term as defined in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) Except as otherwise provided in this act, bonds subject to this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

141.112b Bulletins; issuance by department of treasury.

Sec. 12b. The department of treasury is authorized to issue bulletins as necessary to carry out the purposes of this act. A bulletin issued under this section shall include a statement of the department's specific statutory authority for any substantive requirement contained within the bulletin.

141.116 Bonds; use of sale proceeds; cancellation of bonds acquired by purchase; payment of capitalized interest.

Sec. 16. Money received from the sale of bonds shall be used solely for the payment of project costs. An unexpended balance of the proceeds of the sale of any bonds remaining after the completion of the project for which issued, may be used for the improvement, enlargement, or extension of the public improvement, if the use is approved by the department of treasury. Any remaining balance shall be paid immediately into the bond and interest redemption deposit account for the bonds, and the money shall be used only for meeting bond reserve requirements or for the redemption or purchase, at not more than the fair market value, of outstanding bonds of the issue from which the proceeds were derived. Bonds acquired by purchase shall be canceled and shall not be reissued. Each ordinance shall state the period for which interest is to be capitalized, and the amount of reserves to be funded from the bonds. Upon receipt of the proceeds of the bonds, there shall be set aside, in the bond and interest redemption deposit account, the amount of interest that will accrue during the period at the interest rate specified in the bonds and the amount required to be set aside in the bond and interest redemption account. Money set aside shall be used solely for the payment of the capitalized interest or to satisfy bond reserve requirements.

141.122 Accounting of revenues; order of priority; disposition of surplus.

Sec. 22. (1) In the authorizing ordinance the governing body of the borrower shall provide that the revenues of the public improvement be accounted for separately from the other funds and accounts of the borrower in the following order of recorded priority:

(a) After provision for the payment for the next succeeding period of all current expenses of administration and operation and the current expenses for that period for maintenance as may be necessary to preserve the public improvement in good repair and working order.

(b) There shall be next set aside a sum sufficient to provide for the payment of the principal of and the interest upon all bonds payable from those revenues, as and when the bonds become due and payable. This account shall be designated "bond and interest redemption account". In the event that the revenues of any operating year over and above those necessary for the operation and maintenance expenses shall be insufficient to pay the principal of and interest on the bonds maturing in any operating year, then an additional amount sufficient to pay the principal and interest shall be set aside out of the revenues of the next succeeding operating year, after provision for the expenses of operation and maintenance. In respect to the allocation and use of money in the bond and interest redemption account, due recognition shall be given as to priority rights, if any, between different issues or series of outstanding bonds. The public corporation may provide by ordinance that a reasonable excess amount shall be set aside in the bond and interest redemption account from time to time so as to produce and provide a reserve to meet any possible future deficiencies.

(c) Next there shall be set aside, in the manner and priority provided by the ordinance, the sum or sums necessary for the additional accounts as may be required.

(2) Revenues remaining, after satisfaction of subsection (1), at the end of any operating year shall be considered surplus and shall be disposed of by the governing body as provided in this act.

141.124 Money in several accounts of public improvement; separate deposit account; investment.

Sec. 24. (1) Money in the several accounts of the public improvement shall be deposited as designated by the governing body of the borrower. Money in the several accounts of

the public improvement, except money in the bond and interest redemption account and money derived from the proceeds of sale of the bonds each of which shall be kept in a separate deposit account, may be kept in 1 deposit account. In that case the money in the combined deposit accounts shall be allocated on the books and records of the borrower to the various accounts in the manner provided in the authorizing ordinance. The governing body of the borrower may provide that the money in the several accounts of the public improvement may be kept in separate depository accounts. The money in the bond and interest redemption account shall be accounted for separately.

(2) Subject to the limitations and conditions provided in the authorizing ordinance, money in the several accounts of the public improvement may be invested in accordance with the public corporation's investment policy adopted by the legislative body or governing body of the public corporation under 1943 PA 20, MCL 129.91 to 129.96.

141.126 Receiving fund surplus; deposit.

Sec. 26. Any money remaining in the accounts of the public improvement at the end of any operating year, which under the provisions of section 22 shall be considered surplus, may be transferred to other accounts of the public improvement or may be used for the purpose or purposes as the governing body may determine to be for the best interests of the borrower, unless some other disposition shall have been made in the ordinance authorizing the issuance of bonds under this act. In the event that money of the public improvement is insufficient to provide for the current expenses of the operation and maintenance account or the bond and interest redemption account, any money or securities in other accounts of the public improvement shall be transferred first to the operation and maintenance account and second to the bond and interest redemption account to the extent of any deficits in those accounts.

141.127 Issuance of bonds by public corporation; applicable laws.

Sec. 27. A public corporation issuing bonds under this act is subject to all of the following:

(a) If the public corporation issuing the bonds meets the requirements of qualified status under section 303(3) of the revised municipal finance act, 2001 PA 34, MCL 141.2303, the public corporation complies with section 319(1) of the revised municipal finance act, 2001 PA 34, MCL 141.2319.

(b) If the public corporation issuing the bonds does not meet the requirements of qualified status under section 303(3) of the revised municipal finance act, 2001 PA 34, MCL 141.2303, the public corporation meets the requirements of section 303(7) and (8) and section 319(2) of the revised municipal finance act, 2001 PA 34, MCL 141.2303 and 141.2319.

(c) Section 321 of the revised municipal finance act, 2001 PA 34, MCL 141.2321.

141.128 Effect of approval permitting issuance of bonds.

Sec. 28. Qualification or approval to issue obligations under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, that permits the issuance of bonds under this act shall not be considered an approval of the legality of issuing bonds under this act.

141.130 Books of record and account; annual audit report.

Sec. 30. (1) Any borrower issuing revenue bonds under this act shall install, maintain, and keep proper books of record and account, separate from other records and accounts of such borrower, in which full and correct entries shall be made of all dealings or transactions of or in relation to the properties, business, and affairs of the public improvement.

(2) Each public corporation shall file an audit report annually with the department of treasury within 6 months from the end of its fiscal year or as otherwise provided in the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 466]

(SB 1267)

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 11 (MCL 247.661), as amended by 2000 PA 188.

The People of the State of Michigan enact:

247.661 State trunk line fund; separate fund; appropriation; purposes; order of priority; expenditures; deductions; "maintenance" and "maintaining" defined; borrowing by county road commissions, cities, and villages; limitation; approval; notice; borrowing by state transportation commission; procedures for implementation and administration of loan program; expenditure for administrative expenses; conduct of performance audits; revised municipal finance act inapplicable to certain contracts.

Sec. 11. (1) A fund to be known as the state trunk line fund is established and shall be set up and maintained in the state treasury as a separate fund. The money deposited in the state trunk line fund is appropriated to the state transportation department for the following purposes in the following order of priority:

(a) For the payment, but only from money restricted as to use by section 9 of article IX of the state constitution of 1963, of bonds, notes, or other obligations in the following order of priority:

(*i*) For the payment of contributions required to be made by the state highway commission or the state transportation commission under contracts entered into before July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, which contributions have been pledged before July 18, 1979, for the payment of the principal and interest on bonds issued under 1941 PA 205, MCL 252.51 to 252.64, for the payment of which a sufficient sum is irrevocably appropriated.

(*ii*) For the payment of the principal and interest upon bonds designated "State of Michigan, State Highway Commissioner, Highway Construction Bonds, Series I", dated September 1, 1956, in the aggregate principal amount of $25,000,000.00, issued pursuant to former 1955 PA 87 and the resolution of the state administrative board adopted August 6, 1956, for the payment of which a sufficient sum is irrevocably appropriated.

(*iii*) For the payment of the principal and interest on bonds issued under section 18b for transportation purposes other than comprehensive transportation purposes as defined by law and the payment of contributions of the state highway commission or state transportation commission to be made pursuant to contracts entered into under section 18d, which contributions are pledged to the payment of principal and interest on bonds issued under the authorization of section 18d and contracts executed pursuant to that section. A sufficient portion of the fund is irrevocably appropriated to pay, when due, the principal and interest on bonds or notes issued under section 18b for purposes other than comprehensive transportation purposes as defined by law, and to pay the annual contributions of the state highway commission and the state transportation commission as are pledged for the payment of bonds issued pursuant to contracts authorized by section 18d.

(b) For the transfer of funds appropriated pursuant to section 10(1)(g) to the transportation economic development fund, but the transfer shall be reduced each fiscal year by the amount of debt service to be paid in that year from the state trunk line fund for bonds, notes, or other obligations issued to fund projects of the transportation economic development fund, which amount shall be certified by the department.

(c) For the transfer of funds appropriated pursuant to section 10(1)(a) to the railroad grade crossing account in the state trunk line fund for expenditure to meet the cost, in whole or in part, of providing for the improvement, installation, and retirement of new or existing safety devices or other rail grade crossing improvements at rail grade crossings on public roads and streets under the jurisdiction of this state, counties, or cities and villages. Projects shall be selected for funding in accordance with the following:

(*i*) Not more than 50% or less than 30% of these funds and matched federal funds shall be expended for state trunk line projects.

(*ii*) In prioritizing projects for these funds, in whole or in part, the department shall consider train and vehicular traffic volumes, accident history, traffic control device improvement needs, and the availability of funding.

(*iii*) Consistent with the other requirements for these funds, the first priority for funds deposited pursuant to this subdivision for rail grade crossing improvements and retirement shall be to match federal funds from the railroad-highway grade crossing improvement program or other comparable federal programs.

(*iv*) If federal funds from the railroad-highway grade crossing improvement program or other comparable federal programs have been exhausted, funds deposited pursuant to this subdivision shall be used to fund 100% of grade crossing projects that receive the highest priority of unfunded projects pursuant to criteria established by the department.

(*v*) State railroad grade crossing funds shall not be used, either as 100% of project cost or to match federal railroad-highway grade crossing improvement funds, for a crossing that is determined by the department pursuant to the criteria established by the department to be a lower priority than other projects that have not yet been funded. However, if sufficient funds are available, these state railroad grade crossing account funds may be used for not more than 50% of a project's cost for a crossing that is determined by the department pursuant to the criteria established by the department to be a lower priority if the balance of not less than 50% of the project's cost is provided by the road authority, railroad, or other sources.

(*vi*) The type of railroad grade crossing improvement, installation, relocation, or retirement of grade crossing surfaces, active and passive traffic control devices, pavement marking, or other related work shall be eligible for these railroad grade crossing account funds in the same manner as the project type eligibility provided by the federal funds from the railroad-highway grade crossing improvement program, except for the following:

(A) For new railroad crossings, these funds may be used for the crossing surface, active and passive traffic control devices, pavement marking, and other improvements necessitated by the new crossing.

(B) These funds may be used for the modification, relocation, or modernization of railroad grade crossing facilities necessitated by roadway improvement projects.

(C) If the department and the road authority with jurisdiction over a public road or street crossing formally agree that the grade crossing should be eliminated by permanent closing of the public road or street, the road authority making the closing shall receive $5,000.00 from the railroad grade crossing account. In addition, any connecting road improvements necessitated by the grade crossing closure are reimbursable on an actual cost basis not to exceed $10,000.00 per crossing closed. The physical removal of the crossing, roadway within railroad rights of way and street termination treatment will be negotiated between the road authority and railroad company. The funds provided to the road authority as a result of the crossing closure will be credited to its account representing the same road or street system on which the crossing is located.

(d) For the total operating expenses of the state trunk line fund for each fiscal year as appropriated by the legislature.

(e) For the maintenance of state trunk line highways and bridges.

(f) For the opening, widening, improving, construction, and reconstruction of state trunk line highways and bridges, including the acquisition of necessary rights of way and the work incidental to that opening, widening, improving, construction, or reconstruction. Those sums in the state trunk line fund not otherwise appropriated, distributed, determined, or set aside by law shall be used for the construction or reconstruction of the national

system of interstate and defense highways, referred to in this act as "the interstate highway system" to the extent necessary to match federal aid funds as the federal aid funds become available for that purpose; and, for the construction and reconstruction of the state trunk line system.

(g) The state transportation department may enter into agreements with county road commissions and with cities and villages to perform work on a highway, road, or street. The agreements may provide for the performance by any of the contracting parties of any of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection with the work, by purchase or condemnation by any of the contracting parties in its own name, and for joint participation in the costs, but only to the extent that the contracting parties are otherwise authorized by law to expend money on the highways, roads, or streets. The state transportation department also may contract with a county road commission, city, and village to advance money to a county road commission, city, and village to pay their costs of improving railroad grade crossings on the terms and conditions agreed to in the contract. A contract may be executed before or after the state transportation commission borrows money for the purpose of advancing money to a county road commission, city, or village, but the contract shall be executed before the advancement of any money to a county road commission, city, or village by the state transportation commission, and shall provide for the full reimbursement of any advancement by a county road commission, city, or village to the state transportation department, with interest, within 15 years after advancement, from any available revenue sources of the county road commission, city, or village or, if provided in the contract, by deduction from the periodic disbursements of any money returned by the state to the county road commission, city, or village.

(h) For providing inventories of supplies and materials required for the activities of the state transportation department. The state transportation department may purchase supplies and materials for these purposes, with payment to be made out of the state trunk line fund to be charged on the basis of issues from inventory in accordance with the accounting and purchasing laws of this state.

(2) Notwithstanding any other provision of this act, at least 90% of state revenue appropriated annually to the state trunk line fund less the amounts described in subdivisions (a) to (i) shall be expended annually by the state transportation department for the maintenance of highways, roads, streets, and bridges and for the payment of debt service on bonds, notes, or other obligations described in subsection (1)(a) issued after July 1, 1983, for the purpose of providing funds for the maintenance of highways, roads, streets, and bridges. Of the amounts appropriated for state trunk line projects, the department shall, where possible, secure warranties of not less than 5-year full replacement guarantee for contracted construction work. If an appropriate certificate is filed under section 18e but only to the extent necessary, this subsection shall not prohibit the use of any amount of money restricted as to use by section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund for the payment of debt service on bonds, notes, or other obligations pledging for the payment thereof money restricted as to use by section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund, whenever issued, as specified under subsection (1)(a). The amounts that are deducted from the state trunk line fund for the purpose of the calculation required by this subsection are as follows:

(a) Amounts expended for the purposes described in subsection (1)(a) for the payment of debt service on bonds, notes, or other obligations issued before July 2, 1983.

(b) Amounts expended to provide the state matching requirement for projects on the national highway system and for the payment of debt service on bonds, notes, or other

obligations issued after July 1, 1983, for the purpose of providing funds for the state matching requirements for projects on the national highway system.

(c) Amounts expended for the construction of a highway, street, road, or bridge to 1 or more of the following or for the payment of debt service on bonds, notes, or other obligations issued after July 1, 1983, for the purpose of providing funds for the construction of a highway, street, road, or bridge to 1 or more of the following:

(*i*) A location for which a building permit has been obtained for the construction of a manufacturing or industrial facility.

(*ii*) A location for which a building permit has been obtained for the renovation of, or addition to, a manufacturing or industrial facility.

(d) Amounts expended for capital outlay other than for highways, roads, streets, and bridges or to pay debt service on bonds, notes, or other obligations issued after July 1, 1983, for the purpose of providing funds for capital outlay other than for highways, roads, streets, and bridges.

(e) Amounts expended for the operating expenses of the state transportation department other than the units of the department performing the functions assigned on January 1, 1983 to the bureau of highways.

(f) Amounts expended pursuant to contracts entered into before January 1, 1983.

(g) Amounts expended for the purposes described in subsection (5).

(h) Amounts appropriated for deposit in the transportation economic development fund and the rail grade crossing account pursuant to section 10(1)(g) and 10(1)(a).

(i) Upon the affirmative recommendation of the director of the state transportation department and the approval by resolution of the state transportation commission, those amounts expended for projects vital to the economy of this state, a region, or local area or the safety of the public. The resolution shall state the cost of the project exempted from this subsection.

(3) Notwithstanding any other provision of this act, the state transportation department shall expend annually at least 90% of the federal revenue distributed to the credit of the state trunk line fund in that year, except for federal revenue expended for the purposes described in subsection (2)(b), (c), (f), and (i) and for the payment of notes issued under section 18b(9), on the maintenance of highways, roads, streets, and bridges. The requirement of this subsection shall be waived if compliance would cause this state to be ineligible according to federal law for federal revenue, but only to the extent necessary to make this state eligible according to federal law for that revenue.

(4) As used in this section:

(a) "Maintenance" and "maintaining" mean snow removal; street cleaning and drainage; seal coating; patching and ordinary repairs; erection and maintenance of traffic signs and markings; safety projects; and the preservation, reconstruction, resurfacing, restoration, and rehabilitation of highways, roads, streets, and bridges. For the purposes of this section, maintenance and maintaining shall not be limited to the repair and replacement of a road but shall include maintaining the original intent of a construction project. If traffic patterns indicate that this intent is no longer being met, the department may expend funds to take corrective action and continue to fulfill its obligation of maintaining the department's original objective for the construction project. However, maintenance and maintaining do not include projects that increase the capacity of a highway facility to accommodate that part of the traffic having neither origin nor destination within the local area.

(b) "Maintenance" and "maintaining" include widening less than lane width; adding auxiliary turning lanes of 1/2 mile or less; adding auxiliary weaving, climbing, or speed change lanes; and correcting substandard intersections.

(c) "Maintenance" and "maintaining" do not include the upgrading of aggregate surface roads to hard surface roads.

(d) "Maintenance" and "maintaining" include the portion of the costs of the units of the department performing the functions assigned on January 1, 1983, to the bureau of highways expended for the purposes described in subdivisions (a) and (b).

(5) Notwithstanding any other provision of this section, the state transportation department may loan money to county road commissions, cities, and villages for paying capital costs of transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963 from the proceeds of bonds or notes issued pursuant to section 18b or from the state trunk line fund. Loans made directly from the state trunk line fund shall be made only after provision of funds for the purposes specified in subsection (1)(a) to (f). Loans described in this subsection are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(6) County road commissions, cities, and villages may borrow money from the proceeds of bonds or notes issued under section 18b or the state trunk line fund for the purposes set forth in subsection (5) that shall be repayable, with interest, from 1 or more of the following:

(a) The money to be received by the county road commission, city, or village from the Michigan transportation fund, except to the extent the money has been or may in the future be pledged by contract in accordance with 1941 PA 205, MCL 252.51 to 252.64, or has been or may in the future be pledged for the payment of the principal and interest upon notes issued pursuant to 1943 PA 143, MCL 141.251 to 141.254, or has been or may in the future be pledged for the payment of principal and interest upon bonds issued under section 18c or 18d, or has been or may in the future be pledged for the payment of the principal and interest upon bonds issued pursuant to 1952 PA 175, MCL 247.701 to 247.707.

(b) Any other legally available funds of the city, village, or county road commission, other than the general funds of the county.

(7) Loans made pursuant to subsection (5) if required by the state transportation department may be payable by deduction by the state treasurer, upon direction of the state transportation department, from the periodic disbursements of any money returned by the state under this act to the county road commission, city, or village, but only after sufficient money has been returned to the county road commission, city, or village to provide for the payment of contractual obligations incurred or to be incurred and principal and interest on notes and bonds issued or to be issued under 1941 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c or 18d. The interest rates and payment schedules of any loans made from the proceeds of bonds or notes issued pursuant to section 18b shall be established by the state transportation department to conform as closely as practicable to the interest rate and repayment schedules on the bonds or notes issued to make the loans. However, the state transportation department may allow for the deferral of the first payment of interest or principal on the loans for a period of not to exceed 1 year after the respective first payment of interest or principal on the bonds or notes issued to make the loans.

(8) The amount borrowed by a county road commission, city, or village pursuant to subsection (6) shall not be included in, or charged against, any constitutional, statutory, or charter debt limitation of the county, city, or village and shall not be included in the determination of the maximum annual principal and interest requirements of, or the limitations upon, the maximum annual principal and interest incurred under 1941 PA 205,

MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c or 18d.

(9) The county road commission, city, or village is not required to seek or obtain the approval of the electors, or, except as provided in this subsection, the department of treasury to borrow money pursuant to subsection (6). The borrowing is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5. The state transportation department shall give at least 10 days' notice to the state treasurer of its intention to make a loan under subsection (5). If the state treasurer gives notice to the director of the state transportation department within 10 days of receiving the notice from the state transportation department, that, based upon the then existing financial or credit situation of the county road commission, city, or village, it would not be in the best interests of the state to make a loan under subsection (5) to the county road commission, city, or village, the loan shall not be made unless the state treasurer, after a hearing, if requested by the affected county road commission, city, or village, subsequently gives notice to the director of the state transportation department that the loan may be made on the conditions that the state treasurer specifies.

(10) The state transportation commission may borrow money and issue bonds and notes under, and pursuant to the requirements of, section 18b to make loans to county road commissions, cities, and villages for the purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963, as provided in subsection (5). A single issue of bonds or notes may be issued for the purposes specified in subsection (5) and for the other purposes specified in section 18b. The house and senate transportation appropriations subcommittees shall be notified by the department if there are extras and overruns sufficient to require approval of either the state administrative board or the commission, or both, on any contract between the department and a local road agency or a private business.

(11) The director of the state transportation department, after consultation with representatives of the interests of county road commissions, cities, and villages, shall establish, by intergovernmental communication, procedures for the implementation and administration of the loan program established under subsections (5) to (10).

(12) Not more than 10% per year of all of the funds received by and returned to the state transportation department from any source for the purposes of this section may be expended for administrative expenses. The department shall be subject to section 14(5) if more than 10% per year is expended for administrative expenses. As used in this subsection, "administrative expenses" means those expenses that are not assigned including, but not limited to, specific road construction or maintenance projects and are often referred to as general or supportive services. Administrative expenses shall not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices that are assigned, but not limited to, specific road construction projects or maintenance activities.

(13) Any performance audits of the department shall be conducted according to government auditing standards issued by the United States general accounting office.

(14) Contracts entered into to advance money to a county road commission, city, or village under subsection (1)(g) are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.

Approved June 21, 2002.

Filed with Secretary of State June 21, 2002.

[No. 467]

(SB 1301)

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 18b (MCL 247.668b), as amended by 1985 PA 201.

The People of the State of Michigan enact:

247.668b State transportation commission; bonds and notes.

Sec. 18b. (1) The state transportation commission may borrow money and issue notes or bonds for the following purposes:

(a) To pay all or any portion of or to make loans, grants, or contract payments to pay all or any portion of any capital costs for the purposes described in section 9 of article IX of the state constitution of 1963.

(b) To pay the principal or the principal and interest on notes and, if the state transportation commission considers refunding to be expedient, to refund bonds payable from money in the state trunk line fund or the comprehensive transportation fund or received or to be received from the motor vehicle highway fund or the Michigan transportation fund regardless of when the refunded bonds were issued, by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to

prior redemption or are to be paid, redeemed, or surrendered at the time of issuance of the refunding bonds; and to issue new bonds partly to refund bonds or pay notes then outstanding and partly for any other transportation purpose authorized by this act.

(c) To pay all costs relating to the issuance of the bonds or notes described in this section, including, but not limited to, legal, engineering, accounting, and consulting services, interest on bonds or notes for such period as determined by the state transportation commission in the resolution authorizing the bonds or notes and a reserve for payment of principal, interest, and redemption premiums on the bonds or notes in an amount determined by the state transportation commission in the resolution authorizing the bonds or notes.

(2) The refunding bonds described in subsection (1)(b) shall be sold and the proceeds and the earnings or profits from the investment of those proceeds applied in whole or in part to the purchase, redemption, or payment of the principal or the principal and interest of the bonds to be refunded and the refunding bonds issued by the state transportation commission under subsection (1)(b) and the costs described in subsection (1)(c). Refunding notes or bonds shall be considered to be issued for the same purpose or purposes for which the notes or bonds to be refunded were issued.

(3) The notes or bonds authorized by this section shall be issued only after authorization by resolution of the state transportation commission, which resolution shall contain the following:

(a) An irrevocable pledge providing for the payment of the principal and interest on the notes or bonds from money that is restricted as to use by section 9 of article IX of the state constitution of 1963 and that is deposited or to be deposited in the comprehensive transportation fund, in the case of bonds or notes issued for comprehensive transportation purposes as defined by law, or in the state trunk line fund, in the case of bonds or notes issued for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963, or in the case of notes or bonds, if the resolution authorizing the notes or bonds provides, from money received or to be received by the state transportation department from the proceeds of bonds or renewal notes to be issued after the date of the resolution or from money received or to be received from the proceeds of the grants described in subsection (9). If the resolution authorizing the bonds or notes so provides, a portion of the principal or interest on the bonds or notes may be secured by an irrevocable pledge of money deposited in the comprehensive transportation fund or the state trunk line fund, and the balance of the principal and interest secured by an irrevocable pledge of the proceeds of bonds or renewal notes or money received or to be received from the proceeds of the grants described in subsection (9).

(b) A brief statement describing the projects for which the notes or bonds are to be issued and in the case of notes or bonds to pay notes or refund bonds, a description of the notes or bonds to be paid or refunded. For purposes of this section and section 18k, in connection with bonds issued to fund the loan program established under section 11(7) to (12), the loan program shall constitute the project, and it shall not be necessary to specify the particular item or costs of a particular item to be financed from any particular loan made under the loan program.

(c) The estimated cost of the projects or refunding or refinancing.

(d) The detail of the notes or bonds including the date of issue, maturity date or dates of the bonds or notes, the maximum interest rate, the dates of payment of interest, the paying agents, the transfer agent or agents, the provisions for registration, the redemption provisions, and the manner of execution or, as provided in subsection (11)(d), the limitations within which such detail may be determined by the person designated by the commission.

(4) If after the issuance of notes or bonds, the state transportation commission determines that a project for which the notes or bonds are to be issued should be changed, the state transportation commission, by resolution, adopted after the 30 days' notice of intention to adopt the resolution has been given to the appropriations committees of the senate and the house of representatives, shall amend the resolution authorizing the bonds or notes to change the description of the project or projects or to substitute a different project or projects for the project for which the notes or bonds were issued and shall make other revisions in the resolution authorizing the notes or bonds with respect to cost as may be necessary to permit the change in or substitution of a project or projects.

(5) Before October 1, 1979, the total amount of bonds and notes issued pursuant to this section for comprehensive transportation purposes as defined by law shall not exceed an amount as will be serviced as to maximum principal and interest requirements by a sum equal to the amount deposited to the credit of the general transportation fund for the fiscal year ending September 30, 1977. After September 30, 1979, the total amount of bonds and notes issued pursuant to this section for comprehensive transportation purposes as defined by law shall not exceed an amount as will be serviced, out of state funds only, as to maximum annual principal and interest requirements by an amount equal to 50% of the total amount of money from taxes, the use of which money is restricted by section 9 of article IX of the state constitution of 1963, and which money is deposited in the state treasury to the credit of the comprehensive transportation fund during the state fiscal year immediately preceding the issuance of the bonds or notes.

(6) The total amount of bonds and notes issued pursuant to this section for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963 shall not exceed an amount as will be serviced as to the maximum principal and interest requirements by a sum equal to 50% of the total of the amount of money received from taxes, the use of which is restricted by section 9 of article IX of the state constitution of 1963 and which is deposited in the state treasury to the credit of the state trunk line fund during the state fiscal year immediately preceding the issuance of the bonds or notes.

(7) The principal or principal and interest or the portion of principal or interest of bonds or notes that are issued in anticipation of the issuance of bonds or renewal notes or of federal grants as provided in subsection (9) and that do not pledge for their payment money in the state trunk line fund or the comprehensive transportation fund or money received or to be received by the state transportation department from the Michigan transportation fund or the motor vehicle highway fund shall not be considered to be principal and interest requirements subject to the limitation set forth in subsections (5) and (6). The principal of and interest on notes or bonds refunded or for the refunding of which refunding bonds have been sold, whether the bonds to be refunded are to be retired at the time of delivery of the refunding bonds or not, shall not be considered to be principal and interest requirements subject to the limitation set forth in subsections (5) and (6).

(8) In computing the maximum annual principal and interest requirements under subsection (6), the total outstanding maximum annual contributions required to be made by the state highway commission and the state transportation commission pursuant to contracts entered into under the authorization of section 18d, which contributions are pledged to the payment of bonds issued under section 18d, shall be included in the amount.

(9) The state transportation commission may borrow money and issue notes or bonds in anticipation of the receipt of grants from the United States of America or any agency or instrumentality thereof and may pledge for the payment of the principal, interest, and redemption premiums on such notes or bonds 1 or more of the following:

(a) The proceeds of any such grant and any investment earnings or gain thereon.

(b) If deemed advisable by the state transportation commission, money that is restricted as to use by section 9 of article IX of the state constitution of 1963, and that is deposited or to be deposited in the comprehensive transportation fund, in the case of bonds or notes issued for comprehensive transportation purposes as defined by law, or in the state trunk line fund, in the case of bonds or notes issued for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963.

(c) If deemed advisable by the state transportation commission, money received or to be received by the state from the sale of the bonds or notes described in this section to be issued after the issuance of the notes or bonds described in this subsection and any investment earnings or gain thereon.

(10) Bonds or notes may be issued under this section as separate issues or series with different dates of issuance, but the aggregate of the bonds or notes shall be subject to the limitations set forth in this section.

(11) The state transportation commission in determining to issue bonds or notes may do 1 or more of the following:

(a) Authorize and enter into insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase obligations, remarketing agreements, reimbursement agreements, and any other transactions to provide security to assure timely payment of any bonds or notes.

(b) Authorize payment from the proceeds of the bonds or notes or other funds available, of the cost of issuance, including, but not limited to, fees for placement, fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or other agreements to provide security to assure timely payment of bonds or notes.

(c) Authorize principal and interest to be payable from 1 or more of the following:

(*i*) Money described in subsection (3)(a).

(*ii*) Proceeds of bonds or notes.

(*iii*) Earning on proceeds of bonds or notes or other funds held for payment of bonds or notes.

(*iv*) Proceeds of any other security provided to assure timely payment of the bonds or notes.

(*v*) Proceeds of federal grants and other money described in subsection (9).

(*vi*) Any combination of the sources described in subparagraphs (*i*) to (*v*).

(d) Authorize or provide for a person designated by the state transportation commission, but only within limitations that shall be contained in the authorization resolution of the state transportation commission, to do 1 or more of the following:

(*i*) Sell and deliver and receive payment for bonds or notes.

(*ii*) Refund bonds or notes by the delivery of new bonds or notes, whether or not the bonds or notes to be refunded have matured or are subject to redemption prior to maturity on the date of delivery of the refunding bonds or notes.

(*iii*) Deliver bonds or notes partly to refund bonds or notes and partly for any other authorized purposes.

(*iv*) Buy, hold without cancellation, or sell bonds or notes so issued.

(*v*) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, optional or mandatory redemption or tender rights and obligations to be exercised by the

state transportation commission or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(12) If additionally secured as provided in subsection (11), the bonds or notes, notwithstanding other provisions of this act, may be made payable or subject to purchase on demand or prior to maturity at the option of the holder at the time and in the manner as determined by the state transportation commission or the designated person as provided in the resolution authorizing the bonds or notes. Any bonds or notes authorized by this section may bear no interest or interest at a rate or rates that may be variable but that shall be subject to the limitations provided in section 18e as provided in the resolution authorizing the obligations. If bonds or notes are subject to payment or purchase on demand or prior to maturity at the option of the holder, and the obligation of this state to make payment or effect purchases on demand or prior to maturity, at the option of the holder is limited to the proceeds of 1 or more of the additional security devices described in this subsection and is not payable from constitutionally restricted funds deposited in the comprehensive transportation fund or the state trunk line fund, for purposes of computing maximum annual principal and interest requirements under subsections (5) and (6), the principal and interest on the bonds or notes subject to payment or purchase on demand or prior redemption at the option of the holder shall be disregarded and the maximum annual principal and interest requirements that would arise with respect to the repayment of the proceeds of the additional security device shall be substituted therefor.

(13) In connection with outstanding bonds, notes, or other obligations issued under this act, or in connection with the issuance or proposed issuance of bonds, notes, or other indebtedness, the state transportation commission may authorize by resolution the execution and delivery of agreements providing for interest rate exchanges or swaps, hedges, or similar agreements. The obligations of this state under the agreements, including termination payments, may be made payable from and secured by a pledge of the same sources of funds as the bonds, notes, or other obligations in connection with which the agreements are entered into, or from any other sources of funds available as a payment source of bonds, notes, or other obligations issued under this act. In calculating debt service on bonds, notes, and other obligations, the payments and receipts under the agreements authorized by this subsection, without regard to termination payments, and the payment obligations under the bonds, notes, or other obligations in connection with which the agreements are entered into, shall be aggregated and treated as a single obligation.

(14) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(15) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 468]

(SB 217)

AN ACT to regulate the servicing, repair, and maintenance of certain appliances and the compensation received by certain persons for those activities; to provide for certain disclosures and warranties regarding those activities; to limit certain representations by service dealers; and to provide for certain remedies.

The People of the State of Michigan enact:

445.831 Short title.

Sec. 1. This act shall be known and may be cited as the "Joe Gagnon appliance repair act".

445.832 Definitions.

Sec. 2. As used in this act:

(a) "Appliance" means a refrigerator, dehumidifier, freezer, oven, range, microwave oven, washer, dryer, dishwasher, trash compactor, or window room air conditioner.

(b) "Customer" means a member of the general public who seeks the services of a service dealer for the repair, maintenance, or service of an appliance that he or she uses personally and not as part of a business or commercial enterprise.

(c) "Service dealer" means a person or other legal entity that, for compensation, engages or offers to engage in repairing, servicing, or maintaining an appliance. Service dealer does not include a contractor licensed under the Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to 338.988.

445.833 Appliance repair; written estimate; fee; service call charge; combination of written estimate with final bill.

Sec. 3. (1) Except as otherwise provided in this section and before repairing, servicing, or performing maintenance on an appliance, a service dealer shall make a written estimate of the cost of the repair, service, or maintenance. The written estimate shall comply with subsection (2). The customer shall approve the estimate by signing the estimate, verbally approving the estimate via the telephone, or by any other equivalent method. If the customer approves the estimate by means of a telephone call or other equivalent method, the service dealer shall so indicate on the estimate and shall, if possible, obtain the customer's signature on the estimate at a later time. A service dealer shall not charge in excess of 110% of the amount noted in the written estimate unless the service dealer receives the verbal or written permission of the customer.

(2) A written estimate or attached documentation shall provide all of the following:

(a) The service dealer's name, mailing address, and telephone number. If the service dealer's mailing address is not a street address, then the street address of the service dealer.

(b) A description of the problem requiring service, repair, or maintenance or the maintenance procedure desired by the customer.

(c) Any charge for labor to be performed or parts to be installed, each stated separately. The estimate shall state the hourly rate, if any, or flat rate by which the labor charge is determined.

(d) The cost for removing the appliance from and returning the appliance to the customer's premises, if applicable.

(3) A service dealer may charge a fee, as indicated in the written estimate, for any labor performed in examining the appliance and diagnosing any problems. If the appliance would require dismantling as part of the diagnosis, the service dealer shall include in the written estimate of the cost of dismantling and reassembling the appliance and the cost, if any, of any parts that would be destroyed or rendered inoperable by the dismantling and reassembly of the appliance.

(4) This act does not prohibit a service dealer from charging for a service call.

(5) This act does not prohibit a service dealer from combining the written estimate with the final bill described in section 5 into the same document.

445.834 Removed parts; return; retention.

Sec. 4. (1) Except as otherwise provided in subsection (2), the service dealer shall return all parts removed from the appliance to the customer unless the customer declines, in writing, to receive the removed part.

(2) The service dealer may retain any part that has a core charge or exchange rate, contains hazardous material, or is returned to the manufacturer as required by the manufacturer's warranty if the service dealer provides to the customer, at the completion of the repair, service, or maintenance, a written statement on the final bill describing the reason for the retention of the part.

445.835 Final bill.

Sec. 5. The final bill shall separately state in writing the following:

(a) The name and address of the service dealer as described in section 3(2)(a).

(b) Service call charges, if any.

(c) The labor charge.

(d) Parts charge, if any, including whether the parts were new or used and the actual part number and manufacturer.

(e) The warranty provided by the supplier of the part. If the service dealer has no knowledge of a supplier's or manufacturer's warranty or knows that no supplier's or manufacturer's warranty exists, he or she shall so state.

(f) The service dealer's labor warranty.

(g) Other charges, stated in detail.

(h) Sales tax.

(i) A statement that the customer, in order to enforce any warranty provided by this act, is required to notify the service dealer in writing, in person, or by telephone not later than the time period of the warranty for the part or labor.

(j) The right of a customer to bring an action under this act.

445.836 Warranty.

Sec. 6. (1) A service dealer shall provide a warranty for not less than 30 days on the service dealer's labor regarding the repair of the appliance.

(2) Subsection (1) does not void, reduce, or supersede a warranty made by the manufacturer of the appliance and does not void any provisions of a service contract that covers the appliance.

(3) A warranty under subsection (1) requires the service dealer to correct, at no cost to the customer, any failure of the warranted parts if the customer notifies the service dealer in writing within the applicable warranty time period. A service dealer shall make a warranted correction in not more than 10 days after receipt of the written notice of the failure unless parts, after having been ordered in a timely manner, are not received by the service dealer. The service dealer shall make a written record of the ordering of those parts.

(4) A service dealer may impose a labor charge upon the receipt of a written notice of failure from a customer which is after the 30-day labor warranty described in subsection (1).

(5) A warranty issued under subsection (1) for service is extended by any period of time the service dealer has possession of the appliance for work related to the warranty.

445.837 False statement; noncompliance; remedies; action pursuant to Michigan consumer protection act; other remedies.

Sec. 7. (1) A service dealer who makes a false statement of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of an appliance or who fails to substantially comply with the disclosure requirements of this act is subject to the remedies prescribed by subsection (2).

(2) A person may bring an action in a court of competent jurisdiction for actual damages resulting from a violation of this act in the amount of his or her actual damages or $250.00, whichever is greater, together with reasonable attorney fees. The court may award up to twice the amount of damages if it finds that the violation of this act was willful.

(3) This act does not prohibit the attorney general, a prosecuting attorney, or a person who has suffered a loss as a result of a violation of this act from bringing an action pursuant to the Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922, for any act or omission relative to this act.

(4) The remedies under this section are cumulative and independent. The use of 1 remedy by a person or the department of attorney general shall not bar the use of other lawful remedies, including injunctive relief, by that person or the department of attorney general.

Effective date.

Enacting section 1. This act takes effect June 1, 2002.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 469]

(SB 116)

AN ACT to amend 1917 PA 273, entitled "An act to regulate and license pawnbrokers in cities and incorporated villages of this state, having a population of more than 3,000," by amending the title and sections 1, 2, 3, 5, 6, 8, and 19 (MCL 446.201, 446.202, 446.203, 446.205, 446.206, 446.208, and 446.219), section 5 as amended by 1998 PA 233.

The People of the State of Michigan enact:

TITLE

An act to regulate and license pawnbrokers in certain governmental units of this state; and to prescribe certain powers and duties of certain local governmental units and state agencies.

446.201 Pawnbrokers; license required.

Sec. 1. A person, corporation, or firm shall not carry on the business of pawnbroker in any of the governmental units of this state without having first obtained from the chief executive officer of the governmental unit where the business is to be carried on, a license subject to the provisions of this act, authorizing that person, corporation, or firm to carry on that business. A person, corporation, or firm carrying on the business of pawnbroker that was not required to obtain a license before the effective date of the amendatory act that added this sentence shall obtain a license within 180 days after that effective date.

446.202 Licenses; issuance; contents; term; transferability; fee; bond; limitations.

Sec. 2. (1) The chief executive officer of the governmental unit may grant under his or her hand, and the official seal of his or her office, to any suitable person, corporation, or firm a license authorizing that person, corporation, or firm to conduct the business of a pawnbroker subject to the provisions of this act.

(2) The license shall designate the particular place in the governmental unit where that person, corporation, or firm shall conduct the business. A person, corporation, or firm receiving a license shall not conduct the business in any other place than the place designated in the license.

(3) The term of license is 1 year from date of issuance, unless revoked for cause, and is not transferable.

(4) Before issuance of the license, the applicant shall pay to the treasurer of the governmental unit an annual license fee in the amount determined under subsection (5) and give a bond to the governmental unit in its corporate name, in the penal sum of $3,000.00, with at least 2 sureties, conditioned for the faithful performance of the duties and obligations pertaining to the conduct of the business and for the payment of all costs and damages incurred by any violation of this act. The governmental unit shall approve the bond.

(5) The governmental unit may fix the amount to be paid as the annual license fee at any amount not less than $50.00 or more than $500.00.

(6) Notwithstanding any other provision of this section, the authority of a governmental unit to issue a license under this act is limited as follows:

(a) A county may not issue a license for a location within a city or village with a population greater than 3,000.

(b) A county may not issue a license for a location within a city or village with a population of 3,000 or less or within a township or charter township if that city, village, township, or charter township has established the license fee pursuant to subsection (5).

(c) A township or charter township may not issue a license for a location within a village with a population over 3,000 or a village with a population of 3,000 or less that has established a fee under subsection (5).

446.203 Definitions.

Sec. 3. As used in this act:

(a) "Chief executive officer" means any of the following:

(*i*) For a city, the mayor.

(*ii*) For a village, the village president.

(*iii*) For a township or charter township, the township supervisor.

(*iv*) For a county, the county executive or, if there is no county executive, the person designated by a resolution of the county board of commissioners.

(b) "Governmental unit" means a city, township, charter township, county, or incorporated village.

(c) "Pawnbroker" means a person, corporation, or member, or members of a copartnership or firm, who loans money on deposit, or pledge of personal property, or other valuable thing, other than securities or printed evidence of indebtedness, or who deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price.

446.205 Record of property received; contents; inspection; form of permanent record.

Sec. 5. (1) A pawnbroker shall keep a record in English, at the time the pawnbroker receives any article of personal property or other valuable thing by way of pawn, that includes a description of the article, a sequential transaction number, any amount of money loaned on the article, the name, residence, general description, and driver license number, official state personal identification card number, or government identification number of the person from whom the article was received, and the day and hour when the article was received. The record, the place where the business is carried on, and all articles of property in that place of business are subject to examination at any time by the attorney of the governmental unit, local police agency, the county prosecuting attorney of the county in which the governmental unit is situated, or the department of state police.

(2) Upon the receipt of any article of personal property or other valuable thing by way of pawn, the pawnbroker shall make a permanent record of the transaction on a form provided by the pawnbroker that substantially complies with the form described in subsection (4). Each record of transaction shall be completed in duplicate by the pawnbroker, legibly in the English language, and shall contain all applicable information required to complete the record of transaction form under subsection (4). This subsection does not prohibit the use and transmission of the information required in the record of the transaction by means of computer or other electronic media as permitted by the local police agency within the applicable governmental unit.

(3) The pawnbroker shall retain a record of each transaction and, within 48 hours after the property is received, shall send 1 copy of the record of transaction to the local police agency.

(4) The record of transaction form shall be 8-1/2 inches by 11 inches in size and shall be as follows:

RECORD OF TRANSACTION
FRONT

Article		Serial No.		
Model No. or Case No.		Lens No. or Move. No.		
Trade Name		Color	Size	No. Jewels
Material		Stone Set Design		
Description		No.	Kind of Stone	Size
Inscription or Initials				
Purchase Price	Amt. Loaned			
Dealer				
City		Date		Ticket No.
Lady's [ ]	Gent's [ ]	Wrist [ ]	Pocket [ ]	Lapel [ ]

BACK

Operator's License # or Other I.D. #

Customer's Name (PRINT)

Street No. or RFD

City and State

Employed By:	Rolled print of right thumb (If impossible then some other finger-print. Designate which.)
Age Height	
Weight Race W [ ] B [ ] O [ ]	
Time Received: AM PM	
Mail reports within 48 hours to local officers	[ ] Male [ ] Female
Signature of person taking print	

446.206 Statement to police of articles received; contents.

Sec. 6. A pawnbroker shall make daily, except Sunday, a sworn statement of his or her transactions, describing the articles received, and setting forth the name, residence, and description of the person from whom the articles were received, to the chief of police or chief law enforcement officer of the governmental unit.

446.208 Purchaser's memorandum of pawn; contents.

Sec. 8. A pawnbroker, at the time of a loan, shall deliver to the person pawning or pledging any article a memorandum or note signed by him or her, containing the substance of the entry required to be made by him or her in his or her book by section 6. A charge shall not be made or received by the pawnbroker for the entry, memorandum, or note. The memorandum or note shall be consecutively numbered and upon its back shall be printed in English in 12-point type the following: "If interest or charges in excess of 3% per month, plus storage charges provided in this document, are asked or received, this loan is void and of no effect; and the borrower cannot be made to pay back the money loaned, any interest on the loan, or any charges or any part of the charges, and the pawnbroker loses all right to the possession of the goods, article, or thing pawned, and shall surrender the item to the borrower or pawner upon due demand for the item.".

446.219 Violation of act; revocation of license; duration.

Sec. 19. Upon a conviction of any person conducting business as a pawnbroker under this act, or on conviction of any clerk, agent, servant, or employee of the person, the chief executive officer of the governmental unit shall revoke the license of the person and no part of the license fee shall be returned to him or her. The governmental unit shall not issue a license as a pawnbroker to that person for the period of 1 year from the date of the revocation.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 470]

(SB 1201)

AN ACT relative to the reporting of the issuance of certain debt and securities; and to prescribe powers and duties of certain departments, agencies, officials, and employees.

The People of the State of Michigan enact:

129.171 Short title.

Sec. 1. This act shall be known and may be cited as the "agency financing reporting act".

129.173 Definitions.

Sec. 3. As used in this act:

(a) "Agency" means this state, a state authority, agency, fund, commission, board, or department of this state. Agency also includes a municipality issuing debt exempt from the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or the provisions of the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(b) "Department" means the department of treasury.

(c) "Municipality" means a county, township, city, village, school district, intermediate school district, community college district, metropolitan district, port district, drainage district, district library, or another local governmental authority in this state that has the power to issue a security.

(d) "Security" means an evidence of debt such as a bond, note, contract, obligation, refunding obligation, certificate of indebtedness, or other similar instrument issued by an agency, which pledges payment of the debt by the agency from an identified source of revenue. Security does not include the items described in section 105 of the revised municipal finance act, 2001 PA 34, MCL 141.2105.

129.175 Bulletins; issuance by department.

Sec. 5. The department may issue bulletins as necessary to carry out the purposes of this act. A bulletin issued under this section shall include a statement of the department's specific statutory authority for any substantive requirement contained within the bulletin.

129.177 Filing; form; manner; noncompliance; electronic format.

Sec. 7. (1) Within 15 business days of completing the issuance of any security, an agency shall file all of the following with the department in a form and manner prescribed by the department:

(a) A copy of the security.

(b) A proof of publication of the notice of sale, if applicable.

(c) A copy of the award resolution including a detail of the annual interest rate and call features on the security, if any.

(d) A copy of the legal opinion regarding the legality and tax status of the security.

(e) A copy of the notice of rating of the security received from a recognized rating agency, if any.

(f) A copy of the resolution or ordinance authorizing the issuance of the security.

(g) A copy of the official statement, if any.

(2) The failure to comply with subsection (1) does not invalidate any of the securities reported under this act.

(3) The department may require that the filings to the department required by this act be filed in an electronic format prescribed by the department.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 471]

(SB 1230)

AN ACT to amend 1972 PA 239, entitled "An act to establish and operate a state lottery and to allow state participation in certain lottery-related joint enterprises with other sovereignties; to create a bureau of state lottery and to prescribe its powers and duties; to prescribe certain powers and duties of other state departments and agencies; to license and regulate certain sales agents; to create the state lottery fund; to provide for the distribution of lottery revenues and earnings for certain purposes; to provide for an appropriation; and to provide for remedies and penalties," by amending section 12 (MCL 432.12), as amended by 1998 PA 393.

The People of the State of Michigan enact:

432.12 Apportionment of revenue for payment of prizes.

Sec. 12. (1) Except as otherwise provided in subsection (3), as nearly as is practicable, until January 1, 2007, not less than 45% of the total annual revenue accruing from the sale of lottery tickets or shares shall be apportioned for payment of prizes to the holders of winning tickets or shares.

(2) On or after January 1, 2007, 45% of the total revenue shall be apportioned for payment of prizes.

(3) Notwithstanding subsections (1) and (2), the prize money from the sale of tickets or shares of any joint enterprise is that percentage of the total annual revenue accrued from that game as prescribed by the joint enterprise participation agreement executed by the commissioner.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 472]

(SB 927)

AN ACT to amend 1965 PA 213, entitled "An act to provide for setting aside the conviction in certain criminal cases; to provide for the effect of such action; to provide for

the retention of certain nonpublic records and their use; to prescribe the powers and duties of certain public agencies and officers; and to prescribe penalties," by amending section 1 (MCL 780.621), as amended by 1996 PA 573.

The People of the State of Michigan enact:

780.621 Application for order setting aside conviction; setting aside of certain convictions prohibited; time and contents of application; submitting application and fingerprints to department of state police; report; application fee; contest of application by attorney general or prosecuting attorney; notice to victim; affidavits and proofs; court order; definitions.

Sec. 1. (1) Except as provided in subsection (2), a person who is convicted of not more than 1 offense may file an application with the convicting court for the entry of an order setting aside the conviction.

(2) A person shall not apply to have set aside, and a judge shall not set aside, a conviction for a felony for which the maximum punishment is life imprisonment or an attempt to commit a felony for which the maximum punishment is life imprisonment, a conviction for a violation or attempted violation of section 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520c, 750.520d, and 750.520g, or a conviction for a traffic offense.

(3) An application shall not be filed until at least 5 years following imposition of the sentence for the conviction that the applicant seeks to set aside or 5 years following completion of any term of imprisonment for that conviction, whichever occurs later.

(4) The application is invalid unless it contains the following information and is signed under oath by the person whose conviction is to be set aside:

(a) The full name and current address of the applicant.

(b) A certified record of the conviction that is to be set aside.

(c) A statement that the applicant has not been convicted of an offense other than the one sought to be set aside as a result of this application.

(d) A statement as to whether the applicant has previously filed an application to set aside this or any other conviction and, if so, the disposition of the application.

(e) A statement as to whether the applicant has any other criminal charge pending against him or her in any court in the United States or in any other country.

(f) A consent to the use of the nonpublic record created under section 3 to the extent authorized by section 3.

(5) The applicant shall submit a copy of the application and 2 complete sets of fingerprints to the department of state police. The department of state police shall compare those fingerprints with the records of the department, including the nonpublic record created under section 3, and shall forward a complete set of fingerprints to the federal bureau of investigation for a comparison with the records available to that agency. The department of state police shall report to the court in which the application is filed the information contained in the department's records with respect to any pending charges against the applicant, any record of conviction of the applicant, and the setting aside of any conviction of the applicant and shall report to the court any similar information obtained from the federal bureau of investigation. The court shall not act upon the application until the department of state police reports the information required by this subsection to the court.

(6) The copy of the application submitted to the department of state police under subsection (5) shall be accompanied by a fee of $50.00 payable to the state of Michigan which shall be used by the department of state police to defray the expenses incurred in processing the application.

(7) A copy of the application shall be served upon the attorney general and upon the office of the prosecuting attorney who prosecuted the crime, and an opportunity shall be given to the attorney general and to the prosecuting attorney to contest the application. If the conviction was for an assaultive crime or a serious misdemeanor, the prosecuting attorney shall notify the victim of the assaultive crime or serious misdemeanor of the application pursuant to section 22a or 77a of the crime victim's rights act, 1985 PA 87, MCL 780.772a and 780.827a. The notice shall be by first-class mail to the victim's last known address. The victim has the right to appear at any proceeding under this act concerning that conviction and to make a written or oral statement.

(8) Upon the hearing of the application the court may require the filing of affidavits and the taking of proofs as it considers proper.

(9) If the court determines that the circumstances and behavior of the applicant from the date of the applicant's conviction to the filing of the application warrant setting aside the conviction and that setting aside the conviction is consistent with the public welfare, the court may enter an order setting aside the conviction. The setting aside of a conviction under this act is a privilege and conditional and is not a right.

(10) As used in this section:

(a) "Assaultive crime" means that term as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(b) "Serious misdemeanor" means that term as defined in section 61 of the crime victim's rights act, 1985 PA 87, MCL 780.811.

(c) "Victim" means that term as defined in section 2 of the crime victim's rights act, 1985 PA 87, MCL 780.752.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 473]

(SB 425)

AN ACT to amend 1968 PA 330, entitled "An act to license and regulate private security guards, private security police, private security guard agencies and security alarm systems servicing, installing, operating, and monitoring; to provide penalties for violations; to protect the general public against unauthorized, unlicensed and unethical operations by individuals engaged in private security activity or security alarm systems sales, installations, service, maintenance, and operations; to establish minimum qualifications for individuals as well as private agencies engaged in the security business and security alarm systems and operations; and to prescribe the powers and duties of the

department of state police," by amending the title and sections 2, 3, 6, 7, 9, 10, 13, 14, 17, 18, 19, 24, 25, 29, and 31 (MCL 338.1052, 338.1053, 338.1056, 338.1057, 338.1059, 338.1060, 338.1063, 338.1064, 338.1067, 338.1068, 338.1069, 338.1074, 338.1075, 338.1079, and 338.1081), the title and sections 2, 3, 6, 7, 9, 10, 14, 17, 18, 19, 25, 29, and 31 as amended by 2000 PA 411.

The People of the State of Michigan enact:

TITLE

An act to license and regulate private security guards, private security police, private security guard agencies and security alarm systems servicing, installing, operating, and monitoring; to provide penalties for violations; to protect the general public against unauthorized, unlicensed and unethical operations by individuals engaged in private security activity or security alarm systems sales, installations, service, maintenance, and operations; to establish minimum qualifications for individuals as well as private agencies engaged in the security business and security alarm systems and operations; to impose certain fees; to create certain funds; and to prescribe the powers and duties of the departments of state police and consumer and industry services.

338.1052 Definitions; persons not subject to act.

Sec. 2. (1) As used in this act:

(a) "Department" means the department of consumer and industry services except that in reference to the regulation of private security police, department means the department of state police.

(b) "Licensee" means a sole proprietorship, firm, company, partnership, limited liability company, or corporation licensed under this act.

(c) "Private security guard" means an individual or an employee of an employer who offers, for hire, to provide protection of property on the premises of another.

(d) "Private security police" means that part of a business organization or educational institution primarily responsible for the protection of property on the premises of the business organization.

(e) "Security alarm system" means a detection device or an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention or to which police are expected to respond. Security alarm system includes any system that can electronically cause an expected response by a law enforcement agency to a premises by means of the activation of an audible signal, visible signal, electronic notification, or video signal, or any combination of these signals, to a remote monitoring location on or off the premises. Security alarm system does not include a video signal that is not transmitted over a public communication system or a fire alarm system or an alarm system that monitors temperature, humidity, or other condition not directly related to the detection of an unauthorized intrusion into a premises or an attempted robbery at a premises.

(f) "Security alarm system agent" means a person employed by a security alarm system contractor whose duties include the altering, installing, maintaining, moving, repairing, replacing, selling, servicing, monitoring, responding to, or causing others to respond to a security alarm system.

(g) "Security alarm system contractor" means a sole proprietorship, firm, company, partnership, limited liability company, or corporation engaged in the installation, maintenance, alteration, monitoring, or servicing of security alarm systems or who responds to a security alarm system. Security alarm system contractor does not include a business that

only sells or manufactures security alarm systems unless the business services security alarm systems, installs security alarm systems, monitors or arranges for the monitoring of a security alarm system, or responds to security alarm systems at the protected premises.

(h) "Security business" means a person or business entity engaged in offering, arranging, or providing 1 or more of the following services:

(*i*) Security alarm system installation, service, maintenance, alteration, or monitoring.

(*ii*) Private security guard.

(*iii*) Private security police.

(2) All businesses furnishing security alarm systems for the protection of persons and property, whose employees and security technicians travel on public property and thoroughfares in the pursuit of their duties, are subject to this act.

(3) A communications common carrier providing communications channels under tariffs for the transmission of signals in connection with an alarm system is not subject to this act.

(4) Railroad policemen appointed and commissioned under the railroad code of 1993, 1993 PA 354, MCL 462.101 to 462.451, are exempt from this act.

338.1053 License required; permission for device delivering recorded message to public service, utility, or police agency required; violation; penalty.

Sec. 3. (1) Unless licensed under this act, a sole proprietorship, firm, company, partnership, limited liability company, or corporation shall not engage in the business of security alarm system contractor, private security guard, private security police, patrol service, or an agency furnishing those services. A person, firm, company, partnership, limited liability company, or corporation shall not advertise its business to be that of security alarm system contractor, security alarm system agent, private security guard agency, or an agency furnishing those services without having first obtained from the department a license to do so for each office and branch office to be owned, conducted, managed, or maintained for the conduct of that business.

(2) A person shall not sell, install, operate, adjust, arrange for, or contract to provide a device which upon activation, either mechanically, electronically, or by any other means, initiates the automatic calling or dialing of, or makes a connection directly to, a telephone assigned to a public service, utility, or police agency, for the purpose of delivering a recorded message, without first receiving written permission from that service, utility, or agency.

(3) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years, by a fine of not more than $1,000.00, or both.

338.1056 License; qualifications.

Sec. 6. (1) The department shall issue a license to conduct business as a security alarm system contractor or a private security guard, private security police, or to a private security guard business, if it is satisfied that the applicant is a sole proprietorship, or if a firm, partnership, company, limited liability company, or corporation the sole or principal license holder is an individual, who meets all of the following qualifications:

(a) Is not less than 25 years of age.

(b) Has a high school education or its equivalent.

(c) In the case of a licensee under this section after March 28, 2001, has not been under any sentence, including parole, probation, or actual incarceration, for the commission of a felony.

(d) In the case of a person licensed under this section on or before March 28, 2001, has not been under any sentence, including parole, probation, or actual incarceration, for the commission of a felony within 5 years before the date of application.

(e) Has not been convicted of an offense listed in section 10(1)(c) within 5 years before the date of application.

(f) Has not been dishonorably discharged from a branch of the United States military service.

(g) In the case of an applicant for a private security guard or agency license, has been lawfully engaged in 1 or more of the following:

(*i*) In the private security guard or agency business on his or her own account in another state for a period of not less than 3 years.

(*ii*) In the private security guard or agency business for a period of not less than 4 years as an employee of the holder of a certificate of authority to conduct a private security guard or agency business and has had experience reasonably equivalent to not less than 4 years of full-time guard work in a supervisory capacity with rank above that of patrolman.

(*iii*) In law enforcement employment as a certified police officer on a full-time basis for not less than 4 years for a city, county, or state government, or for the United States government.

(*iv*) In the private security guard or agency business as an employee or on his or her own account or as a security administrator in private business for not less than 2 years on a full-time basis, and is a graduate with a baccalaureate degree or its equivalent in the field of police administration or industrial security from an accredited college or university.

(h) In the case of an applicant for a security alarm system contractor license, has been lawfully engaged in either or both of the following:

(*i*) The security alarm system contractor business on his or her own account for a period of not less than 3 years.

(*ii*) The security alarm system contractor business for a period of not less than 4 years as an employee of the holder of a certificate of authority to conduct a security alarm system contractor business, and has had experience reasonably equivalent to at least 4 years of full-time work in a supervisory capacity or passes a written exam administered by the department designed to measure his or her knowledge and training in security alarm systems.

(i) Has posted with the department a bond provided for in this act.

(j) Has not been adjudged insane unless restored to sanity by court order.

(k) Does not have any outstanding warrants for his or her arrest.

(2) In the case of a sole proprietorship, firm, partnership, company, or corporation now doing or seeking to do business in this state, the resident manager shall comply with the applicable qualifications of this section.

338.1057 License; application; references; investigation; approval; nonrenewable temporary license; fees.

Sec. 7. (1) The department shall prepare a uniform application for the particular license and shall require the person filing the application to obtain reference statements from at least 5 reputable citizens who have known the applicant for a period of at least 5 years,

who can attest that the applicant is honest, of good character, and competent, and who are not related or connected to the applicant by blood or marriage.

(2) Upon receipt of the application and application fee, the department shall investigate the applicant's qualifications for licensure.

(3) The application and investigation are not considered complete until the applicant has received the approval of the prosecuting attorney and the sheriff of the county in this state within which the principal office of the applicant is to be located. If the office is to be located in a city, township, or village, the approval of the chief of police may be obtained instead of the sheriff. Branch offices and branch managers shall be similarly approved.

(4) If a person has not previously been denied a license or has not had a previous license suspended or revoked, the department may issue a nonrenewable temporary license to an applicant. If approved by the department, the temporary license is valid until 1 or more of the following occur but not to exceed 120 days:

(a) The completion of the investigations and approvals required under subsections (1), (2), and (3).

(b) The completion of the investigation of the subject matter addressed in section 6.

(c) The completion of the investigation of any employees of the licensee as further described in section 17.

(d) Confirmation of compliance with the bonding or insurance requirements imposed in section 9.

(e) The applicant fails to meet 1 or more of the requirements for licensure imposed under this act.

(5) The fees for a temporary license shall be the applicable fees as described in section 9.

338.1059 License; issuance; fees; bond; insurance; term; form; additional license for branch office; refunds; security business fund.

Sec. 9. (1) The department, when satisfied of the good character, competence, and integrity of the applicant, or if the applicant is a firm, company, partnership, limited liability company, or corporation, of its individual members or officers, shall issue to the applicant a license. Beginning October 1, 2004, the issuance of the license is conditioned upon the applicant's paying to the department for each license $200.00 if a sole proprietorship, or $300.00 if a private security guard firm, company, partnership, limited liability company, or corporation, or $500.00 if a security alarm system contractor, and upon the applicant's executing, delivering, and filing with the department a bond in the sum of $25,000.00. Beginning October 1, 2002 and until October 1, 2004, the issuance of the license is conditioned upon the applicant's paying to the department for each license $1,000.00 if a sole proprietorship, or $1,500.00 if a private security firm, company, partnership, limited liability company, or corporation, or $1,500.00 if a security alarm system contractor, and upon the applicant's executing, delivering, and filing with the department a bond of $25,000.00. The bond shall be conditioned upon the faithful and honest conduct of the business by the applicant and shall be approved by the department. In lieu of a bond, the applicant may furnish a policy of insurance issued by an insurer authorized to do business in this state naming the licensee and the state as coinsureds in the amount of $25,000.00 for property damages, $100,000.00 for injury to or death of 1 person, and $200,000.00 for injuries to or deaths of more than 1 person arising out of the operation of the licensed activity. The license is valid for 2 years but is revocable at all times by the department for

cause shown. The bonds shall be taken in the name of the people of the state and a person injured by the willful, malicious, and wrongful act of the licensee or any of his or her agents or employees may bring an action on the bond or insurance policy in his or her own name to recover damages suffered by reason of the wrongful act. The license certificate shall be in a form to be prescribed by the department. The fee changes effective October 1, 2002 until October 1, 2004 in this section and section 25 are considered necessary to cover the actual costs of the licensure program under this act and shall only be used for administration of that licensure program. The department and the department of state police shall each issue a report to the appropriations subcommittees having jurisdiction over their department not later than April 1, 2003, on whether the fee changes in this section and section 25 are adequate to support the licensure program under this act.

(2) If a licensee desires to open a branch office, he or she may receive a license for that branch following approval as required in section 7 and payment to the department of the following:

(a) Beginning October 1, 2004, an additional fee of $50.00 for each private security guard branch office license and $100.00 for each security alarm system contractor branch office license.

(b) Beginning October 1, 2002 and until October 1, 2004, an additional fee of $250.00 for each private security branch office license and $500.00 for each security alarm system contractor branch office license.

(3) The additional license issued under subsection (2) shall be posted in a conspicuous place in the branch office and shall expire on the same date as the initial license.

(4) If the license is denied, revoked, or suspended for cause, no refund shall be made of the license fees or a part thereof.

(5) The fees collected by the department under this section shall be deposited into the security business fund created in subsection (6).

(6) The security business fund is created within the state treasury. The department shall deposit all license fees collected under this act into the fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and be available for appropriation and expenditure by the department in subsequent fiscal years. The money in the fund shall not lapse to the general fund. The department shall expend money from the fund, upon appropriation, only for enforcement and administration of this act.

338.1060 License; revocation; grounds; failure to pay fines or fees; surrender of license; misdemeanor.

Sec. 10. (1) The department may revoke any license issued under this act if it determines, upon good cause shown, that the licensee or his or her manager, if the licensee is an individual, or if the licensee is not an individual, that any of its officers, directors, partners or its manager, has done any of the following:

(a) Made any false statements or given any false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated any provision of this act.

(c) Been, while licensed or employed by a licensee, convicted of a felony or a misdemeanor involving any of the following:

(*i*) Dishonesty or fraud.

(*ii*) Unauthorized divulging or selling of information or evidence.

(*iii*) Impersonation of a law enforcement officer or employee of the United States, this state, or a political subdivision of this state.

(*iv*) Illegally using, carrying, or possessing a dangerous weapon.

(*v*) Two or more alcohol related offenses.

(*vi*) Controlled substances under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(*vii*) An assault.

(d) Knowingly submitted any of the following:

(*i*) A name other than the true name of a prospective employee.

(*ii*) Fingerprints not belonging to the prospective employee.

(*iii*) False identifying information in connection with the application of a prospective employee.

(2) The department shall not renew a license of a licensee who owes any fine or fee to the department at the time for a renewal.

(3) Within 48 hours after notification from the department of the revocation of a license under this act, the licensee shall surrender the license and the identification card issued under section 14. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

338.1063 Change in name or location; report; failure to notify department.

Sec. 13. (1) Any change in the name or location of the agency or of a branch office or subagency shall be reported by the licensee to the department at least 10 days before the change becomes effective, upon receipt of which the department shall prepare and forward a certificate showing the change. The licensee shall return the old certificate within 3 business days after the change.

(2) Failure to notify the department of a change in name or location may result in license suspension.

338.1064 Identification card; issuance; form; contents; recall; custody; unauthorized use; suspension and reinstatement; duplicates.

Sec. 14. (1) Upon issuing a license, the department shall issue an identification card to the principal license holder, and if the licensee is a partner in a partnership to each partner, and if the license holder is a corporation to each resident officer or manager but only if requested by a resident officer or manager.

(2) The form and contents of the identification card shall be prescribed by the department, and the card shall be recalled by the department if the license is revoked.

(3) Only 1 identification card shall be issued for each person entitled to receive it. The licensee is responsible for the maintenance, custody, and control of the identification card and shall not let, loan, sell, or otherwise permit unauthorized persons or employees to use it. This section does not prevent an agency from issuing its own identification cards to its employees if they are approved as to form and content by the department. The individual card shall not bear the seal of the state, and the employee shall be designated as either security alarm system agent, private security police officer, security guard, or security technician.

(4) The department may suspend a license issued under this act if the licensee fails to comply with any of the requirements of this act. Unless a license is required to be revoked for a violation of this act, the department shall reinstate a suspended license upon the licensee complying with this act and the licensee paying a $100.00 reinstatement fee.

(5) Upon proper application and for sufficient reasons shown, the department may issue duplicates of the original certificate of license or identification card.

338.1067 Employees of licensee; conduct and qualifications; personnel information; employee roster to be filed with department; false statements or representations; revocation of license; misdemeanor.

Sec. 17. (1) A licensee may employ as many persons as he or she considers necessary to assist him or her in his or her work of security alarm system contractor, private security police, or private security guard and in the conduct of his or her business, and at all times during the employment is accountable for the good conduct in the business of each person so employed.

(2) Employees in the employ of a licensee after March 28, 2001 shall meet the qualifications outlined in section 6(1)(c), (e), (j), and (k), be at least 18 years of age, and have had at least an eighth grade education or its equivalent. An employee in the employ of a licensee on or before March 28, 2001 shall meet the qualifications outlined in section 6(1)(d), (e), (j), and (k), be at least 18 years of age, and have had at least an eighth grade education or its equivalent. Employees hired by a licensee after the effective date of the amendatory act that added this sentence shall meet the qualifications outlined in section 6(1)(c), (e), (j), and (k), be at least 18 years of age, and have at least a high school diploma, a GED, or its equivalent.

(3) A licensee shall keep and maintain in this state adequate and complete personnel information on all persons employed by him or her. A complete employee roster in a manner described by the department shall be filed with the department by each licensee on a quarterly basis. The rosters must be filed with the department by April 15, July 15, October 15, and January 15 for the preceding quarter. Failure to submit accurate rosters shall be cause for suspension of the license. A renewal application shall not be processed if the quarterly roster has not been received for each quarter of the preceding 2-year license period.

(4) If a licensee falsely states or represents that a person is or has been in his or her employ, the false statement or representation is sufficient cause for the revocation of the license.

(5) A person shall not falsely state or represent that he or she is an agent of a licensed security alarm system contractor, private security police officer, or private security guard. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

338.1068 Employment of unqualified employees; fingerprints; fee; background check of prospective employee; employment application; refusal to surrender identification.

Sec. 18. (1) A licensee shall not knowingly employ any person who fails to meet the requirements of section 17.

(2) The licensee shall cause fingerprints to be taken of all prospective employees who are direct providers of the security business, which fingerprints shall be submitted to the department of state police and the federal bureau of investigation for a state and national

criminal history background check. The fingerprints shall be accompanied by a fingerprint processing fee in the amount prescribed by section 3 of 1935 PA 120, MCL 28.273, as well as any fees imposed by the federal bureau of investigation. The results of the national criminal history background check as returned by the federal bureau of investigation to the department of state police shall be used by the department to make a fitness determination. A licensee shall not employ a person who is a direct provider of the security business before submitting fingerprints to the department of state police.

(3) The fingerprints required to be taken under subsection (2) may be taken by a law enforcement agency or any other person determined by the department of state police to be qualified to take fingerprints. If a licensee takes the fingerprints, that licensee shall obtain training in taking fingerprints from the department of state police or a law enforcement agency or other person determined qualified by the department of state police.

(4) A licensee shall request the department of state police to conduct a background check of each prospective employee who is a direct provider of the security business based upon a name check. The licensee shall obtain a complete and signed employment application for all individuals for whom a name check is requested and conducted. The employment application shall be retained for at least 1 year from the date of its submission. The department of state police shall conduct the background check upon a written, electronic, or telephonic request of a licensee accompanied by a fee of $15.00. The background check shall be conducted not later than 3 days after the date a written request is made and not later than 24 hours after a telephonic or electronic request is made. Provisional clearance based on the name check shall allow the employee to be employed as a security guard, for a period of time not to exceed 90 days, pending final clearance based upon a fingerprint check as provided for in subsection (2). If an approval is once denied, that individual may not again be employed as a direct provider of the security business by the submitting licensee except upon receipt of an approved fingerprint clearance. A licensee or employee of a licensee who uses a name check or results of a name check for purposes other than prospective employment is guilty of a misdemeanor punishable by imprisonment for not more than 93 days, a fine of not more than $1,000.00, or both.

(5) The department of state police may enter into an agreement with a licensee for the payment of fees imposed pursuant to this act.

(6) Any employee who, upon demand, fails to surrender to the licensee his or her identification card and any other property issued to him or her for use in connection with his or her employer's business is guilty of a misdemeanor.

338.1069 Uniform and insignia; shoulder identification patches or emblems; badge or shield; deadly weapons; tactical baton.

Sec. 19. (1) The particular type of uniform and insignia worn by a licensee or his or her employees must be approved by the department and shall not deceive or confuse the public or be identical with that of a law enforcement officer of the federal government, state, or a political subdivision of the state in the community of the license holder. Shoulder identification patches shall be worn on all uniform jackets, coats, and shirts and shall include the name of the licensee or agency. Shoulder identification patches or emblems shall not be less than 3 inches by 5 inches in size.

(2) A badge or shield shall not be worn or carried by a security alarm system agent, private security police officer, or employee, or licensee of a security alarm system contractor, private security police organization, or private security guard agency, unless approved by the director of the department.

(3) A person who is not employed as a security guard shall not display a badge or shield or wear a uniform of a security guard. A person who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(4) A person licensed as a security alarm system contractor, security alarm system agent, or a private security guard or agency is not authorized to carry a deadly weapon unless he or she is licensed to do so in accordance with the laws of this state.

(5) A licensee may authorize his or her employees to carry any commercially available tactical baton.

338.1074 Compliance with labor laws.

Sec. 24. Each sole proprietorship, partnership, firm, limited liability company, or corporation licensed and operating under the provisions of this act where there is an employer-employee relationship must comply with the state and federal laws applicable and must make written records and reports in accordance with the applicable state and federal laws.

338.1075 Renewal license; application; bond; fee; date; form; approval; effect of failure to renew; deposit of fees into security business fund.

Sec. 25. (1) A license granted under this act may be renewed by the department upon application by the licensee, filing a renewal surety bond in the amount specified in section 9, and the payment of the following:

(a) Beginning October 1, 2004, a renewal fee of $100.00 if a sole proprietorship, $150.00 if a private security guard firm, company, partnership, limited liability company, or corporation, or $250.00 if a security alarm system contractor.

(b) Beginning October 1, 2002 and until October 1, 2004, a renewal fee of $1,000.00 if a sole proprietorship, $1,500.00 if a private security guard firm, company, partnership, limited liability company, or corporation, or $1,500.00 if a security alarm system contractor.

(2) A renewal license shall be dated as of the expiration date of the previously existing license. For the renewal of a license, the licensee shall submit an application in such form provided by the department. The department may defer the renewal of license if there is an uninvestigated outstanding criminal complaint pending against the licensee or a criminal case pending in any court against the licensee.

(3) A person who fails to renew a license on or before the expiration date shall not engage in activities regulated by this act. A person who fails to renew a license on or before the expiration date may, within 30 days after the expiration date, renew the license by payment of the required license fee and a late renewal fee of $25.00. An applicant who fails to renew within the 30-day period must reapply for a license under section 7.

(4) The fees collected by the department under this section shall be deposited into the security business fund created in section 9(6).

338.1079 Licensure of private security police; rules; applicability of act to private security guards and police; use of pistols.

Sec. 29. (1) The licensure of private security police shall be administered by the department of state police. The application, qualification, and enforcement provisions under this act apply to private security police except that the administration of those provisions shall be performed by, and the payment of the appropriate fees shall be paid to,

the department of state police. The director of the department may jointly promulgate rules with the department of state police under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to facilitate the bifurcation of authority described in this subsection.

(2) This act does not require licensing of any private security guards employed for the purpose of protecting the property and employees of their employer and generally maintaining security for their employer. However, any person, firm, limited liability company, business organization, educational institution, or corporation maintaining a private security police organization may voluntarily apply for licensure under this act. When a private security police employer as described in this section provides the employee with a pistol for the purpose of protecting the property of the employer, the pistol shall be considered the property of the employer and the employer shall retain custody of the pistol, except during the actual working hours of the employee. All such private security people shall be subject to the provisions of sections 17(1) and 19(1).

338.1081 Training requirements.

Sec. 31. An applicant for licensure as private security police under this act under section 29, or the employee of the applicant, shall comply with training requirements as prescribed by the department under this act.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 474]

(SB 929)

AN ACT to amend 1965 PA 285, entitled "An act to license and regulate private detectives and investigators; to provide penalties for violations; to protect the general public against unauthorized, unlicensed and unethical operations by private detectives and private investigators; and to repeal certain acts and parts of acts," by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 31 (MCL 338.821, 338.822, 338.823, 338.824, 338.825, 338.826, 338.827, 338.829, 338.830, 338.831, 338.832, 338.833, 338.834, 338.836, 338.837, 338.838, 338.840, 338.841, 338.842, 338.843, 338.844, 338.845, 338.846, 338.847, 338.848, and 338.851).

The People of the State of Michigan enact:

TITLE

An act to license and regulate private detectives and investigators; to provide for certain powers and duties for certain state agencies and local officials; to provide for the imposition for certain fees; to protect the general public against unauthorized, unlicensed and unethical operations by private detectives and private investigators; to provide for penalties and remedies; and to repeal acts and parts of acts.

338.821 Short title.

Sec. 1. This act shall be known and may be cited as the "private detective license act".

338.822 Definitions.

Sec. 2. As used in this act:

(a) "Department" means the Michigan department of consumer and industry services.

(b) "Private detective" or "private investigator" means a person, other than an insurance adjuster who is on salary and employed by an insurance company or other than a professional engineer, who, for a fee, reward, or other consideration, engages in business or accepts employment to furnish, or subcontracts or agrees to make, or makes an investigation for the purpose of obtaining information with reference to any of the following:

(*i*) Crimes or wrongs done or threatened against the United States or a state or territory of the United States.

(*ii*) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of a person.

(*iii*) The location, disposition, or recovery of lost or stolen property.

(*iv*) The cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or property.

(*v*) Securing evidence to be used before a court, board, officer, or investigating committee.

(c) "Insurance adjuster" means a person other than a private detective or private investigator who, for a consideration, engages in the activities described in subdivision (b) in the course of adjusting or otherwise participating in the disposal of claims under or in connection with a policy of insurance. Insurance adjuster includes a person who is employed on a salary basis by an insurance company; a person, firm, partnership, company, limited liability company, or corporation who acts for insurance companies solely in the capacity of a claim adjuster, a person, firm, partnership, company, limited liability company, or corporation engaged in the business of public adjuster acting for claimants in securing adjustments of claims against insurance companies and who does not perform investigative services including surveillance activities.

(d) "Licensee" means a person licensed under this act.

(e) "Professional engineer" means a person licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014, as a professional engineer.

338.823 License required; violation; penalty.

Sec. 3. (1) A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of private detective or investigator for hire, fee or reward, and shall not advertise his or her business to be that of detective or of a detective agency without first obtaining a license from the department.

(2) A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of furnishing or supplying, for hire and reward, information as to the personal character of any person or firm, or as to the character or kind of business and occupation of any person, firm, partnership, company, limited liability company, or corporation and shall not own, conduct, or maintain a bureau or agency for

the purposes described in this subsection except as to the financial rating of persons, firms, partnerships, companies, limited liability companies, or corporations without having first obtained a license from the department.

(3) A person violating this section is guilty of a felony punishable by imprisonment for not more than 4 years or by a fine of not more than $5,000.00, or both.

338.824 Exemptions from act.

Sec. 4. This act does not apply to any of the following:

(a) A person employed exclusively and regularly by an employer in connection with the affairs of the employer only and there exists a bona fide employer-employee relationship for which the employee is reimbursed on a salary basis.

(b) An officer or employee of the United States, this state, or a political subdivision of this state while that officer or employee is engaged in the performance of his or her official duties.

(c) The business of obtaining and furnishing information as to the financial standing, rating, and credit responsibility of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state that is organized and maintained for the public good and not for private profit.

(e) An attorney at law in performing his or her duties as such attorney at law.

(f) A collection agency or finance company licensed to do business under the laws of this state or any employee of a collection agency or finance company while acting within the scope of his or her employment when making an investigation incidental to the business of the agency, including an investigation of the location of the debtor or his or her assets and property in which the client has an interest or upon which the client has a lien.

(g) An insurance adjuster who is employed on a salary basis by an insurance company or a person, firm, partnership, company, limited liability company, or corporation that acts for an insurance company solely in the capacity of claim adjuster. A person, firm, partnership, company, limited liability company, or corporation engaged in the business of public adjuster acting for claimants in securing adjustments of claims against insurance companies and who does not perform investigative services including, but not limited to, surveillance activities.

(h) A professional engineer acting within the scope of his or her licensed professional practice who does not perform investigative services, including, but not limited to, surveillance activities or other activities outside of the scope of his or her licensed professional practice.

338.825 License; issuance, duration.

Sec. 5. (1) The department, upon application and after making a determination that the applicant is qualified, shall issue the applicant a license to conduct business as a private detective or private investigator for a period of 3 years from date of issuance.

(2) Upon the issuance of a license under this act to conduct business as a private detective or private investigator, the applicant is not required to obtain any other license from any municipality or political subdivision of this state.

338.826 License; qualifications.

Sec. 6. (1) The department shall issue a license to conduct business as a private detective or private investigator if satisfied that the applicant is a person, or if a firm, partnership, company, limited liability company, or corporation, the sole or principal license holder is a person who meets all of the following qualifications:

(a) Is a citizen of the United States.

(b) Is not less than 25 years of age.

(c) Has a high school education or its equivalent.

(d) Has not been convicted of a felony, or a misdemeanor involving any of the following:

(*i*) Dishonesty or fraud.

(*ii*) Unauthorized divulging or selling of information or evidence.

(*iii*) Impersonation of a law enforcement officer or employee of the United States or a state, or a political subdivision of the United States or a state.

(*iv*) Illegally using, carrying, or possessing a dangerous weapon.

(*v*) Two or more alcohol related offenses.

(*vi*) Controlled substances under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(*vii*) An assault.

(e) Has not been dishonorably discharged from a branch of the United States military service.

(f) For a period of not less than 3 years has been or is any of the following:

(*i*) Lawfully engaged in the private detective business on his or her own account in another state.

(*ii*) Lawfully engaged in the private detective business as an investigative employee of the holder of a certificate of authority to conduct a detective agency.

(*iii*) An investigator, detective, special agent, or certified police officer of a city, county, or state government or of the United States government.

(*iv*) A graduate with a baccalaureate degree in the field of police administration or criminal justice from an accredited university or college acceptable to the department.

(g) Has posted with the department a bond provided for in this act.

(2) In the case of a person, firm, partnership, company, limited liability company, or corporation now doing or seeking to do business in this state, the resident manager shall comply with the qualifications of this section.

(3) A person regulated as a private detective or private investigator in another state having a reciprocal agreement with this state may engage in activities regulated by this act without being licensed for the limited purpose and for a limited amount of time as necessary to continue an ongoing investigation originating in that state. This act does not prevent a licensee from acting as a private detective or private investigator outside of this state to the extent allowed by that other state under the laws of that state.

338.827 Application for license; notarized statement as to qualifications; investigation of applicants; approval of prosecuting attorney or sheriff.

Sec. 7. (1) The department shall prepare a standard uniform application. The applicant shall obtain notarized reference statements from at least 5 reputable citizens who swear

that they have known the applicant and his or her qualifications for a period of at least 5 years and believe that the applicant is honest, of good character, and competent. The individual providing the reference shall not be related or connected to the person so certifying by blood or marriage.

(2) Upon receipt of the application, application processing fee, and license fee as described in section 9, the department shall investigate as to the applicant's qualifications for licensure.

(3) The application and investigation are not considered complete until the applicant has received the approval of the prosecuting attorney and the sheriff of the county within which the principal office of the applicant is to be located. If the office is to be located in a city, township, or village, the approval of the chief of police may be obtained instead of the sheriff.

338.829 License; conditions of issuance; fee; duration; suspension or revocation; bonds; branch office.

Sec. 9. (1) The department, when satisfied of the competency and integrity of the applicant, or if the applicant is a firm, partnership, company, limited liability company, or corporation, of its individual members or officers, shall issue to the applicant a license upon the applicant's paying to the department an application processing fee of $150.00 and an initial license fee of $600.00. The applicant shall execute, deliver, and file with the department a bond in the sum of $10,000.00, conditioned for the faithful and honest conduct of the business by the applicant, which bond shall be approved by the department. The license is valid for 3 years but is subject to suspension or revocation at all times by the department for cause shown. The bonds shall be taken in the name of the people of the state, and any person injured by the willful, malicious, and wrongful act of the principal may bring an action on the bond or insurance in his or her own name to recover damages suffered by reason of such willful, malicious, and wrongful act. In lieu of a bond, the applicant may furnish a policy of insurance issued by an insurer authorized to do business in this state naming the licensee and the state as co-insured in the amount of $10,000.00 for property damages, $100,000.00 for injury or death of 1 person, and $200,000.00 for injuries to or deaths of more than 1 person arising out of the operation of the licensed activity. The license shall be in a form to be prescribed by the department and shall specify the full name of the applicant, the location of the principal office or place of business and the location of the bureau, agency, subagency, office or branch office for which the license is issued, the expiration date, and the name of the person filing the statement required by this act upon which the license is issued.

(2) A licensee desiring to open a branch office or subagency shall receive a license for that branch or subagency upon payment to the department of an additional fee of $125.00 for each additional license. The additional license shall be posted in a conspicuous place in the branch office or subagency and expires on the date of the initial license.

(3) If the license is suspended or revoked for any cause, the department shall not refund the license or application processing fee or any part of the license or application processing fee.

(4) The changes regarding license and application fees contained in subsection (1) do not require a person, firm, partnership, company, limited liability company, or corporation holding a license under this act on the effective date of the amendatory act that added this subsection to pay the application processing and initial license fee imposed by the amendatory act that added this subsection. A person, firm, partnership, company, limited liability

company, or corporation holding a license on the effective date of the amendatory act that added this subsection is only obligated to pay the renewal fee described in section 26(1).

338.830 License; suspension or revocation; grounds; surrendering license and identification card; noncompliance as misdemeanor.

Sec. 10. (1) The department may suspend or revoke a license issued under this act if the department determines that the licensee or licensee's manager, if an individual, or if the licensee is a person other than an individual, that an officer, director, partner, or its manager, has done any of the following:

(a) Made false statements or given false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated this act or any rule promulgated under this act.

(c) Been convicted of a felony or misdemeanor involving dishonesty or fraud, unauthorized divulging or selling of information or evidence.

(d) Been convicted of impersonation of a law enforcement officer or employee of the United States or a state, or a political subdivision of the United States or a state.

(e) Been convicted of illegally using, carrying, or possessing a dangerous weapon.

(2) Upon notification from the department of the suspension or revocation of the license, the licensee, within 24 hours, shall surrender to the department the license and his or her identification card. Failure to surrender the license in compliance with this subsection is a misdemeanor.

338.831 License fee; refund; conditions.

Sec. 11. The department shall not refund a license fee unless a showing is made of mistake, inadvertence, or error in the collection of the fee.

338.832 License; posting.

Sec. 12. Upon receipt of a license from the department, the licensee shall post it in a conspicuous place in his or her office.

338.833 Reporting name or location change in agency; new license.

Sec. 13. Any change in the name or location of the agency or of a branch office or subagency shall be reported to the department at least 30 days before the change becomes effective. Upon receipt of the notice of change of name or location, the department shall prepare and forward a license showing the change and the licensee shall return the old license within 3 business days after the change.

338.834 Identification card; issuance; form and contents; custody; duplicates.

Sec. 14. (1) Upon issuing a license, the department shall also issue an identification card to the principal license holder or, if the agency is a partnership, to each partner or, if the license holder is a corporation or limited liability company, to each resident officer, manager, or member.

(2) The identification card issued under subsection (1) shall be in such form and contain such information as may be prescribed by the department and is recallable by the department for the same reasons as the license.

(3) The department shall only issue 1 identification card for each person entitled to receive it. The licensee is responsible for the maintenance, custody, and control of the identification card and shall not lease, loan, sell, or otherwise permit unauthorized persons or employees to use it. This subsection shall not be construed to prevent each agency from issuing its own identification cards, if approved as to form and content by the department, to their respective employees. The individual identification card shall not bear the seal of the state or the designation of private detective or private investigator, but the identification card may designate the employee as an investigator or operator and may state that the person is employed by a licensee of the department and the state of Michigan.

(4) Upon proper application and for sufficient reasons shown, the department may issue duplicates of the original license or identification card.

338.836 Use of unauthorized badge, shield, identification card or license; violation; penalties.

Sec. 16. (1) A person shall not possess or display a badge or shield that purports to indicate that the holder is a private detective.

(2) A licensee may request authorization to provide employee identification cards only upon the express authorization of the department as to format and content.

(3) A person shall not display any badge, shield, identification card, or license that might mislead the public into thinking that the holder is a licensed detective.

(4) A person who violates this section is guilty of a misdemeanor and any unauthorized badge, shield, identification card, or license shall be confiscated by any law enforcement officer of the state. Each day the violation continues shall constitute a separate offense.

338.837 Licensees; employment of assistants; records; false statements; fingerprints; penalty.

Sec. 17. (1) A licensee may employ as many persons as considered necessary to assist in his or her work of detective and in the conduct of the business. At all times during the employment, the licensee shall be accountable for the good conduct in the business of each person so employed.

(2) A licensee shall keep adequate and complete records of all persons he or she employs, which records shall be made available to the department upon request and to police authorities if the police authorities offer legitimate proof for the request in connection with a specific need.

(3) If a licensee falsely states or represents that a person is or has been in his or her employ, the false statement or representation shall be sufficient cause for the suspension or revocation of the license. Any person falsely stating or representing that he or she is or has been a detective or employed by a detective agency is guilty of a misdemeanor.

(4) A licensee shall not knowingly employ any person who does not meet the requirements of this act.

(5) The licensee shall cause fingerprints to be taken of all prospective employees, which fingerprints shall be submitted to the department and the federal bureau of investigation for processing and approval.

(6) The fingerprints required to be taken under subsection (5) may be taken by a law enforcement agency or any other person determined by the department to be qualified to take fingerprints. The licensee shall submit a fingerprint processing fee to the department in accordance with section 3 of 1935 PA 120, MCL 28.273, as well as any costs imposed by the federal bureau of investigation.

338.838 Hiring of person convicted of certain felonies or misdemeanors prohibited; refusal to surrender license or identification card.

Sec. 18. (1) A licensee shall not knowingly employ any person who has been convicted of a felony, or convicted of a misdemeanor within the preceding 8 years involving any of the following:

(a) Dishonesty or fraud.

(b) Unauthorized divulging or selling of information or evidence.

(c) Impersonation of a law enforcement officer or employee of the United States, this state, or a political subdivision of this state.

(d) Illegally using, carrying, or possessing a dangerous weapon.

(e) Two or more alcohol related offenses.

(f) Controlled substances under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(g) An assault.

(2) Any employee or operator who, upon demand, fails to surrender to the licensee his or her identification card and any other property issued to him or her for use in connection with his or her employer's business is guilty of a misdemeanor.

338.840 Divulging of information; willful sale of or furnishing false information; penalty; privileged communications; notice and hearing.

Sec. 20. (1) Any person who is or has been an employee of a licensee shall not divulge to anyone other than his or her employer or former employer, or as the employer shall direct, except as he or she may be required by law, any information acquired by him or her during his or her employment in respect to any of the work to which he or she shall have been assigned by the employer. Any employee violating the provisions of this section and any employee who willfully makes a false report to his or her employer in respect to any work is guilty of a misdemeanor.

(2) Any principal, manager, or employee of a licensee who willfully furnishes false information to clients, or who willfully sells, divulges, or otherwise discloses to other than clients, except as may be required by law, any information acquired during employment by the client is guilty of a misdemeanor and is subject to summary suspension of license and revocation of license upon satisfactory proof of the offense to the department. Any communications, oral or written, furnished by a professional or client to a licensee, or any information secured in connection with an assignment for a client, is considered privileged with the same authority and dignity as are other privileged communications recognized by the courts of this state.

(3) Suspension, revocation, or other action against a licensee shall be accompanied by notice and an opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

338.841 Violation of act; report of conviction by prosecuting attorney.

Sec. 21. The prosecuting attorney of the county in which any conviction for a violation of any provision of this act shall, within 10 days thereafter, make and file with the department a report showing the date of the conviction, the name of the person convicted, and the nature of the charge.

338.842 Advertising; contents; discontinuing misleading advertising; notice.

Sec. 22. (1) An advertisement by a licensee soliciting or advertising for business shall contain his or her name and address as they appear in the records of the department.

(2) A licensee shall, on notice from the department, discontinue any advertising or the use of any advertisement, seal, or card, that the department determines to be misleading to the public. Failure to comply with such an order is cause for suspension or revocation of the license.

(3) Unless licensed under this act, a person shall not advertise his or her business to be that of a private detective regardless of the name or title actually used.

338.843 Trade names; approval by department.

Sec. 23. A licensee shall not use any designation or trade name which has not been first approved by the department and shall not use any designation or trade name that implies any association with any municipal, county, township, or state government or the federal government, or any agency thereof.

338.844 Record of business transaction and reports; retention.

Sec. 24. (1) Each person, partnership, firm, company, limited liability company, or corporation licensed and operating under this act shall make a complete written record of the business transactions and reports made in connection with the operation of the agency.

(2) A detective or detective agency that receives or generates a written or electronic report shall keep the report on file in the office of the detective or agency for at least 2 years unless the file is returned to the client or agent.

338.845 Investigation of applicants; complaints; subpoenas; fees; failure to obey; penalty; testimony under oath.

Sec. 25. (1) For the purpose of investigating the character, competency, and integrity of the applicants, or for the purpose of investigating complaints made against the licensee, the director of the department may issue subpoenas and compel the attendance of witnesses. All subpoenas shall be issued under the hand of the director of the department and upon service the witness shall be tendered the fees to which he or she would be entitled to receive if subpoenaed in a court of law.

(2) A person duly subpoenaed who fails to obey the subpoena or, without cause, refuses to be examined or to answer any legal or pertinent questions as to the character, qualifications, or alleged misdeeds of the applicant or licensee is guilty of a misdemeanor.

(3) The testimony of such witnesses shall be under oath, which a designee of the director of the department may administer. Willful false swearing in any such proceeding is considered perjury.

338.846 License; renewal; fee; bond; approval.

Sec. 26. (1) A license granted under this act may be renewed upon application and the payment of a renewal fee of $300.00 and filing of a renewal surety bond or liability insurance policy in the amount equivalent to that specified in section 9.

(2) A renewal license shall be dated as of the expiration date of the previously existing license. For the renewal of a license, the licensee shall submit an application in such form as prescribed by the department. Upon receipt of a completed application, payment of the renewal, and proof acceptable to the department of bond or insurance, the department shall renew a license. The department may defer the renewal if there are uninvestigated

complaints then outstanding against the licensee or if there is a criminal complaint then pending against the licensee.

338.847 Death of licensee; carrying on business; notice to department; sale of business.

Sec. 27. (1) Upon the death of a licensee, the business of the decedent may be carried on for a period of 90 days by any of the following:

(a) In the case of an individual licensee, the surviving spouse, or if there is none, the personal representative of the estate of the decedent.

(b) In the case of a partner, the surviving partners.

(c) In case of an officer of a firm, company, association, limited liability company, or corporation, the officers.

(2) Within 10 days following the death of a licensee, the department shall be notified by a person described in subsection (1) in writing. The notification shall state the name of the person legally authorized to carry on the business of the deceased.

(3) Upon the authorization of the department, the business may be carried on for a further period of time when necessary to complete any investigation or assist in any litigation pending at the death of the decedent.

(4) This section does not authorize the solicitation or acceptance of any business after the death of the decedent except as otherwise provided by this act.

(5) This section shall not be construed to restrict the sale of a private detective business if the vendee qualifies for a license under the provisions of this act.

338.848 Employment of agents; rules.

Sec. 28. (1) The department may employ such agents as are necessary to carry out and to enforce this act.

(2) The department may promulgate rules to enforce and administer this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

338.851 Violation; penalty.

Sec. 31. A licensee, manager, or employee of a licensee who violates this act or a rule promulgated under this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than $500.00, or both.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 475]

(SB 992)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide

laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 13p of chapter XVII (MCL 777.13p), as added by 2002 PA 30.

The People of the State of Michigan enact:

CHAPTER XVII

777.13p Applicability of chapter to certain felonies; §§ 338.823 to 388.962.

Sec. 13p. This chapter applies to the following felonies enumerated in chapters 338 to 399 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
338.823	Pub trst	F	Private detective license act violation	4
338.1053	Pub trst	F	Private security business and security alarm act violation	4
338.3434a(2)	Pub trst	F	Unauthorized disclosure of a social security number — subesquent offense	4
388.936	Pub trst	F	Knowingly making false statement — school district loans	4
388.962	Pub trst	F	Knowingly making false statement — school district loans	4

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 929 of the 91st Legislature is enacted into law.

Effective date.

Enacting section 2. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

Compiler's note: Senate Bill No. 929, referred to in enacting section 1, was filed with the Secretary of State June 21, 2002, and became P.A. 2002, No. 474, Eff. Oct. 1, 2002.

[No. 476]

(HB 4462)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to prescribe penalties; and to repeal acts and parts of acts," by amending section 101 (MCL 388.1701), as amended by 2002 PA 191.

The People of the State of Michigan enact:

388.1701 Eligibility to receive state aid; filing certified and sworn copy of enrollment; failure to file; withholding state aid; falsification; minimum days and hours of pupil instruction; forfeiture; certification; strikes or teachers' conferences; rules; days not counted as days of pupil instruction; alternative scheduling program for pupils in kindergarten; waiver; certification of planned number of days and hours of pupil instruction; conditions requiring forfeiture; guidelines for providing minimum number of hours of instruction; application; waiver for alternative education program; counting professional development as pupil instruction.

Sec. 101. (1) To be eligible to receive state aid under this act, not later than the fifth Wednesday after the pupil membership count day and not later than the fifth Wednesday after the supplemental count day, each district superintendent through the secretary of the district's board shall file with the intermediate superintendent a certified and sworn copy of the number of pupils enrolled and in regular daily attendance in the district as of the pupil membership count day and as of the supplemental count day, as applicable, for the current school year. In addition, a district maintaining school during the entire year, as provided under section 1561 of the revised school code, MCL 380.1561, shall file with the intermediate superintendent a certified and sworn copy of the number of pupils enrolled and in regular daily attendance in the district for the current school year pursuant to rules promulgated by the superintendent. Not later than the seventh Wednesday after the pupil membership count day and not later than the seventh Wednesday after the supplemental count day, the intermediate district shall transmit to the department the data filed by each of its constituent districts. If a district fails to file the sworn and certified copy with the intermediate superintendent in a timely manner, as required under this subsection, the intermediate district shall notify the department and state aid due to be distributed under this act shall be withheld from the defaulting district immediately, beginning with

the next payment after the failure and continuing with each payment until the district complies with this subsection. If an intermediate district fails to transmit the data in its possession in a timely and accurate manner to the department, as required under this subsection, state aid due to be distributed under this act shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If a district or intermediate district does not comply with this subsection by the end of the fiscal year, the district or intermediate district forfeits the amount withheld. A person who willfully falsifies a figure or statement in the certified and sworn copy of enrollment shall be punished in the manner prescribed by section 161.

(2) To be eligible to receive state aid under this act, not later than the twenty-fourth Wednesday after the pupil membership count day and not later than the twenty-fourth Wednesday after the supplemental count day, an intermediate district shall submit to the department, in a form and manner prescribed by the department, the audited enrollment and attendance data for the pupils of its constituent districts and of the intermediate district. If an intermediate district fails to transmit the audited data as required under this subsection, state aid due to be distributed under this act shall be withheld from the defaulting intermediate district immediately, beginning with the next payment after the failure and continuing with each payment until the intermediate district complies with this subsection. If an intermediate district does not comply with this subsection by the end of the fiscal year, the intermediate district forfeits the amount withheld.

(3) Except as otherwise provided in this section, each district shall provide at least 180 days of pupil instruction and a number of hours of pupil instruction at least equal to the required minimum number of hours of pupil instruction required for 2000-2001 under section 1284 of the revised school code, MCL 380.1284. Except as otherwise provided in this act, a district failing to hold 180 days of pupil instruction shall forfeit from its total state aid allocation for each day of failure an amount equal to 1/180 of its total state aid allocation. Except as otherwise provided in this act, a district failing to comply with the required minimum hours of pupil instruction under this subsection shall forfeit from its total state aid allocation an amount determined by applying a ratio of the number of hours the district was in noncompliance in relation to the required minimum number of hours under this subsection. A district failing to meet both the 180 days of pupil instruction requirement and the minimum number of hours of pupil instruction requirement under this subsection shall be penalized only the higher of the 2 amounts calculated under the forfeiture provisions of this subsection. Not later than August 1, the board of each district shall certify to the department the number of days and hours of pupil instruction in the previous school year. If the district did not hold at least 180 days and the required minimum number of hours of pupil instruction under this subsection, the deduction of state aid shall be made in the following fiscal year from the first payment of state school aid. A district is not subject to forfeiture of funds under this subsection for a fiscal year in which a forfeiture was already imposed under subsection (7). Days or hours lost because of strikes or teachers' conferences shall not be counted as days or hours of pupil instruction. A district not having at least 75% of the district's membership in attendance on any day of pupil instruction shall receive state aid in that proportion of 1/180 that the actual percent of attendance bears to the specified percentage. The superintendent shall promulgate rules for the implementation of this subsection.

(4) Except as otherwise provided in this subsection, the first 2 days for which pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. In

addition, for 2001-2002 only, the department shall count as days of pupil instruction not more than 4 additional days, and shall count as hours of pupil instruction not more than 24 hours, for which pupil instruction was not provided in a district after May 27, 2002 due to a train derailment involving hazardous materials. Subsequent such days shall not be counted as days of pupil instruction.

(5) A district shall not forfeit part of its state aid appropriation because it adopts or has in existence an alternative scheduling program for pupils in kindergarten if the program provides at least the number of hours required under subsection (3) for a full-time equated membership for a pupil in kindergarten as provided under section 6(4).

(6) Upon application by the district for a particular fiscal year, the superintendent may waive the minimum number of days of pupil instruction requirement of subsection (3) for a district if the district has adopted an experimental school year schedule in 1 or more buildings in the district if the experimental school year schedule provides the required minimum number of hours of pupil instruction under subsection (3) or more and is consistent with all state board policies on school improvement and restructuring. If a district applies for and receives a waiver under this subsection and complies with the terms of the waiver, for the fiscal year covered by the waiver the district is not subject to forfeiture under this section of part of its state aid allocation for the specific building or program covered by the waiver.

(7) Not later than April 15 of each fiscal year, the board of each district shall certify to the department the planned number of days and hours of pupil instruction in the district for the school year ending in the fiscal year. In addition to any other penalty or forfeiture under this section, if at any time the department determines that 1 or more of the following has occurred in a district, the district shall forfeit in the current fiscal year beginning in the next payment to be calculated by the department a proportion of the funds due to the district under this act that is equal to the proportion below 180 days and the required minimum number of hours of pupil instruction under subsection (3), as specified in the following:

(a) The district fails to operate its schools for at least 180 days and the required minimum number of hours of pupil instruction under subsection (3) in a school year, including days counted under subsection (4).

(b) The board of the district takes formal action not to operate its schools for at least 180 days and the required minimum number of hours of pupil instruction under subsection (3) in a school year, including days counted under subsection (4).

(8) In providing the minimum number of hours of pupil instruction required under subsection (3), a district shall use the following guidelines, and a district shall maintain records to substantiate its compliance with the following guidelines:

(a) Except as otherwise provided in this subsection, a pupil must be scheduled for at least the required minimum number of hours of instruction, excluding study halls, or at least the sum of 90 hours plus the required minimum number of hours of instruction, including up to 2 study halls.

(b) The time a pupil is assigned to any tutorial activity in a block schedule may be considered instructional time, unless that time is determined in an audit to be a study hall period.

(c) A pupil in grades 9 to 12 for whom a reduced schedule is determined to be in the individual pupil's best educational interest must be scheduled for a number of hours equal to at least 80% of the required minimum number of hours of pupil instruction to be considered a full-time equivalent pupil.

(d) If a pupil in grades 9 to 12 who is enrolled in a cooperative education program or a special education pupil cannot receive the required minimum number of hours of pupil instruction solely because of travel time between instructional sites during the school day, that travel time, up to a maximum of 3 hours per school week, shall be considered to be pupil instruction time for the purpose of determining whether the pupil is receiving the required minimum number of hours of pupil instruction. However, if a district demonstrates to the satisfaction of the department that the travel time limitation under this subdivision would create undue costs or hardship to the district, the department may consider more travel time to be pupil instruction time for this purpose.

(9) The department shall apply the guidelines under subsection (8) in calculating the full-time equivalency of pupils.

(10) Upon application by the district for a particular fiscal year, the superintendent may waive for a district the 180 days or minimum number of hours of pupil instruction requirement of subsection (3) for a department-approved alternative education program. If a district applies for and receives a waiver under this subsection and complies with the terms of the waiver, for the fiscal year covered by the waiver the district is not subject to forfeiture under this section for the specific program covered by the waiver.

(11) Beginning in 2000-2001, a district may count up to 51 hours of professional development for teachers as hours of pupil instruction. A district that elects to use this exception shall notify the department of its election.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 477]

(HB 5805)

AN ACT to amend 1996 PA 376, entitled "An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials," by amending section 4 (MCL 125.2684), as amended by 2000 PA 259.

The People of the State of Michigan enact:

125.2684 Designation of local governmental unit as renaissance zone; application; criteria; additional distinct geographic areas.

Sec. 4. (1) One or more qualified local governmental units may apply to the review board to designate the qualified local governmental unit or units as a renaissance zone if all of the following criteria are met:

(a) The geographic area of the proposed renaissance zone is located within the boundaries of the qualified local governmental unit or units that apply.

(b) The application includes a development plan.

(c) The proposed renaissance zone is not more than 5,000 acres in size.

(d) The renaissance zone does not contain more than 10 distinct geographic areas. Except as otherwise provided in this subdivision, the minimum size of a distinct geographic area is not less than 5 acres. A qualified local governmental unit or units may designate not more than 4 distinct geographic areas in each renaissance zone to have no minimum size requirement.

(e) The application includes the proposed duration of renaissance zone status, not to exceed 15 years, except as otherwise provided in this section.

(f) If the qualified local governmental unit has an elected county executive, the county executive's written approval of the application.

(g) If the qualified local governmental unit is a city, that city's mayor's written approval of the application.

(2) A qualified local governmental unit may submit not more than 1 application to the review board for designation as a renaissance zone. A resolution provided by a city, village, or township under section 7(2) does not constitute an application of a city, village, or township for a renaissance zone under this act.

(3) For a distinct geographic area described in subsection (1)(d), a village may include publicly owned land within the boundaries of any distinct geographic area.

(4) Through December 31, 2002, a qualified local governmental unit or units in which a renaissance zone was designated under section 8 or 8a may designate additional distinct geographic areas not to exceed a total of 10 distinct geographic areas upon application to and approval by the board. The duration of renaissance zone status for the additional distinct geographic areas shall not exceed 15 years except as provided in subsection (5).

(5) If a qualified local governmental unit or units designate additional distinct geographic areas in a renaissance zone under subsection (4), the qualified local governmental unit or units may extend the duration of the renaissance zone status of 1 or more distinct geographic areas in that renaissance zone until 2017 upon application to and approval by the board.

(6) Through December 31, 2002, a qualified local governmental unit or units in which a renaissance zone was designated under section 8 or 8a may, upon application to and approval by the board, seek to extend the duration of renaissance zone status until 2017. Upon application, the board may extend the duration of renaissance zone status.

Applicability of act.

Enacting section 1. This amendatory act is retroactive and is effective for 1 or more distinct geographic areas whose duration of renaissance zone status has been extended on and after April 1, 2002. Any action by a qualified local governmental unit on and after April 1, 2002 and until the effective date of this amendatory act to extend the duration of renaissance zone status on additional distinct geographic areas without approval by the board is null and void.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 478]

(HB 5806)

AN ACT to amend 1996 PA 376, entitled "An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials," by amending section 6 (MCL 125.2686), as amended by 2000 PA 259.

The People of the State of Michigan enact:

125.2686 Renaissance zone review board; duties; prohibitions; modifications.

Sec. 6. (1) The board shall review all recommendations submitted by the review board and determine which applications meet the criteria contained in section 7.

(2) The board shall do all of the following:

(a) Designate renaissance zones.

(b) Subject to subsection (3), approve or reject the duration of renaissance zone status.

(c) Subject to subsection (3), approve or reject the geographic boundaries and the total area of the renaissance zone as submitted in the application.

(3) The board shall not alter the geographic boundaries of the renaissance zone or the duration of renaissance zone status described in the application unless the qualified local governmental unit or units and the local governmental unit or units in which the renaissance zone is to be located consent by resolution to the alteration.

(4) The board shall not designate a renaissance zone under section 8 before November 1, 1996 or after December 31, 1996.

(5) The designation of a renaissance zone under this act shall take effect on January 1 in the year following designation. However, for purposes of the taxes exempted under section 9(2), the designation of a renaissance zone under this act shall take effect on December 31 in the year of designation.

(6) The board shall not designate a renaissance zone under section 8a or 8c after December 31, 2002.

(7) Through December 31, 2002, a qualified local governmental unit in which a renaissance zone was designated under section 8 or 8a may modify the boundaries of that renaissance zone to include contiguous parcels of property as determined by the qualified local governmental unit and approval by the review board. The additional contiguous parcels of property included in a renaissance zone under this subsection do not constitute an additional distinct geographic area under section 4(1)(d). If the boundaries of the renaissance zone are modified as provided in this subsection, the additional contiguous parcels of property shall become part of the original renaissance zone on the same terms and conditions as the original designation of that renaissance zone.

This act is ordered to take immediate effect.

Approved June 27, 2002.

Filed with Secretary of State June 27, 2002.

[No. 479]

(HB 5587)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 44 (MCL 211.44), as amended by 2000 PA 364.

The People of the State of Michigan enact:

211.44 Collection of taxes; mailing, contents, forms, and expense of tax statement; failure to send or receive notice; time and place for receiving taxes; property tax administration fees; return of excess; cost of appeals; waiver of interest, penalty charge, or property tax administration fee; use of fee; cost of treasurer's bond; enforcement of collection; seizing property or bringing action; amounts includable in return of delinquent taxes; distributions by county treasurer; local governing body authorization for imposition of fees or late penalty charges; annual statement; taxes levied after December 31, 2001 on qualified real property; definitions.

Sec. 44. (1) Upon receipt of the tax roll, the township treasurer or other collector shall proceed to collect the taxes. The township treasurer or other collector shall mail to each taxpayer at the taxpayer's last known address on the tax roll or to the taxpayer's designated agent a statement showing the description of the property against which the tax is levied, the taxable value of the property, and the amount of the tax on the property. If a tax statement is mailed to the taxpayer, a tax statement sent to a taxpayer's designated agent may be in a summary form or may be in an electronic data processing format. If the tax statement information is provided to both a taxpayer and the taxpayer's designated agent, the tax statement mailed to the taxpayer may be identified as an informational copy. A township treasurer or other collector electing to send a tax statement to a taxpayer's designated agent or electing not to include an itemization in the manner described in subsection (10)(d) in a tax statement mailed to the taxpayer shall, upon request, mail a detailed copy of the tax statement, including an itemization of the amount of tax in the manner described by subsection (10)(d), to the taxpayer without charge.

(2) The expense of preparing and mailing the statement shall be paid from the county, township, city, or village funds. Failure to send or receive the notice does not prejudice the right to collect or enforce the payment of the tax. The township treasurer shall remain in the office of the township treasurer at some convenient place in the township on each Friday in the month of December, from 9 a.m. to 5 p.m. to receive taxes, but shall receive

taxes upon a weekday when they are offered. However, if a Friday in the month of December is Christmas eve, Christmas day, New Year's eve, or a day designated by the township as a holiday for township employees, the township treasurer is not required to remain in the office of the township treasurer on that Friday, but shall remain in the office of the township treasurer at some convenient place in the township from 9 a.m. to 5 p.m. on the day most immediately preceding that Friday that is not Christmas eve, Christmas day, New Year's eve, or a day designated by the township as a holiday for township employees, to receive taxes.

(3) Except as provided by subsection (7), on a sum voluntarily paid before February 15 of the succeeding year, the local property tax collecting unit shall add a property tax administration fee of not more than 1% of the total tax bill per parcel. However, unless otherwise provided for by an agreement between the assessing unit and the collecting unit, if a local property tax collecting unit other than a village does not also serve as the local assessing unit, the excess of the amount of property tax administration fees over the expense to the local property tax collecting unit in collecting the taxes, but not less than 80% of the fee imposed, shall be returned to the local assessing unit. A property tax administration fee is defined as a fee to offset costs incurred by a collecting unit in assessing property values, in collecting the property tax levies, and in the review and appeal processes. The costs of any appeals, in excess of funds available from the property tax administration fee, may be shared by any taxing unit only if approved by the governing body of the taxing unit. Except as provided by subsection (7), on all taxes paid after February 14 and before March 1 the governing body of a city or township may authorize the treasurer to add to the tax a property tax administration fee to the extent imposed on taxes paid before February 15 and a late penalty charge equal to 3% of the tax. The governing body of a city or township may waive interest from February 15 to the last day of February on a summer property tax that has been deferred under section 51 or any late penalty charge for the homestead property of a senior citizen, paraplegic, quadriplegic, hemiplegic, eligible serviceperson, eligible veteran, eligible widow or widower, totally and permanently disabled person, or blind person, as those persons are defined in chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532, if the person makes a claim before February 15 for a credit for that property provided by chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532, if the person presents a copy of the form filed for that credit to the local treasurer, and if the person has not received the credit before February 15. The governing body of a city or township may waive interest from February 15 to the last day of February on a summer property tax deferred under section 51 or any late penalty charge for a person's property that is subject to a farmland development rights agreement recorded with the register of deeds of the county in which the property is situated as provided in section 36104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36104, if the person presents a copy of the development rights agreement or verification that the property is subject to a development rights agreement before February 15. A 4% county property tax administration fee, a property tax administration fee to the extent imposed on and if authorized under subsection (7) for taxes paid before March 1, and interest on the tax at the rate of 1% per month shall be added to taxes collected by the township or city treasurer after the last day of February and before settlement with the county treasurer, and the payment shall be treated as though collected by the county treasurer. If the statements required to be mailed by this section are not mailed before December 31, the treasurer shall not impose a late penalty charge on taxes collected after February 14.

(4) The governing body of a local property tax collecting unit may waive all or part of the property tax administration fee or the late penalty charge, or both. A property tax

administration fee collected by the township treasurer shall be used only for the purposes for which it may be collected as specified by subsection (3) and this subsection. If the bond of the treasurer, as provided in section 43, is furnished by a surety company, the cost of the bond may be paid by the township from the property tax administration fee.

(5) If apprehensive of the loss of personal tax assessed upon the roll, the township treasurer may enforce collection of the tax at any time, and if compelled to seize property or bring an action in December may add, if authorized under subsection (7), a property tax administration fee of not more than 1% of the total tax bill per parcel and 3% for a late penalty charge.

(6) Along with taxes returned delinquent to a county treasurer under section 55, the amount of the property tax administration fee prescribed by subsection (3) that is imposed and not paid shall be included in the return of delinquent taxes and, when delinquent taxes are distributed by the county treasurer under this act, the delinquent property tax administration fee shall be distributed to the treasurer of the local unit who transmitted the statement of taxes returned as delinquent. Interest imposed upon delinquent property taxes under this act shall also be imposed upon the property tax administration fee and, for purposes of this act other than for the purpose of determining to which local unit the county treasurer shall distribute a delinquent property tax administration fee, any reference to delinquent taxes shall be considered to include the property tax administration fee returned as delinquent for the same property.

(7) The local property tax collecting treasurer shall not impose a property tax administration fee, collection fee, or any type of late penalty charge authorized by law or charter unless the governing body of the local property tax collecting unit approves, by resolution or ordinance adopted after December 31, 1982, an authorization for the imposition of a property tax administration fee, collection fee, or any type of late penalty charge provided for by this section or by charter, which authorization shall be valid for all levies that become a lien after the resolution or ordinance is adopted. However, unless otherwise provided for by an agreement between the assessing unit and the collecting unit, a local property tax collecting unit that does not also serve as the assessing unit shall impose a property tax administration fee on each parcel at a rate equal to the rate of the fee imposed for city or township taxes on that parcel.

(8) The annual statement required by 1966 PA 125, MCL 565.161 to 565.164, or a monthly billing form or mortgagor passbook provided instead of that annual statement shall include a statement to the effect that a taxpayer who was not mailed the tax statement or a copy of the tax statement by the township treasurer or other collector shall receive, upon request and without charge, a copy of the tax statement from the township treasurer or other collector or, if the tax statement has been mailed to the taxpayer's designated agent, from either the taxpayer's designated agent or the township treasurer or other collector. A designated agent who is subject to 1966 PA 125, MCL 565.161 to 565.164, and who has been mailed the tax statement for taxes that became a lien in the calendar year immediately preceding the year in which the annual statement may be required to be furnished shall mail, upon request and without charge to a taxpayer who was not mailed that tax statement or a copy of that tax statement, a copy of that tax statement.

(9) For taxes levied after December 31, 2001, if taxes levied on qualified real property remain unpaid on February 15, all of the following shall apply:

(a) The unpaid taxes on that qualified real property shall be collected in the same manner as unpaid taxes levied on personal property are collected under this act.

(b) Unpaid taxes on qualified real property shall not be returned as delinquent to the county treasurer for forfeiture, foreclosure, and sale under sections 78 to 79a.

(c) If a county treasurer discovers that unpaid taxes on qualified real property have been returned as delinquent for forfeiture, foreclosure, and sale under sections 78 to 79a, the county treasurer shall return those unpaid taxes to the appropriate local tax collection unit for collection as provided in subdivision (a).

(10) As used in this section:

(a) "Designated agent" means an individual, partnership, association, corporation, receiver, estate, trust, or other legal entity that has entered into an escrow account agreement or other agreement with the taxpayer that obligates that individual or legal entity to pay the property taxes for the taxpayer or, if an agreement has not been entered into, that was designated by the taxpayer on a form made available to the taxpayer by the township treasurer and filed with that treasurer. The designation by the taxpayer shall remain in effect until revoked by the taxpayer in a writing filed with the township treasurer. The form made available by the township treasurer shall include a statement that submission of the form allows the treasurer to mail the tax statement to the designated agent instead of to the taxpayer and a statement notifying the taxpayer of his or her right to revoke the designation by a writing filed with the township treasurer.

(b) "Qualified real property" means buildings and improvements located upon leased real property that are assessed as real property under section 2(1)(c), except buildings and improvements exempt under section 9f, if the value of the buildings or improvements is not otherwise included in the assessment of the real property.

(c) "Taxpayer" means the owner of the property on which the tax is imposed.

(d) When describing in subsection (1) that the amount of tax on the property must be shown in the tax statement, "amount of tax" means an itemization by dollar amount of each of the several ad valorem property taxes and special assessments that a person may pay under section 53 and an itemization by millage rate, on either the tax statement or a separate form accompanying the tax statement, of each of the several ad valorem property taxes that a person may pay under section 53. The township treasurer or other collector may replace the itemization described in this subdivision with a statement informing the taxpayer that the itemization of the dollar amount and millage rate of the taxes is available without charge from the local property tax collecting unit.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 480]

(HB 5991)

AN ACT to amend 1962 PA 174, entitled "An act to enact the uniform commercial code, relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, leases, and secured transactions, including certain sales of accounts, chattel paper and contract rights; to provide for public notice to third parties in certain circumstances; to regulate procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; to make an appropriation; to provide penalties; and to repeal certain acts and parts of acts," by amending section 9201 (MCL 440.9201), as amended by 2002 PA 18.

The People of the State of Michigan enact:

440.9201 General effectiveness of security agreement.

Sec. 9201. (1) Except as otherwise provided in this act, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) A transaction subject to this article is subject to any applicable rule of law that establishes a different rule for consumers and to each of the following, as applicable:

(a) The regulatory loan act of 1963, 1939 PA 21, MCL 493.1 to 493.26.

(b) 1939 PA 305, MCL 566.301 to 566.302.

(c) The motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141.

(d) The mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(e) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(f) 1978 PA 387, MCL 257.931 to 257.937.

(g) 1986 PA 87, MCL 257.1401 to 257.1410.

(h) The grain dealers act, 1939 PA 141, MCL 285.61 to 285.82a.

(i) The Michigan family farm development act, 1982 PA 220, MCL 285.251 to 285.279.

(j) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(k) 1982 PA 459, MCL 325.851 to 325.858.

(*l*) 1970 PA 90, MCL 442.311 to 442.315.

(m) 1971 PA 227, MCL 445.111 to 445.117.

(n) The retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873.

(o) The Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922.

(p) The home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.

(q) 1941 PA 238, MCL 566.1.

(r) The garage keeper's lien act, 1915 PA 312, MCL 570.301 to 570.309.

(s) 1939 PA 3, MCL 460.1 to 460.10cc.

(t) 1981 PA 155, MCL 445.611 to 445.620c.

(u) The special tools lien act.

(3) In case of conflict between this article and a rule of law, statute, or regulation described in subsection (2), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (2) has only the effect the statute or regulation specifies.

(4) This article does not validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (2), or extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5993 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

Compiler's note: House Bill No. 5993, referred to in enacting section 1, was filed with the Secretary of State June 27, 2002, and became P.A. 2002, No. 481, Imd. Eff. June 27, 2002.

[No. 481]

(HB 5993)

AN ACT to provide for and establish possession and ownership rights in special tools for use in the fabrication of metal parts under certain conditions; to require procedures to establish a lien; and to establish and maintain a lien on certain special tools.

The People of the State of Michigan enact:

570.541 Short title.

Sec. 1. This act shall be known and may be cited as the "special tools lien act".

570.542 Definitions.

Sec. 2. For purposes of this act:

(a) "Customer" means a person who causes a special tool builder to design, develop, manufacture, assemble for sale, or otherwise make a special tool for use in the design, development, manufacture, assembly, or fabrication of metal parts, or a person who causes an end user to use a special tool to design, develop, manufacture, assemble, or fabricate a metal product.

(b) "End user" means a person who uses a special tool as part of his or her manufacturing process.

(c) "Special tool" means any tools, dies, jigs, gauges, gauging fixtures, special machinery, cutting tools, or metal castings manufactured by a special tool builder.

(d) "Special tool builder" means a person who designs, develops, manufactures, or assembles special tools for sale.

(e) "Person" means an individual, firm, partnership, association, corporation, limited liability company, or other legal entity.

570.543 Special tools; unclaimed possession; transfer of rights from customer to end user; destruction.

Sec. 3. Unless otherwise agreed in writing, if a customer does not claim possession of a special tool from the end user within 3 years from the last use with that end user of the special tool, all rights, title, and interest in the special tool may, at the option of the end user, be transferred by operation of law to the end user for purpose of destroying the special tool.

570.545 Transfer of rights to end user; notice; waiting period.

Sec. 5. After the expiration of the 3-year period set forth in section 3, if an end user chooses to have all rights, title, and interest in a special tool transferred to the end user

by operation of law, the end user shall send written notice by registered mail, return receipt requested, to an address designated in writing by the customer, or if not so designated, to the customer's last known address, indicating that the end user intends to terminate the customer's rights, title, and interest in the special tool, by having all rights, title, and interest in the special tool transferred to the end user by operation of law, under this act.

570.547 Return receipt of notice; possession unclaimed; transfer.

Sec. 7. If a customer does not claim possession of the special tool within 120 days after the date the end user receives the return receipt of the notice sent under section 5, or does not make other arrangements with the end user for storage of the special tool within the time limit set forth in this section, all rights, title, and interest of the customer in the special tool shall be transferred by operation of law to the end user for purposes of destroying the special tool. This section shall not be construed to affect a right of a customer under federal patent or copyright law or any state or federal law pertaining to unfair competition.

570.549 Retroactive application of waiting period.

Sec. 9. The 3-year waiting period provided in section 3 shall apply retroactively in the case of a special tool in the possession of an end user on the effective date of this act.

570.551 Applicability and construction of §§ 570.543, 570.545, 570.547, and 570.549.

Sec. 11. Sections 3, 5, 7, and 9 shall not apply if an end user retains title to and possession of a special tool. Sections 3, 5, 7, and 9 shall not be construed to grant a customer rights, title, or interest in a special tool.

570.553 Lien; possession.

Sec. 13. An end user has a lien, dependent on possession, on any special tool in the end user's possession belonging to a customer for the amount due the end user from the customer for metal fabrication work performed with the special tool. An end user may retain possession of the special tool until the amount due is paid.

570.555 Enforcement of lien; notice

Sec. 15. Before enforcing a lien granted to an end user under section 13, notice in writing shall be given to the customer, delivered personally or sent by registered mail to the last known address of the customer. The notice shall state that a lien is claimed for the amount due for metal fabrication work or for making or improving the special tool. The notice shall include a demand for payment.

570.557 Sale of special tool at public auction; conditions.

Sec. 17. If the end user has not been paid the amount due within 90 days after the notice has been received by the customer provided in section 15, the end user may sell the special tool at a public auction if both of the following occur:

(a) The special tool is still in the end user's possession.

(b) The end user complies with section 19.

570.559 Sale of special tool at public auction; notice; information; notice nondeliverable; dispute.

Sec. 19. (1) Before an end user may sell the special tool, the end user shall notify, by registered mail, return receipt requested, the customer and any person whose security interest is perfected by filing. The notice shall include the following information:

(a) The end user's intention to sell the special tool 60 days after the customer's receipt of the notice.

(b) A description of the special tool to be sold.

(c) The time and place of the sale.

(d) An itemized statement for the amount due.

(e) A statement that the product produced by the special tool complies with the quality and quantity ordered.

(2) If there is not a return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the end user shall publish notice of the end user's intention to sell the special tool in a newspaper of general circulation in the place where the special tool is being held for sale by the end user and in the place of the customer's last known address. The notice shall include a description of the special tool and the name of the customer.

(3) If a customer disagrees with the notice described in subsection (1), the customer shall notify the end user in writing by registered mail, return receipt requested, that the product produced by the special tool did not meet the quality or quantity ordered. An end user who receives this notice shall not sell the special tool until the dispute is resolved.

570.561 Payment of proceeds to prior lienholder; payment of amount to end user possessing lien or to customer.

Sec. 21. (1) If the sale is for a sum greater than the amount of the lien, the proceeds shall first be paid to the prior lienholder who has a perfected lien in an amount sufficient to extinguish that interest. Any excess shall next be paid to the end user who possesses a lien under this act in an amount sufficient to extinguish that interest. Any remainder shall then be paid to the customer.

(2) A sale shall not be made under this act if it would be in violation of any right of a customer under federal patent or copyright law.

570.563 Information recorded by special tool builder; filing financial statement; constructive notice of lien on special tool; attachment; duration of lien; priority.

Sec. 23. (1) A special tool builder shall permanently record on every special tool that the special tool builder fabricates, repairs, or modifies the special tool builder's name, street address, city, and state.

(2) A special tool builder shall file a financing statement in accordance with the requirements of section 9502 of the uniform and commercial code, 1962 PA 174, MCL 440.9502.

(3) A special tool builder has a lien on any special tool identified pursuant to subsection (1). The amount of the lien is the amount that a customer or end user owes the special tool builder for the fabrication, repair, or modification of the special tool. The information that the special tool builder is required to record on the special tool under subsection (1) and the financing statement required under subsection (2) shall constitute actual and constructive notice of the special tool builder's lien on the special tool.

(4) The special tool builder's lien attaches when actual or constructive notice is received. The special tool builder retains the lien that attaches under this section even if the special tool builder is not in physical possession of the special tool for which the lien is claimed.

(5) The lien remains valid until the first of the following events takes place:

(a) The special tool builder is paid the amount owed by the customer or end user.

(b) The customer receives a verified statement from the end user that the end user has paid the amount for which the lien is claimed.

(c) The financing statement is terminated.

(6) The priority of a lien created under this act on a special tool shall be determined by the time the lien attaches. The first lien to attach shall have priority over liens that attach subsequent to the first lien.

570.565 Enforcement of lien; notice.

Sec. 25. To enforce a lien that attaches under section 23, the special tool builder shall give notice of the lien in writing to the customer and the end user. The notice shall be given by hand delivery or certified mail, return receipt requested, to the last known address of the customer and to the last known address of the end user. The notice shall state that a lien is claimed, the amount that the special tool builder claims it is owed for fabrication, repair, or modification of the special tool, and a demand for payment.

570.567 Rights of possession.

Sec. 27. Subject to section 29, if the special tool builder has not been paid the amount claimed in the notice required under section 25 within 90 days after the notice required under section 25 has been received by the customer and the end user, the special tool builder has a right to possession of the special tool and may enforce the right to possession of the special tool by judgment, foreclosure, or any available judicial procedure. The special tool builder may do 1 or more of the following:

(a) Take possession of the special tool. The special tool builder may take possession without judicial process if this can be done without breach of the peace.

(b) Sell the special tool in a public auction.

570.569 Sale of special tool with lien asserted.

Sec. 29. (1) Before a special tool builder may sell a special tool for which a lien is claimed and for which the required notice has been sent under section 25, the special tool builder shall notify the customer, the end user, and all other persons that have a perfected security interest in the special tool under part 5 of article 9 of the uniform commercial code, 1962 PA 174, MCL 440.9501 to 440.9527, by certified mail, return receipt requested, of all of the following:

(a) The special tool builder's intention to sell the special tool 60 days after the receipt of the notice.

(b) A description of the special tool to be sold.

(c) The last known location of the special tool.

(d) The time and place of the sale.

(e) An itemized statement of the amount due.

(f) A statement that the special tool was accepted and the acceptance was not subsequently rejected.

(2) If there is no return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the special tool builder shall publish notice of the special tool builder's intention to sell the special tool in a newspaper of general circulation in the place where the special tool is last known to be located, in the place of the customer's last known address, and in the place of the end user's last known address. The published notice shall include a description of the special tool and the name of the customer and the end user.

(3) If a customer or end user against whom the lien is asserted disagrees that the special tool was accepted or that the acceptance was not subsequently rejected, the customer or end user shall notify the special tool builder in writing by certified mail, return receipt requested, that the special tool was not accepted or that the acceptance was subsequently rejected. A special tool builder who receives this notice shall not sell the special tool until the dispute is resolved.

570.571 Sale of special tool; use of excess proceeds; prohibition.

Sec. 31. (1) If the proceeds of the sale are greater than the amount of the lien, the proceeds shall first be paid to the special tool builder in the amount necessary to satisfy the lien. All proceeds in excess of the lien shall be paid to the customer.

(2) A sale shall not be made or possession shall not be obtained under section 27 if it would be in violation of any right of a customer or end user under federal patent, bankruptcy, or copyright law.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 482]

(SB 920)

AN ACT to authorize the state administrative board to convey certain properties in Branch county and in Wayne county; to prescribe conditions for the conveyances; to provide for disposition of the revenue from the conveyances; and to define the term "undeveloped property" in the Declaration of Restrictions applicable to the Westside Industrial Redevelopment Project U.R. Mich. 1-4 in which the Wayne county property is located; to authorize the state administrative board to transfer certain property between state departments; and to authorize the department of management and budget to dispose of certain buildings.

The People of the State of Michigan enact:

Conveyance of property to Coldwater township, Branch county; consideration; jurisdiction; description.

Sec. 1. The state administrative board, on behalf of the state, may convey to the township of Coldwater, in Branch county, for consideration of $1.00, certain state owned property that is adjacent to a parcel of property previously conveyed by the state to the township of Coldwater, and that is now under the jurisdiction of the department of corrections and located in Branch county, Michigan, and is more particularly described as:

A parcel of land in the SW 1/4 of section 10, T6S, R6W, Branch County, Michigan and more particularly described as commencing at the southwest corner of said section 10;

thence N00°46'35"W 851.64 feet, on the west line of said section 10 to the point of beginning of this description; thence N00°46'35"W 444.00 feet on said west line; thence N89°59'49"E 379.40 feet; thence S00°46'35"E 444.00 feet; thence S89°59'49"W 379.40 feet, to the point of beginning, subject to the right-of-way within US-27 which extends 33 feet from the section line, containing 3.87 acres, more or less.

Adjustment of description.

Sec. 2. The description of the parcel in section 1 is approximate and for purposes of the conveyance is subject to adjustment as the state administrative board or attorney general considers necessary by survey or other legal description.

Provisions.

Sec. 3. The conveyance authorized by section 1 shall provide for both of the following:

(a) That the property shall be used exclusively for public recreational purposes, and that upon termination of that use or use for any other purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(b) That if the grantee disputes the state's exercise of its right of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

Exposed wellheads; responsibility for fencing or securing.

Sec. 4. The conveyance authorized by section 1 shall provide that Coldwater township is responsible for fencing or otherwise securing any exposed wellheads that exist on the property being conveyed.

Quitclaim deed; reservation of mineral rights.

Sec. 5. The conveyance authorized by section 1 shall be by quitclaim deed approved by the attorney general and shall reserve mineral rights to the state.

Disposition of revenue.

Sec. 6. The revenue received under section 1 shall be deposited in the state treasury and credited to the general fund.

Transfer of land in Lansing township, Ingham county, from department of management and budget to department of military and veterans affairs; description; effective upon resolution; approval by attorney general; disposal of surplus buildings; use of unexpended funds.

Sec. 7. (1) The state administrative board may transfer from the department of management and budget to the department of military and veterans affairs, without consideration, a parcel of land in the township of Lansing, Ingham county, Michigan, which is under the jurisdiction of the department of management and budget and is more specifically described as follows:

A parcel of land in the N 1/2 of section 5, T4N, R2W, Lansing Township, Ingham County, Michigan and more particularly described as commencing at the N 1/4 corner of said section 5; thence S00° 12'07"W 300.00 feet, on the N-S 1/4 line of said section 5 to the point of beginning of this description; thence S90°00'00"E 633.49 feet; thence S00°00'11"W 590.04 feet; thence S89°59'49"E 120.00 feet; thence S00°00'11"W 170.00 feet; thence S47°25'08"E 65.73 feet; thence S89°38'54"E 470.00 feet, to the west right of way line of Martin Luther

King JR. Boulevard; thence S00°28'14"W 115.00 feet, on said right of way to the south line of the N 1/2 of said section 5; thence N89°38'54"W 1274.14 feet, on said south line to the N-S 1/4 line of said section 5; thence S89°39'59"W 247.34 feet, on said south line to the northerly right of way of the CSX Railroad; thence N53°45'56"W 210.00 feet, on said railroad right of way; thence N00°17'04"W 791.90 feet; thence N90°00'00"E 423.88 feet, to the point of beginning, containing 24.25 acres.

(2) The transfer authorized by this section shall be effective when approved by a resolution of the state administrative board.

(3) All documents regarding the transfer of the property described in subsection (1) shall be approved by the attorney general.

(4) The department of management and budget may demolish, dismantle, or otherwise dispose of the following surplus buildings, each of which is located on the property described in subsection (1):

(a) Department of management and budget building "Federal Surplus Warehouse".

(b) Department of management and budget building "DMB Trades Building".

(c) Department of management and budget building "Storage Building".

(5) The department of management and budget may use unexpended funds appropriated in section 101 of 1997 PA 114 for demolition of the facilities listed in subsection (4).

Conveyance of property in city of Detroit, Wayne county; jurisdiction; fair market value; description; adjustment; consideration; appraisal; quitclaim deed; disposition of net revenue; "net revenue" defined; "undeveloped property" defined.

Sec. 8. (1) The state administrative board, on behalf of the state and subject to the terms stated in this section, may convey for not less than fair market value all or portions of certain state owned property now under the jurisdiction of the department of transportation and located in the city of Detroit, Wayne county, Michigan, and more particularly described as:

All of Lots 1 through 14, inclusive, of Block 33, except the Northeasterly part of Lot 1 taken for road purposes, and all that part of the Westerly 1/2 of vacated Fifth Street adjacent to said Lot 14 and to said part of Lot 1 lying northerly of the northwesterly line of Lafayette Boulevard, as recited in the J.C.C., Page 346, on March 22, 1960, and the vacated alley in said Block 33, of the Subdivision of that Part of the Labrosse (or Berthelet) Farm, and the Forsyth Farm South of Michigan Avenue, Map of the Western Addition to the City of Detroit, by John Mullett, Surveyor, July 3, 1835, City of Detroit, Wayne County, Michigan, as recorded in Liber 14 of Deeds, Page 136, Wayne County Records, and Lot 7, of Block 32, except the northeasterly part of Lot 7 taken for road purposes, and all that part of the Easterly 1/2 of vacated Fifth Street adjacent to said part of Lot 7 lying northerly of the northwesterly line of Lafayette Boulevard, as recited in the J.C.C., Page 346, on March 22, 1960, of the Plat of the Subdivision of Private Claim 247, City of Detroit, Wayne County, Michigan, as recorded in Liber 44 of Deeds, Page 1, Wayne County Records, said parcel of land being more particularly described as:

BEGINNING at the southeast corner of Howard Street and Sixth Street at the northwest corner of said Lot 7; thence N60°01'23"E 317.00 feet along the southeasterly line of Howard Street and northwesterly line of said Lots 1 through 7 to a point which is 17 feet easterly from the northwesterly corner of said Lot 1; thence along a line extended southeasterly and passing through a point on the easterly line of said Lot 1 which is 55 feet northerly of the southeasterly corner thereof and continuing to a point on the

centerline of said Fifth Street, said line bears S54°47'15"E 143.87 feet; thence southeasterly along a line that passes through a point on the southeasterly line of Lafayette Boulevard which is 4 feet northeasterly from the northwest corner of Lot 5, of William A. Moore's Subdivision of Block 24 of the Subdivision of the Jones Farm, as recorded in Liber 12 of Plats, Page 76, Wayne County Records, said line bears S50°40'19"E 158.49 feet to the northwesterly line of Lafayette Boulevard; thence S60°00'34"W 431.26 feet along said northwesterly line of Lafayette Boulevard to the southwest corner of said Lot 8 in said Block 33 to the northeasterly line of Sixth Street; thence N30°00'47"W 279.87 feet along said northeasterly line to the Point of Beginning, containing 2.310 acres and being subject to easements and restrictions of record.

Excepting any easements of record.

(2) The description of the property in subsection (1) is approximate and for purposes of the conveyance is subject to adjustment as the state administrative board or attorney general considers necessary by survey or other legal description.

(3) As consideration for the property described in subsection (1), the state shall receive property, cash, or any combination thereof which equals or exceeds the fair market value.

(4) The fair market value of the property described in subsection (1) shall be determined by an appraisal as prepared by the state tax commission or an independent fee appraiser.

(5) The conveyance authorized by this section shall be by quitclaim deed approved by the attorney general.

(6) The net revenue received under this section shall be deposited in the appropriate transportation fund. If property is received as all or part of the consideration for the property described in subsection (1), the property may be placed under the jurisdiction of the department of management and budget.

(7) For the purposes of this act, "net revenue" means the proceeds received from the sale of the property described in subsection (1), less reimbursement for any costs to the state associated with the sale of the property and the lawful reimbursement of any transportation funds.

(8) For the purpose of clarifying the process by which the Detroit city council may amend the declaration of restrictions applicable to the west side industrial redevelopment project U.R. Mich. 1-4, as recorded in liber 13969, pages 906 - 932, liber 14408, pages 591 - 594, and liber 15264, pages 389 - 395, Wayne county records, the term "undeveloped property", as used in section 2 thereof, shall include both of the following:

(a) Property upon which there are no buildings or similar structures above grade, regardless of whether they may have previously existed thereon.

(b) Property upon which all buildings and similar structures existing at the time the declaration of restrictions shall be amended by the city council must be demolished and reduced to grade as a condition of effectiveness of such amendment.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 483]

(HB 5279)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 13 of chapter II, section 2a of chapter IV, section 9a of chapter X, and sections 1 and 3c of chapter XI (MCL 762.13, 764.2a, 770.9a, 771.1, and 771.3c), section 13 of chapter II as amended by 1994 PA 286, section 9a of chapter X as amended by 2001 PA 208, and sections 1 and 3c of chapter XI as amended by 1998 PA 520.

The People of the State of Michigan enact:

CHAPTER II

762.13 Assignment as youthful trainee; duties of court.

Sec. 13. (1) If an individual is assigned to the status of a youthful trainee and the underlying charge is an offense punishable by imprisonment for a term of more than 1 year, the court shall do 1 of the following:

(a) Commit the individual to the department of corrections for custodial supervision and training for not more than 3 years in an institutional facility designated by the department for that purpose.

(b) Place the individual on probation for not more than 3 years subject to probation conditions as provided in section 3 of chapter XI.

(c) Commit the individual to the county jail for not more than 1 year.

(2) If an individual is assigned to the status of youthful trainee and the underlying charge is for an offense punishable by imprisonment for 1 year or less, the court shall place the individual on probation for not more than 2 years, subject to probation conditions as provided in section 3 of chapter XI.

(3) An individual placed on probation pursuant to this section shall be under the supervision of a probation officer. Upon commitment to and receipt by the department of corrections, a youthful trainee shall be subject to the direction of the department of corrections.

(4) If an individual is committed to the county jail under subsection (1)(c) or as a probation condition, the court may authorize work release or release for educational purposes.

(5) The court shall include in each order of probation for an individual placed on probation under this section that the department of corrections shall collect a probation supervision fee of not more than $135.00 multiplied by the number of months of probation ordered, but not more than 36 months. The fee is payable when the probation order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that probationer. In determining the amount of the fee, the court shall consider the probationer's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

Projected Monthly Income	Amount of Fee
$ 0-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$ 1,000.00 or more	5% of projected monthly income, but not more than $135.00

The court may order a higher amount than indicated by the table, up to the maximum of $135.00 multiplied by the number of months of probation ordered but not more than 36 months, if the court determines that the probationer has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(6) If the individual is assigned to youthful trainee status for a listed offense enumerated in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the department of corrections, sheriff or his or her designee, or the individual's probation officer shall register the individual or accept the individual's registration as provided under that act.

CHAPTER IV

764.2a Peace officer; exercise of authority in other county, city, village, township, or university; violation involving water vessel.

Sec. 2a. (1) A peace officer of a county, city, village, township, or university of this state may exercise the authority and powers of a peace officer outside the geographical boundaries of the officer's county, city, village, township, or university under any of the following circumstances:

(a) If the officer is enforcing the laws of this state in conjunction with the Michigan state police.

(b) If the officer is enforcing the laws of this state in conjunction with a peace officer of any other county, city, village, township, or university in which the officer may be.

(c) If the officer has witnessed an individual violate any of the following within the geographical boundaries of the officer's county, city, village, township, or university and immediately pursues the individual outside of the geographical boundaries of the officer's county, city, village, township, or university:

(*i*) A state law or administrative rule.

(*ii*) A local ordinance.

(*iii*) A state law, administrative rule, or local ordinance, the violation of which is a civil infraction, municipal civil infraction, or state civil infraction.

(2) The officer pursuing an individual under subsection (1)(c) may stop and detain the person outside the geographical boundaries of the officer's county, city, village, township, or university for the purpose of enforcing that law, administrative rule, or ordinance or enforcing any other law, administrative rule, or ordinance before, during, or immediately after the detaining of the individual. If the violation or pursuit involves a vessel moving on the waters of this state, the officer pursuing the individual may direct the operator of the vessel to bring the vessel to a stop or maneuver it in a manner that permits the officer to come beside the vessel.

CHAPTER X

770.9a Detention and denial of bail where defendant convicted of assaultive crime; "assaultive crime" defined; expediting appeal or application for leave to appeal.

Sec. 9a. (1) A defendant convicted of an assaultive crime and awaiting sentence shall be detained and shall not be admitted to bail unless the trial court finds by clear and convincing evidence that the defendant is not likely to pose a danger to other persons.

(2) A defendant convicted of an assaultive crime and sentenced to a term of imprisonment who has filed an appeal or an application for leave to appeal shall be detained and shall not be admitted to bail unless the trial court or the court to which the appeal is taken finds by clear and convincing evidence that both of the following exist:

(a) The defendant is not likely to pose a danger to other persons.

(b) The appeal or application raises a substantial question of law or fact.

(3) As used in this section, "assaultive crime" means an offense against a person described in section 81c(3), 82, 83, 84, 86, 87, 88, 89, 90a, 90b(a) or (b), 91, 200 to 212a, 316, 317, 321, 349, 349a, 350, 397, 411h(2)(b) or (3), 411i, 520b, 520c, 520d, 520e, 520g, 529, 529a, 530, or 543a to 543z of the Michigan penal code, 1931 PA 328, MCL 750.81c(3), 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.90a, 750.90b, 750.91, 750.200 to 750.212a, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.411h, 750.411i, 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529, 750.529a, 750.530, and 750.543a to 750.543z.

(4) The appeal or application for leave to appeal filed by a person denied bail under this section shall be expedited pursuant to rules adopted for that purpose by the supreme court.

CHAPTER XI

771.1 Requirements for probation; delayed sentence; fee; life probation; applicability of section to certain juveniles.

Sec. 1. (1) In all prosecutions for felonies or misdemeanors other than murder, treason, criminal sexual conduct in the first or third degree, armed robbery, and major controlled substance offenses not described in subsection (4), if the defendant has been found guilty

upon verdict or plea and the court determines that the defendant is not likely again to engage in an offensive or criminal course of conduct and that the public good does not require that the defendant suffer the penalty imposed by law, the court may place the defendant on probation under the charge and supervision of a probation officer.

(2) Except as provided in subsection (4), in an action in which the court may place the defendant on probation, the court may delay sentencing the defendant for not more than 1 year to give the defendant an opportunity to prove to the court his or her eligibility for probation or other leniency compatible with the ends of justice and the defendant's rehabilitation. When sentencing is delayed, the court shall enter an order stating the reason for the delay upon the court's records. The delay in passing sentence does not deprive the court of jurisdiction to sentence the defendant at any time during the period of delay.

(3) If a defendant is before the circuit court and the court delays imposing sentence under subsection (2), the court shall include in the delayed sentence order that the department of corrections shall collect a supervision fee of not more than $135.00 multiplied by the number of months of delay ordered, but not more than 12 months. The fee is payable when the delayed sentence order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that defendant. In determining the amount of the fee, the court shall consider the defendant's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

Projected Monthly Income	Amount of Fee
$ 0.00-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$ 1,000.00 or more	5% of projected monthly income, but not more than $135.00

The court may order a higher amount than indicated by the table, up to the maximum of $135.00 multiplied by the number of months of delay ordered but not more than 12 months, if the court determines that the defendant has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(4) The sentencing judge may place a defendant on life probation pursuant to subsection (1) if the defendant is convicted for a violation of section 7401(2)(a)(*iv*) or 7403(2)(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, or conspiracy to commit either offense. Subsection (2) does not apply to this subsection.

(5) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

771.3c Probation supervision fee; enforcement of probation oversight fee; person subject to other obligations arising out of criminal proceeding; applicability of section to certain juveniles.

Sec. 3c. (1) The circuit court shall include in each order of probation for a defendant convicted of a crime that the department of corrections shall collect a probation supervision fee of not more than $135.00 multiplied by the number of months of probation ordered, but not more than 60 months. The fee is payable when the probation order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that probationer. In determining the amount of the fee, the court shall consider the probationer's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

Projected Monthly Income	Amount of Fee
$ 0-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$ 1,000.00 or more	5% of projected monthly income, but not more than $135.00

The court may order a higher amount than indicated by the table, up to the maximum of $135.00 multiplied by the number of months of probation ordered, but not more than 60 months, if the court determines that the probationer has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(2) If a person who is subject to a probation supervision fee is also subject to any combination of fines, costs, restitution orders, assessments, or payments arising out of the same criminal proceeding, the allocation of money collected for those obligations shall be as otherwise provided in section 22 of chapter XV.

(3) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 484]

(HB 6062)

AN ACT to amend 1987 PA 230, entitled "An act to authorize certain local governmental units to incorporate municipal health facilities corporations and subsidiary municipal health facilities corporations for establishing, modifying, operating, and managing health services and acquiring, constructing, adding to, repairing, remodeling, renovating, equipping, and re-equipping hospitals and other health care facilities and related purposes; to provide for the application of this act to existing municipal hospitals and for the transfer of ownership of hospital funds and personal property; to validate and ratify the existence, organization, actions, proceedings, and board membership of existing organizations acting as county public hospitals; to provide for the appointment of trustees; to grant certain powers of a public body corporate to health facilities corporations and subsidiary health facilities corporations; to empower certain local governmental units to encumber property for the benefit of, transfer or make property available to, issue bonds to construct facilities to be used by, appropriate funds for, and levy a tax for, municipal health facilities corporations and subsidiary municipal health facilities corporations; to empower certain local governmental units to guarantee obligations of municipal health facilities corporations and subsidiary municipal health facilities corporations and to permit certain local governmental units to pledge their full faith and credit to pay such guaranties; to provide for transfer of ownership or operation of health care facilities and health services to nonprofit health care organizations; to authorize municipal health facilities corporations and subsidiary municipal health facilities corporations to borrow money and issue notes for the purposes of meeting expenses of operation and to issue corporation obligations for the purpose of acquisition, construction, repair, remodeling, equipping or re-equipping of health care facilities and for the refinancing, refunding, or refunding in advance of indebtedness of the municipal health facilities corporations or the subsidiary municipal health facilities corporations or of indebtedness of certain local governmental units undertaken on their behalf; to authorize municipal health facilities corporations and subsidiary municipal health facilities corporations to enter into mortgages, deeds of trust, and other agreements for security which may include provisions for the appointment of receivers; to exempt obligations and property of municipal health facilities corporations and subsidiary municipal health facilities corporations from taxation; and to provide other rights, powers, and duties of municipal health facilities corporations and subsidiary municipal health facilities corporations," by amending section 305 (MCL 331.1305), as amended by 1988 PA 502.

The People of the State of Michigan enact:

331.1305 Powers of local governmental unit generally.

Sec. 305. Subject to applicable licensing and other regulatory requirements, a local governmental unit may do any or all of the following:

(a) Acquire health care facilities by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or other means; construct, add to, repair, remodel, renovate, equip, and re-equip health care facilities for use, in whole or in part, by a corporation or a subsidiary corporation; borrow money and issue bonds in accordance with 1923 PA 118, MCL 141.61 to 141.66; enter into contracts of lease under 1948 (1st Ex Sess) PA 31, MCL 123.951 to 123.965; or enter into obligations under other applicable laws to acquire health care facilities. However, whether or not otherwise permitted by law, a local governmental unit shall not borrow funds, lease property, or acquire property pursuant to a lease purchase agreement with a local hospital authority incorporated under the hospital finance authority act, 1969 PA 38, MCL 331.31 to 331.84, nor shall a local

governmental unit otherwise receive the proceeds of bonds issued by a local hospital authority, except as consideration for property transferred by the local governmental unit to a third party. Any bonding proposal requiring approval of the electors of a local governmental unit may be presented at the same election described in sections 201 and 202 or sections 251 and 252.

(b) Transfer or make available health care facilities and other real and personal property to a corporation or a subsidiary corporation by sale, lease, sublease, installment sale agreement, contract, or other means on terms, with or without monetary consideration, approved by the county board of commissioners, city council, or village council. A health care facility owned and operated by a corporation or a subsidiary corporation shall not be considered to be owned or operated by the local governmental unit.

(c) Grant mortgages, security interests, and other liens in, pledge or sell and lease back its interests in health care facilities and other real and personal property to secure bonds, notes, or other obligations of a corporation or subsidiary corporation, upon terms approved by the county board of commissioners, city council, or village council. The amount of the bonds, notes, or other obligations shall not be included in computing the net bonded indebtedness of the local governmental unit for the purposes of debt limitations imposed by any constitutional, statutory, or charter provision, unless the local governmental unit pledges full faith and credit to the payment of the bond, note, or other obligation.

(d) Guarantee any corporation obligation, bond, note, or other obligation of a corporation or a subsidiary corporation on terms approved by the county board of commissioners, city council, or village council, and pledge specified revenues or assets of the local governmental unit or the full faith and credit of the local governmental unit to the payment of the guaranty. The resolution of the county board of commissioners, city council, or village council approving any guaranty which pledges the full faith and credit of the local governmental unit shall contain a proviso that the resolution shall not become effective and binding upon the local governmental unit until it has been approved by a majority of the electors voting at a special or regular local governmental unit election. The election proceedings under this subdivision shall be conducted in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The amount of any bonds, notes, or other obligations secured by a guaranty that pledges the full faith and credit of the local governmental unit shall be included in computing the net bonded indebtedness of the local governmental unit for the purposes of debt limitations imposed by any constitutional, statutory, or charter provision.

(e) Loan to a corporation or a subsidiary corporation money from the general fund of the local governmental unit or from funds not raised by taxation available to the local governmental unit for the acquisition of or improvements to health care facilities, operation of health services or for any other purpose of the corporation or subsidiary corporation, and enter into agreements with the borrowing corporation or subsidiary corporation for the repayment of those loans over a term not to exceed 30 years, with or without security.

(f) Appropriate money and transfer the money to 1 or more corporations or subsidiary corporations established by the local governmental unit for the acquisition of or improvements to health care facilities, operation of health services, or any other purpose of the corporations or subsidiary corporations. The total sums appropriated for those purposes each year from the general fund of the local governmental unit shall be in addition to any taxes and appropriations to satisfy local governmental unit indebtedness under bonds, notes, or guaranties described in subdivisions (a) and (d). Money may be appropriated from funds not raised by taxation and available to the local governmental unit for those purposes without limitation.

(g) Notwithstanding subdivision (f), a county with a county public hospital organized and operated under 1945 PA 109, MCL 331.201 to 331.213, or 1925 PA 177, MCL 332.151 to 332.164, on February 27, 1988 may assess taxes not to exceed in any 1 year 1 mill on each dollar of assessed valuation of the county for the purpose of acquisition, construction, and operation of any health care facilities without a vote of county electors, and may appropriate money from its general fund for the acquisition, construction, and operation of any health care facilities without limitation.

(h) Enter into agreements or arrangements for a corporation or a subsidiary corporation to provide health services to local governmental unit employees, dependents of local governmental unit employees, indigents, or others, providing for payment for health services in any of the ways described in section 303(g).

(i) Sell, contract, or make available to corporations or subsidiary corporations established by the local governmental unit, administrative, management, and other services necessary or convenient to fulfill the purposes of the corporation or subsidiary corporation, and purchase the services from a corporation or subsidiary corporation that may be required for any local governmental unit purpose.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 485]

(HB 5804)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 222 and 244 (MCL 257.222 and 257.244), section 222 as amended by 2000 PA 397 and section 244 as amended by 2000 PA 369, and by adding section 17c.

The People of the State of Michigan enact:

257.17c "Flood vehicle" defined.

Sec. 17c. "Flood vehicle" means a vehicle that was submerged in water to the point that water entered the passenger compartment or trunk over the sill of the trunk floor pan or doorsill or a vehicle acquired by an insurance company as part of the settlement of a water damage claim.

257.222 Registration certificate and certificate of title; issuance; rebuilt, salvage, or scrap certificate of title issued by another state; delivery; manufacture; contents; coat of arms; conduct constituting misdemeanor; penalties; certificate of title for certain vehicles to be different in color; contents of legend.

Sec. 222. (1) Except as otherwise provided in this act, the secretary of state shall issue a registration certificate and a certificate of title when registering a vehicle upon receipt of the required fees. The secretary of state shall issue a flood, rebuilt, salvage, or scrap certificate of title for a vehicle brought into this state from another state or jurisdiction that has a flood, rebuilt, salvage, or scrap certificate of title issued by that other state or jurisdiction.

(2) The secretary of state shall deliver the registration certificate to the owner. The certificate shall contain on its face the date issued, the name and address of the owner, the registration number assigned to the vehicle, and a description of the vehicle as determined by the secretary of state.

(3) The certificate of title shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the certificate of title without ready detection. The certificate shall contain on its face the identical information required on the face of the registration certificate; if the vehicle is a motor vehicle, the number of miles, not including the tenths of a mile, registered on the vehicle's odometer at the time of transfer; whether the vehicle is to be used or has been used as a taxi, as a police vehicle, or by a political subdivision of this state, unless the vehicle is owned by a dealer and loaned or leased to a political subdivision of this state for use as a driver education vehicle; whether the vehicle is a salvage vehicle; if the vehicle has previously been issued a rebuilt certificate of title from this state or a comparable certificate of title from any other state or jurisdiction; if the vehicle has been issued a scrap certificate of title from this state or a comparable certificate of title from any other state or jurisdiction; if the vehicle is a flood vehicle or has previously been issued a flood certificate of title from this state or any other state or jurisdiction; if the owner or co-owner or lessee or co-lessee of the vehicle is subject to registration denial under section 219(1)(d); a statement of the owner's title and of all security interests in the vehicle or in an accessory on the vehicle as set forth in the application; the date that the application was filed; and any other information that the secretary of state may require.

(4) The certificate of title shall contain a form for assignment of title or interest and warranty of title by the owner with space for the notation of a security interest in the vehicle and in an accessory on the vehicle, which at the time of a transfer shall be certified and signed, and space for a written odometer mileage statement that is required upon transfer pursuant to section 233a. The certificate of title may also contain other forms that the secretary of state considers necessary to facilitate the effective administration of this act. The certificate shall bear the coat of arms of this state.

(5) The secretary of state shall mail or deliver the certificate of title to the owner or other person the owner may direct in a separate instrument, in a form prescribed by the secretary of state.

(6) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates a certificate of title or who uses a reproduced, altered, counterfeited, forged, or duplicated certificate of title shall be punished as follows:

(a) If the intent of reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for 1 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor, punishable by imprisonment for a period equal to that which could be imposed for the commission of the offense the person had the

intent to aid or commit. The court may also assess a fine of not more than $10,000.00 against the person.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for not more than 1 year, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than $1,000.00, or both.

(7) The certificate of title for a police vehicle, a vehicle owned by a political subdivision of this state, a salvage vehicle, a rebuilt vehicle, a scrap vehicle, or a flood vehicle shall be different in color from the certificate of title for all other vehicles unless the vehicle is loaned or leased to a political subdivision of this state for use as a driver education vehicle.

(8) A scrap certificate of title shall contain a legend that the vehicle is not to be titled or registered and is to be used for parts or scrap metal only.

(9) A certificate of title shall not be issued for a vehicle which has had a salvage certificate of title unless the certificate of title contains a legend that discloses the vehicle's former condition to consumers and potential purchasers.

257.244 Operation of vehicle by manufacturer, subcomponent system producer, dealer, or transporter with special plate; unauthorized use of special plate; penalties; surety bond or insurance; number of plates; operation of vehicle with dealer plate by vendee or prospective purchaser.

Sec. 244. (1) A manufacturer owning any vehicle of a type otherwise required to be registered under this act may operate or move the vehicle upon a street or highway primarily for the purposes of transporting or testing or in connection with a golf tournament or a public civic event, if the vehicle displays, in the manner prescribed in section 225, 1 special plate approved by the secretary of state.

(2) A producer of a vehicle subcomponent system essential to the operation of the vehicle or the safety of an occupant may operate or move a motor vehicle upon a street or highway solely to transport or test the subcomponent system if the motor vehicle displays, in the manner prescribed in section 225, 1 special plate approved by the secretary of state. To be eligible for the special plate, the subcomponent system producer must be either a recognized subcomponent system producer or must be a subcomponent system producer under contract with a vehicle manufacturer.

(3) A dealer owning any vehicle of a type otherwise required to be registered under this act may operate or move the vehicle upon a street or highway without registering the vehicle if the vehicle displays, in the manner prescribed in section 225, 1 special plate issued to the owner by the secretary of state. As used in this subsection, "dealer" includes any employee, servant, or agent of the dealer.

(4) A transporter may operate or move any vehicle of like type upon a street or highway solely to deliver the vehicle upon displaying a special plate issued to him or her as provided in this chapter.

(5) The plates described in this section shall not be used on service cars or wreckers which are being operated as an adjunct of a licensee's business. A manufacturer, transporter, or dealer, making or permitting any unauthorized use of a special plate under this chapter is considered to have forfeited its license under this chapter and the secretary of state, after notice and a hearing, may suspend or cancel the right to use the plates and cause the plates to be surrendered to and repossessed by the state.

(6) Transporters shall furnish a sufficient surety bond or policy of insurance as protection for public liability and property damage as may be required by the secretary of state.

(7) The secretary of state shall determine the number of plates a manufacturer, dealer, or transporter reasonably needs in his or her business.

(8) Upon the sale of a vehicle otherwise required to be registered under this act, the vendee shall be permitted to operate the vehicle upon a street or highway for not more than 72 hours after taking possession, but during that time the vehicle shall have the dealer plate attached as provided in this section. The application for registration shall be made in the name of the vendee before the vehicle is used. The dealer and the vendee shall be jointly responsible for the return of the dealer plate to the dealer within 72 hours, and the failure of the vendee to return or the vendor to use due diligence to procure the dealer plate shall constitute a misdemeanor, and in addition the license of the dealer may be revoked. The vendee, while using the dealer's plate, shall have in his or her possession proof that clearly indicates the date of sale of the motor vehicle.

(9) Vehicles owned by the dealer and bearing the dealer's plate may be driven upon a street or highway for demonstration purposes by any prospective buyer for a period of 72 hours.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 486]

(HB 5591)

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," by amending section 471 (MCL 206.471), as amended by 1996 PA 484.

The People of the State of Michigan enact:

206.471 Administration of tax by department; forms; rules; printing summary of state expenditures and revenues in instruction booklet; space on tax return for school district; information to be provided in instruction booklet about purchase of annual state park motor vehicle permit; listing of credit and deduction; posting of list on website.

Sec. 471. (1) The tax imposed by this act shall be administered by the department. The department shall prescribe forms for use by taxpayers and may promulgate rules for all of the following:

(a) The maintenance by taxpayers of records, books, and accounts.

(b) The computation of the tax.

(c) The manner and time of changing or electing accounting methods and of exercising the accounting method options contained in this act.

(d) The making of returns, the payment of tax due, and the ascertainment, assessment, and collection of the tax.

(2) The rules shall follow the rulings of the United States internal revenue service with respect to the federal income tax if those rulings are not inconsistent with this act, and the department may adopt as a part of the rules any portions of the internal revenue code or rulings, in whole or in part.

(3) A summary of state expenditures and revenues by major category, in dollar amounts and percentage of total, for the most recent state fiscal year that the information is available, shall be printed in the instruction booklet accompanying each state income tax return.

(4) Each state income tax return shall contain a space for the taxpayer to indicate the school district in which the taxpayer resides.

(5) The department may provide information in the instruction booklet about the purchase of an annual state park motor vehicle permit pursuant to part 741 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.74101 to 324.74125.

(6) In the instruction booklet that accompanies the annual return required under this act, the department shall provide a clear and concise listing of each credit and each deduction allowed under this act and a reference to a detailed explanation.

(7) The department shall post the list described in subsection (6) on the department's official website.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 487]

(HB 5928)

AN ACT to amend 2000 PA 92, entitled "An act to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts," by amending sections 1109, 1119, 3119, 4111, 4117, 6101, 6149, and 7101 (MCL 289.1109, 289.1119, 289.3119, 289.4111, 289.4117, 289.6101, 289.6149, and 289.7101); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

289.1109 Definitions; I to P.

Sec. 1109. As used in this act:

(a) "Imminent or substantial hazard" means a condition at a food establishment that the director determines requires immediate action to prevent endangering the health of people.

(b) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article and includes a requirement imposed under this act that any word, statement, or other information appearing on the display also appear on the outside container or wrapper of the retail package of the article or be easily legible through the outside container or wrapper.

(c) "Labeling" means all labels and other written, printed, or graphic matter upon an article, any of its containers or wrappers, or accompanying the article.

(d) "License limitation" means an action by which the director imposes restrictions or conditions, or both, on a license of a food establishment.

(e) "License holder" means the entity that is legally responsible for the operation of the food establishment including the owner, the owner's agent, or other person operating under apparent authority of the owner possessing a valid license to operate a food establishment.

(f) "Limited wholesale food processor" means a wholesale food processor that has $25,000.00 or less in annual gross wholesale sales made or business done in wholesale sales in the preceding licensing year, or $25,000.00 or less of the food is reasonably anticipated to be sold for the current licensing year. Only the food sales from the wholesale food processor operation are used in computing the annual gross sales under this subdivision.

(g) "Local health department" means that term as defined in section 1105 of the public health code, MCL 333.1105, and having those powers and duties as described in part 24 of the public health code, MCL 333.2401 to 333.2498.

(h) "Misbranded" means food to which any of the following apply:

(*i*) Its labeling is false or misleading in any particular.

(*ii*) It is offered for sale under the name of another food.

(*iii*) It is an imitation of another food unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated.

(*iv*) Its container is so made, formed, or filled as to be misleading.

(*v*) It is in package form, unless it bears a label containing both the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count subject to reasonable variations as are permitted and exemptions as to small packages as are established by rules prescribed by the department.

(*vi*) Any word, statement, or other labeling required by this act is not prominently placed on the label or labeling conspicuously and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(*vii*) It purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by this act or under the federal act, unless it conforms to such definition and standard and its label bears the name of the food specified in the definition and standard, and, insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

(*viii*) It purports to be or is represented to be either of the following:

(A) A food for which a standard of quality has been prescribed by this act or rules and its quality falls below such standard unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard.

(B) A food for which a standard or standards of fill of container have been prescribed by this act or rules and it falls below the standard of fill of container applicable, unless its label bears, in such manner and form as the rules specify, a statement that it falls below the standard.

(*ix*) It does not bear labeling clearly giving the common or usual name of the food, if one exists, and if fabricated from 2 or more ingredients, the common or usual name of each ingredient except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each and under other circumstances as established by rules regarding exemptions based upon practicality, potential deception, or unfair competition.

(*x*) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless the labeling states that fact and under other circumstances as established by rules regarding exemptions based upon practicality.

(*xi*) If a food intended for human consumption and offered for sale, its label and labeling do not bear the nutrition information required under section 403(q) of the federal act, 21 U.S.C. 343.

(*xii*) It is a product intended as an ingredient of another food and, when used according to the directions of the purveyor, will result in the final food product being adulterated or misbranded.

(*xiii*) It is a color additive whose packaging and labeling are not in conformity with packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.

(i) "Mobile food establishment" means a food establishment operating from a vehicle or watercraft that returns to a licensed commissary for servicing and maintenance at least once every 24 hours.

(j) "Mobile food establishment commissary" means an operation that is capable of servicing a mobile food establishment.

(k) "Person" means an individual, sole proprietorship, partnership, corporation, association, or other legal entity.

(*l*) "Pesticide chemical" means any substance that, alone, in chemical combination, or in formulation with 1 or more other substances, is a pesticide within the meaning of the federal insecticide, fungicide, and rodenticide act, chapter 125, 86 Stat. 973, 7 U.S.C. 136 to 136i, 136j to 136r, and 136s to 136y, and is used in the production, storage, or transportation of raw agricultural commodities.

(m) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(n) "Public health code" means 1978 PA 368, MCL 333.1101 to 333.25211.

289.1119 Rules; "act" and "establishment" defined.

Sec. 1119. (1) Except as rescinded, rules promulgated under public acts repealed by this act retain authorization under this act.

(2) Notwithstanding R 285.553.1 of the Michigan administrative code, the following terms have the following meanings for purposes of those rules:

(a) "Act" means the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(b) "Establishment" means any farm crop storage where food is handled, stored, or prepared and that is exempt from the requirements of section 7101.

289.3119 Additional license fees; collection; exemptions; adjustments; forwarding applications.

Sec. 3119. (1) Except as otherwise provided for in subsection (2), upon submission of an application, an applicant for a food service establishment license shall pay to the local health department having jurisdiction the required fees authorized by section 2444 of the public health code, MCL 333.2444, and an additional state license fee as follows:

(a) Vending machine location fee	$	2.50.
(b) Temporary food service establishment	$	2.50.
(c) Food service establishment	$	19.00.
(d) Mobile food establishment commissary	$	19.00.
(e) Special transitory food unit	$	30.00.

(2) When licensing a special transitory food unit, a local health department shall impose a fee of $117.00, which includes the additional state license fee imposed under subsection (1) unless exempted under subsection (4) or (5).

(3) The state license fee required under subsection (1) shall be collected by the local health department at the time the license application is submitted. The state license fee is due and payable by the local health department to the state within 60 days after the fee is collected.

(4) A school or other educational institution is exempt from paying the fees imposed under section 2444 of the public health code, MCL 333.2444, and the additional state license fee imposed under subsections (1) and (2) but is not exempt from the other provisions of this chapter.

(5) A charitable, religious, fraternal, service, civic, or other nonprofit organization that has tax-exempt status under section 501(c)(3) of the internal revenue code of 1986 is exempt from paying additional state license fees imposed under this section except for the vending machine location license fee. An organization seeking an exemption under this subsection shall furnish to the department or a local health department evidence of its tax-exempt status.

(6) A veteran who has a waiver of a license fee under the circumstances described in 1921 PA 359, MCL 35.441 to 35.443, is exempt from paying the fees prescribed in this section.

(7) The department shall adjust on an annual basis the fees prescribed by subsections (1) and (2), as adjusted after November 8, 2000, by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index but not to exceed 5%. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor or its successor. The adjustment shall be rounded to the nearest dollar to set each year's fee under this subsection, but the absolute value shall be carried over and used to calculate the next annual adjustment.

(8) The local health department shall forward the license applications to the department with appropriate recommendations.

289.4111 License fees; food sanitation fees.

Sec. 4111. (1) The department shall impose the following license fees for each year or portion of a year:

(a) Retail food establishment: $67.00.

(b) Extended retail food establishment: $172.00.

(c) Wholesale food processor: $172.00.

(d) Limited wholesale food processor: $67.00.

(e) Mobile food establishment: $172.00.

(f) Temporary food establishment: $25.00.

(g) Special transitory food unit: $117.00.

(h) Mobile food establishment commissary: $172.00.

(i) Food warehouse: $67.00.

(j) Food service establishment: the amounts described in subsection (2).

(2) If a local health department no longer conducts a food service sanitation program, the department, in consultation with the commission of agriculture, shall set the food sanitation fees to be imposed for the department's services performed under subsection (1)(j). The fees imposed shall equal, as nearly as possible, 1/2 of the department's cost of providing the service. The conduct of the services resulting from a cessation of a food service sanitation program is considered an imminent or substantial hazard that allows the department to impose the service fees for up to 12 months after the date of cessation by the local health department. After the 12-month period, the department shall collect the fees only in the amount provided by amendment of this act or as authorized pursuant to appropriation.

289.4117 Disposition of money collected; consumer food safety education fund; industry food-safety education fund; creation; advisory committee; use and carrying forward of funds; "fee-exempt food establishment" defined.

Sec. 4117. (1) Except as provided in subsections (2) and (3), money collected under this chapter by the department shall be credited to the general fund of the state.

(2) A consumer food safety education fund is created as a revolving fund in the department of treasury. The consumer food safety education fund shall be administered by the department and funded by adding $3.00 to the fee for each food establishment license in all categories except vending machines and in cases of fee-exempt food establishments. The money in the fund shall be used to provide statewide training and education to consumers on food safety. An advisory committee consisting of at least 9 people representing consumers, industry, government, and academia shall advise the department on the use of the funds. Money remaining in the fund at the end of the fiscal year shall be carried forward into the next fiscal year.

(3) An industry food-safety education fund is created as a revolving fund in the department of treasury. The industry food-safety education fund shall be administered by the department and funded by adding $2.00 to the fee for each food service establishment license in all categories except vending machines and in cases of fee-exempt food establishments. The money in the fund shall be used to provide food safety training and education to food service establishment employees and agents of the director who enforce this act. The advisory committee created in subsection (2) shall advise the department on

the use of the funds. Money remaining in the fund at the end of the fiscal year shall be carried forward into the next fiscal year.

(4) As used in this section, "fee-exempt food establishment" means a food establishment exempt from all state and local food establishment license fees under either of the following circumstances:

(a) The education institution exemption under section 3119(4).

(b) A nonprofit organization that has an exemption under section 3119(5) combined with an exemption from the local health department sanitation service fee under section 2444 of the public health code, MCL 333.2444.

289.6101 Incorporation by reference; changes or updates by rule; annexes.

Sec. 6101. (1) Chapters 1 through 8 of the food code are incorporated by reference except as amended and modified as follows:

(a) Section 3-401.11(B) is modified so that the oven temperature for high humidity oven temperature reads "54°C (130°F) or higher".

(b) Where provisions of this act and rules promulgated under this act specify different requirements.

(c) Section 3-201.11(D) is modified so that "subparagraph 3-401.11(C)(1)" reads "subparagraph 3-401.11(D)(1)".

(d) Section 6-101.11 is modified to add after subparagraph (A)(3): "(B) In a temporary food establishment:".

(2) The director, by promulgation of a rule, may adopt any changes or updates to the food code.

(3) The annexes of the food code are considered persuasive authority for interpretation of the food code.

289.6149 Definitions; satisfaction of section 3-603.11 of food code; disclosures; reminders; text; exemptions.

Sec. 6149. (1) As used in this section:

(a) "Disclosure" means a written identification as to which items are, or can be, ordered raw or undercooked in their entirety, or items that contain an ingredient that is raw or undercooked.

(b) "Publicly available" means accessible to consumers, without their having to request it, before their placing their food orders or making their selections.

(c) "Reminder" means a written notice concerning the significant health risk of consuming raw or undercooked animal foods.

(d) "Selection information" means whatever consumers read to make their order selections, such as menu, table tent, placard, chalkboard, or other written means.

(2) To satisfy section 3-603.11 of the food code, the food establishment must meet the prescriptions of this section.

(3) The food establishment shall make a disclosure in the selection information that an item contains raw or undercooked food of animal origin by either or both of the following methods:

(a) Items are described to include the disclosure, such as "oysters on the half shell (raw oysters)", "raw-egg caesar salad", "eggs (may be requested undercooked)", and "hamburgers

(can be cooked to order)". The disclosure is not limited to those items and descriptions in this subdivision but includes items and descriptions of a similar nature.

(b) Items are asterisked with a footnote that states the items are served raw or undercooked, contain, or may contain raw or undercooked ingredients.

(4) A reminder of the significantly increased risk associated with eating foods subject to the disclosure in raw or undercooked form is satisfied by 1 of the following methods:

(a) Items requiring disclosure are asterisked on the selection information to a footnote that states 1 of the following disclosures:

(*i*) "Regarding the safety of these items, written information is available on request.".

(*ii*) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness.".

(*iii*) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.".

(b) Either of the reminders listed under subdivision (a)(*ii*) or (*iii*) is used and appears at least once in the selection information on the first interior page or the page where the first item requiring disclosure appears. When the option described in this subdivision is used, the word "NOTICE" shall appear before the reminder statement.

(c) A publicly available placard supplies the reminder of the significantly increased risk and meets the following requirements:

(*i*) It is titled "NOTICE" and contains 1 of the reminders listed in subdivision (a)(*ii*) or (*iii*).

(*ii*) It is posted near the customer entrances of the establishment and is clearly visible to the customers.

(*iii*) All letters in the title are capitalized in bold, arial font not less than 44-point font size and, if menu items are on the placard, then all letters are equally readable as the menu items on the placard.

(*iv*) All letters in the reminder are arial font not less than 36-point font size.

(*v*) The reminder is placed at approximately eye level and is easily readable from the point at which consumers would normally stand to read it.

(*vi*) The reminder maintains visibility in layout, format, and graphics in contrast to other posted materials.

(d) The United States food and drug administration model consumer advisory brochure or equivalent as determined by the director is publicly available.

(5) A reminder may be tailored to be product specific if a food establishment either has a limited menu or offers only specific animal-derived foods in raw or undercooked, ready-to-eat form.

(6) The language for the menu items shall match the language used for the disclosure and the reminder. The disclosure and reminder may also be in additional languages.

(7) The text for disclosures and reminders shall meet the following requirements:

(a) The text size for statements on handheld menus or table tents shall be visually equivalent to at least 11-point font size or may be visually equivalent to the font size of menu item descriptions.

(b) Text color provides a clear contrast to background.

(8) Table tents, placards, or chalkboards that are used exclusively to list food items that are offered as daily, weekly, or temporary specials are exempt from the requirements

of this section when those food items also appear in the primary selection information that contains the disclosures and reminders meeting the requirements of this section.

289.7101 Compliance with federal regulations; exception.

Sec. 7101. Subject to section 1119(2), a food processing plant shall comply with the regulations of the food and drug administration in 21 C.F.R. part 110, except that refrigerated potentially hazardous food shall be stored at 4.4 degrees centigrade (40 degrees Fahrenheit) or below.

Repeal of §§ 289.6119, 289.6121, 289.6123, and 289.6145.

Enacting section 1. Sections 6119, 6121, 6123, and 6145 of the food law of 2000, 2000 PA 92, MCL 289.6119, 289.6121, 289.6123, and 289.6145, are repealed.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 488]

(HB 5889)

AN ACT to amend 1955 PA 10, entitled "An act to provide for the registration of historic sites," by amending the title and sections 1 and 2 (MCL 399.151 and 399.152) and by adding sections 3, 4, 5, 6, 7, 8, 9, and 10.

The People of the State of Michigan enact:

TITLE

An act to provide for the registration of historic sites; to authorize certain fees; to prescribe powers, duties, and responsibilities for certain state officers; and to prescribe penalties and civil remedies for violations of this act.

399.151 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan historical markers act".

399.152 Definitions.

Sec. 2. As used in this act:

(a) "Application" means applying for the placement of an official Michigan historical marker at the location of a historic resource or site and for the resource's or site's listing in the state register of historic sites.

(b) "Center" means the Michigan historical center established in the department.

(c) "Commission" means the Michigan historical commission created in section 1 of 1913 PA 271, MCL 399.1.

(d) "Department" means the department of history, arts, and libraries created in section 3 of the history, arts, and libraries act, 2001 PA 63, MCL 399.703.

(e) "Historic resource" means a publicly or privately owned building, structure, site, object, or open space of historic significance to Michigan.

(f) "Historic significance" means value in relation to historical, architectural, archaeological, engineering, or cultural disciplines.

(g) "Person" means an individual, partnership, corporation, association, or other private legal entity.

(h) "Work" means construction, addition, alteration, repair, moving, excavation, or demolition.

399.153 Historic preservation as public purpose; administration of Michigan historical marker program; goals.

Sec. 3. Historic preservation and related public education are declared to be public purposes. In fulfillment of these purposes, the department may administer a Michigan historical marker program with the following goals:

(a) Identify and locate historic sites and subjects having historic significance to this state.

(b) Educate the public about significant people, places, and things in Michigan history and thereby develop the public's knowledge of the importance of Michigan history.

(c) Encourage the public to preserve historic resources indicative of Michigan history and to develop a sense of identity as Michiganians.

(d) Enhance cultural tourism in this state by encouraging residents and visitors to investigate Michigan history and the state's historic sites.

(e) Unite people from various regions of this state through improved dissemination of information about historic resources and places.

399.154 Historic resource or site; listing; criteria.

Sec. 4. The department may list a historic resource or site in the state register of historic sites and commemorate the resource or site with the placement of an official Michigan historical marker if the historic resource or site meets written criteria adopted by the department upon recommendation of the commission.

399.155 Application; filing; form; attachments; fee; review; endorsement or denial of application.

Sec. 5. (1) An application may be filed by 1 of the following persons or agencies:

(a) A person owning or in possession of a historic resource or site or a person having written consent from the owner or person in possession of a historic resource or site.

(b) A department or agency of this state or of a political subdivision of the state owning, controlling, or in possession of a historic resource or site.

(2) A person or agency may submit application to the center only on a form prescribed by and obtained from the center. The form shall include all requested information and be accompanied by the following attachments:

(a) Current images, as prescribed by the center.

(b) Documentation from a recognized and authoritative source acceptable to the center, supporting the historic significance of the historic resource. This documentation shall demonstrate the historic significance of the historic resource.

(c) Any additional documents required by the center.

(3) An application and all attachments submitted to the center under subsection (2) become the property of the state.

(4) An applicant other than an agency shall pay the center an application fee of $250.00 at the time an application is submitted. The center may not process an application without this fee. The center shall deposit the fee in the historical marker fund created in section 9. The center shall refund the fee if the center decides the historic resource is not eligible for a historical marker.

(5) The center shall review each application for completeness and accuracy. The center's review may include verification of the accuracy of furnished information and the location of the historic resource or site. The center may require the applicant to furnish additional information considered necessary to complete the center's review of the application and attachments. Center representatives may visit the site if necessary.

(6) Submission of an application does not guarantee that a historic resource or site will receive an official Michigan historical marker. If the center concludes that the application meets the criteria for the placement of an official Michigan historical marker, the center shall endorse the application and prepare marker text for presentation to the commission. However, if the center concludes that the application fails to meet a criterion or another requirement for placement of a marker, the center shall notify the applicant of that decision in writing and shall specify the reason or reasons why the application is denied.

399.156 Official Michigan historical marker; words included; agreement.

Sec. 6. (1) Upon receipt of an application and proposed marker text from the center, the commission shall review, modify if necessary, and approve the text, and review and approve the location for each requested historical marker. The commission shall exercise its judgment and discretion in revising and approving proposed marker text and may advise the department on matters pertaining to applications and related decisions. The department shall issue an official site number for each historic resource or site designated for placement of an official Michigan historical marker.

(2) An official Michigan historical marker shall not include or mention the name of a living commissioner or any other living state official.

(3) An official Michigan historical marker shall include the words "Michigan historical center, department of history, arts, and libraries". The department may retrofit a marker that does not include these words.

(4) An official Michigan historical marker shall have a logo or seal with a wolverine emblem in its upper area or crest and include the words "registered Michigan historic site".

(5) The department may enter into a written agreement with another state, local, or federal agency regarding the placement of an official Michigan historical marker on property under the jurisdiction of the agency. The agreement may address security, payment for the marker, and other appropriate matters.

399.157 Official Michigan historical marker; property; control; ownership; transfer without permission prohibited; stolen or damaged marker; recovery.

Sec. 7. (1) An official Michigan historical marker approved by the department and the commission is the property of the state of Michigan and is subject to the exclusive control of the department, whether erected on public or private property. In addition to other

text on the marker, each marker shall include the conspicuous statement "property of the state of Michigan".

(2) The department shall not abandon an official Michigan historical marker. In all legal proceedings, in this state or elsewhere, there shall be an irrebuttable presumption against abandonment of the state of Michigan's ownership of an official Michigan historical marker.

(3) A person or agency in possession of a historic resource or site where an official Michigan historical marker is displayed shall not attempt to convey, sell, or otherwise transfer the marker. A conveyance, sale, or transfer is void unless made pursuant to written permission from the department.

(4) Upon discovering that an official Michigan historical marker may have been stolen or otherwise improperly or unlawfully removed from the historic resource or site where it was placed, the department, with advice and assistance from the attorney general, may commence an action, in this state or elsewhere, to recover the marker.

(5) Upon discovering that an official Michigan historical marker has been marred, vandalized, or otherwise damaged, the department, with advice and assistance from the attorney general, may commence an action, in this state or elsewhere, to recover the actual replacement cost of the marker, plus taxable costs, reasonable attorney fees, and interest calculated under section 6013 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6013. Revenue received under this subsection shall be deposited in the historical marker fund created in section 9.

399.158 Official Michigan historical marker; certain uses prohibited; violations as misdemeanor; penalty; grace period for return of marker; exception; deposit of amounts received under liability provisions.

Sec. 8. (1) A person or agency shall not exhibit, display, or use an official Michigan historical marker's distinctive design, configuration, pattern, or color combination, including a facsimile of an official Michigan historical marker, for any purpose without the department's written permission. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $1,000.00, or both.

(2) A person or agency shall not use for advertising, retail sales, or any other commercial purpose without the department's written permission any portion of the seal, emblem, and logo that appear in the crest of an official Michigan historical marker. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $5,000.00, or both.

(3) A person or agency shall not exhibit, display, or use a marker's seal, emblem, or logo or a marker's distinctive design, configuration, pattern, or color combination, including an official Michigan historical marker's facsimile, to represent his or her property as a registered Michigan historic site. A person or agency shall not exhibit, display, or use the seal, emblem, or logo or a marker's distinctive design, configuration, pattern, or color combination, including an official Michigan historical marker's facsimile, in a manner designed to lead another person to believe that the person's property is an official state historic site. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not less than $2,000.00 or more than $10,000.00, or both. If a person allegedly in violation of this subsection receives written notice from the department that the person is in apparent violation of the subsection and the person within 60 days of mailing of the notice ceases the violation by removing or no

longer using the seal, pattern, design, or color combination, or facsimile, prosecution under this subsection is barred.

(4) A person or agency shall not damage, destroy, deface, remove, tamper with, alter, or possess an official Michigan historical marker displayed at a historic resource or site without the department's written permission. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than $500.00 or more than $5,000.00, or both. A person who pleads guilty or nolo contendere or is determined guilty under this subsection is liable to this state in an amount double the cost of repair, replacement, and restoration of the official state historic site and official Michigan historical marker.

(5) A person, including a salvage company, commercial business, or a collector, shall not knowingly accept in trade or possess an official Michigan historical marker. A person that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not less than $1,000.00 or more than $10,000.00, or both. A person that pleads guilty or nolo contendere or is determined guilty under this subsection is liable to this state in an amount 3 times the cost of the repair, restoration, or replacement of the official Michigan historical marker.

(6) Within the first 90 days after the effective date of the amendatory act that added this subsection, a person possessing an official Michigan historical marker may return the marker to the department or to the sheriff of the person's county of residence without penalty for larceny or violating this act. However, this immunity shall not apply to a person that removed the marker if the removal of the marker resulted in death or personal injury. A sheriff shall hold a returned marker and shall notify the department that a marker has been returned. The department shall determine the disposition of the returned marker.

(7) The amounts received under the liability provisions of subsections (4) and (5) shall be deposited in the historical marker fund created in section 9.

399.159 Administration of program; gifts, grants, bequests, and appropriations; creation of historical marker fund; copyright and trademark provisions.

Sec. 9. (1) The department may accept gifts, grants, bequests, and appropriations for the purpose of administering the Michigan historical marker program, including, but not limited to, the manufacture and placement of an official Michigan historical marker, repair and maintenance of a marker, program administration, application reviews, marker restoration, marker recovery, and enforcement of this act.

(2) The amounts received under subsection (1) shall be credited to a fund, which is created and shall be known as the historical marker fund. The state treasurer shall direct the investment of the historical marker fund and shall credit to the fund all interest and earnings earned from fund investments. Money in the historical marker fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. Notwithstanding any balance in the historical marker fund, nothing in this subsection shall obligate the department to pay for the maintenance, repair, or replacement of an official Michigan historical marker.

(3) The department may copyright the text on an official Michigan historical marker and may register as a trademark or service mark the logo, seal, and emblem associated with official Michigan historical markers. The department may license or sell rights to publish or otherwise use copyrighted marker text and to use the registered logo, seal, or emblem and shall deposit amounts received from sales and licensing in the historical marker fund created in subsection (2).

399.160 Moving or altering marker; withdrawal of marker designation.

Sec. 10. (1) An official Michigan historical marker placed to recognize a particular historic resource may be moved to and placed at another nearby site if the commission has been asked to give, and has given, written permission for the move.

(2) When making alterations to the exterior of a historic resource which has been commemorated by an official Michigan historical marker, the owner or other person in possession of the historic resource shall follow the United States secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. part 67, when developing plans for and performing work on this historic resource. The owner or other person in possession of the historic resource may ask the center to review work plans prior to commencement of work.

(3) The center may withdraw a marker designation and may request the return of or may repossess an official Michigan historical marker from a historic resource or site if the center determines that the historic resource or site has lost its historic significance or integrity.

(4) If the center withdraws a marker designation, the person or agency in possession of the historic resource or site shall immediately return the marker to the center.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 28, 2002.

[No. 489]

(HB 5807)

AN ACT to amend 1990 PA 345, entitled "An act to create a state survey and remonumentation commission and to prescribe its powers and duties; to provide for the appointment of an executive director; to provide for a contract for the services of a state geodetic advisor; to create the state survey and remonumentation fund and to provide for its use; to coordinate and implement the monumentation and remonumentation of property controlling corners in this state and coordinate the establishment of geographic information systems; and to provide for certain powers and duties of certain state and local officers and agencies," by amending sections 8 and 12 (MCL 54.268 and 54.272), as amended by 1998 PA 5.

The People of the State of Michigan enact:

54.268 County monumentation and remonumentation plans.

Sec. 8. (1) Each county shall establish a county monumentation and remonumentation plan. Not later than 1 year after January 1, 1991, the commission shall create and distribute a model county plan that may be adopted by a county with any changes appropriate for that county. Not later than January 1, 1994, each county shall have submitted a county plan that is approved by the commission.

(2) A county plan shall provide for all of the following:

(a) The monumentation or remonumentation of the entire county, within 20 years, under the guidelines of the manual of instructions for the survey of the public lands of the

United States, 1973, prepared by the bureau of land management of the department of interior, technical bulletin 6, or subsequent editions.

(b) The provision of copies of all survey monumentation information produced by the county plan to the county surveyor and the commission.

(c) The filing with the county surveyor and the commission of copies of all monumentation or remonumentation documents required to be recorded with the register of deeds under the corner recordation act, 1970 PA 74, MCL 54.201 to 54.210d, or recorded with the register of deeds under 1970 PA 132, MCL 54.211 to 54.213.

(d) A perpetual monument maintenance plan that provides for all corners to be checked, and if necessary remonumented, at least once every 20 years.

(e) Any other provisions reasonably required by the commission for purposes of this act.

(3) Two or more contiguous counties may submit a multicounty plan, which shall meet the same requirements within each member county as are established for a county plan under this act.

(4) If a county fails to establish and submit a plan that is approved by the commission within the time required under subsection (1), the commission shall initiate and contract for the implementation of a county plan in that county pursuant to section 10.

(5) Upon the establishment and approval by the commission of a county plan, a county may expend or borrow funds to expedite the completion of its plan. If a county or 2 or more counties elect to expend or borrow funds to expedite their county plan, the commission shall enter into a contract to provide that the costs to expedite that plan including the payment of the principal of and interest on the bonds issued under subsection (7) are reimbursed or paid from the fund as provided in section 12(2) and (4).

(6) A county or 2 or more counties that expended or borrowed money to expedite their county plan after January 1, 1991 may recapture costs expended or borrowed and used to expedite that plan, which shall be paid out of the fund as provided in section 12(2) and (4). The commission shall pay those costs to the county over a period of not less than 10 years.

(7) Upon the establishment and approval by the commission of a county plan, a county or 2 or more counties seeking to expedite their county plan may by resolution of the county board of commissioners, and without the vote of its electors, issue bonds payable primarily from the money received or to be received under the contract provided for in subsection (5). These bonds may be secured by a limited tax full faith and credit pledge of the county or counties. The bonds shall be payable in annual installments, and unless otherwise determined by the commission, the annual installments are not to exceed the length of the contract that the county or counties entered into with the commission under subsection (5). The issuance of bonds under this section shall be subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

54.272 State survey and remonumentation fund; use of monies; provisions applicable to deposited funds; payment to county or counties.

Sec. 12. (1) Money in the fund shall be used by the commission for the following purposes:

(a) Annual grants to the various counties to implement their county plans, excluding the perpetual monument maintenance plan described in section 8(2)(d).

(b) Annual grants to 2 or more counties to implement their multicounty plan, excluding the perpetual monument maintenance plan described in section 8(2)(d).

(c) The implementation of county plans that are initiated and contracted for by the commission pursuant to section 8(4).

(d) An annual grant to each county that has a county plan or to 2 or more counties that have a multicounty plan to implement the perpetual monument maintenance plan described in section 8(2)(d). The commission shall make not less than 5% of the total amount of the fund available for grants under this subdivision.

(e) The payment of contracts that are entered into by the commission under section 10.

(f) Other activities necessary, incidental, or appropriate to implement this act.

(2) In addition to the purposes described in subsection (1), money in the fund shall be used to pay the costs of expediting a plan or to reimburse the cost described in section 8(6) and (7), for a county or 2 or more counties that have elected to expend or borrow funds to expedite the implementation of the county's or counties' plan.

(3) Of the money collected and remitted to the state treasurer for deposit in the fund pursuant to section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, both of the following shall apply:

(a) An annual grant to a county pursuant to subsection (1)(a) or to 2 or more counties pursuant to subsection (1)(b) shall be in an amount that is not less than 40% of the amount of money collected in that county or those counties, as applicable, under section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, during the calendar year immediately preceding the year in which the grant is made.

(b) If the commission initiates and contracts for the implementation of a county plan for a county pursuant to section 8(4), the commission shall annually spend an amount that is not less than 40% of the amount of money collected in that county under section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, during the calendar year immediately preceding the year in which the expenditure is made, to implement that county plan.

(4) If the commission contracts with a county or 2 or more counties that elect to expend or borrow funds to expedite the implementation of the county's or counties' plan under section 6(2), the commission shall annually pay to that county or counties in lieu of any grant or payments under subsection (3) an amount that is not less than 40% of the amount of money collected in that county or counties under section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, during the calendar year and will be paid in annual installments until the contract is paid in full.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 28, 2002.

[No. 490]

(HB 5362)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor

vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 803 (MCL 257.803).

The People of the State of Michigan enact:

257.803 Special plates for manufacturer, transporter, or dealer; fees.

Sec. 803. The secretary of state shall charge a $10.00 fee for each special plate issued under section 244. The secretary of state shall determine the number of special plates reasonably needed by a manufacturer, transporter, or dealer.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 491]

(HB 5360)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 251 (MCL 257.251), as amended by 2000 PA 397.

The People of the State of Michigan enact:

257.251 Dealer records; form; contents; delivery of written statement to buyer; conditions to valid sale; maintenance and inspection of dealer records and inventory; inspections; summary suspension of license; order; hearing; rules.

Sec. 251. (1) Each new vehicle dealer, used vehicle dealer, and broker shall maintain a record in a manner prescribed by the secretary of state of each vehicle of a type subject to titling under this act that is bought, sold, or exchanged by the dealer or received or accepted by the dealer for sale or exchange.

(2) Each record shall contain the date of the purchase, sale, or exchange or receipt for the purpose of sale or exchange, a description of the vehicle, the name and address of the seller, the purchaser, and the alleged owner or other persons from whom the vehicle was purchased or received, or to whom it was sold or delivered. The record shall contain a copy of any odometer mileage statement received by the dealer when the dealer purchased or acquired a vehicle and a copy of the odometer mileage statement furnished by the dealer when the dealer sold or exchanged the vehicle as prescribed in section 233a. If the vehicle is purchased, sold, leased, or exchanged through a broker, the record shall include the broker's name and dealer license number and the amount of the broker's fee, commission, compensation, or other valuable consideration paid by the purchaser or lessee or paid by the dealer, or both. The records of all vehicles purchased, sold, leased, or exchanged through a broker maintained by the secretary of state shall be in an electronic format determined by the secretary of state. A dealer shall retain for not less than 5 years each odometer mileage statement the dealer receives and each odometer mileage statement furnished by the dealer upon the sale or exchange of a vehicle. The description of the vehicle, in the case of a motor vehicle, shall also include the vehicle identification number and other numbers or identification marks as may be on the vehicle, and shall also include a statement that a number has been obliterated, defaced, or changed, if that is the fact. For a trailer or semitrailer, the record shall include the vehicle identification number and other numbers or identification marks as may be on the trailer or semitrailer.

(3) Not more than 20 days after the delivery of the vehicle, the seller shall deliver to the buyer in person or by mail to the buyer's last known address a duplicate of a written statement, on a form prescribed by the secretary of state in conjunction with the department of treasury, describing clearly the name and address of the seller, the name and address of the buyer, the vehicle sold to the buyer, the cash sale price of the vehicle, the cash paid down by the buyer, the amount credited the buyer for a trade-in, a description of the trade-in, the amount charged for vehicle insurance, stating the types of insurance covered by the insurance policy, the amount charged for a temporary registration plate, the amount of any other charge and specifying its purpose, the net balance due from the buyer, and a summary of insurance coverage to be affected. If the vehicle sold is a new motor home, the written statement shall contain a description, including the year of manufacture, of every major component part of the vehicle that has its own manufacturer's certificate of origin. The written statement shall disclose if the vehicle sold is a vehicle that the seller had loaned or leased to a political subdivision of this state for use as a driver education vehicle. The written statement shall be dated, but not later than the actual date of delivery of the vehicle to the buyer. The original and all copies of the prescribed form shall contain identical information. The statement shall be furnished by the seller, shall be signed by the seller or the seller's agent and by the buyer, and shall be filed with the application for new title or registration. Failure of the seller to deliver this

written statement to the buyer does not invalidate the sale between the seller and the buyer.

(4) A retail vehicle sale is void unless both of the following conditions are met:

(a) The sale is evidenced by a written memorandum that contains the agreement of the parties and is signed by the buyer and the seller or the seller's agent.

(b) The agreement contains a place for acknowledgment by the buyer of the receipt of a copy of the agreement or actual delivery of the vehicle is made to the buyer.

(5) Each dealer record and inventory, including the record and inventory of a vehicle scrap metal processor not required to obtain a dealer license, shall be open to inspection by a police officer or an authorized officer or investigator of the secretary of state during reasonable or established business hours.

(6) A dealer licensed as a distressed vehicle transporter shall maintain records in a form as prescribed by the secretary of state. The records shall identify each distressed vehicle that is bought, acquired, and sold by the dealer. The record shall identify the person from whom a distressed vehicle was bought or acquired and the dealer to whom the vehicle was sold. The record shall indicate whether a certificate of title or salvage certificate of title was obtained by the dealer for each vehicle.

(7) A dealer licensed under this act shall maintain records for a period of 5 years. The records shall be made available for inspection by the secretary of state or other law enforcement officials. To determine or enforce compliance with this chapter or other applicable law, the secretary of state or any law enforcement official may inspect a dealer whenever he or she determines it is necessary. The secretary of state may issue an order summarily suspending the license of a dealer pursuant to section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, based on an affidavit by a person familiar with the facts set forth in the affidavit that the dealer has failed to maintain the records required by this act or failed to provide the records for inspection as requested by the secretary of state, or has otherwise hindered, obstructed, or prevented the inspection of records authorized under this section. The dealer to whom the order is directed shall comply immediately, but on application to the department shall be afforded a hearing within 30 days pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. On the basis of the hearing, the summary order shall be continued, modified, or held in abeyance not later than 30 days after the hearing.

(8) A dealer licensed as a vehicle salvage pool operator or broker shall maintain records in a form as prescribed by the secretary of state. The records shall contain a description of each vehicle or salvageable part stored by the dealer, the name and address of the insurance company or person storing the vehicle or salvageable part, the period of time the vehicle or salvageable part was stored, and the person acquiring the vehicle or salvageable part. In the case of a late model vehicle, a record of the purchase or sale of a major component part of the vehicle shall be maintained identifying the part purchased or sold, the name and address of the seller or purchaser, the date of the purchase or sale, and the identification number assigned to the part by the dealer. The record of the purchase or sale of a part shall be maintained in or attached to the dealer's police book or hard copy of computerized data entries and reference codes and shall be accessible at the dealer's location. In addition, a dealer licensed as a broker shall maintain a record of the odometer mileage reading of each vehicle sold pursuant to an agreement between the broker and the buyer or the broker and the seller. The record of odometer mileage shall be maintained for 5 years and shall contain all of the information required by section 233a.

(9) A dealer licensed as a used vehicle parts dealer or an automotive recycler shall maintain records in a form prescribed by the secretary of state. The records shall contain

the date of purchase or acquisition of the vehicle, a description of the vehicle including the color, and the name and address of the person from whom the vehicle was acquired. If the vehicle is sold, the record shall contain the date of sale and the name and address of the purchaser. The record shall indicate if the certificate of title or salvage or scrap certificate of title was obtained by the dealer. In the case of a late model vehicle, a record of the purchase or sale of a major component of the vehicle shall be maintained identifying the part purchased or sold, the name and address of the seller or purchaser, the date of the purchase or sale, and the identification number assigned to the part by the dealer, except that a bumper remanufacturer is not required to maintain a record of the purchase of a bumper. However, a bumper remanufacturer shall assign and attach an identification number to a remanufactured bumper and maintain a record of the sale of the bumper. The record of the purchase or sale of a part shall be maintained in or attached to the dealer's police book or hard copy of computerized data entries and reference codes and shall be accessible at the dealer's location.

(10) A dealer licensed as a vehicle scrap metal processor shall maintain records as prescribed by the secretary of state. As provided in section 217c, the records shall contain for a vehicle purchased from a dealer a copy of the scrap vehicle inventory, including the name and address of the dealer, a description of the vehicle acquired, and the date of acquisition. If a vehicle is purchased or acquired from a person other than a dealer, the record shall contain the date of acquisition, a description of the vehicle, including the color, the name and address of the person from whom the vehicle was acquired, and whether a certificate of title or salvage or scrap certificate of title was obtained by the dealer.

(11) A dealer licensed as a foreign salvage vehicle dealer shall maintain records in a form prescribed by the secretary of state. The records shall contain the date of purchase or acquisition of each distressed vehicle, a description of the vehicle including the color, and the name and address of the person from whom the vehicle was acquired. If the vehicle is sold, the record shall contain the date of sale and the name and address of the purchaser. The record shall indicate if the certificate of title or salvage or scrap certificate of title was obtained by the dealer. In the case of a late model vehicle, a record of the purchase or sale of each salvageable part purchased or acquired in this state shall be maintained and the record shall contain the date of purchase or acquisition of the part, a description of the part, the identification number assigned to the part, and the name and address of the person to or from whom the part was purchased, acquired, or sold. The record of the sale, purchase, or acquisition of a part shall be maintained in the dealer's police book. The police book shall only contain vehicles and salvageable parts purchased in this state or used in the repair of a vehicle purchased in this state. The police book and the records of vehicle part sales, purchases, or acquisitions shall be made available at a location within the state for inspection by the secretary of state within 48 hours after a request by the secretary of state.

(12) The secretary of state shall make periodic unannounced inspections of the records, facilities, and inventories of automotive recyclers and used or secondhand vehicle parts dealers.

(13) The secretary of state may promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 492]

(SB 991)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 2103, 2111, 2117, 2118, 2121, 2930, and 2930a (MCL 500.2103, 500.2111, 500.2117, 500.2118, 500.2121, 500.2930, and 500.2930a), section 2103 as amended by 2001 PA 147, section 2111 as amended by 1996 PA 98, section 2117 as amended by 2001 PA 25, section 2118 as amended by 1988 PA 43, section 2121 as amended by 1998 PA 26, and section 2930a as amended by 1980 PA 461.

The People of the State of Michigan enact:

500.2103 Definitions; E to I.

Sec. 2103. (1) "Eligible person", for automobile insurance, means a person who is an owner or registrant of an automobile registered or to be registered in this state or who

holds a valid Michigan license to operate a motor vehicle, but does not include any of the following:

(a) A person who is not required to maintain security pursuant to section 3101, unless the person intends to reside in this state for 30 days or more and makes a written statement of that intention on a form approved by the commissioner.

(b) A person whose license to operate a vehicle is under suspension or revocation.

(c) A person who has been convicted within the immediately preceding 5-year period of fraud or intent to defraud involving an insurance claim or an application for insurance; or an individual who has been successfully denied, within the immediately preceding 5-year period, payment by an insurer of a claim in excess of $1,000.00 under an automobile insurance policy, if there is evidence of fraud or intent to defraud involving an insurance claim or application.

(d) A person who, during the immediately preceding 3-year period, has been convicted under, or who has been subject to an order of disposition of the family division of circuit court for a violation of, any of the following:

(*i*) Section 324 or 325 of the Michigan penal code, 1931 PA 328, MCL 750.324 and 750.325; section 1 of former 1931 PA 214 or section 626c of the Michigan vehicle code, 1949 PA 300, MCL 257.626c; or under any other law of this state the violation of which constitutes a felony resulting from the operation of a motor vehicle.

(*ii*) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(*iii*) Section 617, 617a, 618, or 619 of the Michigan vehicle code, 1949 PA 300, MCL 257.617, 257.617a, 257.618, and 257.619.

(*iv*) Section 626 of the Michigan vehicle code, 1949 PA 300, MCL 257.626; or for a similar violation under the laws of any other state or a municipality within or without this state.

(e) A person whose vehicle insured or to be insured under the policy fails to meet the motor vehicle safety requirements of sections 683 to 711 of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to 257.711.

(f) A person whose policy of automobile insurance has been canceled because of nonpayment of premium or financed premium within the immediately preceding 2-year period, unless the premium due on a policy for which application has been made is paid in full before issuance or renewal of the policy.

(g) A person who fails to obtain or maintain membership in a club, group, or organization, if membership is a uniform requirement of the insurer as a condition of providing insurance, and if the dues, charges, or other conditions for membership are applied uniformly throughout this state, are not expressed as a percentage of premium, and do not vary with respect to the rating classification of the member except for the purpose of offering a membership fee to family units. Membership fees may vary in accordance with the amount or type of coverage if the purchase of additional coverage, either as to type or amount, is not a condition for reduction of dues or fees.

(h) A person whose driving record for the 3-year period immediately preceding application for or renewal of a policy, has, pursuant to section 2119a, an accumulation of more than 6 insurance eligibility points.

(2) "Eligible person", for home insurance, means a person who is the owner-occupant or tenant of a dwelling of any of the following types: a house, a condominium unit, a cooperative unit, a room, or an apartment; or a person who is the owner-occupant of a

multiple unit dwelling of not more than 4 residential units. Eligible person does not include any of the following:

(a) A person who has been convicted, in the immediately preceding 5-year period, of 1 or more of the following:

(*i*) Arson, or conspiracy to commit arson.

(*ii*) A crime under sections 72 to 77, 112, 211a, 377a, 377b, or 380 of the Michigan penal code, 1931 PA 328, MCL 750.72 to 750.77, 750.112, 750.211a, 750.377a, 750.377b, and 750.380.

(*iii*) A crime under section 92, 151, 157b, or 218 of the Michigan penal code, 1931 PA 328, MCL 750.92, 750.151, 750.157b, and 750.218, based upon a crime described in subparagraph (*ii*) committed by or on behalf of the person.

(b) A person who has been successfully denied, within the immediately preceding 5-year period, payment by an insurer of a claim under a home insurance policy based on evidence of arson, conspiracy to commit arson, fraud, or conspiracy to commit fraud, committed by or on behalf of the person.

(c) A person who insures or seeks to insure a dwelling that is being used for an illegal or demonstrably hazardous purpose.

(d) A person who refuses to purchase an amount of insurance equal to at least 80% of the replacement cost of the property insured or to be insured under a replacement cost policy.

(e) A person who refuses to purchase an amount of insurance equal to at least 100% of the market value of the property insured or to be insured under a repair cost policy.

(f) A person who refuses to purchase an amount of insurance equal to at least 100% of the actual cash value of the property insured or to be insured under a tenant or renter's home insurance policy.

(g) A person whose policy of home insurance has been canceled because of nonpayment of premium within the immediately preceding 2-year period, unless the premium due on the policy is paid in full before issuance or renewal of the policy.

(h) A person who insures or seeks to insure a dwelling, if the insured value is not any of the following:

(*i*) For a repair cost policy, at least $15,000.00.

(*ii*) For a replacement policy, at least $35,000.00 or another amount which the commissioner may establish biennially on and after January 1, 1983, pursuant to rules promulgated by the commissioner under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, based upon changes in applicable construction cost indices.

(i) A person who insures or seeks to insure a dwelling that has physical conditions that clearly present an extreme likelihood of a significant loss under a home insurance policy.

(j) A person whose real property taxes with respect to the dwelling insured or to be insured have been and are delinquent for 2 or more years at the time of renewal of, or application for, home insurance.

(k) A person who has failed to procure or maintain membership in a club, group, or organization, if membership is a uniform requirement of the insurer, and if the dues, charges, or other conditions for membership are applied uniformly throughout this state, are not expressed as a percentage of premium, and do not vary with respect to the rating classification of the member except for the purpose of offering a membership fee to family units. Membership fees may vary in accordance with the amount or type of coverage if the purchase of additional coverage, either as to type or amount, is not a condition for reduction of dues or fees.

(3) "Home insurance" means any of the following, but does not include insurance intended to insure commercial, industrial, professional, or business property, obligations, or liabilities:

(a) Fire insurance for an insured's dwelling of a type described in subsection (2).

(b) If contained in or indorsed to a fire insurance policy providing insurance for the insured's residence, other insurance intended primarily to insure nonbusiness property, obligations, and liabilities.

(c) Other insurance coverages for an insured's residence as prescribed by rule promulgated by the commissioner pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A rule proposed for promulgation by the commissioner pursuant to this section shall be transmitted in advance to each member of the standing committee in the house and in the senate that has jurisdiction over insurance.

(4) "Insurance eligibility points" means all of the following:

(a) Points calculated, according to the following schedule, for convictions, determinations of responsibility for civil infractions, or findings of responsibility in probate court:

(*i*) For a violation of any lawful speed limit by more than 15 miles per hour, or careless driving, 4 points.

(*ii*) For a violation of any lawful speed limit by more than 10 miles per hour, but less than 16 miles per hour, 3 points.

(*iii*) For a violation of any lawful speed limit by 10 miles per hour or less, 2 points.

(*iv*) For a violation of any speed limit by 15 miles per hour or less on a roadway that had a lawfully posted maximum speed of 70 miles per hour as of January 1, 1974, 2 points.

(*v*) For all other moving violations pertaining to the operation of motor vehicles, 2 points.

(b) Points calculated, according to the following schedule, for determinations that the person was substantially at-fault, as defined in section 2104(4):

(*i*) For the first substantially at-fault accident, 3 points.

(*ii*) For the second and each subsequent substantially at-fault accident, 4 points.

(5) "Insurer" means an insurer authorized to transact in this state the kind or combination of kinds of insurance constituting automobile insurance or home insurance, as defined in this chapter.

500.2111 Classifications and territorial base rates for automobile insurance or home insurance; conformity with applicable requirements.

Sec. 2111. (1) Notwithstanding any provision of this act and this chapter to the contrary, classifications and territorial base rates used by any insurer in this state with respect to automobile insurance or home insurance shall conform to the applicable requirements of this section.

(2) Classifications established pursuant to this section for automobile insurance shall be based only upon 1 or more of the following factors, which shall be applied by an insurer on a uniform basis throughout the state:

(a) With respect to all automobile insurance coverages:

(*i*) Either the age of the driver; the length of driving experience; or the number of years licensed to operate a motor vehicle.

(*ii*) Driver primacy, based upon the proportionate use of each vehicle insured under the policy by individual drivers insured or to be insured under the policy.

(*iii*) Average miles driven weekly, annually, or both.

(*iv*) Type of use, such as business, farm, or pleasure use.

(*v*) Vehicle characteristics, features, and options, such as engine displacement, ability of vehicle and its equipment to protect passengers from injury and other similar items, including vehicle make and model.

(*vi*) Daily or weekly commuting mileage.

(*vii*) Number of cars insured by the insurer or number of licensed operators in the household. However, number of licensed operators shall not be used as an indirect measure of marital status.

(*viii*) Amount of insurance.

(b) In addition to the factors prescribed in subdivision (a), with respect to personal protection insurance coverage:

(*i*) Earned income.

(*ii*) Number of dependents of income earners insured under the policy.

(*iii*) Coordination of benefits.

(*iv*) Use of a safety belt.

(c) In addition to the factors prescribed in subdivision (a), with respect to collision and comprehensive coverages:

(*i*) The anticipated cost of vehicle repairs or replacement, which may be measured by age, price, cost new, or value of the insured automobile, and other factors directly relating to that anticipated cost.

(*ii*) Vehicle make and model.

(*iii*) Vehicle design characteristics related to vehicle damageability.

(*iv*) Vehicle characteristics relating to automobile theft prevention devices.

(d) With respect to all automobile insurance coverage other than comprehensive, successful completion by the individual driver or drivers insured under the policy of an accident prevention education course that meets the following criteria:

(*i*) The course shall include a minimum of 8 hours of classroom instruction.

(*ii*) The course shall include, but not be limited to, a review of all of the following:

(A) The effects of aging on driving behavior.

(B) The shapes, colors, and types of road signs.

(C) The effects of alcohol and medication on driving.

(D) The laws relating to the proper use of a motor vehicle.

(E) Accident prevention measures.

(F) The benefits of safety belts and child restraints.

(G) Major driving hazards.

(H) Interaction with other highway users such as motorcyclists, bicyclists, and pedestrians.

(3) Each insurer shall establish a secondary or merit rating plan for automobile insurance, other than comprehensive coverage. A secondary or merit rating plan required under this subsection shall provide for premium surcharges for any or all coverages for

automobile insurance, other than comprehensive coverage, based upon any or all of the following, when that information becomes available to the insurer:

(a) Substantially at-fault accidents.

(b) Convictions for, determinations of responsibility for civil infractions for, or findings of responsibility in probate court for civil infractions for, violations under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750. However, beginning 90 days after the effective date of this sentence, an insured shall not be merit rated for a civil infraction under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750, for a period of time longer than that which the secretary of state's office carries points for that infraction on the insured's motor vehicle record.

(4) An insurer shall not establish or maintain rates or rating classifications for automobile insurance based upon sex or marital status.

(5) Notwithstanding other provisions of this chapter, automobile insurance risks may be grouped by territory.

(6) This section shall not be construed as limiting insurers or rating organizations from establishing and maintaining statistical reporting territories. This section shall not be construed to prohibit an insurer from establishing or maintaining, for automobile insurance, a premium discount plan for senior citizens in this state who are 65 years of age or older, if the plan is uniformly applied by the insurer throughout this state. If an insurer has not established and maintained a premium discount plan for senior citizens, the insurer shall offer reduced premium rates to senior citizens in this state who are 65 years of age or older and who drive less than 3,000 miles per year, regardless of statistical data.

(7) Classifications established pursuant to this section for home insurance other than inland marine insurance provided by policy floaters or endorsements shall be based only upon 1 or more of the following factors:

(a) Amount and types of coverage.

(b) Security and safety devices, including locks, smoke detectors, and similar, related devices.

(c) Repairable structural defects reasonably related to risk.

(d) Fire protection class.

(e) Construction of structure, based on structure size, building material components, and number of units.

(f) Loss experience of the insured, based upon prior claims attributable to factors under the control of the insured that have been paid by an insurer. An insured's failure, after written notice from the insurer, to correct a physical condition that presents a risk of repeated loss shall be considered a factor under the control of the insured for purposes of this subdivision.

(g) Use of smoking materials within the structure.

(h) Distance of the structure from a fire hydrant.

(i) Availability of law enforcement or crime prevention services.

(8) Notwithstanding other provisions of this chapter, home insurance risks may be grouped by territory.

(9) An insurer may utilize factors in addition to those specified in this section, if the commissioner finds, after a hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that the factors would encourage innovation,

would encourage insureds to minimize the risks of loss from hazards insured against, and would be consistent with the purposes of this chapter.

500.2117 Home insurance; condition of maintaining insurer's certificate of authority; basis of underwriting rules; provisions applicable to repair cost policy; rates; aggregation of claims; adjustment of minimum dollar amounts.

Sec. 2117. (1) As a condition of maintaining its certificate of authority, an insurer shall not refuse to insure, refuse to continue to insure, or limit the coverage available to an eligible person for home insurance, except in accordance with underwriting rules established pursuant to this section and section 2119. An insurer shall not establish underwriting rules for home insurance for contracts providing identical coverages that differ from those of any affiliate of the insurer.

(2) The underwriting rules that an insurer may establish for home insurance shall be based only on the following:

(a) Criteria identical to the standards set forth in section 2103(2).

(b) The physical condition of the property insured or to be insured, provided the underwriting rules are objective, are directly related to the perils insured against, and, without regard to the age of the structure, are based upon the specific provisions of a national, state, or local housing and safety code, a manufacturer's specification, or standards of similar specificity. If an applicant or insured obtains a certificate of compliance or habitation issued by an appropriate governmental unit or agency, certifying that a building is in substantial compliance with local housing and safety codes, the certificate creates a rebuttable presumption that the dwelling meets the insurer's underwriting rules relating to physical condition.

(c) For the renewal of a home insurance policy, the claim history of the person insured or to be insured during the 3-year period immediately preceding renewal of the policy, if that history is based on 1 or both of the following:

(*i*) Claim experience arising out of an insured's negligence.

(*ii*) Failure by the insured, after written notice from the insurer, to correct a physical condition that is directly related to a paid claim or that presents a clear risk of a significant loss under the property or liability portions of a homeowners policy.

(d) The relationship between market value and replacement cost of a dwelling insured or to be insured for a replacement cost policy, if a repair cost policy is offered by that insurer pursuant to subsection (3).

(e) For nonrenewal of home insurance policies, the claim history under the policy, excluding liability claims, as follows:

(*i*) If there has been 1 or more of the following:

(A) Three paid claims within the immediately preceding 3-year period totaling $3,000.00 or more, exclusive of weather-related claims.

(B) Three paid claims within the immediately preceding 3-year period totaling $4,000.00 or more, including weather-related claims.

(*ii*) A history of 3 or more paid claims within an immediately preceding 3-year period if the insurer meets all of the following:

(A) Has an underwriting rule under subparagraph (*i*) in effect.

(B) The underwriting rule under this subparagraph is for a paid claim history that totals not less than the amount in subparagraph (*i*)(A) exclusive of weather-related claims and totals not less than the amount in subparagraph (*i*)(B) including weather-related claims.

(C) The underwriting rule under this subparagraph applies to an insured who has had a home insurance policy with the insurer for a continuous minimum period of time as determined by the insurer that may be any period of time between 5 and 10 years.

(f) The number of residences within the dwelling are inconsistent with the policy forms approved by the commissioner for the insurer.

(g) The unoccupancy of a dwelling for more than 60 days, if there is evidence of an intent to vacate or keep the premises vacant or unoccupied, as to the applicant or insured.

(h) The existence of an adjacent physical hazard, if the hazard presents a significant risk of loss directly related to the perils insured or to be insured against for which a rate surcharge is not applicable. For purposes of this subdivision only, residential property or traffic patterns shall not be considered to cause a significant risk of loss. Nonrenewals based upon an adjacent physical hazard shall be due to a change in the hazard from that which existed at the original date of issuance of the policy.

(i) The failure of the insured or applicant to purchase an amount of insurance in excess of 80% of the replacement cost of the property to be insured under a replacement cost policy, if both of the following conditions are met:

(*i*) The purchase of an amount of insurance in excess of 80% of the replacement cost is a condition for sale of the policy.

(*ii*) The insurer offers in this state at least 1 form of a replacement cost policy for which the insurer requires only a minimum amount of insurance equal to 80% of the replacement cost of the dwelling as a condition of purchase.

(j) One or more incidents involving a threat, harassment, or physical assault by the insured or applicant for insurance on an insurer employee, agent, or agent employee while acting within the scope of his or her employment so long as a report of the incident was filed with an appropriate law enforcement agency.

(3) If an insurer establishes an underwriting rule based upon the relationship between the market value and replacement cost pursuant to subsection (2)(d), all the following shall apply as to the repair cost policy:

(a) The insurer shall offer for sale a repair cost policy with deductibles, terms and conditions, perils insured against, and types and amounts of coverage, which are substantially equivalent to the deductibles, terms and conditions, perils insured against, and types and amounts of coverage provided by the replacement cost policy of the insurer at least equivalent to the HO-2 form replacement cost policy filed and in effect in this state for the principal rating organization as of October 1, 1979.

(b) The insurer shall not utilize an underwriting rule based upon the relationship between the market value and replacement cost for the repair cost policy.

(4) The rates of an insurer for a repair cost policy shall be established so that the premium for a repair cost policy shall not exceed 105% of the premium for an amount of insurance equal to 80% of the replacement cost of the dwelling under the equivalent replacement cost policy described in subsection (3)(a). Premiums for dwellings with identical replacement costs shall vary on a schedule determined by the insurer in accordance with the market value of the dwellings.

(5) Off-premises claims may be aggregated for the purposes of subsection (2)(f), irrespective of the location of the insured dwelling. All claims other than off-premises

losses utilized in a determination for purposes of subsection (2)(f) shall be aggregated only as to an insured dwelling. The minimum dollar amounts prescribed in subsection (2)(f)(*i*) shall be adjusted on January 1, 2006, and on January 1 every sixth year thereafter, to reflect the aggregate annual average percentage change in the consumer price index since the previous adjustment, rounded to the nearest hundred dollars. As used in this subsection, "consumer price index" means the consumer price index for all urban consumers in the U.S. city average, as most recently reported by the United States department of labor, bureau of labor statistics, and after certification by the commissioner in an administrative bulletin.

500.2118 Automobile insurance; condition of maintaining insurer's certificate of authority; basis of underwriting rules.

Sec. 2118. (1) As a condition of maintaining its certificate of authority, an insurer shall not refuse to insure, refuse to continue to insure, or limit coverage available to an eligible person for automobile insurance, except in accordance with underwriting rules established pursuant to this section and sections 2119 and 2120.

(2) The underwriting rules that an insurer may establish for automobile insurance shall be based only on the following:

(a) Criteria identical to the standards set forth in section 2103(1).

(b) The insurance eligibility point accumulation in excess of the amounts established by section 2103(1) of a member of the household of the eligible person insured or to be insured, if the member of the household usually accounts for 10% or more of the use of a vehicle insured or to be insured. For purposes of this subdivision, a person who is the principal driver for 1 automobile insurance policy shall be rebuttably presumed not to usually account for more than 10% of the use of other vehicles of the household not insured under the policy of that person.

(c) With respect to a vehicle insured or to be insured, substantial modifications from the vehicle's original manufactured state for purposes of increasing the speed or acceleration capabilities of the vehicle.

(d) Failure by the person to provide proof that insurance required by section 3101 was maintained in force with respect to any vehicle which was both owned by the person and driven or moved by the person or by a member of the household of the person during the 6-month period immediately preceding application. Such proof shall take the form of a certification by the person on a form provided by the insurer that the vehicle was not driven or moved without maintaining the insurance required by section 3101 during the 6-month period immediately preceding application.

(e) Type of vehicle insured or to be insured, based on 1 of the following, without regard to the age of the vehicle:

(*i*) The vehicle is of limited production or of custom manufacture.

(*ii*) The insurer does not have a rate lawfully in effect for the type of vehicle.

(*iii*) The vehicle represents exposure to extraordinary expense for repair or replacement under comprehensive or collision coverage.

(f) Use of a vehicle insured or to be insured for transportation of passengers for hire, for rental purposes, or for commercial purposes. Rules under this subdivision shall not be based on the use of a vehicle for volunteer or charitable purposes or for which reimbursement for normal operating expenses is received.

(g) Payment of a minimum deposit at the time of application or renewal, not to exceed the smallest deposit required under an extended payment or premium finance plan customarily used by the insurer.

(h) For purposes of requiring comprehensive deductibles of not more than $150.00, or of refusing to insure if the person refuses to accept a required deductible, the claim experience of the person with respect to comprehensive coverage.

(i) Total abstinence from the consumption of alcoholic beverages except when such beverages are consumed as part of a religious ceremony. However, an insurer shall not utilize an underwriting rule based on this subdivision unless the insurer has been authorized to transact automobile insurance in this state prior to January 1, 1981, and has consistently utilized such an underwriting rule as part of the insurer's automobile insurance underwriting since being authorized to transact automobile insurance in this state.

(j) One or more incidents involving a threat, harassment, or physical assault by the insured or applicant for insurance on an insurer employee, agent, or agent employee while acting within the scope of his or her employment so long as a report of the incident was filed with an appropriate law enforcement agency.

500.2121 Home insurance; criteria for selecting dwellings for inspection; inspection program; filing inspection criteria; disapproval of inspection criteria; liability.

Sec. 2121. (1) If an insurer uses an inspection of a dwelling to determine whether the insured or applicant is an eligible person for home insurance, criteria for selecting dwellings for inspection shall not be based upon any of the following:

(a) Location, whether by political subdivision, census tract, zip code, neighborhood, or area which may be described as a block, set of blocks, or by street coordinates.

(b) The age of the dwelling or the age of its plumbing, heating, electrical, or structural components, or of any other components which form a part of the dwelling.

(c) The market value of a dwelling, unless the value is used as a minimum value above which all dwellings will be inspected.

(d) The amount of insurance, unless the amount is used as a minimum above which all dwellings will be inspected.

(e) Race, color, creed, marital status, sex, national origin, residence, age, disability, or lawful occupation.

(2) If an insurer establishes an inspection program that provides for inspection of a portion of its existing business on a periodic basis, the inspection program shall not be based upon any of the criteria in subsection (1)(a), (c), or (e).

(3) Criteria for selecting dwellings for inspection shall be filed with the commissioner for informational purposes only. The commissioner, after a hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, shall disapprove the further use of inspection criteria, if the commissioner finds that the criteria are inconsistent with the provisions of this chapter.

(4) There shall be no civil liability, other than contractual liability where applicable, on the part of, and a cause of action of any nature shall not arise against, the commissioner, an insurer, an inspection bureau, or an authorized representative, agent, employee, affiliate of the commissioner, an insurer, or an inspection bureau or any licensed insurance agent, for acts or omissions related solely to the physical condition of the property in an inspection conducted for insurance purposes pursuant to this chapter.

500.2930 Basic property insurance; amount of premium; surcharge; establishment of rates; filing rates and policy forms.

Sec. 2930. (1) The premium for basic property insurance of any risk by the pool shall be equal to the rate for identical insurance established by a licensed rating organization for identical insurance within this state plus a uniform surcharge approved by the commissioner.

(2) The pool shall establish rates for any basic property insurance that is without rates established by a licensed rating organization or that the pool, with the approval of the commissioner, determines should be otherwise rated in order to better effectuate the purposes of this chapter. The pool shall file with the commissioner for his or her approval each rate and each policy form to be issued by it. The pool, acting as agent for participating members, shall file policy forms for basic property insurance to be issued by participating members under the provisions of this chapter. Rates and policy forms shall be filed in accordance with this chapter as the commissioner designates.

500.2930a Rates charged in territory for home insurance; rating territories; change in rates; review of rates; limitation on premium for repair cost policy; development of plans, rules, classifications, and manual; minimum policy forms; filing rates and policy forms; report.

Sec. 2930a. (1) Except as otherwise provided in subsection (4)(c), rates charged in each territory by the pool for home insurance shall be equal to the weighted average of the 10 voluntary market insurer groups with the largest premium volume in this state. Rating territories for home insurance established by the pool shall be the same as those utilized by the largest number of insurers by premium volume writing home insurance in this state. Any change in the rates for an HO-2 form replacement cost policy by those insurers that would produce a change in excess of 5% in the HO-2 pool rates for any territory shall be reflected as soon as reasonably practicable in the HO-2 pool rates. HO-2 pool rates shall be reviewed at least annually, but shall not be revised more often than quarterly.

(2) In addition to the provisions of subsection (1), the premium established for the repair cost policy offered by the pool shall not exceed the premium for an amount of insurance equal to 80% of the replacement cost of the property under the replacement cost policy of the pool equivalent to the HO-2 form replacement cost policy filed and in effect in this state for a licensed rating organization. Premiums for dwellings with identical replacement costs shall vary on a schedule determined by the pool in accordance with the insured value of the dwelling.

(3) The pool or any other association or organization designated by the pool shall develop statistical plans, rating rules, classifications, territory rating plans, and manuals of classification for home insurance issued on behalf of the pool consistent with this section.

(4) The pool shall offer at least the following home insurance policy forms:

(a) An HO-2 form replacement cost policy equivalent to the HO-2 form replacement cost policy filed and in effect in this state for a licensed rating organization.

(b) A repair cost policy providing the deductibles, terms and conditions, perils insured against, and types and amounts of coverage equivalent to those provided by the HO-2 replacement cost policy filed and in effect for a licensed rating organization.

(c) An HO-3 form replacement cost policy equivalent to the HO-3 form replacement cost policy filed and in effect in this state for a licensed rating organization. The rates established by the pool for the HO-3 form replacement cost policy offered pursuant to this

subdivision shall be calculated to generate a total premium sufficient to cover the expected losses and expenses of the pool related to the HO-3 replacement cost policy that the pool will likely incur during the period for which the premium is applicable. The premium shall include an amount to cover incurred but not reported losses for the period and shall be adjusted for any excess or deficient premiums from previous periods. Excesses or deficiencies from previous periods shall be fully adjusted in a single period or over several periods in a manner provided for in the plan of operation. Rates established by the pool under this subdivision shall not be based upon the weighted average methodology provided for in subsection (1).

(5) Rates and policy forms shall be filed in accordance with such provisions of this chapter as the commissioner designates.

(6) The commissioner shall report in writing to the senate and house of representatives standing committees on insurance issues by July 1, 2005 on the effect in chapter 29 that the amendatory act that added this subsection has had on home insurance premiums in this state.

Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 493]

(SB 1268)

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance

of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 18e (MCL 247.668e), as amended by 1985 PA 201.

The People of the State of Michigan enact:

247.668e Bonds of governmental unit; maturities; interest; measuring maximum annual principal and interest requirements; certification of state transportation commission concerning average annual debt service requirements for certain obligations; "maintenance" defined.

Sec. 18e. Except for bonds issued under section 18c, bonds issued by a governmental unit under this act shall be serial bonds with periodic maturities, or term bonds, with mandatory redemption requirements, or both serial and term bonds, the aggregate of which shall not exceed 30 years, the first of which shall fall due not more than 5 years from the date of issuance. Maturities shall be as established by the resolution or ordinance authorizing the bonds or notes, without regard to the useful lives of the projects financed from the proceeds of the bonds or notes. The bonds shall bear interest, taking into account any discount or premium on the sale of the bonds, at a rate not exceeding the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, may be made redeemable before maturity on those terms and conditions, and with the premium as shall be provided by the proceedings authorizing their issuance. Outstanding and authorized bonds issued pursuant to this act may be treated as a single issue for the purpose of fixing maturities. If pursuant to 1952 PA 175, MCL 247.701 to 247.707, or in 1943 PA 143, MCL 141.251 to 141.254, the maximum annual principal and interest requirements on bonds issued by governmental units are required to be measured by reference to amounts received from the motor vehicle highway fund, the requirements shall be measured by the receipts from the motor vehicle highway fund, the Michigan transportation fund, or both funds, and if pursuant to this act the maximum annual principal and interest requirements on bonds or notes issued by governmental units are required to be measured by reference to amounts received from the Michigan transportation fund, the requirements shall be measured by the receipts from the motor vehicle highway fund, the Michigan transportation fund, or both funds. The state transportation commission shall certify, which certification shall, for purposes of the validity of bonds, notes, and other obligations, be conclusive as to the matters stated therein, to the state treasury on or before the issuance of any bonds, notes, or other obligations payable from and secured by a lien on the state trunk line fund, issued after July 1, 1983, pursuant to section 18b or 18d for purposes other than the maintenance of highways, roads, streets, and bridges and for purposes other than the purposes specified in section 11(2)(b), (c), (d), (g), (h), and (i) that its average annual debt service requirements payable from and secured by a lien on the state trunk line fund for all bonds, notes, and other obligations, or portions of bonds, notes, and other obligations issued after July 1, 1983, for purposes other than the maintenance of highways, roads, streets, and bridges and other than for the purposes specified in section 11(2)(b), (c), (d), (g), (h), and (i), including the bonds, notes, or other obligations to be issued does not exceed 10% of the state revenue appropriated to the state trunk line fund, less the amounts described in section 11(2)(a) to (i) during the last completed state fiscal year. The state transportation commission shall certify, which certification shall, for purposes of the validity of bonds, notes, or other obligations, be

conclusive as to the matters stated in the certification, to the state treasury on or before the issuance of any bonds, notes, or other obligations issued after December 31, 2001, pursuant to section 18b(9) in anticipation of the receipt of grants from the United States or any agency or instrumentality of the United States for distributions to the credit of the state trunk line fund, and not payable from taxes deposited in the state trunk line fund, for purposes other than the preservation of highways, roads, streets, and bridges and for purposes other than the purposes specified in section 11(2)(b), (c), (f), and (i), that its average annual debt service requirements for all bonds, notes, and other obligations, or portions of bonds, notes, or other obligations issued after December 31, 2001, pursuant to section 18b(9) and not payable from taxes deposited in the state trunk line fund, for purposes other than the preservation of highways, roads, streets, and bridges and other than the purposes specified in section 11(2)(b), (c), (f), and (i), including the bonds, notes, or other obligations to be issued, do not exceed 10% of the federal revenue distributed to the credit of the state trunk line fund during the last completed state fiscal year. If the purpose for which the bonds, notes, or other obligations is issued is changed after the issuance of the bonds, notes, or other obligations, the change shall be made in a manner to maintain compliance with the certification required by the preceding sentence, as of the date the certificate was originally issued, but no change shall invalidate or otherwise affect the bonds, notes, or other obligations with respect to which the certificate was issued, or the obligation to pay debt service on the bonds, notes, or other obligations. As used in this section, "maintenance" means maintenance as defined in section 11(4).

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 494]

(SB 1016)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 33, 657, 658, 660, 661, and 662 (MCL 257.33, 257.657, 257.658, 257.660, 257.661, and 257.662), section 33 as amended by 1997 PA 56, sections 657 and 660 as amended by 2000 PA 82, section 658 as amended by 1984 PA 328, and section 662 as amended by 2000 PA 131, and by adding section 13c.

The People of the State of Michigan enact:

257.13c "Electric personal assistive mobility device" defined.

Sec. 13c. "Electric personal assistive mobility device" means a self-balancing nontandem 2-wheeled device, designed to transport only 1 person at a time, having an electrical propulsion system with average power of 750 watts or 1 horsepower and a maximum speed on a paved level surface of not more than 15 miles per hour.

257.33 "Motor vehicle" defined.

Sec. 33. "Motor vehicle" means every vehicle that is self-propelled, but for purposes of chapter 4 of this act motor vehicle does not include industrial equipment such as a forklift, a front-end loader, or other construction equipment that is not subject to registration under this act. Motor vehicle does not include an electric patrol vehicle being operated in compliance with the electric patrol vehicle act. Motor vehicle does not include an electric personal assistive mobility device.

257.657 Rights and duties of persons riding bicycle, electric personal assistive mobility device, or moped or operating low-speed vehicle.

Sec. 657. Each person riding a bicycle, electric personal assistive mobility device, or moped or operating a low-speed vehicle upon a roadway has all of the rights and is subject to all of the duties applicable to the driver of a vehicle by this chapter, except as to special regulations in this article and except as to the provisions of this chapter which by their nature do not have application.

257.658 Riding on seat of bicycle, motorcycle, or moped; number of persons; crash helmets; rules; requirements for autocycle.

Sec. 658. (1) A person propelling a bicycle or operating a motorcycle or moped shall not ride other than upon and astride a permanent and regular seat attached to that vehicle.

(2) A bicycle or motorcycle shall not be used to carry more persons at 1 time than the number for which it is designed and equipped.

(3) A moped or an electric personal assistive mobility device shall not be used to carry more than 1 person at a time.

(4) A person operating or riding on a motorcycle, and any person less than 19 years of age operating a moped on a public thoroughfare shall wear a crash helmet on his or her head. Crash helmets shall be approved by the department of state police. The department of state police shall promulgate rules for the implementation of this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Rules in effect on June 1, 1970, shall apply to helmets required by this act. This subsection does not apply to a person operating or riding in an autocycle if the vehicle is equipped with a roof which meets or exceeds standards for a crash helmet.

(5) A person operating or riding in an autocycle shall wear seat belts when on a public highway in this state.

257.660 Bicycles, electric personal assistive mobility device, low-speed vehicles, motorcycles, or mopeds; operation on roadway; use of bicycle path; passing; operation of bicycle or moped on sidewalk; operation of low-speed vehicle on highway, road, or street; exception; regulation of electric personal assistive mobility device.

Sec. 660. (1) A person operating a bicycle, electric personal assistive mobility device, low-speed vehicle, or moped upon a roadway shall ride as near to the right side of the

roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction. A motorcycle is entitled to full use of a lane and a motor vehicle shall not be driven in such a manner as to deprive a motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated 2 abreast in a single lane.

(2) A person riding a bicycle, electric personal assistive mobility device, motorcycle, or moped upon a roadway shall not ride more than 2 abreast except on a path or part of a roadway set aside for the exclusive use of those vehicles.

(3) Where a usable and designated path for bicycles is provided adjacent to a roadway, a bicycle rider or an electric personal assistive mobility device operator may, by local ordinance, be required to use that path. Where a usable and designated path for bicycles is provided adjacent to a roadway, a bicycle rider who is less than 16 years of age shall use that path unless accompanied by an adult.

(4) A person operating a motorcycle, moped, low-speed vehicle, electric personal assistive mobility device, or bicycle shall not pass between lines of traffic, but may pass on the left of traffic moving in his or her direction in the case of a 2-way street, or on the left or right of traffic in the case of a 1-way street, in an unoccupied lane.

(5) A person operating a bicycle or an electric personal assistive mobility device on a sidewalk constructed for the use of pedestrians shall yield the right of way to a pedestrian and shall give an audible signal before overtaking and passing the pedestrian.

(6) A moped or low-speed vehicle shall not be operated on a sidewalk constructed for the use of pedestrians.

(7) A low-speed vehicle shall be operated at a speed of not to exceed 25 miles per hour and shall not be operated on a highway, road, or street with a speed limit of more than 35 miles per hour except for the purpose of crossing that highway, road, or street. The state transportation department may prohibit the operation of a low-speed vehicle on any highway under its jurisdiction if it determines that the prohibition is necessary in the interest of public safety.

(8) This section shall not apply to a police officer in the performance of his or her official duties.

(9) An electric personal assistive mobility device shall be operated at a speed not to exceed 15 miles per hour and shall not be operated on a roadway with a speed limit of more than 25 miles per hour except to cross that roadway.

(10) The governing body of a county, city, village, an entity created under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or township may, by ordinance, which is based on the health, safety, and welfare of the citizens, regulate the operation of electric personal assistive mobility devices on sidewalks, roadways, or crosswalks. Except as otherwise provided in this subsection, a governing body of a county, city, village, an entity created under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or township may prohibit the operation of electric personal assistive mobility devices in an area open to pedestrian traffic adjacent to a waterfront or on a trail under their jurisdiction or in a downtown or central business district. Signs indicating the regulation shall be conspicuously posted in the area where the use of an electric personal assistive mobility device is regulated.

(11) Operation of an electric personal assistive mobility device is prohibited in a special charter city and a state park under the jurisdiction of the Mackinac Island state park commission.

(12) Operation of an electric personal assistive mobility device may be prohibited in a historic district.

(13) The department of natural resources may by order regulate the use of electric personal assistive mobility devices on all lands under its control.

257.661 Carrying package, bundle, or article on bicycle, electric personal assistive mobility device, moped, or motorcycle.

Sec. 661. A person operating a bicycle, electric personal assistive mobility device, moped, or motorcycle shall not carry any package, bundle, or article that prevents the driver from keeping both hands upon the handlebars of the vehicle.

257.662 Bicycles or electric personal assistive mobility device; equipment; violation as civil infraction.

Sec. 662. (1) A bicycle or an electric personal assistive mobility device being operated on a roadway between 1/2 hour after sunset and 1/2 hour before sunrise shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear which shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

(2) A bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(3) An electric personal assistive mobility device shall enable the operator to bring it to a controlled stop.

(4) A person shall not sell, offer for sale, or deliver for sale in this state a bicycle or a pedal for use on a bicycle, either of which was manufactured after January 1, 1976, unless it is equipped with a type of reflex reflector located on the front and rear surfaces of the pedal. The reflector elements may be either integral with the construction of the pedal or mechanically attached, but shall be sufficiently recessed from the edge of the pedal, or of the reflector housing, to prevent contact of the reflector element with a flat surface placed in contact with the edge of the pedal. The pedal reflectors shall be visible from the front and rear of the bicycle during the nighttime from a distance of 200 feet when directly exposed to the lower beam head lamps of a motor vehicle.

(5) A person shall not sell, offer for sale, or deliver for sale in this state a bicycle manufactured after January 1, 1976 or an electric personal assistive mobility device unless it is equipped with either tires which have reflective sidewalls or with wide-angle prismatic spoke reflectors. If the bicycle or the electric personal assistive mobility device is manufactured with reflective sidewalls, the reflective portion of the sidewall shall form a continuous circle on the sidewall, and may not be removed from the tire without removal of tire material. If the bicycle is equipped with wide-angle prismatic spoke reflectors, the reflectors of the front wheel shall be essentially colorless or amber, and the reflectors on the rear wheel shall be essentially colorless or red. Reflective sidewalls or spoke reflectors shall cause the bicycle to be visible from all distances from 100 feet to 600 feet when viewed under lawful low beam motor vehicle head lamps under normal atmospheric conditions.

(6) A person who violates subsection (1) or (2) is responsible for a civil infraction.

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 495]

(HB 5819)

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 2012 and 2014 (MCL 339.2012 and 339.2014), as amended by 1992 PA 103.

The People of the State of Michigan enact:

339.2012 Persons exempted.

Sec. 2012. (1) The following persons are exempt from the requirements of this article:

(a) A professional engineer employed by a railroad or other interstate corporation, whose employment and practice is confined to the property of the corporation.

(b) A designer of a manufactured product, if the manufacturer of the product assumes responsibility for the quality of the product.

(c) An owner doing architectural, engineering, or surveying work upon or in connection with the construction of a building on the owner's property for the owner's own use to which employees and the public are not generally to have access.

(d) A person not licensed under this article who is planning, designing, or directing the construction of a detached 1- and 2-family residence building not exceeding 3,500 square feet in calculated floor area. For purposes of this subdivision, detached 1- and 2-family residence building does not include an adult foster care home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.

(e) A person who is licensed to engage in the practice of architecture, professional engineering, or professional surveying in another state while temporarily in this state to present a proposal for services.

(2) As used in this section:

(a) "Calculated floor area" means that portion of the total gross area measured to the outside surfaces of exterior walls intended to be habitable space.

(b) "Habitable space" means space in a building used for living, sleeping, eating, or cooking. Habitable space does not include a heater or utility room, a crawl space, a basement, an attic, a garage, an open porch, a balcony, a terrace, a court, a deck, a bathroom, a toilet room, a closet, a hallway, a storage space, and other similar spaces not used for living, sleeping, eating, or cooking.

339.2014 Prohibited conduct; penalties.

Sec. 2014. A person is subject to the penalties set forth in article 6 who commits 1 of the following:

(a) Uses the term "architect", "professional engineer", "land surveyor", "professional surveyor", or a similar term in connection with the person's name unless the person is licensed in the appropriate practice under this article.

(b) Presents or attempts to use as the person's own the license or seal of another.

(c) Attempts to use an expired, suspended, or revoked license.

(d) Uses the words "architecture", "professional engineering", "land surveying", "professional surveying", or a similar term in a firm name without authorization by the appropriate board.

(e) Submits to a public official of this state or a political subdivision of this state for approval, a permit or a plan for filing as a public record, a specification, a report, or a land survey that does not bear 1 or more seals of a licensee as required by this article. This subdivision does not apply to a public work costing less than $15,000.00 or a residential building containing not more than 3,500 square feet of calculated floor area. As used in this subdivision, "calculated floor area" means that term as defined in section 2012(2)(a).

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 496]

(HB 5380)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 16901, 16902, 16903, 16904a, 16905, 16906, 16908, and 16909 (MCL 324.16901, 324.16902, 324.16903, 324.16904a, 324.16905, 324.16906, 324.16908, and 324.16909), sections 16901 and 16903 as amended and section 16904a as added by 1997 PA 17 and section 16908 as amended by 1995 PA 268, and by adding sections 16903b and 16903c; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.16901 Definitions.

Sec. 16901. As used in this part:

(a) "Abandoned scrap tires" means an accumulation of scrap tires on property where the property owner is not, as determined by the department, responsible in whole or in part for the accumulation of the scrap tires. For the purposes of this subdivision, an owner who purchased or willingly took possession of an existing scrap tire collection site shall be considered by the department to be responsible in whole or in part for the accumulation of the scrap tires.

(b) "Bond" means a performance bond from a surety company authorized to transact business in this state, a certificate of deposit, a cash bond, or an irrevocable letter of credit, in favor of the department.

(c) "Collection site" means a site, other than a disposal area licensed under part 115, a racecourse, or a feed storage location, that contains any of the following:

(*i*) One or more pieces of adjacent real property where 500 or more scrap tires are accumulated and that is not associated with a retail operation as provided in subparagraph (*ii*), an automotive recycler as provided in subparagraph (*iii*), or a commercial contractor as provided in subparagraph (*iv*).

(*ii*) One or more pieces of adjacent real property where 1,500 or more scrap tires are accumulated if that property is owned or leased by a person who is a retailer and is not associated with an automotive recycler as provided in subparagraph (*iii*).

(*iii*) One or more pieces of adjacent real property where 2,500 or more scrap tires are accumulated if that property is owned or leased by a person who is an automotive recycler as defined in section 2a of the Michigan vehicle code, 1949 PA 300, MCL 257.2a.

(*iv*) One or more pieces of adjacent real property where more than 150 cubic yards of scrap tire processed material is accumulated if that property is owned or leased by a commercial contractor that is authorized to use the scrap tire processed material as an aggregate replacement in a manner approved by a designation of inertness for scrap tires or is otherwise authorized for such use by the department under part 115.

(d) "Department" means the department of environmental quality.

(e) "End-user" means any of the following:

(*i*) A person who possesses a permit to burn tires under part 55.

(*ii*) The owner or operator of a landfill that is authorized under the landfill's operating license to use scrap tires.

(*iii*) A person who converts scrap tires into scrap tire processed material used to manufacture other products that are sold in the market but does not manufacture the products that are sold in the market.

(f) "Feed storage location" means a location on 1 or more pieces of adjacent real property containing a commercially operated farming operation where not more than 3,000 scrap tires are used for the purpose of securing stored feed.

(g) "Fund" means the scrap tire regulatory fund created in section 16908.

(h) "Landfill" means a landfill as defined in section 11504 that is licensed under part 115.

(i) "Racecourse" means a commercially operated track for go-carts, vehicles, off-road recreational vehicles, or motorcycles that uses not more than 3,000 scrap tires for bumpers along the track for safety purposes.

(j) "Retailer" means a person who sells or offers for sale new, retreaded, or remanufactured tires to consumers in this state.

(k) "Scrap tire" means a tire that is no longer being used for its original intended purpose including, but not limited to, a used tire, a reusable tire casing, or portions of tires. Scrap tire does not include a vehicle support stand.

(*l*) "Scrap tire hauler" means a person who, as part of a commercial business, transports scrap tires. Except as otherwise provided in this section, a person who transports more than 7 scrap tires in any truckload shall be considered to be in the commercial business of transporting scrap tires. Scrap tire hauler does not include any of the following:

(*i*) A person who is not operating a commercial business who is transporting his or her own tires to a location authorized in section 16902(1).

(*ii*) A member of a nonprofit service organization who is participating in a community service project and is transporting scrap tires to a location authorized in section 16902(1).

(*iii*) The owner of a farm as defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472, who transports only scrap tires that originated from his or her farm operation or is intended for use in a feed storage location.

(*iv*) A solid waste hauler as defined in part 115 that is transporting solid waste to a disposal area licensed under part 115.

(m) "Scrap tire processed material" means rubber material derived from tires that is marketable and no larger than 2 inches by 2 inches in size. Scrap tire processed material also includes rubber material derived from tires that is larger than 2 inches by 2 inches if the rubber material was produced by a scrap tire processor pursuant to a written contract that provides for the quantity and the quality of the material and a time frame in which the volume of material is to be provided, and the contract is made available to the department upon request.

(n) "Scrap tire processor" means a person who is authorized by this part to accumulate scrap tires and is engaged in the business of buying or otherwise acquiring scrap tires and reducing their volume by shredding or otherwise facilitating recycling or resource recovery techniques for scrap tires.

(o) "Scrap tire recycler" means a person who is authorized by this part to accumulate scrap tires, who acquires scrap tires, and who converts scrap tires into a product that is sold or reused in a manner authorized by this part.

(p) "Solid waste hauler" means a solid waste hauler as defined in part 115 who transports less than 25% by weight or volume of scrap tires along with other solid waste in any truckload.

(q) "Tire" means a continuous solid or pneumatic rubber covering encircling the wheel of a tractor or other farm machinery or of a vehicle.

(r) "Tire storage area" means a location within a collection site where tires are accumulated.

(s) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks and excepting a mobile home as defined in section 2 of the mobile home commission act, 1987 PA 96, MCL 125.2302.

(t) "Vehicle support stand" means equipment used to support a stationary vehicle consisting of an inflated tire and wheel that is attached to another wheel.

324.16902 Delivery of scrap tire; limitations.

Sec. 16902. (1) A person shall deliver a scrap tire only to a collection site registered under section 16904, a disposal area licensed under part 115, an end-user, a scrap tire processor, a tire retailer, or a scrap tire recycler, that is in compliance with this part.

(2) A person who by contract, agreement, or otherwise arranges for the removal of scrap tires shall do so with a solid waste hauler or a scrap tire hauler who is registered pursuant to section 16905(1) and who by contract, agreement, or otherwise is obligated to deliver the scrap tires to the destination as identified in section 16905(3)(c).

(3) Subsection (2) does not do any of the following:

(a) Prohibit a person who is not operating a commercial business from transporting his or her scrap tires to a site authorized by subsection (1).

(b) Prohibit a member of a nonprofit service organization who is participating in a community service project from transporting scrap tires to a site authorized by subsection (1).

(c) Prohibit the owner of a farm as defined in section 2 of the Michigan right to farm act, 1982 PA 93, MCL 286.472, from transporting scrap tires that originated from his or her farm operation to a location authorized by subsection (1).

(d) Prohibit a solid waste hauler as defined in part 115 from transporting solid waste to a disposal area licensed under part 115.

324.16903 Accumulation of scrap tires by owner or operator of collection site; compliance.

Sec. 16903. (1) A person who owns or operates a collection site where less than 2,500 scrap tires have been accumulated that are not stored in a building or stored in a covered vehicle shall comply with all of the following:

(a) Only tires shall be accumulated in a tire storage area.

(b) Except as provided in subdivision (e), the tires shall be accumulated in piles no greater than 15 feet in height with horizontal dimensions no greater than 200 by 40 feet.

(c) Except as provided in subdivision (e), the tires shall not be within 20 feet of the property line or within 60 feet of a building or structure.

(d) Except as provided in subdivision (e), there shall be a minimum separation of 30 feet between tire piles. The open space between tire piles shall at all times be free of rubbish, equipment, and other materials.

(e) Tire piles shall be accessible to fire fighting equipment. If the requirement of this subdivision is met, the local fire department that serves the jurisdiction in which the collection site is located may approve a variance from the requirements of subdivisions (b), (c), and (d). Such an approval, if granted, shall be in writing.

(f) Tires, including shredded tires, shall be isolated from other stored materials that may create hazardous products if there is a fire, including, but not limited to, lead acid batteries, fuel tanks, solvent barrels, and pesticide containers.

(g) The collection site shall be subject to an annual inspection and additional inspections at any reasonable time by the local fire department that serves the jurisdiction in which the collection site is located.

(h) All persons employed to work at the collection site shall be trained in emergency response operations. The owner or operator of the collection site shall maintain training records and shall make these records available to the local fire department that serves the jurisdiction in which the collection site is located.

(i) Except as provided in section 16903b, the person who owns a collection site shall maintain a performance bond in favor of the department. The amount of the bond shall be not less than the sum of $25,000.00 per quarter acre, or fraction thereof, of outdoor tire storage area, and notwithstanding the limitation provided in subsection (1), $2.00 per square foot of tire storage area in a building. However, for collection sites with fewer than 2,500 tires, the bond shall not exceed $2,500.00. A bond is not required under this subdivision for a qualifying tire chip storage area. A person who elects to use a certificate of deposit as bond shall receive any accrued interest on that certificate of deposit upon release of the bond by the department. A person who elects to post cash as bond shall accrue interest on that bond at the annual rate of 6%, to be accrued quarterly, except that the interest rate payable to an applicant shall not exceed the rate of interest accrued on the state common cash fund for the quarter in which an accrual is determined. Interest shall be paid to the applicant upon release of the bond by the department. Any interest greater than 6% shall be deposited into the fund. The department may utilize a bond required under this part for removing scrap tires from a collection site, for other costs of cleanup at the collection site, and for costs of fire suppression and costs associated with

responding to a fire or an emergency at a collection site, in case of an emergency at the collection site, insolvency of the collection site owner, or if the owner or operator of the collection site fails to comply with the requirements of this section and does not cause the removal of the tires at the direction of a court of competent jurisdiction. As used in this subdivision, "qualifying tire chip storage area" means 1 or more locations within a collection site where tire chips are stored if all of the following conditions are met:

(*i*) The tire chips are marketable and no larger than 2 inches by 2 inches in size.

(*ii*) The tire chips are stored in accordance with the requirements of section 16903.

(*iii*) Not less than 75% of the scrap tires, by weight or volume, that are stored at the collection site each calendar year are removed from the collection site to an approved market during that year, and the collection site owner or operator certifies compliance with this subparagraph on a form approved by the department.

(*iv*) The areas of the scrap tire collection site that are used for storage of the tire chips are not larger than a total of 1 acre and those areas are indicated on a survey by a registered professional engineer submitted to the department as part of the collection site registration.

(2) A person who owns or operates a collection site where at least 2,500 but less than 100,000 scrap tires have been accumulated that are not stored in a building shall comply with all of the following:

(a) All of the requirements of subsection (1).

(b) The tire storage area shall be completely enclosed with a fence that is at least 6 feet tall with lockable gates and that is designed to prevent easy access.

(c) An earthen berm not less than 5 feet in height shall completely enclose the tire storage area except to allow for necessary ingress and egress from roadways and buildings.

(d) The collection site shall contain sufficient drainage so that water does not pool or collect on the property.

(e) The approach road to the tire storage area and on-site access roads to the tire storage area shall be of all-weather construction and maintained in good condition and free of debris and equipment so that it is passable at all times for fire fighting equipment vehicles.

(f) Tire storage areas shall be mowed regularly or otherwise kept free of weeds, vegetation, and other growth at all times.

(g) An emergency procedures plan shall be prepared and displayed at the collection site. The plan shall include telephone numbers of the local fire and police departments. The plan shall be reviewed by the local fire department prior to being posted.

(h) Scrap tires shall not be accumulated in excess of 10,000 cubic yards of scrap tires per acre.

(3) A person who owns or operates a collection site where 100,000 or more scrap tires have been accumulated that are not stored in a building shall comply with all of the requirements of subsections (1) and (2) and that person shall operate as a scrap tire processor.

324.16903b Performance bond; exemptions; noncompliance; "site requirements" defined.

Sec. 16903b. (1) Subject to subsections (2) and (3), the owner of a collection site that processes tires who has been in compliance with the site requirements for at least 1 year is exempt from the requirement to obtain a performance bond under section 16903(1)(i).

(2) The exemption provided for in subsection (1) applies to tire storage areas at the collection site containing not more than the sum of the highest number of scrap tires accumulated at the collection site during the previous 1-year period plus 10% of the amount of the scrap tires that were removed to an end-user from the collection site during the previous 1-year period.

(3) If the department determines that the owner of a collection site is not in compliance with the site requirements, the department shall deliver to the owner of the collection site a notice of noncompliance. If within 60 days after receipt of that notice the owner does not bring the collection site into compliance with the site requirements, the owner shall comply with section 16903(1)(i). Once an owner is required to obtain a performance bond in compliance with section 16903(1)(i), the performance bond shall be maintained unless the owner brings the collection site into compliance with the site requirements and maintains compliance with the site requirements for a 1-year period.

(4) As used in this section, "site requirements" means the requirements of section 16903(1)(a), (b), (c), (d), (e), and (f).

324.16903c Maintenance limiting mosquito breeding; requirements; violation; penalty; payment default.

Sec. 16903c. (1) The owner or operator of a collection site shall ensure that tires at a collection site are maintained in a manner that limits the potential of mosquito breeding by complying with 1 or more of the following:

(a) The tires shall be covered by plastic sheets or other impermeable barriers to prevent the accumulation of precipitation.

(b) The tires shall be chemically treated to eliminate mosquito breeding.

(c) The tires shall be baled, shredded, or chipped into pieces no larger than 4 inches by 6 inches and stored in piles that allow complete water drainage.

(2) A person who violates this section is responsible for the payment of a civil fine of not more than $400.00.

(3) A default in the payment of a civil fine or costs ordered under this section or an installment of the fine or costs may be remedied by any means authorized under the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9948.

324.16904a End user; exemption.

Sec. 16904a. (1) Except as provided in subsection (2), an end-user is exempt from this part for scrap tires stored on the site of the end-user if not less than 75% of the scrap tires, by weight or volume, that are stored on site each calendar year are recycled or used for resource recovery during that year, and the end-user annually certifies his or her compliance with this section on a form approved by the department.

(2) All end-users shall comply with the requirements of section 16906.

324.16905 Scrap tire hauler; registration; form; content; presentment; display of number; maintenance and availability of records; disposal at other site prohibited; original record; copy.

Sec. 16905. (1) By January 31 of each year, a scrap tire hauler shall annually register with the department on a form provided by, and containing the information required by, the department. A scrap tire hauler who does not provide all of the information required by the department shall not be considered registered under this part.

(2) A scrap tire hauler when transporting scrap tires shall have in his or her possession a copy of the current unexpired scrap tire hauler registration and shall present it upon demand of a peace officer. The scrap tire hauler registration number issued by the department shall be visibly displayed on a vehicle transporting scrap tires.

(3) A scrap tire hauler shall maintain a record of each load of scrap tires he or she transports on forms approved by the department. These records shall be maintained for a period of 3 years and shall be made available, upon request, to the department or to a peace officer at reasonable hours. These records shall contain at least the following information:

(a) The name, address, telephone number, authorized signature, and registration number of the scrap tire hauler.

(b) The name, address, telephone number, and authorized signature of the person who contracts for the removal of the scrap tires.

(c) The name, address, telephone number, and, upon delivery, the authorized signature of the owner or operator of the collection site, landfill, end-user, scrap tire processor, tire retailer, or scrap tire recycler, where the tires are to be delivered.

(d) The date of removal and the number of scrap tires being transported.

(4) A scrap tire hauler shall not dispose of scrap tires at a location other than the location identified on the record required by subsection (3)(c).

(5) The original record as required by subsection (3) shall be in the possession of the scrap tire hauler during the actual transportation of the scrap tires. A copy of the record provided for in subsection (3) shall be provided to the person who contracts for the removal of scrap tires at the time of removal of the tires from the originating location. A copy shall also be provided to the registered scrap tire collection site, the landfill, end-user, scrap tire processor, tire retailer, or scrap tire recycler to which the scrap tires are delivered at the time of delivery.

324.16906 Records.

Sec. 16906. (1) A person, other than a property owner removing 7 or fewer scrap tires from his or her property, who by contract, agreement, or otherwise arranges for the removal of scrap tires from a property under his or her control, including an end-user, shall maintain at the site of removal all records obtained from a registered scrap tire hauler pursuant to section 16905(5) and all records received from an owner, operator, or authorized agent of a location pursuant to subsection (3). A person who by contract, agreement, or otherwise arranges for the removal of scrap tires from a property under his or her control has no affirmative duty to obtain these records and shall not be held liable for the failure to receive such records. These records shall be maintained at the site of removal for a period of 3 years and shall be made available to the department upon request during normal business hours.

(2) A person, other than a solid waste hauler or a scrap tire hauler who receives scrap tires, including an end-user, shall maintain a record of all scrap tires received from a scrap tire hauler by contract, agreement, or otherwise. These records shall be maintained for a period of 3 years and shall be made available upon request to the department or a peace officer at reasonable hours. These records shall contain all of the information required of a scrap tire hauler in section 16905(3).

(3) Upon delivery of scrap tires by a scrap tire hauler by contract, agreement, or otherwise to a location authorized under section 16902, the owner, operator, or authorized agent of that location shall sign the record, indicating acceptance of the scrap tires, and

provide a copy of the signed record to the person delivering the scrap tires and shall within 30 days forward a copy of the signed record to the person who by contract, agreement, or otherwise arranged for the removal of the scrap tires being delivered.

324.16908 Scrap tire regulatory fund; creation; sources of money; investments; interest and earnings; no reversion to general fund; use of money in fund; grants report to legislature.

Sec. 16908. (1) The scrap tire regulatory fund is created in the state treasury. The fund shall receive money as provided by law and any gifts or contributions to the fund. The state treasurer shall direct the investment of the fund. Interest and earnings of the fund shall be credited to the fund. Money in the fund at the close of the fiscal year shall remain in the fund and shall not revert to the general fund.

(2) Money in the fund shall be used, upon appropriation, for all of the following purposes:

(a) For administrative costs of the department associated with this part including the implementation and enforcement of this part. However, money shall not be expended under this subdivision for the employment of more than the following:

(*i*) For state fiscal year 2002, 13.5 full-time equated positions.

(*ii*) For state fiscal year 2003, 12 full-time equated positions.

(*iii*) For state fiscal year 2004 and each subsequent state fiscal year, 11 full-time equated positions.

(b) For the administrative costs of the secretary of state associated with the collection of the tire disposal surcharge pursuant to section 806 of the Michigan vehicle code, 1949 PA 300, MCL 257.806.

(c) For the cleanup or collection of abandoned scrap tires and scrap tires at collection sites. The department shall give priority to funding activities under this subdivision at collection sites in which the scrap tires were accumulated prior to January 1, 1991 and to collection sites that pose an imminent threat to public health, safety, welfare, or the environment. The department shall make every effort to assure that all abandoned scrap tires accumulated at collection sites prior to January 1, 1991 are cleaned up or collected by September 31, 2009.

(3) Money expended under subsection (2)(c) may be expended for both of the following:

(a) Not more than $500,000.00 each year for reimbursement grants to users of scrap tire processed material to support the development of increased markets for scrap tire material other than tire-derived fuel usage. A grant issued under this subsection shall be for projects that demonstrate new uses for scrap tire processed material in manufactured products, such as placement of scrap tire processed material in modified asphalt, molded rubber products, extruded rubber products, and aggregate replacement materials. A grant under this subdivision shall reimburse the scrap tire processed material user up to 50% of the cost of purchasing scrap tire processed material, but shall not exceed a reimbursed cost of $50.00 per ton. However, the scrap tire processed material purchased shall be purchased from Michigan scrap tire processors that produce scrap tire processed material under a grant issued under subsection (2)(c).

(b) For grants to end-users who receive scrap tires or tire chips. However, as a condition of a grant under this subdivision, an end-user who receives a grant under this subdivision shall agree to purchase 1 ton of scrap tires or tire chips for every 1 ton of scrap tires or tire chips received as a result of the grant. The purchases shall be at the minimum rate of the established statewide market price.

(4) Applications for grants under subsection (3) shall be submitted on a form approved by the department and containing the information required by the department. For grants under subsection (3)(a), the department shall publish criteria upon which the grants will be issued and shall make that information available to grant applicants.

(5) Not later than 4 years after the effective date of the amendatory act that added this subsection, the department shall prepare an assessment of the impact that the grants under subsection (3)(a) have had on the reduction in the surplus of scrap tires in the state and on the establishment of new end uses for scrap tires. A copy of this assessment shall be provided to the standing committees of the senate and the house of representatives with jurisdiction over subject matter pertaining to natural resources and the environment.

(6) The department shall annually report to the standing committees of the senate and house of representatives with jurisdiction over subject matter pertaining to natural resources and the environment on the utilization of revenues of the fund.

324.16909 Violation as misdemeanor; penalties; separate violations; authority of officer; penalties inapplicable; conditions.

Sec. 16909. (1) A person who violates this part when fewer than 50 tires are involved is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not less than $200.00 or more than $500.00, or both.

(2) A person who violates this part when 50 or more tires are involved is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not less than $500.00 or more than $10,000.00, or both, for each violation.

(3) A person convicted of a second or subsequent violation of this part is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than $1,000.00 or more than $25,000.00, or both, for each violation.

(4) In addition to any other penalty provided for in this section, the court may order a person who violates this part to perform not more than 100 hours of community service.

(5) For any violation of this part, each day that a violation continues may constitute a separate violation.

(6) A peace officer may issue an appearance ticket as described and authorized by sections 9c to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c to 764.9g, to a person who is in violation of this part.

(7) This section does not apply to a violation of section 16903c.

(8) The penalties provided for in this section shall not be applied against a person in violation of section 16903(1)(a), (b), (c), (d), (f), or (i) if the person is in compliance with these provisions within 60 days after the effective date of the amendatory act that added this subsection and the person maintains compliance with those provisions. This subsection does not apply to a person who, prior to the effective date of the amendatory act that added this subsection, was convicted under this section.

Repeal of § 324.16902a.

Enacting section 1. Section 16902a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.16902a, is repealed.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1324 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

Compiler's note: Senate Bill No. 1324, referred to in enacting section 2, was filed with the Secretary of State July 3, 2002, and became P.A. 2002, Act No. 497, Eff. Oct. 1, 2002.

[No. 497]

(SB 1324)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 806 (MCL 257.806), as amended by 2001 PA 268.

The People of the State of Michigan enact:

257.806 Certificate of title or duplicate certificate of title; special expeditious treatment; special identifying number; fees; payment and disposition of tire disposal surcharge.

Sec. 806. (1) A fee of $10.00 shall accompany each application for a certificate of title required by this act or for a duplicate of a certificate of title. An additional fee of $5.00 shall accompany an application if the applicant requests that the application be given special expeditious treatment.

(2) A fee of $10.00 shall accompany an application for a special identifying number as provided in section 230.

(3) In addition to paying the fees required by subsection (1), until December 31, 2007, each person who applies for a certificate of title, a salvage vehicle certificate of title, or a scrap certificate of title, under this act shall pay a tire disposal surcharge of $1.50 for each certificate of title or duplicate of a certificate of title that person receives. The secretary of state shall deposit money received under this subsection into the scrap tire regulatory fund created in section 16908 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.16908.

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after the date of its enactment.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5380 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

Compiler's note: House Bill No. 5380, referred to in enacting section 2, was filed with the Secretary of State July 3, 2002, and became P.A. 2002, No. 496, Imd. Eff. July 3, 2002.

[No. 498]

(HB 5383)

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending sections 1b, 10c, 10h, 11, 11c, 12, 18b, 18e, and 20a (MCL 247.651b, 247.660c, 247.660h, 247.661, 247.661c, 247.662, 247.668b, 247.668e, and 247.670a), section 1b as amended by 1989 PA 188, section 10c as amended by 1990 PA 73, section 10h as amended by 1982 PA 438, section 11 as amended by 2000 PA 188,

sections 11c and 12 as amended by 1997 PA 79, and sections 18b and 18e as amended by 1985 PA 201.

The People of the State of Michigan enact:

247.651b Cost of maintaining state trunk line highways; preservation of aesthetic and historic character of abutting national historic landmark; service plaza prohibited.

Sec. 1b. (1) The state transportation department shall bear the entire cost of maintaining, in accordance with standards and specifications of the department, all state trunk line highways including highways within incorporated cities and villages except that the cost of maintaining additional width for local purposes as provided in section 1c shall be borne by the city or village.

(2) Notwithstanding any provision of law to the contrary, as part of the construction or reconstruction of a state trunk line highway which abuts a location designated as a national historic landmark pursuant to the national historic preservation act, Public Law 89-665, 80 Stat. 915, and 36 C.F.R. part 65, the department may include within the project, expenditures deemed necessary to mitigate the adverse impact of the state trunk line highway on the aesthetic and historic character of that abutting area. The installation or maintenance of lighting to preserve the aesthetic and historic character of the abutting area shall not impose a duty on the department to provide or maintain lighting for the improved portion of the highway designed for vehicular travel.

(3) The state transportation department shall not use funds allocated under this act for the development or construction of a service plaza.

247.660c Definitions.

Sec. 10c. As used in this act:

(a) "Urban or rural area" means a contiguous developed area, including the immediate surrounding area, where transportation services should reasonably be provided presently or in the future; the area within the jurisdiction of an eligible authority; or for the purpose of receiving funds for public transportation, a contiguous developed area having a population of less than 50,000 population that has an urban public transportation program approved by the state transportation department and for which the state transportation commission determines that public transportation services should reasonably be provided presently or in the future.

(b) "Eligible authority" means an authority organized pursuant to the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426.

(c) "Eligible governmental agency" means a county, city, or village or an authority created pursuant to 1963 PA 55, MCL 124.351 to 124.359; the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512; 1967 (Ex Sess) PA 8, MCL 124.1 to 124.13; 1951 PA 35, MCL 124.1 to 124.13; the public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479; or the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(d) "Transit vehicle" means a bus, rapid transit vehicle, railroad car, water vehicle, taxicab, or other type of public transportation vehicle or individual unit, whether operated singly or in a group which provides public transportation.

(e) "Transit vehicle mile" means a transit vehicle operated for 1 mile in public transportation service including demand actuated and line-haul vehicle miles.

(f) "Demand actuated vehicle" means a bus or smaller transit vehicle operated for providing group rides to members of the general public paying fares individually, and on demand rather than in regularly scheduled route service.

(g) "Demand actuated vehicle mile" means a demand actuated vehicle operated for 1 mile in service to the general public.

(h) "Public transportation", "comprehensive transportation", "public transportation service", "comprehensive transportation service", "public transportation purpose", or "comprehensive transportation purpose" means the movement of people and goods by publicly or privately owned water vehicle, bus, railroad car, aircraft, rapid transit vehicle, taxicab, or other conveyance which provides general or special service to the public, but not including charter or sightseeing service or transportation which is exclusively for school purposes. Public transportation, public transportation services, or public transportation purposes; and comprehensive transportation, comprehensive transportation services, or comprehensive transportation purposes as defined in this subdivision are declared by law to be transportation purposes within the meaning of section 9 of article IX of the state constitution of 1963.

(i) "State transportation commission" means the state transportation commission established in section 28 of article V of the state constitution of 1963.

(j) "Governmental unit" means the state transportation department, the state transportation commission, a county road commission, a city, or a village.

(k) "Department" or "department of transportation" means the state transportation department, which may be referred to administratively as the department of transportation.

(*l*) "Preservation" means an activity undertaken to preserve the integrity of the existing roadway system. Preservation does not include new construction of highways, roads, streets, or bridges, a project that increases the capacity of a highway facility to accommodate that part of traffic having neither an origin nor destination within the local area, widening of a lane width or more, or adding turn lanes of more than 1/2 mile in length. Preservation includes, but is not limited to, 1 or more of the following:

(*i*) Maintenance.

(*ii*) Capital preventive treatments.

(*iii*) Safety projects.

(*iv*) Reconstruction.

(*v*) Resurfacing.

(*vi*) Restoration.

(*vii*) Rehabilitation.

(*viii*) Widening of less than the width of 1 lane.

(*ix*) Adding auxiliary weaving, climbing, or speed change lanes.

(*x*) Modernizing intersections.

(*xi*) Adding auxiliary turning lanes of 1/2 mile or less.

(m) "Maintenance" means routine maintenance or preventive maintenance, or both. Maintenance does not include capital preventive treatments, resurfacing, reconstruction, restoration, rehabilitation, safety projects, widening of less than 1 lane width, adding auxiliary turn lanes of 1/2 mile or less, adding auxiliary weaving, climbing, or speed-change lanes, modernizing intersections, or the upgrading of aggregate surface roads to hard surface roads. Maintenance of state trunk line highways does not include street-lighting except for freeway lighting for traffic safety purposes.

(n) "Routine maintenance" means actions performed on a regular or controllable basis or in response to uncontrollable events upon a highway, road, street, or bridge. Routine maintenance includes, but is not limited to, 1 or more of the following:

(*i*) Snow and ice removal.

(*ii*) Pothole patching.

(*iii*) Unplugging drain facilities.

(*iv*) Replacing damaged sign and pavement markings.

(*v*) Replacing damaged guardrails.

(*vi*) Repairing storm damage.

(*vii*) Repair, replacement, or operation of traffic signal systems.

(*viii*) Emergency environmental cleanup.

(*ix*) Emergency repairs.

(*x*) Emergency management of road closures that result from uncontrollable events.

(*xi*) Cleaning streets and associated drainage.

(*xii*) Installing traffic signs and signal devices.

(*xiii*) Mowing roadside.

(*xiv*) Control of roadside brush and vegetation.

(*xv*) Cleaning roadside.

(*xvi*) Repairing lighting.

(*xvii*) Grading.

(o) "Preventive maintenance" means a planned strategy of cost-effective treatments to an existing roadway system and its appurtenances that preserve assets by retarding deterioration and maintaining functional condition without significantly increasing structural capacity. Preventive maintenance includes, but is not limited to, 1 or more of the following:

(*i*) Pavement crack sealing.

(*ii*) Micro surfacing.

(*iii*) Chip sealing.

(*iv*) Concrete joint resealing.

(*v*) Concrete joint repair.

(*vi*) Filling shallow pavement cracks.

(*vii*) Patching concrete.

(*viii*) Shoulder resurfacing.

(*ix*) Concrete diamond grinding.

(*x*) Dowel bar retrofit.

(*xi*) Bituminous overlays of 1-1/2 inches or less in thickness.

(*xii*) Restoration of drainage.

(*xiii*) Bridge crack sealing.

(*xiv*) Bridge joint repair.

(*xv*) Bridge seismic retrofit.

(*xvi*) Bridge scour countermeasures.

(*xvii*) Bridge painting.

(*xviii*) Pollution prevention.

(*xix*) New treatments as they may be developed.

(p) "County road commission" means the board of county road commissioners elected or appointed pursuant to section 6 of chapter IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county with a population of 2,000,000 or more with an elected county executive that does not have a board of county road commissioners, the county executive for ministerial functions and the county commission provided for in section 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative functions.

(q) "Capital preventive treatments" means any preventive maintenance category project on state trunk line highways that qualifies under the department's capital preventive maintenance program.

247.660h Report by state transportation commission to legislature, governor, and auditor general; contents; audit of financial transactions and accounts related to certain distributions from comprehensive transportation fund; cost; submission of audit report and management letter to department; minimum audit standards and requirements; task force.

Sec. 10h. (1) By May 1 of each year, the state transportation commission shall report to each member of the legislature, the governor, and the auditor general its recommendations for a transportation program which the state transportation commission acts on under section 10e(10). The report shall specify the following:

(a) The estimated amount of money in the comprehensive transportation fund to be distributed in the following fiscal year and the amount of money in the comprehensive transportation fund to be distributed to each eligible authority, each intercity carrier, each eligible governmental agency, and the state transportation department; the estimated amount of money in the state trunk line fund to be distributed to the state transportation department for the preservation, as defined in section 10c, of state trunk line highways; and the estimated amount of money in the state trunk line fund to be distributed to the state transportation department for all other purposes in the following fiscal year. The report shall further subdivide the money to be distributed to each eligible authority, each intercity carrier, each eligible governmental agency, the state transportation department from the comprehensive transportation fund, the state transportation department from the state trunk line fund for the preservation of state trunk line highways, and the state transportation department from the state trunk line fund for all other purposes specifying how much of that money is proposed to be expended for either capital acquisitions, including demonstration projects, or for operating expenses, including demonstration projects.

(b) An account of all expenditures of funds distributed from the state trunk line fund and the comprehensive transportation fund to the state transportation department, eligible authorities, intercity carriers, and eligible governmental agencies, and the progress made by the state transportation department, eligible authorities, intercity carriers, and eligible governmental agencies in carrying out the approved transportation programs in the preceding fiscal year through the use of those funds. The progress report shall be made based on information supplied to the state transportation department on forms authorized by the federal department of transportation. For those eligible authorities, intercity carriers, and eligible governmental agencies not receiving federal funds pursuant to the urban mass transportation act of 1964, Public Law 88-365, the progress report shall be made upon forms supplied by the state transportation department.

The progress report shall also contain the whole amount of the expenses of the state transportation department for the fiscal year.

(c) Each project certified to be eligible for a multiyear funding commitment.

(d) The status of all multiyear funding commitments.

(e) An account of the state transportation department's compliance in the preceding year with the requirements of section 11(2) and (3). The report shall also specify the justification for a waiver of the requirement of section 11(3), if that requirement was waived.

(2) The financial transactions and accounts related to distributions made from the comprehensive transportation fund to an eligible authority created under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, shall be audited pursuant to that act. The cost of the audit shall be paid by the eligible authority. The financial transactions and accounts related to distributions made from the fund to an eligible governmental agency, other than a county, shall be audited in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a. The financial transactions and accounts related to distributions made from the fund to a county which is an eligible governmental agency shall be audited in accordance with 1919 PA 71, MCL 21.41 to 21.55. The financial transactions and accounts relative to distributions made to an intercity carrier shall be audited by an independent certified public accountant in accordance with instructions promulgated by the department of treasury. A copy of the complete audit report and management letter shall be submitted by the eligible authority, intercity carrier, or eligible governmental agency to the state transportation department. The department of treasury shall develop minimum audit standards and requirements.

(3) There is hereby established a task force composed of the Michigan public transit association, the Michigan motorbus association, the Michigan rail users and supporters association, the Michigan railroad association, a representative of a state-owned or leased short line railroad, and the office of auditor general or a certified public accountant appointed by the auditor general, to assist the department in the development of the progress report requirements outlined in subsection (1)(b).

247.661 State trunk line fund; separate fund; appropriation; purposes; order of priority; expenditures; deductions; borrowing by county road commissions, cities, and villages; limitation; approval; notice; borrowing by state transportation commission; procedures for implementation and administration of loan program; expenditure for administrative expenses; conduct of performance audits; revised municipal finance act inadmissible.

Sec. 11. (1) A fund to be known as the state trunk line fund is established and shall be set up and maintained in the state treasury as a separate fund. The money deposited in the state trunk line fund is appropriated to the state transportation department for the following purposes in the following order of priority:

(a) For the payment, but only from money restricted as to use by section 9 of article IX of the state constitution of 1963, of bonds, notes, or other obligations in the following order of priority:

(*i*) For the payment of contributions required to be made by the state highway commission or the state transportation commission under contracts entered into before July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, which contributions have been pledged before July 18, 1979, for the payment of the principal and interest on bonds issued

under 1941 PA 205, MCL 252.51 to 252.64, for the payment of which a sufficient sum is irrevocably appropriated.

(*ii*) For the payment of the principal and interest upon bonds designated "State of Michigan, State Highway Commissioner, Highway Construction Bonds, Series I", dated September 1, 1956, in the aggregate principal amount of $25,000,000.00, issued pursuant to former 1955 PA 87 and the resolution of the state administrative board adopted August 6, 1956, for the payment of which a sufficient sum is irrevocably appropriated.

(*iii*) For the payment of the principal and interest on bonds issued under section 18b for transportation purposes other than comprehensive transportation purposes as defined by law and the payment of contributions of the state highway commission or state transportation commission to be made pursuant to contracts entered into under section 18d, which contributions are pledged to the payment of principal and interest on bonds issued under the authorization of section 18d and contracts executed pursuant to that section. A sufficient portion of the fund is irrevocably appropriated to pay, when due, the principal and interest on bonds or notes issued under section 18b for purposes other than comprehensive transportation purposes as defined by law, and to pay the annual contributions of the state highway commission and the state transportation commission as are pledged for the payment of bonds issued pursuant to contracts authorized by section 18d.

(b) For the transfer of funds appropriated pursuant to section 10(1)(g) to the transportation economic development fund, but the transfer shall be reduced each fiscal year by the amount of debt service to be paid in that year from the state trunk line fund for bonds, notes, or other obligations issued to fund projects of the transportation economic development fund, which amount shall be certified by the department.

(c) For the transfer of funds appropriated pursuant to section 10(1)(a) to the railroad grade crossing account in the state trunk line fund for expenditure to meet the cost, in whole or in part, of providing for the improvement, installation, and retirement of new or existing safety devices or other rail grade crossing improvements at rail grade crossings on public roads and streets under the jurisdiction of this state, counties, or cities and villages. Projects shall be selected for funding in accordance with the following:

(*i*) Not more than 50% or less than 30% of these funds and matched federal funds shall be expended for state trunk line projects.

(*ii*) In prioritizing projects for these funds, in whole or in part, the department shall consider train and vehicular traffic volumes, accident history, traffic control device improvement needs, and the availability of funding.

(*iii*) Consistent with the other requirements for these funds, the first priority for funds deposited pursuant to this subdivision for rail grade crossing improvements and retirement shall be to match federal funds from the railroad-highway grade crossing improvement program or other comparable federal programs.

(*iv*) If federal funds from the railroad-highway grade crossing improvement program or other comparable federal programs have been exhausted, funds deposited pursuant to this subdivision shall be used to fund 100% of grade crossing projects that receive the highest priority of unfunded projects pursuant to criteria established by the department.

(*v*) State railroad grade crossing funds shall not be used, either as 100% of project cost or to match federal railroad-highway grade crossing improvement funds, for a crossing that is determined by the department pursuant to the criteria established by the department to be a lower priority than other projects that have not yet been funded. However, if sufficient funds are available, these state railroad grade crossing account funds may be used for not more than 50% of a project's cost for a crossing that is

determined by the department pursuant to the criteria established by the department to be a lower priority if the balance of not less than 50% of the project's cost is provided by the road authority, railroad, or other sources.

(*vi*) The type of railroad grade crossing improvement, installation, relocation, or retirement of grade crossing surfaces, active and passive traffic control devices, pavement marking, or other related work shall be eligible for these railroad grade crossing account funds in the same manner as the project type eligibility provided by the federal funds from the railroad-highway grade crossing improvement program, except for the following:

(A) For new railroad crossings, these funds may be used for the crossing surface, active and passive traffic control devices, pavement marking, and other improvements necessitated by the new crossing.

(B) These funds may be used for the modification, relocation, or modernization of railroad grade crossing facilities necessitated by roadway improvement projects.

(C) If the department and the road authority with jurisdiction over a public road or street crossing formally agree that the grade crossing should be eliminated by permanent closing of the public road or street, the road authority making the closing shall receive $5,000.00 from the railroad grade crossing account. In addition, any connecting road improvements necessitated by the grade crossing closure are reimbursable on an actual cost basis not to exceed $10,000.00 per crossing closed. The physical removal of the crossing, roadway within railroad rights of way and street termination treatment will be negotiated between the road authority and railroad company. The funds provided to the road authority as a result of the crossing closure will be credited to its account representing the same road or street system on which the crossing is located.

(d) For the total operating expenses of the state trunk line fund for each fiscal year as appropriated by the legislature.

(e) For the preservation of state trunk line highways and bridges.

(f) For the opening, widening, improving, construction, and reconstruction of state trunk line highways and bridges, including the acquisition of necessary rights of way and the work incidental to that opening, widening, improving, construction, or reconstruction. Those sums in the state trunk line fund not otherwise appropriated, distributed, determined, or set aside by law shall be used for the construction or reconstruction of the national system of interstate and defense highways, referred to in this act as "the interstate highway system" to the extent necessary to match federal aid funds as the federal aid funds become available for that purpose; and, for the construction and reconstruction of the state trunk line system.

(g) The state transportation department may enter into agreements with county road commissions and with cities and villages to perform work on a highway, road, or street. The agreements may provide for the performance by any of the contracting parties of any of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection with the work, by purchase or condemnation by any of the contracting parties in its own name, and for joint participation in the costs, but only to the extent that the contracting parties are otherwise authorized by law to expend money on the highways, roads, or streets. The state transportation department also may contract with a county road commission, city, and village to advance money to a county road commission, city, and village to pay their costs of improving railroad grade crossings on the terms and conditions agreed to in the contract. A contract may be executed before or after the state transportation commission borrows money for the purpose of advancing money to a county road commission, city, or village, but the contract shall be executed before the advancement of any money to a county road commission, city, or village by the

state transportation commission, and shall provide for the full reimbursement of any advancement by a county road commission, city, or village to the state transportation department, with interest, within 15 years after advancement, from any available revenue sources of the county road commission, city, or village or, if provided in the contract, by deduction from the periodic disbursements of any money returned by the state to the county road commission, city, or village.

(h) For providing inventories of supplies and materials required for the activities of the state transportation department. The state transportation department may purchase supplies and materials for these purposes, with payment to be made out of the state trunk line fund to be charged on the basis of issues from inventory in accordance with the accounting and purchasing laws of this state.

(2) Notwithstanding any other provision of this act, at least 90% of state revenue appropriated annually to the state trunk line fund less the amounts described in subdivisions (a) to (i) shall be expended annually by the state transportation department for the preservation of highways, roads, streets, and bridges and for the payment of debt service on bonds, notes, or other obligations described in subsection (1)(a) issued after July 1, 1983, for the purpose of providing funds for the preservation of highways, roads, streets, and bridges. Of the amounts appropriated for state trunk line projects, the department shall, where possible, secure warranties of not less than 5-year full replacement guarantee for contracted construction work. If an appropriate certificate is filed under section 18e but only to the extent necessary, this subsection shall not prohibit the use of any amount of money restricted as to use by section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund for the payment of debt service on bonds, notes, or other obligations pledging for the payment thereof money restricted as to use by section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund, whenever issued, as specified under subsection (1)(a). The amounts which are deducted from the state trunk line fund for the purpose of the calculation required by this subsection are as follows:

(a) Amounts expended for the purposes described in subsection (1)(a) for the payment of debt service on bonds, notes, or other obligations issued before July 2, 1983.

(b) Amounts expended to provide the state matching requirement for projects on the national highway system and for the payment of debt service on bonds, notes, or other obligations issued after July 1, 1983, for the purpose of providing funds for the state matching requirements for projects on the national highway system.

(c) Amounts expended for the construction of a highway, street, road, or bridge to 1 or more of the following or for the payment of debt service on bonds, notes, or other obligations issued after July 1, 1983, for the purpose of providing funds for the construction of a highway, street, road, or bridge to 1 or more of the following:

(*i*) A location for which a building permit has been obtained for the construction of a manufacturing or industrial facility.

(*ii*) A location for which a building permit has been obtained for the renovation of, or addition to, a manufacturing or industrial facility.

(d) Amounts expended for capital outlay other than for highways, roads, streets, and bridges or to pay debt service on bonds, notes, or other obligations issued after July 1, 1983, for the purpose of providing funds for capital outlay other than for highways, roads, streets, and bridges.

(e) Amounts expended for the operating expenses of the state transportation department other than the units of the department performing the functions assigned on January 1, 1983 to the bureau of highways.

(f) Amounts expended pursuant to contracts entered into before January 1, 1983.

(g) Amounts expended for the purposes described in subsection (5).

(h) Amounts appropriated for deposit in the transportation economic development fund and the rail grade crossing account pursuant to section 10(1)(g) and 10(1)(a).

(i) Upon the affirmative recommendation of the director of the state transportation department and the approval by resolution of the state transportation commission, those amounts expended for projects vital to the economy of this state, a region, or local area or the safety of the public. The resolution shall state the cost of the project exempted from this subsection.

(3) Notwithstanding any other provision of this act, the state transportation department shall expend annually at least 90% of the federal revenue distributed to the credit of the state trunk line fund in that year, except for federal revenue expended for the purposes described in subsection (2)(b), (c), (f), and (i) and for the payment of notes issued under section 18b(9) on the preservation of highways, roads, streets, and bridges. The requirement of this subsection shall be waived if compliance would cause this state to be ineligible according to federal law for federal revenue, but only to the extent necessary to make this state eligible according to federal law for that revenue.

(4) Notwithstanding any other provision of this section, the state transportation department may loan money to county road commissions, cities, and villages for paying capital costs of transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963 from the proceeds of bonds or notes issued pursuant to section 18b or from the state trunk line fund. Loans made directly from the state trunk line fund shall be made only after provision of funds for the purposes specified in subsection (1)(a) to (f). Loans described in this subsection are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(5) County road commissions, cities, and villages may borrow money from the proceeds of bonds or notes issued under section 18b or the state trunk line fund for the purposes set forth in subsection (4) that shall be repayable, with interest, from 1 or more of the following:

(a) The money to be received by the county road commission, city, or village from the Michigan transportation fund, except to the extent the money has been or may in the future be pledged by contract in accordance with 1941 PA 205, MCL 252.51 to 252.64, or has been or may in the future be pledged for the payment of the principal and interest upon notes issued pursuant to 1943 PA 143, MCL 141.251 to 141.254, or has been or may in the future be pledged for the payment of principal and interest upon bonds issued under section 18c or 18d, or has been or may in the future be pledged for the payment of the principal and interest upon bonds issued pursuant to 1952 PA 175, MCL 247.701 to 247.707.

(b) Any other legally available funds of the city, village, or county road commission, other than the general funds of the county.

(6) Loans made pursuant to subsection (4) if required by the state transportation department may be payable by deduction by the state treasurer, upon direction of the state transportation department, from the periodic disbursements of any money returned by the state under this act to the county road commission, city, or village, but only after sufficient money has been returned to the county road commission, city, or village to provide for the payment of contractual obligations incurred or to be incurred and principal

and interest on notes and bonds issued or to be issued under 1941 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c or 18d. The interest rates and payment schedules of any loans made from the proceeds of bonds or notes issued pursuant to section 18b shall be established by the state transportation department to conform as closely as practicable to the interest rate and repayment schedules on the bonds or notes issued to make the loans. However, the state transportation department may allow for the deferral of the first payment of interest or principal on the loans for a period of not to exceed 1 year after the respective first payment of interest or principal on the bonds or notes issued to make the loans.

(7) The amount borrowed by a county road commission, city, or village pursuant to subsection (5) shall not be included in, or charged against, any constitutional, statutory, or charter debt limitation of the county, city, or village and shall not be included in the determination of the maximum annual principal and interest requirements of, or the limitations upon, the maximum annual principal and interest incurred under 1941 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c or 18d.

(8) The county road commission, city, or village is not required to seek or obtain the approval of the electors, the municipal finance commission or its successor agency, or, except as provided in this subsection, the department of treasury to borrow money pursuant to subsection (5). The borrowing is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5. The state transportation department shall give at least 10 days' notice to the state treasurer of its intention to make a loan under subsection (4). If the state treasurer gives notice to the director of the state transportation department within 10 days of receiving the notice from the state transportation department, that, based upon the then existing financial or credit situation of the county road commission, city, or village, it would not be in the best interests of the state to make a loan under subsection (4) to the county road commission, city, or village, the loan shall not be made unless the state treasurer, after a hearing, if requested by the affected county road commission, city, or village, subsequently gives notice to the director of the state transportation department that the loan may be made on the conditions that the state treasurer specifies.

(9) The state transportation commission may borrow money and issue bonds and notes under, and pursuant to the requirements of, section 18b to make loans to county road commissions, cities, and villages for the purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963, as provided in subsection (4). A single issue of bonds or notes may be issued for the purposes specified in subsection (4) and for the other purposes specified in section 18b. The house and senate transportation appropriations subcommittees shall be notified by the department if there are extras and overruns sufficient to require approval of either the state administrative board or the commission, or both, on any contract between the department and a local road agency or a private business.

(10) The director of the state transportation department, after consultation with representatives of the interests of county road commissions, cities, and villages, shall establish, by intergovernmental communication, procedures for the implementation and administration of the loan program established under subsections (4) to (9).

(11) Not more than 10% per year of all of the funds received by and returned to the state transportation department from any source for the purposes of this section may be expended for administrative expenses. The department shall be subject to section 14(5) if more than 10% per year is expended for administrative expenses. As used in this subsection, "administrative expenses" means those expenses that are not assigned

including, but not limited to, specific road construction or preservation projects and are often referred to as general or supportive services. Administrative expenses shall not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices which are assigned, but not limited to, specific road construction projects or preservation activities.

(12) Any performance audits of the department shall be conducted according to government auditing standards issued by the United States general accounting office.

(13) Contracts entered into to advance money to a county road commission, city, or village under subsection (1)(g) are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

247.661c Construction and maintenance projects to be performed by contract awarded by competitive bidding; other method; findings; report.

Sec. 11c. All federal aid construction projects, all other projects of the department concerning highways, streets, roads, and bridges, whose cost exceeds $100,000.00 for construction or preservation as defined in section 10c, shall be performed by contract awarded by competitive bidding unless the department shall affirmatively find that under the circumstances relating to those projects, some other method is in the public interest. All of those findings shall be reported to the state transportation commission 90 days before work is commenced and promptly in writing to the appropriations committees of the senate and house of representatives. However, in a case in which the department determines emergency action is required, the reports need not be filed before work is commenced but shall be promptly filed. Local road agencies that make a decision not to perform construction or preservation projects exceeding $100,000.00 shall contract for this work through competitive bidding.

247.662 Return to county treasurers of amount distributed to county road commissions; manner, purposes, terms, and conditions; statewide purchasing pools; expenditures; definitions; certification concerning average annual debt service requirements for bonds or notes; representation of charter county in certain transactions; expenditure for administrative expenses; conduct of performance audits.

Sec. 12. (1) The amount distributed to the county road commissions shall be returned to the county treasurers in the manner, for the purposes, and under the terms and conditions specified in this section. The department and the county road association of Michigan shall jointly develop incentives for counties to establish statewide purchasing pools for the more efficient use of Michigan transportation funds.

(2) Each county road commission shall be reimbursed in an amount up to $10,000.00 per year for the sum paid to a licensed professional engineer employed or retained by the county road commission in the previous year. The sum shall be returned to each county road commission certified by the state transportation department as complying with this subsection regarding the employment of an engineer.

(3) An amount equal to 1% of the total amount returned to the county road commissions from the Michigan transportation fund during the prior calendar year shall be withheld annually from the counties' November monthly distribution provided for in section 17, and the amount shall be returned to the county road commissions for snow removal purposes as provided in section 12a.

(4) An amount equal to 10% of the total amount returned to the county road commissions from the Michigan transportation fund shall be returned to each county road commission having county primary, or county local road, or both, mileage in the urban areas as determined pursuant to section 12b. This sum shall be distributed pursuant to section 12b. The return shall be in addition to the amounts provided in subsections (6) and (7) and for the purposes stated in those subsections.

(5) An amount equal to 4% of the total amount returned to the county road commissions from the Michigan transportation fund shall be returned to the county road commissions in the same percentages as provided in subsection (7). All money returned to the county road commissions as provided in this subsection shall be expended by the county road commissions for the preservation, construction, acquisition, and extension of county local road systems and shall be in addition to the amounts provided in subsection (7).

(6) Seventy-five percent of the remainder of the total amount to be returned to the counties shall be expended by each county road commission for the preservation, construction, acquisition, and extension of the county primary road system, including the acquisition of a necessary right of way for the system, work incidental to the system, and a roadside park or motor parkway appurtenant to the system, and shall be returned to the counties as follows:

(a) Three-fourths of the amount in proportion to the amount received within the respective county during the 12 months next preceding the date of each monthly distribution, as specific taxes upon registered motor vehicles under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(b) One-tenth of the amount in the same proportion that the total mileage in the county primary road system of each county bears to the total mileage in all of the county primary road systems of the state.

(c) One eighty-third of the remaining 15% of the amount to each county.

(7) The balance of the remainder of the total amount to be returned to counties shall be expended by each county road commission for the preservation, construction, acquisition, and extension of the county local road system as defined by this act, including the acquisition of a necessary right of way for the system, work incidental to the system, and a roadside park or motor parkway appurtenant to the system, and shall be returned to the counties as follows:

(a) Sixty-five percent of the amount in the same proportion that the total mileage in the county local road system of each county bears to the total mileage in all of the county local road systems of the state.

(b) Thirty-five percent of the amount in the same proportion that the total population outside of incorporated municipalities in each county bears to the total population outside of incorporated municipalities in all of the counties of the state, according to the most recent statewide federal census as certified at the beginning of the state fiscal year.

(8) Money deposited in, or becoming a part of the county road funds of a board of county road commissioners shall be expended first for the payment of principal and interest on the bonds, for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of contractual contributions pledged for the payment of bonds, and for debt service requirements for the payment of notes and loans in the following order of priority:

(a) For the payment of contributions required to be made by a board of county road commissioners under a contract entered into under 1941 PA 205, MCL 252.51 to 252.64, which contributions have been pledged for the payment of the principal and interest on

bonds issued under that act, or for the payment of total debt service requirements upon notes issued by a board of county road commissioners under 1943 PA 143, MCL 141.251 to 141.254.

(b) For the payment of principal and interest upon bonds issued under section 18c, and the payment of contributions of a board of county road commissioners to be made pursuant to contracts entered into under section 18d, which contributions are pledged to the payment of principal and interest on bonds issued after June 30, 1957, under the authorization of section 18c and contracts executed pursuant to its provisions.

(c) For the payment of principal and interest upon loans received pursuant to section 11(7), to the extent other funds have not been made available for that payment.

(9) Not to exceed 30% per year of the amount returned to a county for use on the county primary road system may be expended, with or without matching, on the county local road system of that county. Not to exceed 15% per year of the amount returned to a county for expenditure on the county local road system may be used, with or without matching, on the county primary road system of that county, and not to exceed an additional 15% per year of the amount returned to a county for expenditure on the county local road system, may, in case of an emergency or with the approval of the state transportation department, be expended, with or without matching, on the county primary road system of that county. An amount returned to a county for and on account of county local roads, under this section, in excess of the total amount paid into the county treasury each year by all of the townships of that county for and on account of the county local roads pursuant to section 14(6) may be transferred to and expended on the county primary road system of that county.

(10) Not less than 20% per year of the funds returned to a county by this section shall be expended for snow and ice removal, the construction or reconstruction of a new highway or existing highway, and the acquisition of a necessary right of way for those highways, and work incidental to those highways, or for the servicing of bonds issued by the county for these purposes. Surplus funds may be expended for the development, construction, or repair of an off-street parking facility.

(11) Not more than 5% per year of the funds returned to a county for the county primary road system and the county local road system shall be expended for the maintenance, improvement, or acquisition of appurtenant roadside parks and motor parkways.

(12) Funds returned to a county shall be expended by the county road commission for the purposes provided in this section and shall be deposited by the county treasurer in a designated county depository, in a separate account to the credit of the county road fund, and shall be paid out only upon the order of the county road commission, and interest accruing on the money shall become a part of, and be deposited with the county road fund.

(13) In a county to which the funds are returned the function of the county road commission shall be limited to the formation of policy and the performance of the official duties imposed by law and delegated by the county board of commissioners. A member of the county road commission shall not be employed individually in any other capacity for other duties with the county road commission.

(14) A county road commission may enter into an agreement with a county road commission of an adjacent county and with a city or village to perform work on a highway, road, or street, and with the state transportation department with respect to a state trunk line and connecting links of the state trunk line within the limits of the county or adjacent to the county. The agreement may provide for the performance by each contracting party of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection with the work contemplated, by purchase or

condemnation, by any of the contracting parties in its own name and the agreement may provide for joint participation in the costs.

(15) Money distributed from the Michigan transportation fund may be expended for construction purposes on county local roads only to the extent matched by money from other sources. However, Michigan transportation funds may be expended for the construction of bridges on the county local roads in an amount not to exceed 75% of the cost of the construction of local road bridges. This subsection does not apply to section 11b.

(16) Notwithstanding any other provision of this act, at least 90% of the state revenue returned annually to the county road commission from the Michigan transportation fund less the amounts described in subdivisions (a) to (e) shall be expended annually by the county road commission for the preservation of highways, roads, streets, and bridges, and for the payment of contractual contributions pledged for the payment of bonds or portions of bonds, debt service requirements for the payment of bonds or portions of bonds, and debt service requirements for the payment of notes and loans or portions of notes and loans issued or received after July 1, 1983, for the purpose of providing funds for the preservation of highways, roads, streets, and bridges. If an appropriate certificate is filed under subsection (19) but only to the extent necessary, this subsection shall not prohibit the use of any amount of state revenue returned annually to the county road commissions for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of bonds, and for debt service requirements for the payment of notes or loans, whenever issued or received, as specified under subsection (8). The amounts which are deducted from the state revenue returned to a county road commission from the Michigan transportation fund, for the purpose of the calculation required by this subsection are as follows:

(a) Amounts expended for the purposes described in subsection (8) for bonds, notes, loans, or other obligations issued or received before July 2, 1983.

(b) Amounts expended for the administrative costs of the county road commission.

(c) Amounts expended for capital outlay projects for equipment and buildings, and for the payment of contractual contributions pledged for the payment of bonds, for debt service requirements for the payment of bonds, and for debt service requirements for the payment of notes and loans issued or received after July 1, 1983, for the purpose of providing funds for capital outlay projects for equipment and buildings.

(d) Amounts expended for projects vital to the economy of the local area or the safety of the public in the local area. Before these amounts can be deducted, the governing body over the county road commission or the county road commission, as applicable, shall pass a resolution approving these projects. This resolution shall state which projects will be funded and the cost of each project. A copy of each approved resolution shall be forwarded immediately to the department.

(e) Amounts expended in urban areas as determined pursuant to section 12b.

(17) As used in this subsection, "urban routes" means those portions of 2-lane county primary roads within an urban area which has average daily traffic in excess of 15,000. Notwithstanding any other provision of this act, except as provided in this subsection, a county road commission shall expend annually at least 90% of the federal revenue distributed to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges. A county road commission may expend in a year less than 90% of the federal revenue distributed to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on

urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges, if that year is part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges. If a county road commission expends in a year less than 90% of the federal revenue distributed to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges and that year is not a part of a 3-year period in which at least 90% of the total federal revenue distributed in the 3-year period to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is expended on the preservation of highways, roads, streets, and bridges, the county road commission shall expend in each year subsequent to the 3-year period 100%, or less in 1 year if sufficient for the purposes of this subsection, of the federal revenue distributed to the use of the county road commission for highways, roads, streets, and bridges, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, on the preservation of highways, roads, streets, and bridges until the average percentage spent on the preservation of highways, roads, streets, and bridges in the 3-year period and the subsequent years, less the amount expended on urban routes for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system, is at least 90%. A year may be included in only one 3-year period for the purposes of this subsection. The requirements of this subsection shall be waived if compliance would cause the county road commission to be ineligible according to federal law for federal revenue, but only to the extent necessary to make the county road commission eligible according to federal law for that revenue. For the purpose of the calculations required by this subsection, the amount expended on urban routes by a county road commission for other than preservation purposes and the amount expended for hard-surfacing of gravel roads on the federal-aid system shall be deducted from the total federal revenue distributed to the use of the county road commission.

(18) A county road commission shall certify, which certification shall, for purposes of the validity of bonds and notes, be conclusive as to the matters stated therein, to the state transportation department on or before the issuance of any bonds or notes issued after July 1, 1983, pursuant to 1943 PA 143, MCL 141.251 to 141.254, 1941 PA 205, MCL 252.51 to 252.64, or section 18c or 18d, for purposes other than the preservation of highways, roads, streets, and bridges and purposes other than the purposes specified in subsection (16)(c) that its average annual debt service requirements for all bonds and notes or portions of bonds and notes issued after July 1, 1983, for purposes other than the preservation of highways, roads, streets, and bridges and other than for the purposes specified in subsection (16)(c), including the bond or note to be issued does not exceed 10% of the funds returned to the county road commission pursuant to this act, less the amounts specified in subsection (16)(a), (b), and (c) during the last completed fiscal year of the county road commission. If the purpose for which the bonds or notes are issued is changed after the issuance of the notes or bonds, the change shall be made in such a manner to maintain compliance with the certification required by this subsection, as of the date the certificate was originally issued, but no such change shall invalidate or otherwise affect

the bonds or notes with respect to which the certificate was issued or the obligation to pay debt service on the bonds or notes.

(19) In each charter county to which funds are returned under this section, the responsibility for road improvement, preservation, and traffic operation work, and the development, construction, or repair of off-road parking facilities and construction or repair of road lighting shall be coordinated by a single administrator to be designated by the county executive who shall be responsible for and shall represent the charter county in transactions with the state transportation department pursuant to this act.

(20) Not more than 10% per year of all of the funds received by and returned to a county from any source for the purposes of this section may be expended for administrative expenses. A county that expends more than 10% for administrative expenses in a year shall be subject to section 14(5) unless a waiver is granted by the department of treasury. As used in this subsection, "administrative expenses" means those expenses that are not assigned including, but not limited to, specific road construction or preservation projects and are often referred to as general or supportive services. Administrative expenses shall not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices which are assigned, but not limited to, specific road construction projects or preservation activities.

(21) In addition to the financial compliance audits required by law, the department of treasury shall conduct performance audits and make investigations of the disposition of all state funds received by county road commissions, county boards of commissioners, or any other county governmental agency acting as the county road authority, for transportation purposes to determine compliance with the terms and conditions of this act. Performance audits shall be conducted according to government auditing standards issued by the United States general accounting office. The department of treasury shall provide 6 months notice to the county road commission or county board of commissioners, as applicable, of the standards to be used for audits performed under this subsection prior to the fiscal year in which the audit is conducted. The department shall notify the county road commission or county board of commissioners of any subsequent changes to the standards. County road commissions or county boards of commissioners, as applicable, shall make available to the department of treasury the pertinent records for the audit.

247.668b State transportation commission; bonds and notes.

Sec. 18b. (1) The state transportation commission may borrow money and issue notes or bonds for the following purposes:

(a) To pay all or any portion of or to make loans, grants, or contract payments to pay all or any portion of any capital costs for the purposes described in section 9 of article IX of the state constitution of 1963.

(b) To pay the principal or the principal and interest on notes and, if the state transportation commission considers refunding to be expedient, to refund bonds payable from money in the state trunk line fund or the comprehensive transportation fund or received or to be received from the motor vehicle highway fund or the Michigan transportation fund regardless of when the refunded bonds were issued, by the issuance of new bonds, whether or not the bonds to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of issuance of the refunding bonds; and to issue new bonds partly to refund bonds or pay notes then outstanding and partly for any other transportation purpose authorized by this act.

(c) To pay all costs relating to the issuance of the bonds or notes described in this section, including, but not limited to, legal, engineering, accounting, and consulting services,

interest on bonds or notes for such period as determined by the state transportation commission in the resolution authorizing the bonds or notes and a reserve for payment of principal, interest, and redemption premiums on the bonds or notes in an amount determined by the state transportation commission in the resolution authorizing the bonds or notes.

(2) The refunding bonds described in subsection (1)(b) shall be sold and the proceeds and the earnings or profits from the investment of those proceeds applied in whole or in part to the purchase, redemption, or payment of the principal or the principal and interest of the bonds to be refunded and the refunding bonds issued by the state transportation commission under subsection (1)(b) and the costs described in subsection (1)(c). Refunding notes or bonds shall be considered to be issued for the same purpose or purposes for which the notes or bonds to be refunded were issued.

(3) The notes or bonds authorized by this section shall be issued only after authorization by resolution of the state transportation commission, which resolution shall contain the following:

(a) An irrevocable pledge providing for the payment of the principal and interest on the notes or bonds from money which is restricted as to use by section 9 of article IX of the state constitution of 1963 and which is deposited or to be deposited in the comprehensive transportation fund, in the case of bonds or notes issued for comprehensive transportation purposes as defined by law, or in the state trunk line fund, in the case of bonds or notes issued for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963, or in the case of notes or bonds, if the resolution authorizing the notes or bonds provides, from money received or to be received by the state transportation department from the proceeds of bonds or renewal notes to be issued after the date of the resolution or from money received or to be received from the proceeds of the grants described in subsection (9). If the resolution authorizing the bonds or notes so provides, a portion of the principal or interest on the bonds or notes may be secured by an irrevocable pledge of money deposited in the comprehensive transportation fund or the state trunk line fund, and the balance of the principal and interest secured by an irrevocable pledge of the proceeds of bonds or renewal notes or money received or to be received from the proceeds of the grants described in subsection (9).

(b) A brief statement describing the projects for which the notes or bonds are to be issued and in the case of notes or bonds to pay notes or refund bonds, a description of the notes or bonds to be paid or refunded. For purposes of this section and section 18k, in connection with bonds issued to fund the loan program established under section 11(6) to (11), the loan program shall constitute the project, and it shall not be necessary to specify the particular item or costs of a particular item to be financed from any particular loan made under the loan program.

(c) The estimated cost of the projects or refunding or refinancing.

(d) The detail of the notes or bonds including the date of issue, maturity date or dates of the bonds or notes, the maximum interest rate, the dates of payment of interest, the paying agents, the transfer agent or agents, the provisions for registration, the redemption provisions, and the manner of execution or, as provided in subsection (11)(d), the limitations within which such detail may be determined by the person designated by the commission.

(4) If after the issuance of notes or bonds, the state transportation commission determines that a project for which the notes or bonds are to be issued should be changed, the state transportation commission, by resolution, adopted after the 30 days' notice of intention to adopt the resolution has been given to the appropriations committees of the

senate and the house of representatives, shall amend the resolution authorizing the bonds or notes to change the description of the project or projects or to substitute a different project or projects for the project for which the notes or bonds were issued and shall make other revisions in the resolution authorizing the notes or bonds with respect to cost as may be necessary to permit the change in or substitution of a project or projects.

(5) Before October 1, 1979, the total amount of bonds and notes issued pursuant to this section for comprehensive transportation purposes as defined by law shall not exceed an amount as will be serviced as to maximum principal and interest requirements by a sum equal to the amount deposited to the credit of the general transportation fund for the fiscal year ending September 30, 1977. After September 30, 1979, the total amount of bonds and notes issued pursuant to this section for comprehensive transportation purposes as defined by law shall not exceed an amount as will be serviced, out of state funds only, as to maximum annual principal and interest requirements by an amount equal to 50% of the total amount of money from taxes, the use of which money is restricted by section 9 of article IX of the state constitution of 1963, and which money is deposited in the state treasury to the credit of the comprehensive transportation fund during the state fiscal year immediately preceding the issuance of the bonds or notes.

(6) The total amount of bonds and notes issued pursuant to this section for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963 shall not exceed an amount as will be serviced as to the maximum principal and interest requirements by a sum equal to 50% of the total of the amount of money received from taxes, the use of which is restricted by section 9 of article IX of the state constitution of 1963 and which is deposited in the state treasury to the credit of the state trunk line fund during the state fiscal year immediately preceding the issuance of the bonds or notes.

(7) The principal or principal and interest or the portion of principal or interest of bonds or notes which are issued in anticipation of the issuance of bonds or renewal notes or of federal grants as provided in subsection (9) and which do not pledge for their payment money in the state trunk line fund or the comprehensive transportation fund or money received or to be received by the state transportation department from the Michigan transportation fund or the motor vehicle highway fund shall not be considered to be principal and interest requirements subject to the limitation set forth in subsections (5) and (6). The principal of and interest on notes or bonds refunded or for the refunding of which refunding bonds have been sold, whether the bonds to be refunded are to be retired at the time of delivery of the refunding bonds or not, shall not be considered to be principal and interest requirements subject to the limitation set forth in subsections (5) and (6).

(8) In computing the maximum annual principal and interest requirements under subsection (6), the total outstanding maximum annual contributions required to be made by the state highway commission and the state transportation commission pursuant to contracts entered into under the authorization of section 18d, which contributions are pledged to the payment of bonds issued under section 18d, shall be included in the amount.

(9) The state transportation commission may borrow money and issue notes or bonds in anticipation of the receipt of grants from the United States of America or any agency or instrumentality thereof and may pledge for the payment of the principal, interest, and redemption premiums on such notes or bonds 1 or more of the following:

(a) The proceeds of any grant and any investment earnings or gain on the grant.

(b) If deemed advisable by the state transportation commission, money which is restricted as to use by section 9 of article IX of the state constitution of 1963, and which

is deposited or to be deposited in the comprehensive transportation fund, in the case of bonds or notes issued for comprehensive transportation purposes as defined by law, or in the state trunk line fund, in the case of bonds or notes issued for transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963.

(c) If deemed advisable by the state transportation commission, money received or to be received by the state from the sale of the bonds or notes described in this section to be issued after the issuance of the notes or bonds described in this subsection and any investment earnings or gain thereon.

(10) Bonds or notes may be issued under this section as separate issues or series with different dates of issuance, but the aggregate of the bonds or notes shall be subject to the limitations set forth in this section.

(11) The state transportation commission in determining to issue bonds or notes may do 1 or more of the following:

(a) Authorize and enter into insurance contracts, agreements for lines of credit, letters of credit, commitments to purchase obligations, remarketing agreements, reimbursement agreements, and any other transactions to provide security to assure timely payment of any bonds or notes.

(b) Authorize payment from the proceeds of the bonds or notes or other funds available, of the cost of issuance, including, but not limited to, fees for placement, fees or charges for insurance, letters of credit, lines of credit, remarketing agreements, reimbursement agreements, or purchase or sales agreements or commitments, or other agreements to provide security to assure timely payment of bonds or notes.

(c) Authorize principal and interest to be payable from 1 or more of the following:

(*i*) Money described in subsection (3)(a).

(*ii*) Proceeds of bonds or notes.

(*iii*) Earning on proceeds of bonds or notes or other funds held for payment of bonds or notes.

(*iv*) Proceeds of any other security provided to assure timely payment of the bonds or notes.

(*v*) Proceeds of federal grants and other money described in subsection (9).

(*vi*) Any combination of the sources described in subparagraphs (*i*) to (*v*).

(d) Authorize or provide for a person designated by the state transportation commission, but only within limitations which shall be contained in the authorization resolution of the state transportation commission, to do 1 or more of the following:

(*i*) Sell and deliver and receive payment for bonds or notes.

(*ii*) Refund bonds or notes by the delivery of new bonds or notes, whether or not the bonds or notes to be refunded have matured or are subject to redemption prior to maturity on the date of delivery of the refunding bonds or notes.

(*iii*) Deliver bonds or notes partly to refund bonds or notes and partly for any other authorized purposes.

(*iv*) Buy, hold without cancellation, or sell bonds or notes so issued.

(*v*) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, optional or mandatory redemption or tender rights and obligations to be exercised by the state transportation commission or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(e) In connection with outstanding bonds, notes, or other obligations issued under this act, or in connection with the issuance or proposed issuance of bonds, notes, or other indebtedness, the state transportation commission may authorize by resolution the execution and delivery of agreements providing for interest rate exchanges or swaps, hedges, or similar agreements. The obligations of this state under the agreements, including termination payments, may be made payable from and secured by a pledge of the same sources of funds as the bonds, notes, or other obligations in connection with which the agreements are entered into, or from any other sources of funds available as a payment source of bonds, notes, or other obligations issued under this act. In calculating debt service on bonds, notes, and other obligations, the payments and receipts under the agreements authorized by this subsection, without regard to termination payments, and the payment obligations under the bonds, notes, or other obligations in connection with which the agreements are entered into, shall be aggregated and treated as a single obligation.

(f) Bonds and notes issued under this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(g) The issuance of bonds and notes under this section is subject to the agency financing reporting act.

If additionally secured as provided in this subsection, the bonds or notes, notwithstanding other provisions of this act, may be made payable or subject to purchase on demand or prior to maturity at the option of the holder at the time and in the manner as determined by the state transportation commission or the designated person as provided in the resolution authorizing the bonds or notes. Any bonds or notes authorized by this section may bear no interest or interest at a rate or rates which may be variable but which shall be subject to the limitations provided in section 18e as provided in the resolution authorizing the obligations. If bonds or notes are subject to payment or purchase on demand or prior to maturity at the option of the holder, and the obligation of the state to make payment or effect purchases on demand or prior to maturity, at the option of the holder is limited to the proceeds of 1 or more of the additional security devices described in this subsection and is not payable from constitutionally restricted funds deposited in the comprehensive transportation fund or the state trunk line fund, for purposes of computing maximum annual principal and interest requirements under subsections (5) and (6), the principal and interest on the bonds or notes subject to payment or purchase on demand or prior redemption at the option of the holder shall be disregarded and the maximum annual principal and interest requirements which would arise with respect to the repayment of the proceeds of the additional security device shall be substituted therefor.

247.668e Bonds of governmental unit; maturities; interest; measuring maximum annual principal and interest requirements; certification of state transportation commission concerning average annual debt service requirements for certain obligations; "preservation" defined.

Sec. 18e. Except for bonds issued under section 18c, bonds issued by a governmental unit under this act shall be serial bonds with periodic maturities, or term bonds, with mandatory redemption requirements, or both serial and term bonds, the aggregate of which shall not exceed 30 years, the first of which shall fall due not more than 5 years from the date of issuance. Maturities shall be as established by the resolution or ordinance authorizing the bonds or notes, without regard to the useful lives of the projects financed from the proceeds of the bonds or notes. The bonds shall bear interest, taking into account

any discount or premium on the sale of the bonds, at a rate not exceeding the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, may be made redeemable before maturity on those terms and conditions, and with the premium as shall be provided by the proceedings authorizing their issuance. Outstanding and authorized bonds issued pursuant to this act may be treated as a single issue for the purpose of fixing maturities. If pursuant to 1952 PA 175, MCL 247.701 to 247.707, or in 1943 PA 143, MCL 141.251 to 141.254, the maximum annual principal and interest requirements on bonds issued by governmental units are required to be measured by reference to amounts received from the motor vehicle highway fund, the requirements shall be measured by the receipts from the motor vehicle highway fund, the Michigan transportation fund, or both funds, and if pursuant to this act the maximum annual principal and interest requirements on bonds or notes issued by governmental units are required to be measured by reference to amounts received from the Michigan transportation fund, the requirements shall be measured by the receipts from the motor vehicle highway fund, the Michigan transportation fund, or both funds. The state transportation commission shall certify, which certification shall, for purposes of the validity of bonds, notes, and other obligations, be conclusive as to the matters stated in the certification, to the state treasury on or before the issuance of any bonds, notes, or other obligations payable from and secured by a lien on the state trunk line fund, issued after July 1, 1983, pursuant to section 18b or 18d for purposes other than the preservation of highways, roads, streets, and bridges and for purposes other than the purposes specified in section 11(2)(b), (c), (d), (g), (h), and (i) that its average annual debt service requirements payable from and secured by a lien on the state trunk line fund for all bonds, notes, and other obligations, or portions of bonds, notes, and other obligations issued after July 1, 1983, for purposes other than the preservation of highways, roads, streets, and bridges and other than for the purposes specified in section 11(2)(b), (c), (d), (g), (h), and (i), including the bonds, notes, or other obligations to be issued does not exceed 10% of the state revenue appropriated to the state trunk line fund, less the amounts described in section 11(2)(a) to (i) during the last completed state fiscal year. The state transportation commission shall certify, which certification shall, for purposes of the validity of bonds, notes, or other certification, to the state treasury on or before the issuance of any bonds, notes, or other obligations issued after December 31, 2001, pursuant to section 18b(9) in anticipation of the receipt of grants from the United States or any agency or instrumentality of the United States for distributions to the credit of the state trunk line fund, and not payable from taxes deposited in the state trunk line fund, for purposes other than the preservation of highways, roads, streets, and bridges and for purposes other than the purposes specified in section 11(2)(b), (c), (f), and (i), that its average annual debt service requirements for all bonds, notes, and other obligations, or portions of bonds, notes, or other obligations issued after December 31, 2001, pursuant to section 18b(9) and not payable from taxes deposited in the state trunk line fund, for purposes other than the preservation of highways, roads, streets, and bridges and other than the purposes specified in section 11(2)(b), (c), (f), and (i), including the bonds, notes, or other obligations to be issued, do not exceed 10% of the federal revenue distributed to the credit of the state trunk line fund during the last completed state fiscal year. If the purpose for which the bonds, notes, or other obligations is issued is changed after the issuance of the bonds, notes, or other obligations, the change shall be made in a manner to maintain compliance with the certification required by the preceding sentence, as of the date the certificate was originally issued, but no change shall invalidate or otherwise affect the bonds, notes, or other obligations with respect to which the certificate was issued, or the obligation to pay debt service on the bonds, notes, or other obligations. As used in this section, "preservation" means preservation as defined in section 10c.

247.670a Contract for preservation of county local road system within township.

Sec. 20a. A board of county road commissioners in a county having a population of not less than 500,000 and the township board of a township having a population of not less than 40,000, as determined by the most recent statewide federal census, and which in the prior year and the contract year will have levied a property tax of not less than 1 mill on each dollar of assessed valuation of the township for the improvement or preservation of county roads within the township, may exercise the provisions of this section only by entering into a written contract of not more than 1 year providing for the preservation by the township of all or any part of the county local road system within that township, subject to, but not limited to, the following conditions:

(a) The contract shall specify the total amount of money that shall be annually expended by the contracting township for the preservation of the local road system or part thereof. The contracting road commission may pay not more than 75% of the amount specified in the contract to the contracting township annually. The contracting road commission shall not pay more than 66% of an amount equal to the average annual amount of funds expended by the county road commission on the local road system located within the contracting township for construction and preservation purposes over the previous 5-year period from local road funds received by the county under this act. Any funds expended by the contracting road commission on the local road system located within the contracting township in excess of 66% shall be matched by the contracting township. The amount paid the contracting township shall not directly or indirectly include moneys transferred from the primary fund allocation to the county as set forth in section 12(8).

(b) The contracting township shall keep separate accounts and accurate and uniform records on all road preservation work and funds, and shall file with the state highway commission and the contracting county road commission on or before April 1 of each year, on forms to be provided by the state highway commission, a report showing the disposition of funds received and expended for road purposes. The failure of a contracting township to apply moneys returned pursuant to this act to the purposes herein prescribed shall result in the forfeiture by the contracting county of any and all funds to which it may have been entitled under this act and all funds so forfeited shall thereafter be apportioned among the other county road commissions in the same manner and proportion as hereinbefore provided for the distribution of the motor vehicle highway fund.

(c) The contract shall require the contracting township to provide insurance covering the contracting road commission's liability for failure to preserve the local roads specified in the contract.

(d) The contracting road commission shall determine and specify the equipment and personnel necessary to provide the preservation as set forth in the contract, and the contract shall not take effect until the contracting township has acquired the necessary equipment and personnel so specified.

(e) As used in this section, the term "preservation" shall be construed to include the same meaning as set forth in section 10c. If the contracting parties intend to give a different meaning than as set forth in section 10c, the contract shall so specify.

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 499]

(HB 5396)

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 9a (MCL 247.659a), as amended by 1998 PA 308.

The People of the State of Michigan enact:

247.659a Definitions; transportation asset management council; creation; charge; membership; appointments; staff and technical assistance; requirements and procedures; technical advisory panel; multiyear program; funding; records on road and bridge work performed and funds expended; report.

Sec. 9a. (1) As used in this section:

(a) "Asset management" means an ongoing process of maintaining, upgrading, and operating physical assets cost-effectively, based on a continuous physical inventory and condition assessment.

(b) "Bridge" means a structure including supports erected over a depression or an obstruction, such as water, a highway, or a railway, for the purposes of carrying traffic or other moving loads, and having an opening measuring along the center of the roadway of

more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes where the clear distance between openings is less than 1/2 of the smaller contiguous opening.

(c) "Central storage data agency" means that agency or office chosen by the council where the data collected is stored and maintained.

(d) "Council" means the transportation asset management council created by this section.

(e) "County road commission" means the board of county road commissioners elected or appointed pursuant to section 6 of chapter IV of 1909 PA 283, MCL 224.6, or, in the case of a charter county with a population of 2,000,000 or more with an elected county executive that does not have a board of county road commissioners, the county executive for ministerial functions and the county commission provided for in section 14(1)(d) of 1966 PA 293, MCL 45.514, for legislative functions.

(f) "Department" means the state transportation department.

(g) "Federal-aid eligible" means any public road or bridge that is eligible for federal aid to be spent for the construction, repair, or maintenance of that road or bridge.

(h) "Local road agency" means a county road commission or designated county road agency or city or village that is responsible for the construction or maintenance of public roads within the state under this act.

(i) "Multiyear program" means a compilation of road and bridge projects anticipated to be contracted for by the department or a local road agency during a 3-year period.

(j) "State planning and development regions" means those agencies required by section 134(b) of title 23 of the United States Code, 23 U.S.C. 134, and those agencies established by Executive Directive 1968-1.

(2) In order to provide a coordinated, unified effort by the various roadway agencies within the state, the transportation asset management council is hereby created within the state transportation commission and is charged with advising the commission on a statewide asset management strategy and the processes and necessary tools needed to implement such a strategy beginning with the federal-aid eligible highway system, and once completed, continuing on with the county road and municipal systems, in a cost-effective, efficient manner. Nothing in this section shall prohibit a local road agency from using an asset management process on its non-federal-aid eligible system. The council shall consist of 10 voting members appointed by the state transportation commission. The council shall include 2 members from the county road association of Michigan, 2 members from the Michigan municipal league, 2 members from the state planning and development regions, 1 member from the Michigan townships association, 1 member from the Michigan association of counties, and 2 members from the department. Nonvoting members shall include 1 person from the agency or office selected as the location for central data storage. Each agency with voting rights shall submit a list of 2 nominees to the state transportation commission from which the appointments shall be made. The Michigan townships association shall submit 1 name, and the Michigan association of counties shall submit 1 name. Names shall be submitted within 30 days after the effective date of the 2002 amendatory act that amended this section. The state transportation commission shall make the appointments within 30 days after receipt of the lists.

(3) The positions for the department shall be permanent. The position of the central data storage agency shall be nonvoting and shall be for as long as the agency continues to serve as the data storage repository. The member from the Michigan association of counties shall be initially appointed for 2 years. The member from the Michigan townships

association shall be initially appointed for 3 years. Of the members first appointed from the county road association of Michigan, the Michigan municipal league, and the state planning and development regions, 1 member of each group shall be appointed for 2 years and 1 member of each group shall be appointed for 3 years. At the end of the initial appointment, all terms shall be for 3 years. The chairperson shall be selected from among the voting members of the council.

(4) The department shall provide qualified administrative staff and the state planning and development regions shall provide qualified technical assistance to the council.

(5) The council shall develop and present to the state transportation commission for approval within 90 days after the date of the first meeting such procedures and requirements as are necessary for the administration of the asset management process. This shall, at a minimum, include the areas of training, data storage and collection, reporting, development of a multiyear program, budgeting and funding, and other issues related to asset management that may arise from time to time. All quality control standards and protocols shall, at a minimum, be consistent with any existing federal requirements and regulations and existing government accounting standards.

(6) The council may appoint a technical advisory panel whose members shall be representatives from the transportation construction associations and related transportation road interests. The asset management council shall select members to the technical advisory panel from names submitted by the transportation construction associations and related transportation road interests. The technical advisory panel members shall be appointed for 3 years. The asset management council shall determine the research issues and assign projects to the technical advisory panel to assist in the development of statewide policies. The technical advisory panel's recommendations shall be advisory only and not binding on the asset management council.

(7) Beginning October 1, 2003, the department, each county road commission, and each city and village of this state shall annually prepare and publish a multiyear program, based on long-range plans, and developed through the use of the asset management process described in this section. Projects contained in each local road agency's annual multiyear program shall be consistent with the goals and objectives of the local road agency's long-range plan. A project, funded in whole or part, with state or federal funds, shall be included in any local road agency's multiyear plan.

(8) Funding necessary to support the activities described in this section shall be provided by an annual appropriation from the Michigan transportation fund to the state transportation commission.

(9) The department and each local road agency shall keep accurate and uniform records on all road and bridge work performed and funds expended for the purposes of this section, according to the procedures developed by the council. Each local road agency and the department shall annually report to the council the mileage and condition of the road and bridge system under their jurisdiction and the receipts and disbursements of road and street funds in the manner prescribed by the council, which shall be consistent with any current accounting procedures. An annual report shall be prepared by the staff assigned to the council regarding the results of activities conducted during the preceding year and the expenditure of funds related to the processes and activities identified by the council. The report shall also include an overview of the activities identified for the succeeding year. The council shall submit this report to the state transportation commission, the legislature, and the transportation committees of the house and senate by May 2 of each year.

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 500]

(SB 1314)

AN ACT to amend 2001 PA 34, entitled "An act relative to the borrowing of money and the issuance of certain debt and securities; to provide for tax levies and sinking funds; to prescribe powers and duties of certain departments, state agencies, officials, and employees; to impose certain duties, requirements, and filing fees upon political subdivisions of this state; to authorize the issuance of certain debt and securities; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 317, 403, 611, and 701 (MCL 141.2317, 141.2403, 141.2611, and 141.2701).

The People of the State of Michigan enact:

141.2317 Interest rate exchange or swap, hedge, or similar agreement; definitions.

Sec. 317. (1) For the purpose of more effectively managing its debt service, a municipality may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of debt or in connection with its then outstanding debt.

(2) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, a municipality may create a reserve fund for the payment of the exchange or swap, hedge, or similar agreement.

(3) An agreement entered into pursuant to this section shall not be included within the total debt of a municipality for any statutory or charter or other debt limitation purpose.

(4) If an interest rate exchange or swap, hedge, or similar agreement described in this section is entered into by a municipality in connection with debt that was not approved by the voters of the municipality, or in connection with a refunding of debt not originally approved by the voters of the municipality, 1 or more of the following apply:

(a) The interest under the agreement constitutes a limited tax full faith and credit pledge from general funds of the municipality.

(b) Subject to any existing contracts, the interest under the agreement shall be payable from any available money or revenue sources, including revenues that shall be specified by the agreement, securing the municipal security in connection with which the agreement is entered into.

(5) If an interest rate exchange or swap, hedge, or similar agreement described in this section is entered into by a municipality in connection with debt that was approved by the voters of the municipality, or in connection with a refunding of debt originally approved by the voters of the municipality, the municipality's interest payment obligation under the agreement shall be considered to be additional interest on the debt, shall constitute an unlimited tax full faith and credit pledge of the municipality, and the municipality shall levy all of the following:

(a) The full amount of taxes required, or in the case of a variable rate obligation the amount reasonably estimated to be required, for the payment of principal and interest on

the municipal securities without limitation as to rate or amount and in addition to other taxes that the municipality may be authorized to levy.

(b) The full amount of taxes required, or in the case of a variable rate obligation the amount reasonably estimated to be required, for the payment of the municipality's net interest obligation under an interest rate exchange or swap, hedge, or similar agreement entered into under this section.

(c) The amounts levied under subdivisions (a) and (b) shall be reduced by any surplus funds on hand in the debt retirement fund in excess of a reasonable reserve as determined by the municipality's chief financial officer.

(6) For purposes of this section, "net interest obligation" means the amount of interest payable by a municipality in a given year under an agreement entered into under this section minus any interest payment received by a municipality from the other party to the agreement in the same period under the agreement, but not less than zero. Termination payments shall constitute interest to the extent that the treatment does not cause the interest rate on the debt to exceed the limits established by this act.

(7) A municipality shall not enter into an agreement under this section unless all of the following conditions are met:

(a) The governing body of the municipality has, by resolution or ordinance, expressly approved the agreement and acknowledged the potential risks associated with the agreement.

(b) The counterparty to the agreement has been assigned a rating of "A" or better, or other rating as the department may determine, by a nationally recognized rating agency at the time the agreement is entered into.

(c) The length of the agreement does not extend beyond the final maturity date of the debt issued in connection with the agreement.

(d) The municipality shall not have waived its right to a jury trial.

(e) The municipality has created a debt management plan.

(f) The municipality has created a swap management plan.

(8) An agreement entered into under this section shall be described in the municipality's annual audit report filed under section 303(1).

(9) As used in this section:

(a) "Debt management plan" means a written debt management plan of the municipality that includes, but is not limited to, the following:

(*i*) Total amount of debt of the municipality.

(*ii*) Total amount of variable rate debt of the municipality.

(*iii*) Analysis of the effect of rising interest rates on variable rate holdings of the municipality.

(*iv*) Analysis of risk in maintaining variable risk holdings.

(b) "Swap management plan" means a written management plan that includes, but is not limited to, all of the following:

(*i*) Analysis of the benefits and costs of entering into swap agreements.

(*ii*) Analysis of the risk associated with entering into swap agreements.

(*iii*) Analysis of early termination, involuntary termination, default, and cost considerations associated with swap agreements.

(*iv*) System in place to monitor the status of all outstanding swap agreements.

141.2403 Resolution authorizing municipal security; tax levy provision; operating expenditures; limitation; set aside of taxes collected; tax installments; capital improvements; debt service charges.

Sec. 403. (1) If a municipality issues a municipal security in anticipation of the collection of the taxes for the next succeeding fiscal year, the resolution authorizing a municipal security shall contain an irrevocable provision for the levying of a tax in the next succeeding fiscal year for the purpose for which the municipal security is to be made and the repayment of the municipal security from the receipt of taxes.

(2) A municipality may issue the short-term municipal security described in subsection (1) to pay for operating expenditures. As used in this section, "operating expenditures" means 1 or more of the following:

(a) Necessary operating expenditures of the municipality that could not reasonably have been foreseen and adequately provided for in the tax levy for the then current fiscal year.

(b) Payment of an expenditure in the then current fiscal year that cannot be funded because of a delay in or failure of receipt of budgeted revenue.

(c) Payment of budgeted expenditures in the then current fiscal year that precede budgeted revenues.

(3) The amount of the municipal securities issued under this section to pay operating expenditures shall not exceed 50% of the operating tax levy for the current fiscal year, or if the operating tax levy for the next succeeding fiscal year is determined, then 50% of the levy for the next succeeding fiscal year. The authorizing resolution shall provide that from the first collections of the operating taxes for the next succeeding fiscal year, there shall be set aside in a special fund to be used for the payment of principal and interest on the tax anticipation municipal security, a portion of each dollar that is not less than 125% of the percentage that the principal amount of the municipal security bears to the amount of the operating taxes until the amount set aside is sufficient for the payment. If a municipality collects its taxes in installments and issues a municipal security in anticipation of more than 1 installment, the requirements of the preceding sentence shall apply to each installment of taxes. The collection of the taxes to be set aside shall not be used for any other purpose. If the municipality determines that issuing municipal securities for this purpose will result in a deficiency in the funds available to pay the necessary operating expenditures of the next succeeding fiscal year, the municipality shall levy additional taxes in the future from within constitutional, charter, and statutory limits to prevent a continuation of the deficiency from year to year.

(4) A municipality may issue a short-term municipal security described in subsection (1) to pay for 1 or more capital improvements that can be legally and properly provided for in the budget of the municipality for the fiscal year in which the municipality issues the short-term municipal security. The principal amount of the municipal security issued for this purpose shall not exceed the sum set forth in the authorizing resolution to be levied for the improvement. The authorizing resolution shall provide that from the first collection of taxes for the next succeeding fiscal year, there shall be set aside in a special fund to be used for the payment of principal and interest on the short-term municipal security that percentage of the collection that the tax levied for capital outlay bears to the total levy, and until the amount set aside is sufficient for the payment, collection of the taxes to be set aside shall not be used for any other purpose.

(5) A municipality may issue the short-term municipal security described in subsection (1) to pay debt service charges or obligations on municipal securities or agreements described in section 317(5).

141.2611 Refund of outstanding securities by issuance of refunding security; prohibition; exception; procedures; reasonable basis.

Sec. 611. (1) Except as provided in section 515 or subsection (2), a municipality shall not refund all or any part of its outstanding securities by issuing a refunding security unless the net present value of the principal and interest to be paid on the refunding security, including the cost of issuance, and taking into account an agreement entered into pursuant to section 317, is less than the net present value of the principal and interest to be paid on the outstanding security being refunded as calculated using a method approved by the department. However, when a municipality is issuing refunding securities for outstanding variable interest rate securities, as determined by the department the net present value calculation shall use the appropriate current fixed interest rate and the fixed interest rate that would have been available for the outstanding variable interest rate securities when originally issued if the outstanding variable interest rate securities had been issued as fixed interest rate securities or shall use another procedure determined by the department.

(2) A municipality may, under procedures established by the department, obtain an exception from the requirements of subsection (1) if the department determines a reasonable basis for that exception exists. As used in this subsection, reasonable basis means 1 or more of the following:

(a) The refunding is required by a state or federal agency.

(b) The refunding is necessary to reduce or eliminate requirements of ordinances or covenants applicable to the existing outstanding security.

(c) The refunding is necessary to avoid a potential default on an outstanding security.

(d) The refunding of a short-term municipal security issued under section 413.

141.2701 Annual tax levy; determination; limitation not applicable; adjustment in event of surplus funds; use of money remaining in debt retirement fund; priority; set aside of tax collections allocable to principal and interest payment; failure of officer to perform duties; "tax levy" defined.

Sec. 701. (1) Subject to subsection (3), if a municipality has municipal securities outstanding, or with the approval of its electors has authorized the issuance of municipal securities to be paid from collections of its next tax levy, an officer or official body charged with a duty in connection with the determination of the amount of the next taxes to be raised or with the levying of the next taxes, shall include all of the following in the amount of taxes levied each year:

(a) An amount such that the estimated collections will be sufficient to promptly pay, when due, the interest on all municipal securities and the portion of the principal falling due whether by maturity or by mandatory redemption before the time of the following year's tax collection.

(b) An amount, if there are outstanding mandatory redemption refunding securities, sufficient to provide the sum required to be deposited, by the ordinance or resolution authorizing the issue, into the sinking fund for that purpose before the time of the following year's tax collection.

(c) An amount, if there are outstanding mandatory redemption municipal securities other than refunding securities not required to be redeemed in annual amounts before the maturity of the outstanding mandatory redemption municipal securities, that if deposited annually into a sinking fund will, with the existing sinking fund pertaining to the

municipal securities and the increment of the municipal securities, be sufficient to pay the municipal securities at maturity.

(d) An amount necessary to pay debt service charges or obligations on municipal securities or agreements described in section 317(5) falling due in the immediately preceding fiscal year, to the extent that the tax levy in the preceding fiscal year was inadequate to pay, when due, the debt service charges or obligations on municipal securities or agreements described in section 317(5). The municipality shall do 1 or more of the following with the proceeds of the tax levy:

(*i*) Deposit in the debt retirement fund established for the municipal securities and used to pay debt service charges or obligations on municipal securities or agreements described in section 317(5).

(*ii*) Use to pay debt service on short-term municipal securities issued under section 403(5).

(*iii*) Use to reimburse the municipality for any advances of funds used for the purposes described in subparagraph (*i*) or (*ii*).

(2) Subsection (1) does not limit the amount required to be levied in a year for the purposes prescribed in that subsection, by the terms of an ordinance or resolution authorizing the issuance of the municipal securities.

(3) If the municipal securities were authorized or issued before December 23, 1978, or were approved by the electors of a municipality, the municipality shall levy the full amount of taxes required by this section for the payment of the municipal securities without limitation as to rate or amount and in addition to other taxes that the municipality may be authorized to levy. If the municipal securities were authorized or issued by a municipality after December 22, 1978, and were not approved by the electors of the municipality, the municipality shall set aside each year from the levy and collection of ad valorem taxes as required by this section as a first budget obligation for the payment of the municipal securities. However, the ad valorem taxes shall be subject to applicable charter, statutory, or constitutional rate limitations.

(4) If there is surplus money on hand for the payment of principal or interest at the time of making an annual tax levy, and provision has not been made in the authorizing resolution for the disposition of that money, the annual levy for principal or interest shall be adjusted to reflect available funds.

(5) Money remaining in a debt retirement fund from the levy of a tax or an account within a debt retirement fund from the levy of a tax after the retirement of all municipal securities payable from that fund shall be used in the following order of priority:

(a) To pay other outstanding unlimited tax full faith and credit municipal securities.

(b) To pay other outstanding limited tax full faith and credit municipal securities.

(c) To be deposited in the general fund of the municipality.

(6) As taxes are collected, there shall be set aside that portion of the collections that is allocable to the payment of the principal and interest on the municipal securities. The portion set aside shall be divided pro rata among the various sinking funds and debt retirement funds in accordance with the amount levied for that purpose. Tax collections paid into a debt retirement fund, if the fund is for the payment of more than 1 issue of municipal securities, shall be allocated on the books and records of the municipality between the various issues in accordance with the amounts levied for that purpose.

(7) An officer who willfully fails to perform duties required by this section is personally liable to the municipality or to a holder of a municipal security for loss or damage arising from his or her failure.

(8) As used in this section, "tax levy" includes special assessments.

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 501]

(SB 356)

AN ACT to amend 1951 PA 33, entitled "An act to provide police and fire protection for townships and for certain areas in townships, certain incorporated villages, and cities under 15,000 population; to authorize contracting for fire and police protection; to authorize the purchase of fire and police equipment, and the maintenance and operation of the equipment; to provide for defraying the cost of the equipment; to authorize the creation of special assessment districts and the levying and collecting of special assessments; to authorize the issuance of special assessment bonds in anticipation of the collection of special assessments and the advancement of the amount necessary to pay such bonds, and to provide for reimbursement for such advances by reassessment if necessary; to authorize the collection of fees for certain emergency services in townships and other municipalities; to authorize the creation of administrative boards and to prescribe their powers and duties; to provide for the appointment of traffic officers and to prescribe their powers and duties; and to repeal certain acts and parts of acts," by amending section 1 (MCL 41.801), as amended by 1998 PA 545.

The People of the State of Michigan enact:

41.801 Purchase of police and fire motor vehicles, apparatus, equipment, and housing; appropriation; special assessment; bonds; election; estimate of cost and expenses; special assessment district; hearing; publication or posting of notice; distribution of special assessment levy; transfer or loan of money from general fund; repayment; exercise of powers; assessment after December 31, 1998; "taxable value" defined; finding of invalid assessment; bonds subject to revised municipal finance act.

Sec. 1. (1) The township board of a township, or the township boards of adjoining townships acting jointly, whether or not the townships are located in the same county, may purchase police and fire motor vehicles, apparatus, equipment, and housing and for that purpose may provide by resolution for the appropriation of general or contingent funds. Before January 1, 1999, the appropriation for fire motor vehicles, apparatus, equipment, and housing in a 1-year period shall not exceed 10 mills of the assessed valuation of the area in their respective townships for which fire protection is to be furnished. After December 31, 1998, the appropriation for fire motor vehicles, apparatus, equipment, and housing in a 1-year period shall not exceed 10 mills of the taxable value of the area in their respective townships for which fire protection is to be furnished. Before January 1, 1999, the appropriation for police motor vehicles, apparatus, equipment, and housing in a 1-year period shall not exceed 10 mills of the assessed valuation of the area in their respective townships for which police protection is to be furnished. After December 31, 1998, the appropriation for police motor vehicles, apparatus, equipment, and

housing in a 1-year period shall not exceed 10 mills of the taxable value of the area in their respective townships for which police protection is to be furnished.

(2) The township board of a township, or the township boards of adjoining townships acting jointly, whether or not the townships are located in the same county, may provide annually by resolution for the appropriation of general or contingent funds for maintenance and operation of police and fire departments.

(3) The township board, or the township boards of adjoining townships acting jointly, may provide that the sums prescribed in subsection (2) for purchasing and housing equipment, for the operation of the equipment, or both, may be defrayed by special assessment on the lands and premises in the township or townships to be benefited, except, beginning in 2002, lands and premises exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, and may issue bonds in anticipation of the collection of these special assessments. The question of raising money by special assessment may be submitted to the electors of the township or townships by the township board, or township boards acting jointly, at a general election or special election called for that purpose by the township board or township boards. The question of raising money by special assessment shall be submitted by the township board, or township boards acting jointly, if in the affected township, or in each of the affected townships, the owners of 10% of the land to be made into a special assessment district petition the township board or boards.

(4) If a special assessment district is proposed under subsection (3), the township board, or township boards acting jointly, shall estimate the cost and expenses of the police and fire motor vehicles, apparatus, equipment, and housing and police and fire protection, and fix a day for a hearing on the estimate and on the question of creating a special assessment district and defraying the expenses of the special assessment district by special assessment on the property to be especially benefited, except, beginning in 2002, property exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. The hearing shall be a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. In addition, the township board, or township boards acting jointly, shall publish in a newspaper of general circulation in the proposed district a notice stating the time, place, and purpose of the meeting. If there is not a newspaper of general circulation in the proposed district, notices shall be posted in not less than 3 of the most public places in the proposed district. This notice shall be published or posted not less than 5 days before the hearing. On the day appointed for the hearing, the township board, or township boards acting jointly, shall be in session to hear objections that may be offered against the estimate and the creation of the special assessment district. Before January 1, 1999, if the township board, or township boards acting jointly, determine to create a special assessment district, they shall determine the boundaries by resolution, determine the amount of the special assessment levy, and direct the supervisor or supervisors to spread the assessment levy on all of the lands and premises in the district that are to be especially benefited by the police and fire protection, according to benefits received, except, beginning in 2002, lands and premises exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, to defray the expenses of police and fire protection. After December 31, 1998, if the township board, or township boards acting jointly, determine to create a special assessment district, they shall determine the boundaries by resolution, determine the amount of the special assessment levy, and direct the supervisor or supervisors to spread the assessment levy on the taxable value of all of the lands and premises in the district that are to be especially

benefited by the police and fire protection, according to benefits received, except, beginning in 2002, lands and premises exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, to defray the expenses of police and fire protection. The township board, or township boards acting jointly, shall hold a hearing on objections to the distribution of the special assessment levy. This hearing shall be held in the same manner and with the same notice as provided in this section. The township board, or township boards acting jointly, shall annually determine the amount to be assessed in the district for police and fire protection, shall direct the supervisor or supervisors to distribute the special assessment levy, and shall hold a hearing on the estimated costs and expenses of police and fire protection and on the distribution of the levy. The assessment may be made either in a special assessment roll or in a column provided in the regular tax roll. The assessment shall be distributed and shall become due and be collected at the same time as other township taxes are assessed, levied, and collected, and shall be returned in the same manner for nonpayment. If a township has a July property tax levy, not more than 2 mills of the assessment may be collected at the same time and in the same manner as the July levy. If the collections received from the special assessment levied to defray the cost or portion intended to be defrayed for police and fire protection are, at any time, insufficient to meet the obligations or expenses incurred for the maintenance and operation of the police and fire departments, the township board of the township, or township boards acting jointly, may, by resolution, authorize the transfer or loan of sufficient money from the general fund of the township or townships, to the special assessment police and fire department fund. This money shall be repaid to the general fund of the township or townships out of special assessment funds when collected.

(5) The powers granted by this act with respect to police and fire protection may be exercised with respect to police protection alone, fire protection alone, or police and fire protection in combination.

(6) After December 31, 1998, an ad valorem special assessment levied under this act shall be levied on the taxable value of the property assessed.

(7) As used in this section, "taxable value" means that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(8) If the levy of an ad valorem special assessment on the property's taxable value is found to be invalid by a court of competent jurisdiction, the levy of the ad valorem special assessment shall be levied on the property's state equalized value.

(9) Bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

This act is ordered to take immediate effect.
Approved July 13, 2002.
Filed with Secretary of State July 15, 2002.

[No. 502]

(SB 1359)

AN ACT to amend 1953 PA 232, entitled "An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and

probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending sections 25a and 36a (MCL 791.225a and 791.236a), section 25a as added by 1993 PA 184 and section 36a as amended by 1993 PA 346.

The People of the State of Michigan enact:

791.225a Supervision fees; collection; records; payment; waiver; determination; allocation of money collected for other obligations; administrative costs; enhanced services; unpaid amounts.

Sec. 25a. (1) The department shall collect supervision fees ordered under section 13(2) of chapter II or section 1 or 3c of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 762.13, 771.1, and 771.3c. The department shall maintain records of supervision fees ordered by the court, including records of payment by persons subject to supervision fees and any amounts of supervision fees past due and owing.

(2) A supervision fee is payable when the order of delayed sentence or order of probation is entered, unless the court allows a person who is subject to a supervision fee to pay the fee in monthly installments.

(3) The department shall waive any applicable supervision fee for a person who is transferred to another state under the interstate compact entered into pursuant to 1935 PA 89, MCL 798.101 to 798.103, or the interstate compact entered into pursuant to 2002 PA 40, MCL 3.1011 to 3.1012, for the months during which he or she is in another state. The department shall collect a supervision fee of not more than $135.00 per month for each month of supervision in this state for an offender transferred to this state under an interstate compact. In determining the amount of the fee, the department shall consider the offender's projected income and financial resources. The department shall use the following table of projected monthly income in determining the amount of the fee:

Projected Monthly Income	Amount of Fee
$ 0-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$ 1,000.00 or more	5% of monthly income, but not more than $135.00

The department may collect a higher amount than indicated by the table, up to the maximum of $135.00 for each month of supervision in this state, if the department determines that the offender has sufficient assets or other financial resources to warrant the higher amount. If the department collects a higher amount, the amount and the reasons for collecting that amount shall be stated in the department records.

(4) If a person who is subject to a supervision fee is also subject to any combination of fines, costs, restitution orders, assessments, or payments arising out of the same criminal proceeding, the allocation of money collected for those obligations shall be as otherwise provided in the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(5) Twenty percent of the money collected by the department under this section shall be allocated for administrative costs incurred by the department in collecting supervision fees and for enhanced services, as described in this subsection. Enhanced services include, but are not limited to, the purchase of services for offenders such as counseling, employment training, employment placement, or education; public transportation expenses related to training, counseling, or employment; enhancement of staff performance through specialized training and equipment purchase; and purchase of items for offender employment. The department shall develop priorities for expending the money for enhanced services in consultation with circuit judges in this state. At the end of each fiscal year, the unexpended balance of the money allocated for administrative costs and enhanced services shall be available for carryforward to be used for the purposes described in this subsection in subsequent fiscal years.

(6) If a person has not paid the full amount of a supervision fee upon being discharged from probation, or upon termination of the period of delayed sentence for a person subject to delayed sentence, the department shall review and compare the actual income of the person during the period of probation or delayed sentence with the income amount projected when the supervision fee was ordered. If the department determines that the person's actual income did not equal or exceed the projected income, the department shall waive any unpaid amount in excess of the total amount that the person would have been ordered to pay if the person's income had been accurately projected, unless the court order states that a higher amount was ordered due to available assets or other financial resources. Any unpaid amounts not waived by the department shall be reported to the department of treasury. The department of treasury shall attempt to collect the unpaid balances pursuant to section 30a of 1941 PA 122, MCL 205.30a. Money collected under this subsection shall not be allocated for the purposes described in subsection (5).

791.236a Collection of supervision fee by parole board; limitation; payment; determination of amount; allocation of money collected for other obligations; waiver of fee; determination and collection of fee for offender transferred to state under interstate compact; administrative costs; unpaid amounts.

Sec. 36a. (1) The parole board shall include in each order of parole that the department of corrections shall collect a parole supervision fee of not more than $135.00 multiplied by the number of months of parole ordered, but not more than 60 months. The fee is payable when the parole order is entered, but the fee may be paid in monthly installments if the parole board approves installment payments for that parolee. In determining the amount of the fee, the parole board shall consider the parolee's projected income and financial resources. The parole board shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

Projected Monthly Income	Amount of Fee
$ 0-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$ 1,000.00 or more	5% of monthly income, but not more than $135.00

The parole board may order a higher amount than indicated by the table, up to the maximum of $135.00 multiplied by the number of months of parole ordered but not more than 60 months, if the parole board determines that the parolee has sufficient assets or other financial resources to warrant the higher amount. If the parole board orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the parole order.

(2) If a person who is subject to a supervision fee is also subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal proceeding, the allocation of money collected for those obligations shall be as provided in section 22 of chapter XV of the code of criminal procedure, 1927 PA 175, MCL 775.22.

(3) A person shall not be subject to more than 1 parole supervision fee at the same time. If a parole supervision fee is ordered for a parolee for any month or months during which that parolee already is subject to a parole supervision fee, the department shall waive the fee having the shorter remaining duration.

(4) The department shall waive the parole supervision fee for a parolee who is transferred to another state under the interstate compact entered into pursuant to 1935 PA 89, MCL 798.101 to 798.103, or the interstate compact entered into pursuant to 2002 PA 40, MCL 3.1011 to 3.1012, for the months during which he or she is in another state. The department shall collect a parole supervision fee of not more than $135.00 per month for each month of parole supervision in this state for an offender transferred to this state under an interstate compact. In determining the amount of the fee, the department shall consider the parolee's projected income and financial resources. The department shall use the following table of projected monthly income in determining the amount of the fee:

Projected Monthly Income	Amount of Fee
$ 0-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$ 1,000.00 or more	5% of monthly income, but not more than $135.00

The department may collect a higher amount than indicated by the table, up to the maximum of $135.00 for each month of parole supervision in this state, if the department determines that the parolee has sufficient assets or other financial resources to warrant the higher amount. If the department collects a higher amount, the amount and the reasons for collecting that amount shall be stated in the department records.

(5) Twenty percent of the money collected by the department under this section shall be allocated for administrative costs incurred by the department in collecting parole supervision fees and for enhanced services, as described in this subsection. Enhanced services include, but are not limited to, the purchase of services for parolees such as counseling, employment training, employment placement, or education; public transportation expenses related to training, counseling, or employment; enhancement of staff performance through specialized training and equipment purchase; and purchase of items for parolee employment. At the end of each fiscal year, the unexpended balance of the money allocated for administrative costs and enhanced services shall be available for carry-forward to be used for the purposes described in this subsection in subsequent fiscal years.

(6) If a parolee has not paid the full amount of the parole supervision fee upon being discharged from parole, the department shall review and compare the actual income of the person during the period of parole with the income amount projected when the parole supervision fee was ordered. If the department determines that the parolee's actual

income did not equal or exceed the projected income, the department shall waive any unpaid amount in excess of the total amount that the parolee would have been ordered to pay if the parolee's income had been accurately projected, unless the parole order states that a higher amount was ordered due to available assets or other financial resources. Any unpaid amounts not waived by the department shall be reported to the department of treasury. The department of treasury shall attempt to collect the unpaid balances pursuant to section 30a of 1941 PA 122, MCL 205.30a. Money collected under this subsection shall not be allocated for the purposes described in subsection (5).

This act is ordered to take immediate effect.
Approved July 15, 2002.
Filed with Secretary of State July 16, 2002.

[No. 503]

(HB 5248)

AN ACT to amend 1993 PA 327, entitled "An act to provide for a tax upon the sale and distribution of tobacco products; to regulate and license manufacturers, wholesalers, secondary wholesalers, vending machine operators, unclassified acquirers, transportation companies, transporters, and retailers of tobacco products; to prescribe the powers and duties of the revenue division and the department of treasury in regard to tobacco products; to provide for the administration, collection, and disposition of the tax; to provide for the enforcement of this act; to provide for the appointment of special investigators as peace officers for the enforcement of this act; to prescribe penalties and provide remedies for the violation of this act; and to repeal acts and parts of acts," by amending sections 7 and 12 (MCL 205.427 and 205.432), as amended by 1997 PA 187, and by adding section 6c.

The People of the State of Michigan enact:

205.426c Acquisition of cigarettes from nonparticipating manufacturer.

Sec. 6c. (1) A nonparticipating manufacturer shall by April 30 of each year certify to the department that it is not a participant in the master settlement agreement and that it has performed its obligation to establish a qualified escrow account and deposited funds into that account under 1999 PA 244, MCL 445.2051 to 445.2052.

(2) The certification of compliance shall be on a form prescribed by the department, shall contain all of the information requested on the form, and shall include a list of all brand names of cigarettes sold by the nonparticipating manufacturer for consumption in this state during the calendar year immediately preceding the certification date.

(3) A nonparticipating manufacturer shall provide a copy of the certification of compliance to the attorney general and any wholesaler, unclassified acquirer, or other person to whom the nonparticipating manufacturer makes a sale of its cigarettes for subsequent sale in this state.

(4) A wholesaler, unclassified acquirer, or other person who is provided with a certification of compliance under this section shall retain the certification of compliance for not less than 4 years from the date the certification of compliance was received.

(5) A wholesaler or unclassified acquirer shall report to the department all cigarettes that it acquires that were manufactured by a nonparticipating manufacturer. A wholesaler or unclassified acquirer that has not voluntarily submitted annual reports described in this subsection for periods beginning December 28, 1999 shall file those reports with the department within 60 days of the effective date of the amendatory act that added this section. The report shall be on a form prescribed by the department and attached to the return required under section 7. A wholesaler or unclassified acquirer that has not acquired any cigarettes from a nonparticipating manufacturer shall file the report with the return required under section 7 stating that it has not purchased, acquired, exported, or returned cigarettes related to a nonparticipating manufacturer. The information contained in this report is for the purposes of enforcing 1999 PA 244, MCL 445.2051 to 445.2052, and does not constitute information obtained in connection with the administration of a tax under section 28(1)(f) of 1941 PA 122, MCL 205.28. A wholesaler or unclassified acquirer shall retain a copy of the report for not less than 4 years from the date the report was filed with the department. If a wholesaler or unclassified acquirer does not file a report or knowingly files an incomplete or inaccurate report under this subsection, the department may do 1 or more of the following:

(a) Assess a penalty under this section.

(b) Prohibit the wholesaler or unclassified acquirer from obtaining cigarette stamps from the department until a complete and accurate report is filed.

(c) Revoke the wholesaler's or unclassified acquirer's license under section 5, only after conducting a hearing.

(6) A nonparticipating manufacturer that has not provided the certification of compliance required by this section shall not make a sale of cigarettes in this state or a sale within or outside this state to any person for sale, distribution, or consumption in this state.

(7) A person shall not purchase, acquire, possess, or sell cigarettes acquired from or manufactured by a nonparticipating manufacturer that has not provided the certification of compliance to the department as required under this section and that has not provided the person with a copy of the certification of compliance if required to do so under subsection (3).

(8) The department shall maintain and regularly update a list of participating manufacturers and nonparticipating manufacturers that have provided the certification of compliance required under this section. The department shall publish the list on its website and provide a copy of the list to a person upon request.

(9) If a wholesaler or unclassified acquirer receives a certification of compliance from a nonparticipating manufacturer that is not included in the list maintained by the department, the wholesaler or unclassified acquirer shall within 10 business days after receiving the certification of compliance provide a copy of the certification of compliance and the name and address of the nonparticipating manufacturer to the department.

(10) Thirty days after the department posts on its website and provides wholesalers and unclassified acquirers a notice of a second or subsequent knowing violation of a provision of 1999 PA 244, MCL 445.2051 to 445.2052, or a notice of a judgment the department has against a nonparticipating manufacturer, the department may seize or confiscate from any person any cigarettes in that person's possession that were acquired from or manufactured by that nonparticipating manufacturer. Beginning May 1, 2003, the department may seize or confiscate from any person any cigarettes in that person's possession that were acquired from or manufactured by a nonparticipating manufacturer if that nonparticipating manufacturer has not provided the certification required by this

section. Seizure, confiscation, forfeiture, and sale of cigarettes under this section shall be accomplished under section 9.

(11) The department may impose on any person a civil fine not to exceed $1,000.00 for each violation of this section. The civil fine is in addition to all other fines or penalties imposed by this act or 1941 PA 122, MCL 205.1 to 205.31.

(12) As used in this section:

(a) "Cigarette" means that term as defined in 1999 PA 244, MCL 445.2051 to 445.2052.

(b) "Nonparticipating manufacturer" means a manufacturer of cigarettes that is not a participating manufacturer as that term is defined in 1999 PA 244, MCL 445.2051 to 445.2052. Nonparticipating manufacturer also includes the first purchaser of cigarettes manufactured outside the United States for resale in the United States.

205.427 Levy of tax on sale of tobacco products; filing return; payment of tax; inventory; importation or acquisition of tobacco product; tax abatement or refund; reimbursement by adding to price of tobacco product; sale or transfer of unaffixed stamps by wholesaler or unclassified acquirer; prohibition; return or exchange of unaffixed stamps; inspection; reports.

Sec. 7. (1) Beginning May 1, 1994, a tax is levied on the sale of tobacco products sold in this state as follows:

(a) Through July 31, 2002, for cigars, noncigarette smoking tobacco, and smokeless tobacco, 16% of the wholesale price.

(b) For cigarettes, 37.5 mills per cigarette.

(c) Beginning August 1, 2002, for cigarettes, in addition to the tax levied in subdivision (b), an additional 15 mills per cigarette.

(d) Beginning August 1, 2002, for cigarettes, in addition to the tax levied in subdivisions (b) and (c), an additional 10 mills per cigarette.

(e) Beginning August 1, 2002, for cigars, noncigarette smoking tobacco, and smokeless tobacco, 20% of the wholesale price.

(2) On or before the twentieth day of each calendar month, every licensee under section 3 other than a retailer, secondary wholesaler, unclassified acquirer licensed as a manufacturer, or vending machine operator shall file a return with the department stating the wholesale price of each tobacco product other than cigarettes purchased, the quantity of cigarettes purchased, the wholesale price charged for all tobacco products other than cigarettes sold, the number of individual packages of cigarettes and the number of cigarettes in those individual packages, and the number and denominations of stamps affixed to individual packages of cigarettes sold by the licensee for each place of business in the preceding calendar month. The return shall also include the number and denomination of unaffixed stamps in the possession of the licensee at the end of the preceding calendar month. Wholesalers shall also report accurate inventories of cigarettes, both stamped and unstamped at the end of the preceding calendar month. Wholesalers and unclassified acquirers shall also report accurate inventories of affixed and unaffixed stamps by denomination at the beginning and end of each calendar month and all stamps acquired during the preceding calendar month. The return shall be signed under penalty of perjury. The return shall be on a form prescribed by the department and shall contain or be accompanied by any further information the department requires.

(3) To cover the cost of expenses incurred in the administration of this act, at the time of the filing of the return, the licensee shall pay to the department the tax levied in

subsection (1) for tobacco products sold during the calendar month covered by the return, less compensation equal to both of the following:

(a) One percent of the total amount of the tax due on tobacco products sold other than cigarettes.

(b) Through July 31, 2002, 1.25% of the total amount of the tax due on cigarettes sold.

(c) Beginning August 1, 2002, 1.5% of the total amount of the tax due on cigarettes sold.

(4) Every licensee and retailer who, on August 1, 2002, has on hand for sale any cigarettes upon which a tax has been paid pursuant to subsection (1)(b) shall file a complete inventory of those cigarettes before September 1, 2002 and shall pay to the department at the time of filing this inventory a tax equal to the difference between the tax imposed in subsection (1)(b), (c), and (d) and the tax that has been paid under subsection (1)(b). Every licensee and retailer who, on August 1, 2002, has on hand for sale any cigars, noncigarette smoking tobacco, or smokeless tobacco upon which a tax has been paid pursuant to subsection (1)(a) shall file a complete inventory of those cigars, noncigarette smoking tobacco, and smokeless tobacco before September 1, 2002 and shall pay to the department at the time of filing this inventory a tax equal to the difference between the tax imposed in subsection (1)(e) and the tax that has been paid under subsection (1)(a).

(5) The department may require the payment of the tax imposed by this act upon the importation or acquisition of a tobacco product. A tobacco product for which the tax under this act has once been imposed and that has not been refunded if paid is not subject upon a subsequent sale to the tax imposed by this act.

(6) An abatement or refund of the tax provided by this act may be made by the department for causes the department considers expedient. The department shall certify the amount and the state treasurer shall pay that amount out of the proceeds of the tax.

(7) A person liable for the tax may reimburse itself by adding to the price of the tobacco products an amount equal to the tax levied under this act.

(8) A wholesaler, unclassified acquirer, or other person shall not sell or transfer any unaffixed stamps acquired by the wholesaler or unclassified acquirer from the department. A wholesaler or unclassified acquirer who has any unaffixed stamps on hand at the time its license is revoked or expires, or at the time it discontinues the business of selling cigarettes, shall return those stamps to the department. The department shall refund the value of the stamps, less the appropriate discount paid.

(9) If the wholesaler or unclassified acquirer has unsalable packs returned from a retailer, secondary wholesaler, vending machine operator, wholesaler, or unclassified acquirer with stamps affixed, the department shall refund the amount of the tax less the appropriate discount paid. If the wholesaler or unclassified acquirer has unaffixed unsalable stamps, the department shall exchange with the wholesaler or unclassified acquirer new stamps in the same quantity as the unaffixed unsalable stamps. An application for refund of the tax shall be filed on a form prescribed by the department for that purpose, within 4 years from the date the stamps were originally acquired from the department. A wholesaler or unclassified acquirer shall make available for inspection by the department the unused or spoiled stamps and the stamps affixed to unsalable individual packages of cigarettes. The department may, at its own discretion, witness and certify the destruction of the unused or spoiled stamps and unsalable individual packages of cigarettes that are not returnable to the manufacturer. The wholesaler or unclassified acquirer shall provide certification from the manufacturer for any unsalable individual packages of cigarettes that are returned to the manufacturer.

(10) On or before the twentieth of each month, each manufacturer shall file a report with the department listing all sales of tobacco products to wholesalers and unclassified acquirers during the preceding calendar month and any other information the department finds necessary for the administration of this act. This report shall be in the form and manner specified by the department.

(11) Each wholesaler or unclassified acquirer shall submit to the department an unstamped cigarette sales report on or before the twentieth day of each month covering the sale, delivery, or distribution of unstamped cigarettes during the preceding calendar month to points outside of Michigan. A separate schedule shall be filed for each state, country, or province into which shipments are made. For purposes of the report described in this subsection, "unstamped cigarettes" means individual packages of cigarettes that do not bear a Michigan stamp. The department may provide the information contained in this report to a proper officer of another state, country, or province reciprocating in this privilege.

205.432 Disposition of proceeds from taxes, fees, and penalties.

Sec. 12. (1) The proceeds derived from the payment of taxes, fees, and penalties provided for under this act and the license fees received by the department shall be deposited with the state treasurer and disbursed only as provided in this section.

(2) The tax imposed under section 7(1)(a) shall be disbursed as follows:

(a) 94% of the proceeds shall be credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(b) 6% of the proceeds shall be credited to the healthy Michigan fund created under section 5953 of the public health code, 1978 PA 368, MCL 333.5953.

(3) The tax imposed on cigarettes under section 7(1)(b) shall be disbursed as follows:

(a) Beginning May 1, 1994, 5.3% of the proceeds shall be credited to the health and safety fund created in the health and safety fund act, 1987 PA 264, MCL 141.471 to 141.479.

(b) 25.3% of the proceeds shall be credited to the general fund of this state.

(c) 63.4% of the proceeds shall be credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(d) 6% of the proceeds shall be credited to the healthy Michigan fund created under section 5953 of the public health code, 1978 PA 368, MCL 333.5953.

(4) Beginning August 1, 2002, the tax imposed on cigarettes under section 7(1)(c) shall be disbursed as follows:

(a) 74.2% of the proceeds shall be credited to the general fund of this state. However, beginning October 1, 2004 and through September 30, 2007, the proceeds described in this subdivision shall be credited to the countercyclical budget and economic stabilization fund created under section 351 of the management and budget act, 1984 PA 431, MCL 18.1351.

(b) 4.6% of the proceeds shall be credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(c) 6.0% of the proceeds shall be credited to the healthy Michigan fund created under section 5953 of the public health code, 1978 PA 368, MCL 333.5953.

(d) 3.0% of the proceeds shall be paid to counties with a 2000 population of more than 2,000,000, to be used only for indigent health care.

(e) 12.2% of the proceeds shall be credited to the medicaid benefits trust fund created under section 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

(5) Beginning August 1, 2002, the tax imposed under section 7(1)(e) shall be disbursed as follows:

(a) 75.6% of the proceeds shall be credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(b) 6.0% of the proceeds shall be credited to the healthy Michigan fund created under section 5953 of the public health code, 1978 PA 368, MCL 333.5953.

(c) 18.4% of the proceeds shall be credited to the general fund of this state. However, beginning October 1, 2004 and through September 30, 2007, the proceeds described in this subdivision shall be credited to the countercyclical budget and economic stabilization fund created under section 351 of the management and budget act, 1984 PA 431, MCL 18.1351.

(6) Beginning August 1, 2002, the tax imposed on cigarettes under section 7(1)(d) shall be disbursed as follows:

(a) 94.0% of the proceeds shall be credited to the state school aid fund established by section 11 of article IX of the state constitution of 1963.

(b) 6.0% of the proceeds shall be credited to the healthy Michigan fund created under section 5953 of the public health code, 1978 PA 368, MCL 333.5953.

(7) The proceeds of the fees and penalties provided for in this act shall be used for the administration of this act.

This act is ordered to take immediate effect.
Approved July 18, 2002.
Filed with Secretary of State July 18, 2002.

[No. 504]

(HB 5883)

AN ACT to amend 1984 PA 431, entitled "An act to prescribe the powers and duties of the department of management and budget; to define the authority and functions of its director and its organizational entities; to authorize the department to issue directives; to provide for the capital outlay program; to provide for the leasing, planning, constructing, maintaining, altering, renovating, demolishing, conveying of lands and facilities; to provide for centralized administrative services such as purchasing, payroll, record retention, data processing, and publishing and for access to certain services; to provide for a system of internal accounting and administrative control for certain principal departments; to provide for an internal auditor in certain principal departments; to provide for certain powers and duties of certain state officers and agencies; to codify, revise, consolidate, classify, and add to the powers, duties, and laws relative to budgeting, accounting, and the regulating of appropriations; to provide for the implementation of certain constitutional provisions; to create funds and accounts; to make appropriations; to prescribe remedies and penalties; to rescind certain executive reorganization orders; to prescribe penalties; and to repeal certain acts and parts of acts," by amending sections 237, 353c, and 358 (MCL 18.1237, 18.1353c, and 18.1358), section 237 as amended by 1999 PA 8, section 353c

as amended by 2001 PA 161, and section 358 as amended by 2000 PA 189, and by adding section 237b.

The People of the State of Michigan enact:

18.1237 Acquisition, construction, lease purchase, improvement, or demolition of facilities; studies, designs, plans, specifications, and contract documents; employment and duties of architects and professional engineers; quality control; independent testing services; final approval; review by attorney general.

Sec. 237. (1) For state agency capital outlay projects or facilities, the department is responsible for development, oversight, review, and approval of program statements, studies, designs, plans, management, specifications, contract documents, construction management, and construction, relative to the acquisition, construction, lease purchase, improvement, demolition, or other capital outlay projects for state agencies for which an appropriation or other authorization has been made.

(2) The department shall approve the award, selection, and employment of architects, professional engineers, construction managers, and other design or construction professional services contractors, subject to section 237b and rules of the department of civil service, to do all of the following:

(a) Prepare program statements, studies, designs, plans, and specifications for the construction of, repairing of, making additions to, remodeling or demolition of, lease purchase of, or acquisition of state facilities.

(b) Administer construction work, including resident inspectors, on-site management, and supervision of construction projects.

(3) The department may obtain independent testing services to provide quality control of work performed on facilities.

(4) Prior to state building authority financing, the department shall provide final approval of the capital outlay project to ensure compliance with the authorized program, plans, and specifications.

(5) The attorney general shall review all standard lease and lease purchase agreement formats and approve any exceptions to the standard formats and may assess a fee for legal services pursuant to an agreement with the department.

18.1237b Architects, professional engineers, professional surveyors, and qualified firms; selection.

Sec. 237b. The selection of architects, professional engineers, professional surveyors, and qualified firms shall be made in accordance with competitive, qualifications-based selection processes and procedures for the type of professional service required by the department.

18.1353c Appropriation of amounts to pay certain court settlements and purchase certain mineral rights.

Sec. 353c. (1) For the fiscal year ending September 30, 1995 only, there is appropriated from the fund to the general fund the sum of $59,500,000.00 to be used to pay the court settlement amount for the department of natural resources in the matter of Miller Brothers, et al v State of Michigan, et al (Court of Claims docket no. 88-11848-CM).

(2) For the fiscal year ending September 30, 1995 only, there is appropriated from the fund to the general fund the sum of $875,000.00 to be used to pay the court settlement

liquidated damages for the department of natural resources in the matter of Miller Brothers, et al v State of Michigan, et al (Court of Claims docket no. 88-11848-CM).

(3) For the fiscal year ending September 30, 1995 only, there is appropriated from the fund to the general fund the sum of $30,000,000.00 to be used to pay the court settlement and purchase mineral rights for the department of natural resources in the matter of Carnagel Oil Associates, et al v State of Michigan, et al (Court of Claims docket no. 88-11848-CC).

(4) For the fiscal year ending September 30, 1995 only, there is appropriated to the department of natural resources from the general fund $59,500,000.00. This appropriation may only be used to pay the court settlement associated with the matter of Miller Brothers, et al v State of Michigan, et al (Court of Claims docket no. 88-11848-CM).

(5) For the fiscal year ending September 30, 1995 only, there is appropriated to the department of natural resources from the general fund $875,000.00. This appropriation may only be used to pay the court settlement liquidated damages associated with the matter of Miller Brothers, et al v State of Michigan, et al (Court of Claims docket no. 88-11848-CM).

(6) For the fiscal year ending September 30, 1995 only, there is appropriated to the department of natural resources from the general fund $30,000,000.00. This appropriation may only be used to pay the court settlement and purchase mineral rights associated with the matter of Carnagel Oil Associates, et al v State of Michigan, et al (Court of Claims docket no. 88-11848-CC). The payment authorized under this subsection shall be made on or before November 30, 1995.

(7) It is the intent of the legislature that money appropriated from the fund to pay the court settlement and liquidated damages associated with the matter of Miller Brothers, et al v State of Michigan, et al (Court of Claims docket no. 88-11848-CM) be repaid to the fund from the Michigan strategic fund created in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2093.

(8) It is the intent of the legislature that money appropriated from the fund to pay the court settlement and purchase mineral rights associated with the matter of Carnagel Oil Associates, et al v State of Michigan, et al (Court of Claims docket no. 88-11848-CC) be repaid to the fund from the Michigan strategic fund created in the Michigan strategic fund act, 1984 PA 270, MCL 125.2001 to 125.2093.

(9) Following November 13, 1995, if the recipient of the $59,500,000.00 appropriation pursuant to subsections (1) and (4) obtains, by lease, purchase, or otherwise, the mineral rights for the real property that was the subject of the court settlement referenced in this section, the state shall seek repayment of that portion of the $59,500,000.00 settlement that was not attributed to the cost of the initial lease or to lawfully accrued interest.

(10) For the fiscal year ending September 30, 2001 only, there is appropriated from the fund to the general fund the sum of $77,000,000.00.

(11) For the fiscal year ending September 30, 2001 only, the state budget director, before the final accounting of state revenues and expenditures is completed, shall calculate the amount of funds that will be necessary to ensure a zero balance in the general fund/general purpose state budget at bookclosing. This calculation shall be made excluding any net general fund/general purpose appropriation lapses that occur when the final accounting of state expenditures is completed. For purposes of this calculation, the closure or reduction of prior year work projects shall not be considered appropriation lapses. The state budget director shall provide a report to the house and senate appropriations committees and the house and senate fiscal agencies of this calculation as soon as it is

completed. Based on this calculation, there is appropriated from the fund to the general fund the amount calculated by the state budget director, not to exceed $200,000,000.00.

(12) For the fiscal year ending September 30, 2002 only, there is appropriated from the fund to the general fund the sum of $335,000,000.00.

(13) In addition to subsection (12), for the fiscal year ending September 30, 2002 only, there is appropriated from the fund to the school aid fund the sum of $350,000,000.00.

(14) For the fiscal year ending September 30, 2002 only, the state budget director, before the final accounting of state revenues and expenditures is completed, shall calculate the amount of funds that will be necessary to ensure a zero balance in the general fund state budget at bookclosing. This calculation shall be made excluding $114,500,000.00. The state budget director shall provide a report to the house and senate appropriations committees and the house and senate fiscal agencies of this calculation as soon as it is completed. Based on this calculation, there is appropriated from the fund to the general fund the amount calculated by the state budget director.

(15) For the fiscal year ending September 30, 2003 only, there is appropriated from the fund to the general fund the sum of $207,000,000.00.

18.1358 Emergency appropriation from fund; conditions; amounts.

Sec. 358. (1) Except as otherwise provided in this section, the legislature may make an emergency appropriation from the fund subject to all of the following conditions:

(a) The maximum appropriation from the fund for budget stabilization as provided in section 352(2) has already been made for the current fiscal year.

(b) The legislature has approved the emergency appropriations bill by a 2/3 majority vote of the members elected to and serving in each house.

(c) The emergency appropriations bill becomes law.

(2) The additional transfer from the fund may be made only for the current fiscal year.

(3) For the fiscal year ending September 30, 2001, the fiscal year ending September 30, 2002 and for each fiscal year beginning with the fiscal year ending September 30, 2004 and ending with the fiscal year ending September 30, 2016, there is appropriated and transferred from the fund to the state trunk line fund established under section 11 of 1951 PA 51, MCL 247.661, the sum of $35,000,000.00.

(4) For the fiscal year ending September 30, 2000, there is appropriated and transferred from the fund to the state trunk line fund established under section 11 of 1951 PA 51, MCL 247.661, the sum of $37,100,000.00.

(5) For the fiscal year ending September 30, 2000, an amount equal to the unreserved general fund/general purpose balance transferred to the fund for the fiscal year ending September 30, 2000, but not to exceed $62,900,000.00, is appropriated and transferred from the fund to the state trunk line fund established under section 11 of 1951 PA 51, MCL 247.661.

This act is ordered to take immediate effect.
Approved July 19, 2002.
Filed with Secretary of State July 19, 2002.

[No. 505]

(HB 5860)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 42a (MCL 211.42a), as amended by 1994 PA 415.

The People of the State of Michigan enact:

211.42a Use of computerized data base as tax roll; authorization; requirements; certification; computer terminal for public viewing; noncompliance; notice; failure to correct condition of noncompliance; withdrawal of approval; proceedings; rules.

Sec. 42a. (1) Subject to this section, a local tax collecting unit may use a computerized data base system as the tax roll if any of the following apply:

(a) The local unit obtains written authorization from the state tax commission.

(b) The treasurer of the county in which the local tax collecting unit is located obtains written authorization from the state tax commission for the use by the county treasurer or local tax collecting units within the county of an approved computerized data base system as the tax roll. This subdivision shall not be construed to prohibit a local tax collecting unit from seeking authorization from the state tax commission to use a computerized data base system developed by the local tax collecting unit.

(c) The state tax commission fails to authorize or deny within 120 days a written request from a county treasurer or a local tax collecting unit under this subsection to use a computerized data base system as the tax roll.

(2) The state tax commission shall authorize the use of a computerized data base system as the tax roll if the local tax collecting unit or the county treasurer demonstrates that the proposed system has the capacity to enable a local unit to comply and the local unit complies with all of the following requirements:

(a) An original precollection tax roll shall be printed from the computerized data base and warranted by the assessor. That printed precollection tax roll shall be maintained by the assessor until the expiration of the redemption period provided in section 78k following the entry of a judgment foreclosing property forfeited for delinquent taxes under section 78g, or the resolution of all pending appeals, whichever is later.

(b) A separate computer printout of all parcel splits and combinations, including sufficient information to document the accuracy of the splits or combinations, shall be prepared and maintained by the assessor until the expiration of the redemption period

provided in section 78k following the entry of a judgment foreclosing property forfeited for delinquent taxes under section 78g, or the resolution of all pending appeals, whichever is later.

(c) A separate computer printout of all corrections and adjustments to the precollection tax roll authorized by action of the board of review, state tax commission, or tax tribunal, including sufficient information to document the accuracy of all corrections and adjustments, shall be prepared and maintained by the assessor until the expiration of the redemption period provided in section 78k following the entry of a judgment foreclosing property forfeited for delinquent taxes under section 78g, or the resolution of all pending appeals, whichever is later.

(d) The local tax collecting treasurer and the assessor shall produce a final computer printed settlement tax roll to certify taxes collected to the county treasurer under section 55. The assessor shall certify that taxable values, state equalized valuations, adjusted valuations, and the spread of taxes and adjusted taxes are correctly recorded in the settlement tax roll. The local tax collecting treasurer shall certify delinquent taxes and certify that all tax collections are posted on the settlement tax roll. Those certifications and the settlement tax roll shall be transmitted to the county treasurer. The affidavit attached to the settlement tax roll shall include documentation that authorizes and reports all changes in the precollection tax roll.

(e) The treasurer of the local tax collecting unit shall prepare and maintain a journal of the collections totaled and reconciled to the amount of actual collections daily.

(f) A payment of the tax shall be posted to the computerized data base system using a transaction or receipt number with the date of payment. A posting on the computerized data base system is considered the entry of the fact and date of payment in an indelible manner on the tax roll as required by section 46(2).

(g) The computerized data base system has internal and external security procedures sufficient to assure the integrity of the system.

(h) The local tax collecting unit is capable of making available a posted computer printed tax roll.

(i) The computerized data base system is compatible with the system used by the county treasurer for the collection of delinquent taxes.

(3) Not later than May 1 of the third year following the year in which a local tax collecting unit begins using a computerized data base system as the tax roll after approval under subsection (1) and every 3 years thereafter, the local tax collecting unit shall certify to the state tax commission that the requirements of this section are being met.

(4) A county treasurer or local tax collecting unit that provides a computer terminal for public viewing of the tax roll is considered having the tax roll available for public inspection.

(5) If at any time the state treasurer or the state tax commission believes that a local tax collecting unit is no longer in compliance with subsection (2), the state treasurer or the state tax commission shall provide written notice to that local tax collecting unit. The notice shall specify the reasons that use of the computerized data base system as the original tax roll is no longer in compliance with subsection (2). The local tax collecting unit has not less than 60 days to provide evidence that the local tax collecting unit is in compliance with subsection (2) or that action to correct noncompliance has been implemented. If, after the expiration of 60 days, the state tax commission or the state treasurer believes that the local tax collecting unit is not taking satisfactory steps to correct a condition of noncompliance, the state tax commission upon its own motion may,

and upon the request of the state treasurer shall, withdraw approval of the use of the computerized data base system as the original tax roll. Proceedings of the state tax commission under this subsection shall be in accordance with rules for other proceedings of the commission promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and shall not be considered a contested case.

This act is ordered to take immediate effect.
Approved July 19, 2002.
Filed with Secretary of State July 19, 2002.

[No. 506]

(SB 1358)

AN ACT to amend 1966 PA 189, entitled "An act to provide procedures for making complaints for, obtaining, executing and returning search warrants; and to repeal certain acts and parts of acts," by amending section 1 (MCL 780.651), as amended by 2002 PA 128.

The People of the State of Michigan enact:

780.651 Issuance of search warrant; requirements; making affidavit for search warrant or search warrant by electronic or electromagnetic means; proof; paper quality and durability standards; oath or affirmation administered by electronic or electromagnetic means; impression seal; nonpublic information; suppression order.

Sec. 1. (1) When an affidavit is made on oath to a magistrate authorized to issue warrants in criminal cases, and the affidavit establishes grounds for issuing a warrant pursuant to this act, the magistrate, if he or she is satisfied that there is probable cause for the search, shall issue a warrant to search the house, building, or other location or place where the property or thing to be searched for and seized is situated.

(2) An affidavit for a search warrant may be made by any electronic or electromagnetic means of communication if both of the following occur:

(a) The judge or district court magistrate orally administers the oath or affirmation to an applicant for a search warrant who submits an affidavit under this subsection.

(b) The affiant signs the affidavit. Proof that the affiant has signed the affidavit may consist of an electronically or electromagnetically transmitted facsimile of the signed affidavit.

(3) A judge may issue a written search warrant in person or by any electronic or electromagnetic means of communication. If a court order required pursuant to section 625a of the Michigan vehicle code, 1949 PA 300, MCL 257.625a, is issued as a search warrant, the written search warrant may be issued in person or by any electronic or electromagnetic means of communication by a judge or by a district court magistrate.

(4) The peace officer or department receiving an electronically or electromagnetically issued search warrant shall receive proof that the issuing judge or district court magistrate has signed the warrant before the warrant is executed. Proof that the issuing judge or district court magistrate has signed the warrant may consist of an electronically or electromagnetically transmitted facsimile of the signed warrant.

(5) The state court administrator shall establish paper quality and durability standards for warrants issued under this section.

(6) If an oath or affirmation is orally administered by electronic or electromagnetic means of communication under this section, the oath or affirmation is considered to be administered before the judge or district court magistrate.

(7) If an affidavit for a search warrant is submitted by electronic or electromagnetic means of communication, or a search warrant is issued by electronic or electromagnetic means of communication, the transmitted copies of the affidavit or search warrant are duplicate originals of the affidavit or search warrant and are not required to contain an impression made by an impression seal.

(8) Except as provided in subsection (9), an affidavit for a search warrant contained in any court file or court record retention system is nonpublic information.

(9) On the fifty-sixth day following the issuance of a search warrant, or on August 1, 2002, whichever is later, the search warrant affidavit contained in any court file or court record retention system is public information unless, before the fifty-sixth day after the search warrant is issued, or before August 1, 2002, whichever is later, a peace officer or prosecuting attorney obtains a suppression order from a magistrate upon a showing under oath that suppression of the affidavit is necessary to protect an ongoing investigation or the privacy or safety of a victim or witness. The suppression order may be obtained ex parte in the same manner that the search warrant was issued. An initial suppression order issued under this subsection expires on the fifty-sixth day after the order is issued. A second or subsequent suppression order may be obtained in the same manner as the initial suppression order and shall expire on a date specified in the order. This subsection and subsection (8) do not affect a person's right to obtain a copy of a search warrant affidavit from the prosecuting attorney or law enforcement agency under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

This act is ordered to take immediate effect.
Approved July 19, 2002.
Filed with Secretary of State July 19, 2002.

[No. 507]

(HB 4719)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain

circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 12541 (MCL 333.12541).

The People of the State of Michigan enact:

333.12541 Testing and evaluating quality of water at bathing beaches; purpose; posting sign; injunction; definitions.

Sec. 12541. (1) The local health officer or an authorized representative of the local health department having jurisdiction may test and otherwise evaluate the quality of water at bathing beaches to determine whether the water is safe for bathing purposes. However, the local health officer or authorized representative shall notify the city, village, or township in which the bathing beach is located prior to conducting the test or evaluation.

(2) If a local health officer or an authorized representative of a local health department conducts a test or evaluation of a bathing beach under subsection (1), within 36 hours of conducting the test or evaluation, he or she shall notify the department, the city, village, or township in which the bathing beach is located, and the owner of the bathing beach of the results of the test or evaluation.

(3) The owner of the bathing beach shall post at the main entrance to the bathing beach or other visible location a sign that states whether or not the bathing beach has been tested or evaluated under subsection (1) and, if the bathing beach has been tested, the location of where test results may be reviewed. Open stretches of beach or beaches at road ends that are not advertised or posted as public bathing beaches do not need to have signs posted.

(4) If a local health officer or authorized representative of the local health department conducts a test or evaluation under subsection (1) and, based upon the standards promulgated under section 12544, the health officer or the authorized representative determines that the water is unsafe for bathing, he or she may petition the circuit court of the county in which the bathing beach is located for an injunction ordering the person owning or operating the bathing beach to close the bathing beach for use by bathers or ordering other measures to keep persons from entering on the bathing beach. Upon receipt of a petition under this subsection, the court may grant an injunction if circumstances warrant it.

(5) As used in this section:

(a) "Bathing beach" means a beach or bathing area offered to the public for recreational bathing or swimming. It does not include a public swimming pool as defined in section 12521.

(b) "Department" means the department of environmental quality.

Approved July 19, 2002.
Filed with Secretary of State July 19, 2002.

[No. 508]

(HB 6066)

AN ACT to amend 2001 PA 63, entitled "An act to create a department of history, arts, and libraries; to provide for its administration; and to provide for its powers, duties, functions, and responsibilities," by amending sections 2 and 21 (MCL 399.702 and 399.721) and by adding sections 7 and 22.

The People of the State of Michigan enact:

399.702 Definitions.

Sec. 2. As used in this act:

(a) "Commission" means the Michigan film advisory commission created in section 22.

(b) "Council" means the Michigan council for arts and cultural affairs established by Executive Order No. 1991-21.

(c) "Department" means the department of history, arts, and libraries created in section 3.

(d) "Director" means the director of the department.

(e) "Office" means the Michigan film office created in section 21.

(f) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(g) "Type II transfer" means that term as it is defined in section 3 of the executive organization act of 1965, 1965 PA 380, MCL 16.103.

399.707 Agreements with other governmental entities; purpose.

Sec. 7. (1) The department may enter into cooperative agreements, contracts, or other agreements with 1 or more governmental entities to use the personnel, services, or facilities of the entity to assist with carrying out the duties, functions, and responsibilities of the department as provided in this act and as otherwise provided by law.

(2) The director may delegate his or her authority to execute an agreement authorized in subsection (1) to another officer or employee of the department under terms the director considers appropriate.

399.721 Michigan film office; creation; appointment of commissioner; duties of office.

Sec. 21. (1) The Michigan film office is created in the department and shall be headed by the Michigan film commissioner. The director shall appoint an individual to serve as the Michigan film commissioner.

(2) The office shall do all of the following:

(a) Promote and market Michigan's locations, talent, crews, facilities, and technical production and other services.

(b) Provide to interested persons descriptive and pertinent information on locations, talent, crews, facilities, and technical production and other services.

(c) Provide technical assistance to the film and television industry in locating and securing the use of locations, talent, crews, facilities, and services.

(d) Encourage community and Michigan film and television production industry participation in, and coordination with, state efforts to attract film and television production in Michigan.

(e) Serve as chief state liaison with the film and television production industry and with other governmental units and agencies for the purpose of promoting, encouraging, and facilitating film and television production in Michigan.

399.722 Michigan film advisory commission; creation; membership; chairperson; terms; vacancy; compensation; duties; meetings; compliance with open meetings act; writings subject to freedom of information act; exception; use of information for personal gain.

Sec. 22. (1) The Michigan film advisory commission is created in the department. The commission shall consist of the following members:

(a) Thirteen individuals appointed by the governor as follows:

(*i*) Five members associated with broad areas of film and motion picture making, production of television programs and commercials, and related industries in Michigan.

(*ii*) Two members representing Michigan-based theater owners, 1 of whom shall be a large theater owner. As used in this subdivision, "large theater" means a theater with 10 screens or more or that seats 1,000 individuals or more.

(*iii*) Two members from film, television, or related industry unions.

(*iv*) Three members appointed from the public at large and not active in the film, television, and related industries.

(*v*) One member representing local units of government.

(b) One individual appointed by the speaker of the house of representatives.

(c) One individual appointed by the senate majority leader.

(2) The Michigan film commissioner shall serve as an ex officio nonvoting member of the commission.

(3) The governor shall appoint 1 member of the commission to serve as chairperson of the commission for a term of 1 year. The governor may reappoint the chairperson for an additional term of 1 year. A member shall not serve as chairperson for more than 2 consecutive terms.

(4) The term of office of each regular member of the commission shall be 3 years and until the appointment and qualification of the member's successor. If a vacancy occurs on the commission, that vacancy shall be filled within 90 days after the vacancy occurs for the remainder of the unexpired term. The vacancy shall be filled in the same manner as the original appointment. An individual who is appointed to fill a vacancy is eligible for appointment to a subsequent full term.

(5) Members of the commission shall serve without compensation but, subject to appropriations, may receive reimbursement for their actual and necessary expenses while attending meetings or performing other authorized official business of the commission.

(6) The commission may do 1 or more of the following:

(a) Advise the governor, the department, the office, and the legislature on how to promote and market Michigan's locations, crews, facilities, and technical production facilities and other services used by film, television, and related industries.

(b) Encourage community and Michigan film and television production industry participation in, and coordination with, state efforts to attract film, television, and related production to Michigan.

(c) Assist the office in promoting, encouraging, and facilitating film, television, and related production in Michigan.

(d) Develop strategies and methods to attract film, television, and related business to Michigan.

(e) Under direction of the office, provide assistance to film, television, and related service personnel who use Michigan as a business location.

(f) Sponsor and support official functions for film, television, and related industries.

(g) Assist in the establishment of film and television ventures and such related matters as the office or the department considers appropriate.

(7) The commission shall meet not less than 3 times each year. The commission shall also meet at the call of its chairperson.

(8) A meeting of the commission shall be conducted as a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Notice of the date, time, and place of a public meeting of the commission shall be given as prescribed in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(9) A writing prepared, owned, used, in the possession of, or retained by the commission when performing business of the commission is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, except that such a writing may be kept confidential for up to 6 months after the date a request to inspect, obtain, or copy the writing is received, if, in the judgment of the chairperson of the commission, disclosure of the record would compromise or otherwise undermine the ability of Michigan industry to compete in the promotion and marketing of Michigan's locations, crews, facilities, and technical production and other services.

(10) A member of the commission shall not use for personal gain information obtained by the member while performing business of the commission, nor shall a member of the commission disclose confidential information obtained by the member while conducting commission business, except as necessary to perform commission business.

This act is ordered to take immediate effect.
Approved July 23, 2002.
Filed with Secretary of State July 23, 2002.

[No. 509]

(HB 4414)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 859, 1053, and 1059 (MCL 380.859, 380.1053, and 380.1059), section 1053 as amended by 1993 PA 9 and section 1059 as amended by 1992 PA 263.

The People of the State of Michigan enact:

380.859 Form of proposition; voting devices and election supplies; board of election inspectors; oath; affirmative vote of majority required; effective date of consolidation; compensation, expenses, and costs.

Sec. 859. (1) The proposition shall be in substantially the following form:

"Shall the territory of the following school districts be united to form 1 school district?

(Names of school districts to be consolidated to be listed here)

Yes ( )

No ( )"

(2) Printed ballots, voting machines, or other voting devices shall be used. The intermediate superintendent shall supply printed ballots, poll books, and other necessary election supplies to each board of election inspectors of the election unit of the school districts operating less than 12 grades.

(3) The secretary of the board of each school district operating 12 grades shall provide printed ballots for the election and supply all election materials necessary for the election. The board of each school district operating 12 grades shall appoint the necessary members to the board of election inspectors as determined under section 1059.

(4) The members of the intermediate school board shall act as the board of election inspectors for the election held in school districts operating less than 12 grades. The intermediate board may appoint additional persons to a board of election inspectors. If more than 1 place for holding the election is designated by the intermediate superintendent, the members of the intermediate school board shall be apportioned by the intermediate superintendent to the boards of election inspectors. If a member of the intermediate school board or other person appointed to a board of election inspectors is unable to be present at the election or is required to leave during the hours the polls are open, the remaining members of the board of election inspectors may appoint another person to fill the vacancy.

(5) Each member of a board of election inspectors shall take the constitutional oath of office before entering on the duties of an election inspector.

(6) The affirmative vote of a majority of the school electors voting on the question in each of the election units is necessary to effect the consolidation of the school districts. The consolidation is effective as of the date of the official canvass.

(7) The members of the intermediate school board and other election inspectors acting in the election unit of a school district operating less than 12 grades shall receive the same compensation for conducting the election as is authorized for election inspectors in a general election under the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. If the consolidation becomes effective, expenses incurred for the election in each election unit shall be certified to the board of the consolidated school district. The school board shall pay election costs from the funds of the consolidated school district. If the proposition to consolidate is not approved, the intermediate school board shall determine the expenses of the election held in the election unit operating less than 12 grades and apportion the expenses equally among the school districts of the election unit. Each school board of the election unit shall pay the apportionment to the intermediate school board.

380.1053 Board situated wholly or partly in city or township; agreement to use registration records; election officials; expenses; conduct of annual and special elections; formation of voting precincts; time of registration; filing nominating petitions.

Sec. 1053. (1) The board of a school district situated wholly or partly in a city or township, by agreement with the governing body of the city or township, may use the registration records of the city or township at an election held by the school district on terms and conditions, including the payment of the necessary expenses of an election, agreed upon by the school board and the governing body of the city or township. If a school district situated wholly or partly in a city or township holds an election at the same time that the city or township holds an election, the election commissioners and other election officials, except for election inspectors, conducting the city or township election may act in their respective capacities for the school election when agreed upon by the board of the school district and the governing body of the city or township for that portion of the school district situated in the city or township. If agreed upon by the board of the

school district and the governing body of the city or township, an election inspector conducting the city or township election may serve as an election inspector for the school election. The expense of the election shall be paid proportionately by the school district and the city or township.

(2) The board of a school district situated wholly or partly in a city or township, upon agreement with the governing body of the city or township, may determine that the city or township by its proper officials shall conduct annual and special elections on behalf of the school district in that portion of the school district lying within the boundaries of the city or township on terms and conditions, including the payment of the necessary expenses, agreed upon by the school district and the city or township.

(3) The agreement to use the registration records of the city or township for school elections and for conducting the school elections by the city or township officials shall be continuing and shall be terminated only on 12 months' notice by either party.

(4) The board of a school district shall form the school district into 1 or more voting precincts. If the city or township officials conduct an election for a school district under this section, the voting precincts of the school district shall be the same as those of the city or township for that portion of the school district lying within the boundaries of the city or township.

(5) A person registering after 5 p.m. on the thirtieth day immediately before an annual or special school election or, if that day is a Saturday, Sunday, or legal holiday, after 5 p.m. of the next following day that is not a Saturday, Sunday, or legal holiday, is not eligible to vote in the annual or special school election.

(6) An agreement under this section for conducting the school elections by the city or township officials may provide that nominating petitions for board members be filed with the city or township clerk not later than the twelfth Tuesday before the date of the election.

380.1059 Board of election inspectors; appointment and oath of members; vacancies; canvassing; returns.

Sec. 1059. (1) Except when the school election is conducted by city or township officials under section 1053, the school board shall appoint 3 or more qualified and registered electors for each voting precinct to serve as the board of election inspectors in that precinct. A member of the board of election inspectors shall be a qualified and registered elector of the county in which the school district is located or, if the school district is located in more than 1 county, a qualified and registered elector of any county in which the school district is located. Appointments shall be made at least 10 days before the date of an election. Each member shall take the constitutional oath of office and is entitled to administer oaths to persons in connection with the election. In case of inability or refusal of an election inspector to act, the school board may fill the vacancy. If all members are not present at the time of opening the polls, the members of the board of election inspectors present may fill vacancies. The election inspectors, including the election inspectors of an election conducted by city or township officials, immediately after canvassing the votes shall make their return of the canvas and deliver the same to the secretary of the school board.

(2) School district elections shall be canvassed in the manner prescribed in sections 1009 and 1010.

This act is ordered to take immediate effect.
Approved July 23, 2002.
Filed with Secretary of State July 23, 2002.

[No. 510]

(HB 6002)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," (MCL 205.51 to 205.78) by adding section 5b; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

205.55b Qualified athletic event; tax exemption.

Sec. 5b. (1) Notwithstanding the provisions of section 2, the organizing entity of a qualified athletic event that sells corporate sponsor contracts for the event that include both taxable tangible personal property and nontaxable services may apply the tax only to the amount charged for the sale of taxable tangible personal property if all of the following criteria have been met:

(a) The organizing entity is exempt or is wholly owned by an entity exempt under section 501(c)(6) of the internal revenue code of 1986.

(b) The organizing entity provided both of the following to the department at least 180 days in advance of entering into the first corporate sponsor contract:

(*i*) Written notice of its intent to enter into corporate sponsor contracts.

(*ii*) An itemized schedule of the taxable tangible personal property and nontaxable services that will be provided under each corporate sponsor contract.

(c) The department has given written approval to the organizing entity's allocation of the tax among taxable tangible personal property and nontaxable services.

(2) As used in this section, "qualified athletic event" means either of the following:

(a) A professional sporting competition in which individuals officially representing at least 2 countries or nations compete.

(b) A professional football competition in which teams compete in a postseason event to determine the league champion.

(3) This section is repealed effective January 1, 2007.

This act is ordered to take immediate effect.
Approved July 23, 2002.
Filed with Secretary of State July 23, 2002.

[No. 511]

(SB 1370)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending sections 2 and 3 (MCL 205.92 and 205.93), section 2 as amended by 2000 PA 391 and section 3 as amended by 2002 PA 110, and by adding section 6a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

205.92 Definitions.

Sec. 2. As used in this act:

(a) "Person" means an individual, firm, partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether or not organized for profit, company, limited liability company, estate, trust, receiver, trustee, syndicate, the United States, this state, county, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) "Use" means the exercise of a right or power over tangible personal property incident to the ownership of that property including transfer of the property in a transaction where possession is given.

(c) "Storage" means a keeping or retention of property in this state for any purpose after the property loses its interstate character.

(d) "Seller" means the person from whom a purchase is made and includes every person selling tangible personal property or services for storage, use, or other consumption in this state. If, in the opinion of the department, it is necessary for the efficient administration of this act to regard a salesperson, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates or from whom he or she obtains tangible personal property or services sold by him or her for storage, use, or other consumption in this state, irrespective of whether or not he or she is making the sales on his or her own behalf or on behalf of the dealer, distributor, supervisor, or employer, the department may so consider him or her, and may consider the dealer, distributor, supervisor, or employer as the seller for the purpose of this act.

(e) "Purchase" means to acquire for a consideration, whether the acquisition is effected by a transfer of title, of possession, or of both, or a license to use or consume; whether the transfer is absolute or conditional, and by whatever means the transfer is effected; and whether consideration is a price or rental in money, or by way of exchange or barter.

(f) "Price" means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, by a consumer to a seller in the consummation and complete performance of the transaction by which tangible personal property or services are purchased or rented for storage, use, or other consumption in this state, without a deduction for the cost of the property sold, cost of materials used, labor or service cost, interest or discount paid, or any other expense. The price of tangible personal property, for affixation to real estate, withdrawn by a construction contractor from inventory available for sale to others or made available by publication or price list as a finished product for sale to others is the finished goods inventory value of the property. If a construction contractor manufactures, fabricates, or assembles tangible personal property before affixing it to real estate, the price of the property is equal to the sum of the materials cost of the property and the cost of labor to manufacture, fabricate, or assemble the property but does not include the cost of labor to cut, bend, assemble, or attach property at the site of affixation to real estate. For the purposes of the preceding sentence, for property withdrawn by a construction contractor from inventory available for sale to others or made available by publication or price list as a finished product for sale to others, the materials cost of the property means the finished goods inventory value of the property. For purposes of this subdivision, "manufacture" means to convert or condition tangible personal property by changing the form, composition, quality, combination, or character of the property and "fabricate" means to modify or prepare tangible personal property for affixation or assembly. The price of a motor vehicle, trailer

coach, or titled watercraft is the full retail price of the motor vehicle, trailer coach, or titled watercraft being purchased. The tax collected by the seller from the consumer or lessee under this act is not considered part of the price, but is a tax collection for the benefit of the state, and a person other than the state shall not derive a benefit from the collection or payment of this tax. A price does not include an assessment imposed under the convention and tourism marketing act, 1980 PA 383, MCL 141.881 to 141.889, 1974 PA 263, MCL 141.861 to 141.867, the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, the regional tourism marketing act, 1989 PA 244, MCL 141.891 to 141.900, 1991 PA 180, MCL 207.751 to 207.759, or the community convention or tourism marketing act, 1980 PA 395, MCL 141.871 to 141.880, that was added to charges for rooms or lodging otherwise subject, pursuant to section 3a, to tax under this act. Price does not include specific charges for technical support or for adapting or modifying prewritten, standard, or canned computer software programs to a purchaser's needs or equipment if the charges are separately stated and identified. The tax imposed under this act shall not be computed or collected on rental receipts if the tangible personal property rented or leased has previously been subjected to a Michigan sales or use tax when purchased by the lessor.

(g) "Consumer" means the person who has purchased tangible personal property or services for storage, use, or other consumption in this state and includes a person acquiring tangible personal property if engaged in the business of constructing, altering, repairing, or improving the real estate of others.

(h) "Business" means all activities engaged in by a person or caused to be engaged in by a person with the object of gain, benefit, or advantage, either direct or indirect.

(i) "Department" means the revenue division of the department of treasury.

(j) "Tax" includes all taxes, interest, or penalties levied under this act.

(k) "Tangible personal property" includes computer software offered for general use by the public or software modified or adapted to the user's needs or equipment by the seller, only if the software is available from a seller of software on an as is basis or as an end product without modification or adaptation. Tangible personal property does not include computer software originally designed for the exclusive use and special needs of the purchaser. As used in this subdivision, "computer software" means a set of statements or instructions that when incorporated in a machine usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result.

(*l*) "Tangible personal property" beginning September 20, 1999, includes electricity, natural or artificial gas, or steam and also the transmission and distribution of electricity used by the consumer or user of the electricity, whether the electricity is purchased from the delivering utility or from another provider.

(m) "Tangible personal property" does not include a commercial advertising element if the commercial advertising element is used to create or develop a print, radio, television, or other advertisement, the commercial advertising element is discarded or returned to the provider after the advertising message is completed, and the commercial advertising element is custom developed by the provider for the purchaser. As used in this subdivision, "commercial advertising element" means a negative or positive photographic image, an audiotape or videotape master, a layout, a manuscript, writing of copy, a design, artwork, an illustration, retouching, and mechanical or keyline instructions. "Tangible personal property" includes black and white or full color process separation elements, an audiotape reproduction, or a videotape reproduction.

(n) "Textiles" means goods that are made of or incorporate woven or nonwoven fabric, including, but not limited to, clothing, shoes, hats, gloves, handkerchiefs, curtains, towels, sheets, pillows, pillowcases, tablecloths, napkins, aprons, linens, floor mops, floor mats,

and thread. Textiles also include materials used to repair or construct textiles, or other goods used in the rental, sale, or cleaning of textiles.

205.93 Tax rate; penalties and interest; presumption; collection; price tax base; exemptions; services, information, or records.

Sec. 3. (1) There is levied upon and there shall be collected from every person in this state a specific tax for the privilege of using, storing, or consuming tangible personal property in this state at a rate equal to 6% of the price of the property or services specified in section 3a or 3b. Penalties and interest shall be added to the tax if applicable as provided in this act. For the purpose of the proper administration of this act and to prevent the evasion of the tax, it is presumed that tangible personal property purchased is subject to the tax if brought into the state within 90 days of the purchase date and is considered as acquired for storage, use, or other consumption in this state.

(2) The tax imposed by this section for the privilege of using, storing, or consuming a vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft shall be collected before the transfer of the vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft, except a transfer to a licensed dealer or retailer for purposes of resale that arises by reason of a transaction made by a person who does not transfer vehicles, ORVs, manufactured housing, aircraft, snowmobiles, or watercraft in the ordinary course of his or her business done in this state. The tax on a vehicle, ORV, snowmobile, and watercraft shall be collected by the secretary of state before the transfer of the vehicle, ORV, snowmobile, or watercraft registration. The tax on manufactured housing shall be collected by the department of consumer and industry services, mobile home commission, or its agent before the transfer of the certificate of title. The tax on an aircraft shall be collected by the department of treasury. Notwithstanding any limitation contained in section 2 and except as provided in this subsection, the price tax base of any vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft subject to taxation under this act shall be not less than its retail dollar value at the time of acquisition as fixed pursuant to rules promulgated by the department. The price tax base of a new or previously owned car or truck held for resale by a dealer and that is not exempt under section 4(1)(c) is the purchase price of the car or truck multiplied by 2.5% plus $30.00 per month beginning with the month that the dealer uses the car or truck in a nonexempt manner.

(3) The following transfers or purchases are not subject to use tax:

(a) A transaction or a portion of a transaction if the transferee or purchaser is the spouse, mother, father, brother, sister, child, stepparent, stepchild, stepbrother, stepsister, grandparent, grandchild, legal ward, or a legally appointed guardian with a certified letter of guardianship, of the transferor.

(b) A transaction or a portion of a transaction if the transfer is a gift to a beneficiary in the administration of an estate.

(c) If a vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft that has once been subjected to the Michigan sales or use tax is transferred in connection with the organization, reorganization, dissolution, or partial liquidation of an incorporated or unincorporated business and the beneficial ownership is not changed.

(d) If an insurance company licensed to conduct business in this state acquires ownership of a late model distressed vehicle as defined in section 12a of the Michigan vehicle code, 1949 PA 300, MCL 257.12a, through payment of damages in response to a claim or when the person who owned the vehicle before the insurance company reacquires ownership from the company as part of the settlement of a claim.

(4) The department may utilize the services, information, or records of any other department or agency of state government in the performance of its duties under this act, and other departments or agencies of state government are required to furnish those services, information, or records upon the request of the department.

205.96a Qualified athletic event; applicability of tax; repeal of section.

Sec. 6a. (1) Notwithstanding the provisions of section 2, the organizing entity of a qualified athletic event that sells corporate sponsor contracts for the event may apply the tax under this act only to the amount charged for the rental of taxable tangible personal property or taxable services if all of the following criteria have been met:

(a) The organizing entity is exempt or is wholly owned by an entity exempt under section 501(c)(6) of the internal revenue code of 1986.

(b) The organizing entity provided both of the following to the department at least 180 days in advance of entering into the first corporate sponsor contract:

(*i*) Written notice of its intent to enter into corporate sponsor contracts.

(*ii*) An itemized schedule of the taxable tangible personal property and taxable services that will be provided under each corporate sponsor contract.

(c) The department has given written approval to the organizing entity's allocation of the tax.

(2) As used in this section, "qualified athletic event" means either of the following:

(a) A professional sporting competition in which individuals officially representing at least 2 countries or nations compete.

(b) A professional football competition in which teams compete in a postseason event to determine the league champion.

(3) This section is repealed effective January 1, 2007.

This act is ordered to take immediate effect.
Approved July 23, 2002.
Filed with Secretary of State July 23, 2002.

[No. 512]

(HB 6071)

AN ACT to amend 1996 PA 376, entitled "An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials," by amending section 8a (MCL 125.2688a), as amended by 2000 PA 259.

The People of the State of Michigan enact:

125.2688a Additional renaissance zones; designation; property located in alternative energy zone.

Sec. 8a. (1) Except as provided in subsections (2), (3), and (4), the board shall not designate more than 9 additional renaissance zones within this state under this section. Not more than 6 of the renaissance zones shall be located in urban areas and not more than 5 of the renaissance zones shall be located in rural areas. For purposes of determining whether a renaissance zone is located in an urban area or rural area under this section, if any part of a renaissance zone is located within an urban area, the entire renaissance zone shall be considered to be located in an urban area.

(2) The board of the Michigan strategic fund described in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004, may designate not more than 5 additional renaissance zones within this state in 1 or more cities, villages, or townships if that city, village, or township or combination of cities, villages, or townships consents to the creation of a renaissance zone within their boundaries. The board of the Michigan strategic fund may designate not more than 1 of the 5 additional renaissance zones described in this subsection as an alternative energy zone. An alternative energy zone shall promote and increase the research, development, and manufacturing of alternative energy technology as that term is defined in the Michigan next energy authority act. An alternative energy zone shall have a duration of renaissance zone status for a period not to exceed 20 years as determined by the board of the Michigan strategic fund.

(3) In addition to the not more than 9 additional renaissance zones described in subsection (1), the board may designate additional renaissance zones within this state in 1 or more qualified local governmental units if that qualified local governmental unit or units contain a military installation that was operated by the United States department of defense and was closed in 1977 or after 1990.

(4) Land owned by a county or the qualified local governmental unit or units adjacent to a zone as described in subsection (3) may be included in this zone.

(5) Notwithstanding any other provision of this act, property located in the alternative energy zone that is classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, and that the authority, with the concurrence of the assessor of the local tax collecting unit, determines is not used to directly promote and increase the research, development, and manufacturing of alternative energy technology is not eligible for any exemption, deduction, or credit under section 9.

This act is ordered to take immediate effect.
Approved July 23, 2002.
Filed with Secretary of State July 23, 2002.

[No. 513]

(HB 5457)

AN ACT to amend 1976 PA 448, entitled "An act to prescribe the powers and duties of municipalities and governmental units to acquire, finance, maintain, and operate generating, transmission, and distribution facilities of electric power and energy, fuel and energy sources and reserves and all necessary related properties, equipment and facilities; to permit the exercise of those powers in joint venture or joint agency agreements; to provide for the issuance of bonds and notes; to prescribe the powers and duties of the municipal finance commission or its successor agency and of certain other state officers and agencies with respect to municipal electric utility financing; to create certain funds and prescribe their operation; to provide for tax exemptions and other exemptions; and to prescribe penalties and provide remedies," by amending section 5 (MCL 460.805).

The People of the State of Michigan enact:

460.805 Definitions; P.

Sec. 5. (1) "Project" means a system or facility for the generation, transmission, or transformation of electricity by a municipal electric utility system by any means. Project

also means stock, membership units, or any other interest in a multistate regional transmission system organization approved by the federal government and operating in this state or a transmission-owning entity which is a member of a multistate regional transmission system organization approved by the federal government and operating in this state.

(2) "Project cost" includes, but is not limited to, the cost of acquisition, construction, improvement, or extension of a project, the cost of studies, plans, specifications, surveys, and estimates of related costs and revenues, the cost of land, land rights, rights of way, easements, water rights, fees, permits, approvals, licenses, certificates, franchises, and the preparation of any required applications, engineering and inspection expenses, financing costs, working capital, fuel costs, interest on bonds, establishment of reserves, and all other costs of the municipality or joint agency that are incidental, necessary, or convenient to the acquisition, construction, improvement, or extension of a project.

This act is ordered to take immediate effect.
Approved July 23, 2002.
Filed with Secretary of State July 23, 2002.

[No. 514]

(HB 5649)

AN ACT to make appropriations for the department of military and veterans affairs for the fiscal year ending September 30, 2003; to provide for the expenditure of the appropriations; to provide for certain powers and duties of the department of military and veterans affairs, other state agencies, and local units of government related to the appropriations; and to provide for the preparation of certain reports related to the appropriations.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; department of military and veterans affairs.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of military and veterans affairs for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

APPROPRIATION SUMMARY:		
Full-time equated unclassified positions	7.0	
Full-time equated classified positions	1,072.0	
GROSS APPROPRIATION	$	103,364,700
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		200,000
ADJUSTED GROSS APPROPRIATION	$	103,164,700
Federal revenues:		
Total federal revenues		39,114,500

		For Fiscal Year Ending Sept. 30, 2003
Special revenue funds:		
Total local revenues	$	0
Total private revenues		530,000
Total other state restricted revenues		23,437,600
State general fund/general purpose	$	40,082,600

Headquarters and armories.

Sec. 102. HEADQUARTERS AND ARMORIES

Full-time equated unclassified positions 7.0		
Full-time equated classified positions 140.0		
Headquarters and armories—99.5 FTE positions	$	9,706,600
Unclassified military personnel		660,300
Military appeals tribunal		900
Michigan emergency volunteers		5,000
State active duty		70,100
Challenge program—40.5 FTE positions		3,296,900
GROSS APPROPRIATION	$	13,739,800
Appropriated from:		
Interdepartmental grant revenues:		
IDG, challenge grant		200,000
Federal revenues:		
DOD-DOA-NGB		3,564,500
Special revenue funds:		
Rental fees		350,000
Mackinac Bridge authority		40,000
Private donations		105,000
State general fund/general purpose	$	9,480,300

Military training sites and support facilities.

Sec. 103. MILITARY TRAINING SITES AND SUPPORT FACILITIES

Full-time equated classified positions 229.0		
Military training sites and support facilities—229.0 FTE positions	$	14,930,200
Military training sites and support facilities test projects		100,000
GROSS APPROPRIATION	$	15,030,200
Appropriated from:		
Federal revenues:		
DOD-DOA-NGB		12,140,400
Special revenue funds:		
Test project fees		100,000
State general fund/general purpose	$	2,789,800

Departmentwide appropriations.

Sec. 104. DEPARTMENTWIDE APPROPRIATIONS

Departmentwide accounts	$	1,830,000
Special maintenance - state		401,200
Special maintenance - federal		4,300,000

		For Fiscal Year Ending Sept. 30, 2003
Military retirement	$	2,500,000
Counternarcotic operations		50,000
Starbase grant		600,000
GROSS APPROPRIATION	$	9,681,200
Appropriated from:		
Federal revenues:		
DOD-DOA-NGB		6,171,800
Federal counternarcotic revenues		50,000
State general fund/general purpose	$	3,459,400

Veterans service organizations.

Sec. 105. VETERANS SERVICE ORGANIZATIONS

American legion	$	886,000
Disabled American veterans		732,400
Marine corps league		336,300
American veterans of World War II and Korea		464,800
Veterans of foreign wars		886,000
Michigan paralyzed veterans of America		165,700
Purple heart		157,900
Veterans of World War I		100
Polish legion of American veterans		41,200
Jewish veterans of America		41,200
State of Michigan council - Vietnam veterans of America		159,500
Catholic war veterans		41,200
GROSS APPROPRIATION	$	3,912,300
Appropriated from:		
State general fund/general purpose	$	3,912,300

Grand Rapids veterans' home.

Sec. 106. GRAND RAPIDS VETERANS' HOME

Full-time equated classified positions	536.0	
Grand Rapids veterans' home—536.0 FTE positions	$	42,264,700
Board of managers		300,000
GROSS APPROPRIATION	$	42,564,700
Appropriated from:		
Federal revenues:		
DVA-VHA		11,910,000
HHS-HCFA, title XIX, Medicaid		500,000
HHS-HCFA, Medicare, hospital insurance		692,900
Special revenue funds:		
Private - veterans' home post and posthumous funds		300,000
Income and assessments		13,925,700
Lease revenue		35,000
State general fund/general purpose	$	15,201,100

D.J. Jacobetti veterans' home.

Sec. 107. D.J. JACOBETTI VETERANS' HOME

Full-time equated classified positions	151.0	

		For Fiscal Year Ending Sept. 30, 2003
D.J. Jacobetti veterans' home—151.0 FTE positions	$	12,832,800
Board of managers		125,000
GROSS APPROPRIATION	$	12,957,800
Appropriated from:		
Federal revenues:		
DVA-VHA		3,356,100
HHS-HCFA, Medicare, hospital insurance		208,700
Special revenue funds:		
Private - veterans' home post and posthumous funds		125,000
Income and assessments		4,068,800
State general fund/general purpose	$	5,199,200

Michigan veterans' trust fund.

Sec. 108. MICHIGAN VETERANS' TRUST FUND

Full-time equated classified positions	16.0	
Veterans' affairs directorate administration—3.0 FTE positions	$	344,200
Administration—13.0 FTE positions		1,030,000
Veterans' trust fund grants		3,746,500
GROSS APPROPRIATION	$	5,120,700
Appropriated from:		
Special revenue funds:		
Michigan veterans' trust fund		4,776,500
State general fund/general purpose	$	344,200

Information technology.

Sec. 109. INFORMATION TECHNOLOGY

Information technology services and projects	$	1,230,800
GROSS APPROPRIATION	$	1,230,800
Appropriated from:		
Federal revenues:		
DOD-DOA-NGB		394,900
DVA-VHA		125,200
Special revenue funds:		
Income and assessments		141,600
State general fund/general purpose	$	569,100

Early retirement and budgetary savings.

Sec. 110. EARLY RETIREMENT AND BUDGETARY SAVINGS

Early retirement savings	$	(463,200)
Budgetary savings		(409,600)
GROSS APPROPRIATION	$	(872,800)
Appropriated from:		
State general fund/general purpose	$	(872,800)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $63,520,200.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $120,000.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS		
MILITARY TRAINING SITES AND SUPPORT FACILITIES		
Payments in lieu of taxes	$	70,000
MICHIGAN VETERANS' TRUST FUND		
County counselor travel expenses	$	50,000
TOTAL	$	120,000

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this act:

(a) "Department" means the department of military and veterans affairs.

(b) "Director" means the director of the department of military and veterans affairs.

(c) "DOD" means the United States department of defense.

(d) "DOD-DOA-NGB" means the DOD department of the army, national guard bureau.

(e) "DVA" means the United States department of veterans' affairs.

(f) "DVA-VHA" means the DVA veterans' health administration.

(g) "FTE" means full-time equated.

(h) "HHS" means the United States department of health and human services.

(i) "HHS-HCFA" means the HHS health care financing administration.

(j) "IDG" means interdepartmental grant.

Billing by department of civil service; payments.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) Beginning October 1, a hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state

classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report by the last business day of each month to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous month and the justification for the exception.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $5,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $2,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization; project plan.

Sec. 207. Sixty days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Use of Internet; electronic transmission of reports.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an Internet or Intranet site.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available.

Businesses in deprived and depressed communities; contracts for services or supplies.

Sec. 210. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Creation and retention of appropriation reports.

Sec. 211. The department shall create and retain reports for all money appropriated under part 1.

Michigan national guard education assistance program.

Sec. 212. (1) Of the funds appropriated in section 103 for military training sites and support facilities, there shall be established a Michigan national guard education assistance program. Disbursements to the educational assistance program shall not exceed $2,000,000.00 without legislative approval. Under the program, a member of the national guard who is in active service and who enrolls as a full- or part-time student at a public or private state college or university may be eligible to receive up to an equivalent of 50% of the total cost of tuition not to exceed $2,000.00, as education assistance, in any academic year.

(2) An eligible person means a member of the Michigan national guard who is in active service, as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505. An eligible person does not include a member of the Michigan national guard or air national guard who is absent without leave or who is under charges as described in the Michigan code of military justice of 1980, 1980 PA 523, MCL 32.1001 to 32.1148.

(3) The department of military and veterans affairs, office of the adjutant general shall administer the education assistance program and prescribe forms and procedures to effectively carry out the education assistance program.

(4) An eligible person shall apply to the department of military and veterans affairs, office of the adjutant general for education assistance and shall provide evidence of attendance and completion of the course of study with a grade of at least 2.0 on a 4.0 scale, or its equivalent. The adjutant general shall approve the application for reimbursement if the applicant meets the definition of an eligible person under subsection (2) and other criteria as established by the adjutant general.

(5) The education assistance program applies to any course of instruction that is included in an associate, undergraduate, or postgraduate degree program offered by a college or university of this state.

(6) The education assistance program applies to an eligible person notwithstanding any other educational incentive or benefit received by the eligible person under any other educational assistance program provided by any other state.

(7) An eligible person who successfully completes the course of study with a grade of at least 2.0 on a 4.0 scale, or its equivalent, shall be eligible for reimbursement.

(8) The department of military and veterans affairs may use funds from the appropriated funds to administer the education assistance program.

(9) Reimbursed members who do not complete their national guard obligation shall pay the state for money received from the state for tuition. Members who fail to repay the state within the time limits established by the adjutant general shall be indebted to the state. The department shall work in conjunction with the department of treasury for inclusion in the tax intercept program for amounts due the state.

(10) A portion of the funds for the Michigan national guard education assistance program may be used by the department for the purpose of promoting the program and for encouraging those persons the department wishes to have enlist or reenlist in the Michigan national guard.

National guard armories; closing or consolidation.

Sec. 213. The department shall consult with the house and senate appropriations subcommittees on military and veterans affairs regarding the projected closing or consolidation of any national guard armories.

Technology-related services and projects; payment of user fees to department of information technology.

Sec. 259. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology-related services and projects. User fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

Information technology; designation as work projects; availability of funds for expenditure.

Sec. 260. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Retirement and budgetary savings; negative appropriation.

Sec. 261. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the department director and approved by the state budget director.

(3) Appropriation authorization adjustments required due to negative appropriations for early retirement savings and budgetary savings shall be made only after the approval of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

HEADQUARTERS AND ARMORIES

Rental and equipment usage fees.

Sec. 301. The department may charge reasonable rental and equipment usage fees for renting an armory or using the distance learning network. The fee shall include the cost of overtime compensation, insurance coverage, and any maintenance required.

Challenge program; funds; fee.

Sec. 302. (1) The funds appropriated in this act for private donations to the challenge program shall be considered state restricted revenue, and unexpended funds remaining at

the close of the fiscal year shall not lapse to the general fund but shall be carried forward to the subsequent fiscal year.

(2) The department may charge a parent or guardian of a participant in the challenge program a fee for participating in the program if the participant is a member of a family with an income that exceeds 200% of the federal poverty guidelines as published by the United States department of health and human services. The amount charged the parent or guardian shall not exceed the per student state share cost of administering the program. The parent or guardian shall be notified of any charge to be assessed under this subsection prior to enrollment of the child in the program.

Oak Park armory property; appraisal; sale; disposition of proceeds; special regulation.

Sec. 303. (1) The department shall obtain a new appraisal to determine the fair market value of the Oak Park armory property. The results of that appraisal shall be forwarded to the city of Oak Park. For a period of 60 days following receipt of the appraisal by the city, the city of Oak Park shall have the right to purchase the armory property at a price equal to the appraised value under the appraisal obtained pursuant to this section. Any agreement regarding the sale of the property to the city of Oak Park shall comply with the provisions of section 382 of the Michigan military act, 1967 PA 150, MCL 32.782, and shall include a restriction that the city not receive any remuneration from the subsequent resale of the property to an outside party beyond the purchase price paid by the city and any reasonable expenses incurred by the city in developing the property. If the city has not formally notified the department within 60 days of its decision to purchase the property, the department shall proceed with the sale of the property under the provisions of the Michigan military act, 1967 PA 150, MCL 32.501 to 32.851. Proceeds from the sale of the property shall be deposited in the Michigan national guard armory construction fund, as provided in section 382a of the Michigan military act, 1967 PA 150, MCL 32.782a.

(2) This section is a special regulation adopted by the legislature as authorized by section 356 of the Michigan military act, 1967 PA 150, MCL 32.756 and does not amend the Michigan military act, 1967 PA 150, MCL 32.501 to 32.851.

Challenge program; identification of eligible youth.

Sec. 304. The department will partner with the family independence agency to identify youth who may be eligible for the challenge program from those youth served by family independence agency programs. Such eligible youth shall be given priority for enrollment in the program.

VETERANS SERVICE ORGANIZATIONS

Veterans service organizations; grants.

Sec. 501. (1) Money appropriated in section 105 for grants to veterans service organizations shall be used only for salaries, wages, related personnel costs, training, and equipment for accredited veteran service advocacy officers and necessary support and managerial staff. Training shall be provided for service advocacy officers and shall be conducted by accredited advocacy officers.

(2) To receive a grant from the money appropriated in section 105, a veterans service organization shall meet the following eligibility requirements:

(a) Be congressionally chartered by the United States Congress.

(b) Be an active participating member of the Michigan veterans organizations' rehabilitation and veterans service committee and abide by its rules, guidelines, and programs.

(c) Demonstrate the receipt of monetary or service support from its own organization.

(d) Comply with the department's and the legislature's requirements of accounting audits, service work activity, accounting of recoveries, listing of volunteer hours, budget requests, and other requirements specified in subsection (3).

(e) For a veterans service organization founded after September 30, 1989, be in operation and providing service to Michigan veterans for not less than 2 years before receiving an initial state grant. During this 2-year period of time, the organization shall file a listing of service work activity and an accounting of recoveries with the department, the senate and house fiscal agencies, the senate and house of representatives appropriations subcommittees on military affairs, and the state budget office on forms as prescribed by the department.

(3) A veterans service organization receiving a grant from the money appropriated in section 105 shall file with the department an accounting of its expenditures, audited and certified by a certified public accountant, within 120 days after the organization's fiscal year end. Each organization shall provide a detailed budget request for the fiscal year ending September 30, 2004, to the department by November 15, 2002, within the format as prescribed by the department to be used in the development of the budget for the fiscal year ending September 30, 2004. Each veterans service organization shall provide 5 copies of a listing of all service activity, an accounting of recoveries, and a listing of volunteer hours for the fiscal year ending September 30, 2002, to the department by January 31, 2003. The listing of volunteer hours shall include the hours, services, and donations provided to residents of the Grand Rapids veterans' home and the D.J. Jacobetti veterans' home. Each veterans service organization shall provide a copy of the most recent and completed internal revenue service form 990 to the department at the end of the fiscal year ending September 30, 2002. A veterans service organization receiving a grant from the money appropriated in section 105 shall use the forms recommended by the Michigan veterans organizations' rehabilitation and veterans service committee for filing reports required by this act. The department shall forward information required under this section to the senate and house fiscal agencies, the senate and house of representatives appropriations subcommittees on military affairs, and the state budget office.

VETERANS' HOMES

Grand Rapids veterans' home and D.J. Jacobetti veterans' home; use of funds.

Sec. 601. Appropriations in this act for the Grand Rapids veterans' home and the D.J. Jacobetti veterans' home shall not be used for any purpose other than for veterans and veterans' families.

Grand Rapids veterans' home and D.J. Jacobetti veterans' home; annual report.

Sec. 602. The Grand Rapids veterans' home and the D.J. Jacobetti veterans' home, together with the department and the department of management and budget, shall produce and deliver to the senate and house of representatives appropriations subcom-

mittees on state police and military affairs an annual written report. The report shall include an accounting of member populations and bed space available; a description and accounting of services and activities provided to members; financial information; current state nursing home licensure status; the steps required for Medicaid certification, including a listing of any personnel, equipment, supplies, or budgetary increases required; and whether or not steps are being taken toward Medicaid certification. The annual report shall be submitted to the senate and house of representatives appropriations subcommittees on military affairs no later than February 1, 2003.

Appropriation for boards of managers; expenditures benefitting veterans' homes.

Sec. 603. The money appropriated in this act for the boards of managers may be expended for facility improvements, the purchase and repair of equipment and furnishings, member services, and other purposes that benefit the Grand Rapids veterans' home and the D.J. Jacobetti veterans' home.

VETERANS' TRUST FUND

Michigan veterans' trust fund; annual report.

Sec. 703. (1) By April 1, 2003, the department shall submit to the senate and house of representatives appropriations subcommittees on military affairs and the state budget office a detailed annual report of the Michigan veterans' trust fund for fiscal year 2001-2002. The report shall include information on grants provided from the emergency grant program and the veterans survivor tuition program, including details concerning the methodology of allocations, the selection of emergency grant program authorized agents, and a detailed breakdown of trust fund expenditures for that year. The report shall also provide an update on the department's efforts to reduce program administrative costs.

(2) The annual report required under subsection (1) shall provide detailed information on the number of emergency grant applications denied during fiscal year 2001-2002, including an accounting of the reasons for denial. This information also shall include the number of persons denied an emergency grant because of individual ineligibility, because of insufficient funds, and because the applicant's request did not meet minimum program criteria.

(3) The annual report required under subsection (1) shall contain information on the veterans survivors tuition program, including the number of participants, where the participants attended school, payments made to each school, the average grade point and number of college credits earned by each participant, the number of participants suspended by the program, and the number of participants who earned a degree during fiscal year 2001-2002.

Assistance to county veterans counselors.

Sec. 704. The Michigan veterans affairs directorate administration and the Michigan veterans' trust fund administration shall take steps to assist the county veterans counselors of the state to obtain training necessary for the execution of their duties.

This act is ordered to take immediate effect.
Approved July 19, 2002.
Filed with Secretary of State July 25, 2002.

[No. 515]

(HB 5648)

AN ACT to make appropriations for the judicial branch for the fiscal year ending September 30, 2003; to provide for the expenditure of these appropriations; to place certain restrictions on the expenditure of these appropriations; to prescribe the powers and duties of certain officials and employees; to require certain reports; and to provide for the disposition of fees and other income received by the judicial branch.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; judiciary.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the judicial branch for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

JUDICIARY		
APPROPRIATION SUMMARY:		
Full-time equated exempted positions....582.5		
GROSS APPROPRIATION	$	245,245,800
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		2,833,500
ADJUSTED GROSS APPROPRIATION	$	242,412,300
Federal revenues:		
Total federal revenues		3,901,000
Special revenue funds:		
Total local revenues		2,941,800
Total private revenues		842,500
Total other state restricted revenues		57,727,700
State general fund/general purpose	$	176,999,300

Supreme court.

Sec. 102. SUPREME COURT		
Full-time equated exempted positions....284.0		
Supreme court administration—114.0 FTE positions	$	10,846,300
Judicial institute—20.0 FTE positions		3,107,000
State court administrative office—80.0 FTE positions		9,987,700
Judicial information systems—21.0 FTE positions		4,772,500
Direct trial court automation support—33.0 FTE positions		2,900,500
Foster care review board—12.0 FTE positions		1,253,200
Community dispute resolution—4.0 FTE positions		2,511,300
Drug treatment courts		1,293,700
GROSS APPROPRIATION	$	36,672,200
Appropriated from:		
Interdepartmental grant revenues:		
IDG from department of career development		95,000
IDG from state police - criminal justice improvement		2,015,000

		For Fiscal Year Ending Sept. 30, 2003
IDG from state police - Michigan justice training fund	$	300,000
Federal revenues:		
USDA, agriculture mediation grant		125,000
DOE, special education grant		150,000
DOJ, enforcing underage drinking law		50,000
DOJ, victims assistance programs		50,000
DOT, national highway safety traffic administration		215,300
HHS, access and visitation grant		387,000
HHS, court improvement project		1,160,000
HHS, title IV-D child support program		907,700
HHS, title IV-E foster care program		500,000
HHS, TANF		50,000
HHS, domestic violence prevention		269,500
Special revenue funds:		
Local - user fees		2,941,800
Private		169,000
Private - interest on lawyers trust accounts		232,700
Private - state justice institute		370,800
Community dispute resolution fees		1,665,600
Law exam fees		482,100
Miscellaneous revenue		227,900
State court fund		319,000
State general fund/general purpose	$	23,988,800

Court of appeals.

Sec. 103. COURT OF APPEALS

Full-time equated exempted positions....230.5		
Court of appeals operations—230.5 FTE positions	$	17,914,100
GROSS APPROPRIATION	$	17,914,100
Appropriated from:		
Special revenue funds:		
Court filing/motion fees		1,571,000
Miscellaneous revenue		77,800
State general fund/general purpose	$	16,265,300

Branchwide appropriations.

Sec. 104. BRANCHWIDE APPROPRIATIONS

Full-time equated exempted positions....3.0		
Branchwide appropriations	$	9,458,100
GROSS APPROPRIATION	$	9,458,100
Appropriated from:		
Special revenue funds:		
State general fund/general purpose	$	9,458,100

Justices' and judges' compensation.

Sec. 105. JUSTICES' AND JUDGES' COMPENSATION

Full-time judges positions....615.0		
Supreme court justices' salaries—7.0 judges	$	1,169,600

		For Fiscal Year Ending Sept. 30, 2003
Court of appeals judges' salaries—28.0 judges	$	4,304,000
District court judges' state base salaries—258.0 judges		24,412,400
District court judicial salary standardization		11,796,800
Probate court judges' state base salaries—106.0 judges		9,254,500
Probate court judicial salary standardization		4,347,100
Circuit court judges' state base salaries—216.0 judges		20,658,100
Circuit court judicial salary standardization		9,807,800
Judges' retirement system defined contributions		2,570,000
OASI, social security		4,637,600
GROSS APPROPRIATION	$	92,957,900
Appropriated from:		
Special revenue funds:		
Court fee fund		7,090,200
State general fund/general purpose	$	85,867,700

Judicial agencies.

Sec. 106. JUDICIAL AGENCIES

Full-time equated exempted positions—10.0		
Judicial tenure commission—10.0 FTE positions	$	1,014,100
GROSS APPROPRIATION	$	1,014,100
Appropriated from:		
State general fund/general purpose	$	1,014,100

Indigent defense - criminal.

Sec. 107. INDIGENT DEFENSE - CRIMINAL

Full-time equated exempted positions—55.0		
Appellate public defender program—47.0 FTE positions	$	4,891,400
Appellate assigned counsel administration—8.0 FTE positions		920,400
GROSS APPROPRIATION	$	5,811,800
Appropriated from:		
Interdepartmental grant revenues:		
IDG from state police - Michigan justice training fund		423,500
Federal revenues:		
DOJ, assigned criminal defense		36,500
Special revenue funds:		
Private - interest on lawyers trust accounts		70,000
Miscellaneous revenue		113,100
State general fund/general purpose	$	5,168,700

Indigent civil legal assistance.

Sec. 108. INDIGENT CIVIL LEGAL ASSISTANCE

Indigent civil legal assistance	$	7,587,000
GROSS APPROPRIATION	$	7,587,000
Appropriated from:		
Special revenue funds:		
State services fee fund		250,000
State court fund		7,337,000
State general fund/general purpose	$	0

Trial court operations.

Sec. 109. TRIAL COURT OPERATIONS

Court equity fund reimbursements	$	71,005,700
Judicial technology improvement fund		1,943,700
Court boundary realignment costs		150,000
GROSS APPROPRIATION	$	73,099,400
Appropriated from:		
Special revenue funds:		
Court equity fund		36,044,000
State general fund/general purpose	$	37,055,400

Grants and reimbursements to local government.

Sec. 110. GRANTS AND REIMBURSEMENTS TO LOCAL GOVERNMENT

Drunk driving case-flow program	$	2,300,000
Drug case-flow program		250,000
GROSS APPROPRIATION	$	2,550,000
Appropriated from:		
Special revenue funds:		
Drug fund		250,000
Drunk driving fund		2,300,000
State general fund/general purpose	$	0

Early retirement and budgetary savings.

Sec. 113. EARLY RETIREMENT AND BUDGETARY SAVINGS

Early retirement savings	$	(891,200)
Budgetary savings		(927,600)
GROSS APPROPRIATION	$	(1,818,800)
Appropriated from:		
State general fund/general purpose	$	(1,818,800)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $234,727,000.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $113,428,100.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

SUPREME COURT		
State court administrative office - administration	$	511,900
Drug treatment courts		1,293,700
TRIAL COURT OPERATIONS		
Court equity fund reimbursements	$	71,005,700

Judicial technology improvement fund		1,943,700
Court boundary realignment costs		150,000
JUSTICES' AND JUDGES' COMPENSATION		
District court judicial salary standardization	$	11,796,800
Probate court judges' state base salaries		9,254,500
Probate court judicial salary standardization		4,347,100
Circuit court judicial salary standardization		9,807,800
Grant to OASI contribution fund, employers share, social security		766,900
GRANTS AND REIMBURSEMENTS TO LOCAL GOVERNMENT		
Drunk driving case-flow program	$	2,300,000
Drug case-flow program		250,000
TOTAL	$	113,428,100

Appropriations subject to §§ 18.1101 to 18.1594; written approval for expenditure or transfer required.

Sec. 202. (1) The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

(2) Funds appropriated in part 1 to an entity within the judicial branch shall not be expended or transferred to another account without written approval of the authorized agent of the judicial entity. If the authorized agent of the judicial entity notifies the state budget director of its approval of an expenditure or transfer, the state budget director shall immediately make the expenditure or transfer. The authorized judicial entity agent shall be designated by the chief justice of the supreme court.

Definitions.

Sec. 203. As used in this act:

(a) "DOE" means the United States department of education.

(b) "DOJ" means the United States department of justice.

(c) "DOT" means the United States department of transportation.

(d) "FTE" means full-time equated.

(e) "HHS" means the United States department of health and human services.

(f) "HHS-OCSE" means the office of child support enforcement.

(g) "IDG" means interdepartmental grant.

(h) "MDCD" means the Michigan department of career development.

(i) "OASI" means old age survivor's insurance.

(j) "TANF" means temporary assistance for needy families.

(k) "USDA" means the United States department of agriculture.

Contingency funds.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $500,000.00 for federal contingency funds.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $500,000.00 for state restricted contingency funds.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for local contingency funds.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for private contingency funds.

(5) A transfer of contingency funds within the judicial branch shall not be made by the authorized agent of the judicial entity unless approved by both appropriations committees. If the state budget director does not approve contingency fund transfers adopted by both appropriations committees under this section, the state budget director shall notify the appropriations committees of his or her action within 15 days.

Privatization; project plan.

Sec. 207. At least 90 days before beginning any effort to privatize, the judicial branch shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Reporting requirements; use of Internet.

Sec. 208. Unless otherwise specified, the judicial branch shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an Internet or Intranet site. Quarterly, the judicial branch shall provide to the appropriations subcommittees members, state budget office, and the fiscal agencies an electronic and paper copy listing of the reports submitted during the most recent 3-month period along with the Internet or Intranet site of each report, if any.

Purchase of foreign goods or services.

Sec. 209. (1) Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and comparable quality American goods and services, or both, are available.

(2) Funds appropriated in part 1 shall not be used for the purchase of out-of-state goods or services, or both, if competitively priced and comparable quality Michigan goods or services, or both, are available.

Businesses in deprived and depressed communities; contracts to provide services or supplies.

Sec. 210. (1) The chief justice of the supreme court shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both, for the judicial branch. The chief justice shall strongly encourage firms with which the courts of this state contract to subcontract with certified businesses in depressed and deprived communities for services or supplies, or both.

(2) The chief justice shall take all reasonable steps to ensure equal opportunity for all who compete for and perform contracts to provide services or supplies, or both, for the department. The chief justice shall strongly encourage firms with which the department contracts to provide equal opportunity for subcontractors to provide services or supplies, or both.

Personal service contracts; report.

Sec. 211. (1) The judicial branch shall provide to the senate and house of representatives standing committees on appropriations and the senate and house fiscal agencies a monthly

report on all personal service contracts awarded without competitive bidding, pricing, or rate setting. The notification shall include all of the following:

(a) The total dollar amount of the contract.

(b) The duration of the contract.

(c) The name of the vendor.

(d) The type of service to be provided.

(2) For personal service contracts of $100,000.00 or more, the judicial branch shall provide a monthly report on all of the following:

(a) The total dollar amount of the contract.

(b) The duration of the contract.

(c) The name of the vendor.

(d) The type of service to be provided.

Retention of reports and records.

Sec. 212. The judicial branch shall receive and retain copies of all reports funded from appropriations in part 1, and shall follow federal and state guidelines for short-term and long-term retention of these reports and records.

Early retirement savings; hiring freeze; adjustments.

Sec. 213. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed on the state classified civil service for the fiscal year ending September 30, 2003, efficiencies, and other savings identified by the director and approved by the state budget director.

(3) Appropriation authorization adjustments required to implement the negative appropriations for early retirement savings and budgetary savings shall be made only after the approval of transfers by the legislature under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

JUDICIAL BRANCH

Direct trial court automation support program; user service charges; list.

Sec. 301. (1) The direct trial court automation support program of the state court administrative office shall recover direct and overhead costs from trial courts by charging for services rendered. The fee shall cover the actual costs incurred to the direct trial court automation support program in providing the service. A report of amounts collected in excess of funds identified as user service charges in part 1 shall be submitted to the state budget director and to the house and senate appropriations subcommittees on judiciary 30 days before expenditure by the direct trial court automation support program.

(2) From funds appropriated in part 1, the direct trial court automation support program of the state court administrative office shall provide to the state budget director, the senate and house appropriations committees, and the senate and house fiscal agencies before January 1 of each year, a detailed list of user service charges collected during the immediately preceding state fiscal year.

Expenditures; approval by supreme court required.

Sec. 302. Funds appropriated within the judicial branch shall not be expended by any component within the judicial branch without the approval of the supreme court.

Circuit court and court of claims reimbursement; allocations.

Sec. 303. Of the amount appropriated in part 1 for the judicial branch, $325,000.00 is allocated for circuit court reimbursement under section 3 of 1978 PA 16, MCL 800.453, and $186,900.00 is allocated for court of claims reimbursement under section 6413 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6413.

Audits.

Sec. 304. The judicial branch shall cooperate with the auditor general regarding audits of the judicial branch conducted pursuant to section 53 of article IV of the state constitution of 1963.

Status of accounts; report.

Sec. 305. To avoid the overexpenditure of funds appropriated under this act, the supreme court shall report quarterly to the state budget director and to the judiciary subcommittees of the house and senate appropriations committees regarding the status of the accounts set forth in part 1.

Improvement of judgment collection; assistance to local trial courts.

Sec. 306. The supreme court and the state administrative office shall continue to maintain, as a priority, the assisting of local trial courts in improving the collection of judgments.

Judges' compensation; insufficient funds.

Sec. 308. If sufficient funds are not available from the court fee fund to pay judges' compensation, the difference between the appropriated amount from that fund for judges' compensation and the actual amount available after the amount appropriated for trial court reimbursement is made shall be appropriated from the state general fund for judges' compensation.

Community dispute resolution.

Sec. 310. (1) State general fund appropriation for community dispute resolution contained in part 1 shall be used to supplement funding for community dispute resolution centers. The supplemental funding shall be disbursed by formula to achieve a base level of $30,000.00 for centers funded through the community dispute resolution act, 1988 PA 260, MCL 691.1551 to 691.1564, with the remainder disbursed based upon performance measures as determined by the state court administrative office.

(2) From the funds in part 1, the chief justice is strongly encouraged to distribute pamphlets of information on the community dispute resolution program, especially to those entities known to be points of referrals, including, but not limited to, all statewide judicial conferences, all courts, local units of government, legal organizations, prosecutors, attorneys, police departments, colleges and universities, and state departments.

Drug treatment courts.

Sec. 311. (1) The funds appropriated in part 1 for drug treatment courts shall be administered by the state court administrative office to implement new drug treatment court programs. A drug treatment court program shall not receive funds for more than 5 years. A drug treatment court shall be responsible for handling cases involving substance abusing nonviolent offenders through comprehensive supervision, testing, treatment

services, and immediate sanctions and incentives. A drug treatment court shall use all available county and state personnel involved in the disposition of cases including, but not limited to, parole and probation agents, prosecuting attorney, defense attorney, and community corrections providers. The funds may be used in connection with other federal, state, and local funding sources.

(2) Local units of government are encouraged to refer to federal drug treatment court guidelines to prepare proposals. However, federal agency approvals are not required for funding under this section.

(3) From the funds appropriated in part 1, the chief justice shall allocate sufficient funds for the judicial institute to provide in-state training for those identified in subsection (1), including training for new drug treatment court judges.

(4) For drug treatment court grants, consideration for priority may be given to those courts where higher instances of substance abuse cases are filed.

Minors seeking court-issued waiver of parental consent; report.

Sec. 312. From the funds appropriated in part 1, the state court administrator shall produce a statistical report regarding the implementation of the parental rights restoration act, 1990 PA 211, MCL 722.901 to 722.908, as it pertains to minors seeking a court-issued waiver of parental consent. The state court administrative office shall report the total number of petitions filed and the total number of petitions granted in accordance with section 208 of this act.

Noncompliance of county with federal child support system requirements.

Sec. 313. A county shall not be penalized due to the failure to comply with federal child support enforcement system requirements if the family independence agency determines that all of the following conditions are met:

(a) The county, friend of the court, and the department have a written agreement that outlines the county's commitment to participate in the system.

(b) The county and the friend of the court are fully and timely cooperating with the work plan outlined in the child support enforcement memorandum of understanding between the department and the county.

(c) The county and the friend of the court are implementing the child support enforcement system required for federal certification.

(d) The friend of the court and county prosecuting attorney's office use the statewide system upon availability to monitor and process title IV-D cases.

Judicial technology improvement fund; allocations; purposes.

Sec. 316. (1) The appropriation in part 1 for the judicial technology improvement fund shall be allocated for the development of a statewide judicial information system. The supreme court, working with the department of state police, department of corrections, secretary of state, prosecuting attorneys association of Michigan, and the department of information technology, will develop a statewide telecommunications infrastructure to integrate criminal justice information systems. The judicial technology improvement fund shall also provide grants to local trial court funding units to encourage technology innovations by local trial courts that will result in enhanced public service. These innovations will include, but not be limited to, electronic filing, on-line payments of fines and fees, and web-based instructions for completion of court documents.

(2) Funds in part 1 may be used to develop, operate, and maintain a cyber court system.

(3) There is hereby appropriated to the judiciary for deposit into the judicial technology improvement fund $6,000,000.00 contingent upon the receipt of a refund from the federal government related to penalties previously imposed for the child support enforcement system of which up to $1,000,000.00 may be utilized towards development and operation of a cyber court system as identified in subsection (2). The appropriation to the judiciary of refund money related to the child support enforcement system shall precede any other appropriations of such resources. Notwithstanding the provision in subsection (2), any child support enforcement system penalty refund resources deposited into the judicial technology improvement fund shall be expended in the manner as prescribed in subsection (1). The child support enforcement system refund revenue when certified as available in the judicial technology improvement fund by the judiciary shall remain unallotted until such time as the state budget director has reviewed and approved an allotment schedule submitted by the judiciary. Unexpended resources remaining in the fund at the end of the fiscal year may be carried forward for expenditure in the following year for the same purposes as described in this section.

Mental health court.

Sec. 317. If funds become available from the federal government for mental health courts, the state court administrative office shall assist those local trial courts who are interested in starting a mental health court in writing grants and any other assistance that may help them receive such funds.

Child care for parents appearing in court; feasibility studies.

Sec. 318. The supreme court shall assist local trial courts with feasibility studies to create child care for parents who must appear in civil or criminal courts in order to improve the administration of justice in at least the following ways:

(a) Reducing child related disruptions and delays.

(b) Protecting safety of young children brought to courthouses.

(c) Assisting with court-involved families.

(d) Reducing the incidence of failure to appear caused by the inability of witnesses to find child care.

Sec. 319. (1) From the funds appropriated for indigent civil legal assistance in part 1, a debt management loan program is created for attorneys who are employed by legal services organizations and whose total law school debt is greater than 25% of their total family income at the time of application to this program. The total law school debt shall not exceed the total amount of law school tuition, books, fees, and other costs directly related to the law school education of the applicant.

(2) To qualify for a loan, an applicant must be employed by or present a letter with a promise of employment with a legal services organization.

(3) For each dollar in state funds received by the attorney, the attorney must produce a dollar-for-dollar match, to be paid toward reduction of the total law school debt, from any other source, including funds from the attorney.

(4) An attorney may receive funds under this program for not more than the total law school debt outstanding on the date of application.

(5) The debt management loan program shall be administered by Wayne State University at no cost to the state.

(6) A legal services organization that employs an attorney who receives funds under this program shall certify the amounts of annual salary, total law school debt as of the date of initial application for the loan, and match to Wayne State University.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

(7) The legislature encourages the state bar of Michigan or any other interested partners to seek additional funds for deposit into the debt management loan program fund.

(8) Unexpended funds from the debt management loan program shall not lapse but shall be carried forward for the same purpose in the subsequent year.

(9) The state court administrative office shall provide to the house and senate judiciary subcommittees on appropriations a report on this fund in accordance with section 208 of this act.

(10) As used in this section:

(a) "Legal services organization" means an organization that is eligible to receive filing fees from the state bar foundation and provides legal services to the poor in this state as its primary mission.

(b) "Total family income" means the greater of either of the following:

(*i*) The attorney's adjusted gross income as reported on his or her most recent federal income tax form or, if applicable, the combined adjusted gross income of the attorney and the spouse of the attorney as reported in his or her most recent federal income tax form.

(*ii*) The amount of annual salary commitment from the legal services organization and, if applicable, the adjusted gross income of the spouse of the attorney as reported in his or her most recent federal income tax form.

Mental health and substance abuse treatment; individuals leaving juvenile justice system.

Sec. 320. The judicial branch shall work cooperatively with the family independence agency and the departments of community health and career development to coordinate and improve the delivery of mental health and substance abuse treatment and education and training services to individuals leaving the juvenile justice system, especially those who leave the juvenile justice system because of their age, who are identified as continuing to pose a serious risk to themselves or others. The judicial branch shall provide information from this collaborative effort as requested.

Information technology activities.

Sec. 321. The judicial branch shall communicate regarding information technology activities with the department of information technology.

Court boundary realignment costs; requests for reimbursement by local jurisdictions.

Sec. 322. The amount appropriated in part 1 for court boundary realignment costs shall be allocated to local units of government by the state court administrative office. Local jurisdictions shall submit requests for reimbursement to the state court administrative office for programs, technology, and other costs related to the implementation of 2002 PA 92.

This act is ordered to take immediate effect.

Approved July 25, 2002.

Filed with Secretary of State July 25, 2002.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

[No. 516]

(HB 5642)

AN ACT to make appropriations for the department of agriculture for the fiscal year ending September 30, 2003; to provide for the expenditure of the appropriations; to create funds; to provide for the imposition of fees; to require reports, audits, and plans; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by certain state agencies.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; department of agriculture.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of agriculture for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

DEPARTMENT OF AGRICULTURE		
APPROPRIATION SUMMARY:		
Full-time equated unclassified positions....6.0		
Full-time equated classified positions....629.5		
GROSS APPROPRIATION	$	96,470,700
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		10,953,800
ADJUSTED GROSS APPROPRIATION	$	85,516,900
Total federal revenues		6,639,500
Total local revenues		0
Total private revenues		1,127,600
Total other state restricted revenues		39,342,400
State general fund/general purpose	$	38,407,400

Executive.

Sec. 102. EXECUTIVE		
Full-time equated unclassified positions....6.0		
Full-time equated classified positions....57.0		
Commission and boards	$	63,300
Unclassified positions—6.0 FTE positions		488,200
Executive direction—4.0 FTE positions		525,700
Management services—48.0 FTE positions		3,697,200
Statistical reporting service—5.0 FTE positions		435,100
GROSS APPROPRIATION	$	5,209,500
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDCIS (LCC), nonretail liquor license fees		8,800
Special revenue funds:		
Gasoline inspection and testing fund		47,800
Licensing and inspection fees		62,100

		For Fiscal Year Ending Sept. 30, 2003
Michigan state fair revenue	$	80,500
State services fee fund		160,500
Upper Peninsula state fair revenue		9,000
State general fund/general purpose	$	4,840,800

Departmentwide.

Sec. 103. DEPARTMENTWIDE

Rent and building occupancy charges	$	1,856,200
GROSS APPROPRIATION	$	1,856,200
Appropriated from:		
Special revenue funds:		
State services fee fund		304,600
State general fund/general purpose	$	1,551,600

Food and dairy.

Sec. 104. FOOD AND DAIRY

Full-time equated classified positions....116.0		
Food safety and quality assurance—116.0 FTE positions	$	10,242,700
Local public health operations		8,977,500
GROSS APPROPRIATION	$	19,220,200
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDCH, local public health operations		8,977,500
Federal revenues:		
HHS-FDA		186,700
DAG, multiple grants		22,700
Special revenue funds:		
Civil penalties		40,300
Licensing and inspection fees		2,555,400
State general fund/general purpose	$	7,437,600

Animal industry.

Sec. 105. ANIMAL INDUSTRY

Full-time equated classified positions....54.0		
Animal health and welfare—25.5 FTE positions	$	2,265,400
Bovine tuberculosis program—28.5 FTE positions		3,469,000
GROSS APPROPRIATION	$	5,734,400
Appropriated from:		
Federal revenues:		
HHS-FDA		9,000
Special revenue funds:		
Licensing and inspection fees		176,500
Pseudorabies and swine brucellosis fund		20,000
State general fund/general purpose	$	5,528,900

Pesticide and plant pest management.

Sec. 106. PESTICIDE AND PLANT PEST MANAGEMENT

Full-time equated classified positions....132.3		

		For Fiscal Year Ending Sept. 30, 2003
Pesticide and plant pest management—132.3 FTE positions	$	12,924,100
Michigan State University		210,000
GROSS APPROPRIATION	$	13,134,100
Appropriated from:		
Federal revenues:		
DAG, multiple grants		1,952,200
EPA, multiple grants		1,510,000
HHS-FDA		60,000
Special revenue funds:		
Private - slow-the-spread foundation		130,000
Commodity inspection fees		991,500
Licensing and inspection fees		2,413,000
State general fund/general purpose	$	6,077,400

Environmental stewardship.

Sec. 107. ENVIRONMENTAL STEWARDSHIP

Full-time equated classified positions	55.0	
Environmental stewardship—38.0 FTE positions	$	3,281,000
Groundwater and freshwater protection program—10.0 FTE positions		5,174,000
Farmland and open space preservation—7.0 FTE positions		699,800
Agriculture pollution prevention program		100
Cooperative resources management initiative program		1,000,000
Energy conservation program		138,000
Local conservation districts		1,465,800
Migrant labor housing		550,000
Open space development rights easements payments		50,000
GROSS APPROPRIATION	$	12,358,700
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDEQ, biosolids	$	80,000
IDG from MDEQ, type II well survey		15,000
IDG from MDNR, district forestry and wildlife program		1,000,000
IDG from MDEQ, right to farm		105,000
Federal revenues:		
DAG-NRCS		250,000
EPA, multiple grants		400,000
Special revenue funds:		
Private - oil company overcharge settlement		193,900
Agricultural preservation fund		699,800
Environmental protection fund		50,000
Agriculture pollution prevention fund		100
Groundwater and freshwater protection fund		4,674,000
Industry support funds		40,000
State general fund/general purpose	$	4,850,900

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Laboratory program.		
Sec. 108. LABORATORY PROGRAM		
Full-time equated classified positions....135.0		
Laboratory analysis program—73.5 FTE positions	$	6,321,500
USDA monitoring—19.0 FTE positions		1,824,000
Consumer protection program—42.5 FTE positions		3,232,500
GROSS APPROPRIATION	$	11,378,000
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDCIS (LCC), liquor quality testing fees		161,500
Federal revenues:		
EPA, multiple grants		300,000
DAG, multiple grants		1,844,400
Special revenue funds:		
Private - oil company overcharge settlement		803,700
Agriculture equine industry development fund		509,100
Gasoline inspection and testing fund		1,491,800
Testing fees		232,500
Weights and measures regulation fees		323,400
State general fund/general purpose	$	5,711,600
Market development.		
Sec. 109. MARKET DEVELOPMENT		
Full-time equated classified positions....21.5		
Marketing and emergency management—15.5 FTE positions	$	2,005,600
Agriculture development—6.0 FTE positions		742,400
Export market development program		100,000
Food bank		487,400
Southwestern Michigan tourist council - taste of Michigan		60,400
Future farmers of America		60,000
GROSS APPROPRIATION	$	3,455,800
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDCIS (LCC), nonretail liquor license fees	$	603,000
Federal revenues:		
DAG, multiple grants		100,000
Special revenue funds:		
Industry support funds		260,000
State general fund/general purpose	$	2,492,800
Fairs and expositions.		
Sec. 110. FAIRS AND EXPOSITIONS		
Full-time equated classified positions....22.0		
Michigan state fair operations—9.0 FTE positions	$	5,110,200
Upper Peninsula state fair—8.0 FTE positions		1,214,400
Fairs and racing—5.0 FTE positions		612,500
Building and track improvement - county and state fairs		963,200
Premiums - county and state fairs		1,614,000

		For Fiscal Year Ending Sept. 30, 2003
Purses and supplements - fairs/licensed tracks		2,969,000
Standardbred fedele fauri futurity		98,400
Standardbred Michigan futurity		98,400
Quarterhorse programs		48,300
Quarterhorse programs breeders' awards		5,000
Licensed tracks - light horse racing		93,500
Standardbred breeders' awards		1,503,200
Standardbred purses and supplements - licensed tracks		336,700
Standardbred sire stakes		1,259,400
Thoroughbred sire stakes		1,259,400
Standardbred training and stabling		53,200
Thoroughbred program		2,203,900
Thoroughbred owners' awards		189,600
Distribution of outstanding winning tickets		500,000
Fairs and festivals promotion		60,000
GROSS APPROPRIATION	$	20,192,300
Appropriated from:		
Special revenue funds:		
Agriculture equine industry development fund		10,618,000
Michigan state fair revenue		5,203,100
State services fee fund		3,156,800
Upper Peninsula state fair revenue		1,214,400
State general fund/general purpose	$	0

Office of racing commissioner.

Sec. 111. OFFICE OF RACING COMMISSIONER

Full-time equated classified positions	36.7	
Office of racing commissioner—36.7 FTE positions	$	3,747,700
GROSS APPROPRIATION	$	3,747,700
Appropriated from:		
Special revenue funds:		
Agriculture equine industry development fund	$	1,147,700
State services fee fund		2,600,000
State general fund/general purpose	$	0

Information and technology.

Sec. 112. INFORMATION AND TECHNOLOGY

Information technology services and projects	$	1,907,300
GROSS APPROPRIATION	$	1,907,300
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDCIS (LCC), nonretail liquor license fees		500
IDG from MDCIS (LCC), liquor quality testing fees		2,500
Federal revenues:		
DAG, multiple grants		4,500

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Special revenue funds:		
Groundwater and freshwater protection fund	$	100
Agriculture equine industry development fund		142,200
Agricultural preservation fund		200
State services fee fund		2,100
Upper Peninsula state fair revenue		900
Michigan state fair revenue		88,800
Gasoline inspection and testing fund		26,200
State general fund/general purpose	$	1,639,300

Early retirement and budgetary savings.

Sec. 113. EARLY RETIREMENT AND BUDGETARY SAVINGS

Early retirement savings	$	(1,315,500)
Budgetary savings		(408,000)
GROSS APPROPRIATION	$	(1,723,500)
Appropriated from:		
State general fund/general purpose	$	(1,723,500)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $77,749,800.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $3,315,800.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF AGRICULTURE

Groundwater and freshwater protection program	$	1,800,000
Local conservation districts		1,465,800
Open space development rights easements payments		50,000
TOTAL	$	3,315,800

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this act:

(a) "DAG" means the United States department of agriculture.

(b) "DAG-NRCS" means the United States department of agriculture - natural resources conservation service.

(c) "Department" means the department of agriculture.

(d) "Director" means the director of the department.

(e) "EPA" means the United States environmental protection agency.

(f) "FTE" means full-time equated.

(g) "HHS-FDA" means the United States department of health and human services - food and drug administration.

(h) "IDG" means interdepartmental grant.

(i) "MDCH" means the Michigan department of community health.

(j) "MDCIS (LCC)" means the Michigan department of consumer and industry services - liquor control commission.

(k) "MDEQ" means the Michigan department of environmental quality.

(*l*) "MDNR" means the Michigan department of natural resources.

Billing by department of civil service; payments.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause a loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exception.

(3) The hiring freeze does not apply to the animal industry program.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $5,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $6,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization; project plan.

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Use of Internet; electronic transmission of reports.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement, or it may include placement of reports on an Internet or Intranet site. Quarterly, the department shall provide to the appropriations subcommittees members, the fiscal agencies, and the state budget office an electronic and paper copy listing of the reports submitted during the most recent 3-month period along with the Internet or Intranet site of each report, if any.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available.

Businesses in deprived and depressed communities; contracts to provide services or supplies.

Sec. 210. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Restricted fund or account; reversion; carrying forward.

Sec. 211. (1) The unexpended and unobligated balance of any state restricted fund or account remaining at the end of the fiscal year shall revert back to the state restricted fund or account from which appropriated and be available for appropriation for the next fiscal year. Appropriations that revert to a state restricted fund or account pursuant to this section shall not revert to the general fund of this state.

(2) A state restricted revenue fund or account that receives revenues in excess of expenditures made from that state restricted revenue fund or account shall not have the excess revenue revert to the general fund of this state.

(3) The revenues collected in the agriculture equine industry development fund in fiscal year 2001-2002 shall not lapse but shall be carried forward to fund appropriations made pursuant to this act and subsequent acts.

Indemnification.

Sec. 212. (1) Of the funds appropriated in part 1, the department may provide for indemnity as provided for pursuant to the animal industry act of 1987, 1988 PA 466, MCL 287.701 to 287.747, not to exceed $100,000.00 per order from any line item for the fiscal year ending September 30, 2003. Before the department provides for an indemnification under this section, the department shall report the reason for the indemnification, the amount of the indemnification, and to whom the indemnification is to be paid. The report shall be given to each member of the house and senate appropriations subcommittees on agriculture and to the senate and house fiscal agencies and the state budget director.

(2) The department of agriculture shall make an indemnification payment for the fair market value of livestock that is killed by a wolf or coyote, if the kill is verified by the department of natural resources. The fair market value of the livestock shall be determined pursuant to the indemnification procedures prescribed in the animal industry act, 1988 PA 466, MCL 287.701 to 287.747. In addition to the funds appropriated in part 1, the department of agriculture is authorized to expend the funds received from the department of natural resources to reimburse the department of agriculture for all indemnification payments made pursuant to this subsection.

(3) All indemnification payments for individual livestock or domestic animals within a herd, flock, or school shall be made pursuant to section 14 of the animal industry act, 1988 PA 466, MCL 287.714, based on 100% of the fair market value of that type of livestock or domestic animal, not to exceed $4,000.00.

(4) For those payments made from January 1, 1998, through October 31, 2000, the department shall calculate the difference between what was paid for every herd, flock, or school and the rate paid subsequent to October 31, 2000.

(5) The department shall use bovine TB work project revenue to implement this section.

Transfer or supplemental appropriation.

Sec. 213. When the department applies to the department of management and budget with a request for a transfer of appropriations or for a supplemental appropriation, the department shall provide the senate and house fiscal agencies with the same information that the department provides the department of management and budget relative to the request for transfer or supplemental.

Grants; notice to legislative committees.

Sec. 214. Of the funds appropriated in part 1 that are other than line-item grants, the department shall not provide grants to local government agencies, institutions of higher education, or nonprofit organizations unless the department provides notice of the grant to the house and senate appropriations subcommittees on agriculture at least 10 days before the grant is issued. The grants shall be used to support research or other related activities for the purpose of enhancing the agricultural industries in this state.

Nonfair or nonhorse racing grants or projects; funding from simulcast revenues prohibited.

Sec. 215. The legislature will not fund nonfair or nonhorse racing grants or projects from revenues from simulcasting in fiscal year 2002-2003.

Michigan agriculture equine industry development fund.

Sec. 216. The unexpended and unencumbered balance of revenue deposited pursuant to section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320, for the fiscal year ending September 30, 2003, shall be appropriated to the Michigan agriculture equine industry development fund for distribution as set forth in section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320.

Technology-related services and projects; payment of fees to department of information technology.

Sec. 219. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology-related services and projects. Such user fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

Information technology; designation as work project; availability of funds for expenditure.

Sec. 220. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Retirement and budgetary savings; negative appropriation.

Sec. 224. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the director and approved by the state budget director.

(3) Appropriation authorization adjustments required to implement the negative appropriations for early retirement savings and budgetary savings shall be made only after the approval of transfers by the legislature under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Additional appropriations; condition.

Sec. 225. (1) Subject to subsection (2), in addition to the amounts appropriated in part 1, the following amounts are appropriated for the fiscal year ending September 30, 2003:

(a) $488,600.00 is appropriated to local conservation districts from the state general fund.

(b) $158,200.00 is appropriated to the food bank council of Michigan from the state general fund.

(c) $23,300.00 is appropriated to horse shows from the state general fund.

(2) The appropriations in subsection (1) shall become effective only if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack of cigarettes on or before September 30, 2002.

EXECUTIVE

Members of boards, committees, and commissions; per diem payments.

Sec. 301. The appropriations in section 102 may be used for per diem payments to members of boards, committees, and commissions for a full day's board, committee, or commission work at which a quorum is present; for attending a hearing as authorized by

the respective board, committee, or commission; or for performing official business as authorized by the respective board, committee, or commission. The per diem payments shall be at a rate as follows:

(a) Commission of agriculture	$	75.00 per day
(b) Upper Peninsula state fair board		50.00 per day
(c) Agricultural marketing and bargaining board		35.00 per day
(d) Michigan state fair council		50.00 per day
(e) Grape and wine industry council		50.00 per day

Revenue; use to cover certain expenses.

Sec. 302. The department may receive and expend revenue and use that revenue to cover necessary expenses related to publications, audit and licensing functions, livestock sales, certification of nursery stock, bean inspection services, and laboratory analyses as specified in the following:

(a) Management services publications.

(b) Management services audit and licensing functions.

(c) Upper Peninsula state fair livestock sales.

(d) Pesticide and plant pest management propagation and certification of virus free foundation stock.

(e) Pesticide and plant pest management bean inspection and grading services.

(f) Laboratory support testing for testing horses in draft horse pulling contests at county fairs when local jurisdictions request state assistance.

(g) Laboratory support analyses to determine foreign substances in horses engaged in racing or pulling contests at tracks.

(h) Laboratory support analysis of food, livestock, and agricultural products for disease, foreign products for disease, toxic materials, foreign substances, and quality standards.

(i) Laboratory support test samples for other agencies and organizations.

(j) Fruit and vegetable inspection at shipping and termination points and processing plants.

Agricultural surveys.

Sec. 303. Of the funds appropriated in part 1 for statistical reporting service, $90,000.00 shall be used for surveys which include, but are not limited to, fruit, vegetables, and nursery stock, which encompasses Christmas trees and ornamental plants. The director of the Michigan department of agriculture is given authority to include other agricultural surveys such as turfgrass in the 3- to 5-year rotation. The survey shall include information such as existing plantings/acreage, new plantings/acreage, production, and number of growers.

FOOD AND DAIRY

Restaurant and licensing functions; monitoring by department; report; additional costs.

Sec. 401. (1) The department shall monitor restaurant inspection and licensing functions carried out by local health departments to ensure uniform application and enforce-

ment of minimum program requirements. On or before April 1, 2003, the department shall report to the senate and house appropriations subcommittees on agriculture, the senate and house fiscal agencies, and the state budget director on local health department conformance with minimum program requirements.

(2) If a local unit of government incurs additional costs resulting from its efforts to control a significant food-borne outbreak, the director shall seek additional resources to reimburse the local unit of government for these additional costs. The director shall involve the local health officer of the jurisdiction affected in all aspects of the control of any food-borne outbreak.

Food-borne outbreaks and emergencies; report.

Sec. 402. Not later than April 1, 2003, the department shall provide a report to the house and senate appropriations subcommittees on agriculture and the house and senate fiscal agencies describing significant food-borne outbreaks and emergencies including any enforcement actions taken related to food safety during the 2001-2002 fiscal year.

Reallocation or redistribution of program funds; approval.

Sec. 403. The department, in conjunction with the department of community health, shall assure that a process is in place that requires a local unit of government to obtain prior approval from the department before any reallocation or redistribution of program funds appropriated in section 104.

ANIMAL INDUSTRY

Bovine tuberculosis; wildlife monitoring and testing costs.

Sec. 450. From the funds appropriated in section 105 for the bovine tuberculosis program, the department of agriculture shall reimburse the department of natural resources for those costs associated with monitoring and testing wildlife for bovine tuberculosis that are necessary to support the department of agriculture goals and are jointly agreed to by the department of agriculture and the department of natural resources to be in excess of efforts necessary to effectively plan and execute the eradication of bovine tuberculosis from Michigan's wild free-ranging deer herd.

Bovine tuberculosis; whole herd testing costs.

Sec. 451. From the funds appropriated in section 101 for bovine tuberculosis, the department shall pay for all whole herd testing costs to achieve and maintain split-state status requirements. These costs include producer assistance, indemnity, and compensation for injury causing death or downer to animals.

PESTICIDE AND PLANT PEST MANAGEMENT

Applicator training.

Sec. 501. Of the funds appropriated in section 106 to the pesticide and plant pest management division, up to $100,000.00 may be made available to the Michigan cooperative extension service for the purpose of training of applicators. Reimbursement shall be based on actual expenditures and revenue availability.

Gypsy moth slow-the-spread program.

Sec. 503. The department is authorized to enter into a cooperative agreement with a nonprofit foundation or agency associated with the gypsy moth slow-the-spread program in order to receive funds for managing plant pests.

ENVIRONMENTAL STEWARDSHIP

Energy conservation program; distribution of funds.

Sec. 601. The funds appropriated in section 107 for the energy conservation program shall be distributed on a competitive basis that will be based on statewide energy conservation criteria.

New migrant labor housing; construction grants.

Sec. 602. The department may expend the amount appropriated for migrant labor housing grants for construction of new migrant labor housing. Beginning October 1, 2002, project grants shall not exceed $5,000.00 per unit. Beginning October 1, 2002, an applicant is not eligible for more than a $20,000.00 grant in any fiscal year.

Migrant labor housing program; application for federal funds.

Sec. 603. The department shall apply for all federal funds for which it is eligible that can be used to support the migrant labor housing program.

Local conservation districts.

Sec. 604. The appropriation in section 107 for local conservation districts shall be allocated in the following manner:

(a) Of the total appropriation, $130,000.00 shall be allocated for local conservation district training.

(b) Of the total appropriation, each local conservation district meeting the minimum grant requirements shall receive a grant of $20,000.00 to support basic operations, unless the district resides in a county consisting of multiple districts, in which case a $20,000.00 grant shall be divided equally among the districts in that county. The amount of money allocated under this subdivision shall not be used by local conservation districts to replace any money received from local sources.

(c) Of the remaining appropriation after distributions under subdivisions (a) and (b), additional grants, not to exceed $20,000.00 per local conservation district, may be provided based on a formula approved by the commission of agriculture. Grants under this subdivision shall require at least a 100% cash or in-kind local match. Criteria used to distribute grants under this subdivision shall include, but are not limited to, the natural resources need, the size, and the population of the area served by each local conservation district.

Sec. 605. The appropriation in part 1 for open space development rights easement payments shall be used by the department only to reimburse local units of government for lost revenues associated with open space development rights easements under section 36105(2)(e) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36105.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

MARKET DEVELOPMENT

Grape and wine industry council; grants.

Sec. 701. Within the appropriations in part 1 for market development, $603,000.00 is for the grape and wine industry council, from which the department may provide grants for the purposes as described in section 303 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1303.

Distribution by food bank council; direct purchase of foods from Michigan growers, manufacturers, and wholesalers.

Sec. 702. In any given year when insufficient amounts of Michigan surplus products are offered to the food bank council and accepted for distribution, unused funds may be applied by the food bank council for the direct purchase of foods from Michigan growers, manufacturers, or wholesalers.

Future farmers of America grant; charging indirect costs prohibited.

Sec. 704. Indirect costs may not be charged against the future farmers of America grant in section 109 by any administering agency.

Federal market access program.

Sec. 705. The appropriation in section 109 for the export market development program shall be used to coordinate state participation in the federal market access program and to leverage federal funds for the purpose of developing new and enhancing existing export markets for Michigan agricultural products.

Agricultural processing and production ventures.

Sec. 707. The department is authorized to receive and expend up to $5,000,000.00 of utility company uncollectible allowance recovery fund resources which may be deposited into the agricultural development fund for the support of grants for value-added agricultural processing and agricultural production ventures in accordance with the Julian-Stille value-added act, 2000 PA 322, MCL 285.301 to 285.304. The agriculture development fund resources when certified as available by the department of treasury shall remain unallotted until such time as the state budget director has reviewed and approved a department submitted allotment schedule. Expenditures for support of agricultural processing and production ventures shall not exceed revenues received. Unexpended resources remaining in the fund at the end of the fiscal year shall remain in the fund and not lapse to the general fund.

FAIRS AND EXPOSITIONS

Simulcasting revenues; report.

Sec. 801. The department shall submit a report each month to the state budget director, the senate and house appropriations subcommittees on agriculture, and the senate and house fiscal agencies that states the simulcasting revenues generated in the preceding month by each licensed track and the amount received from license fees.

State purse supplements; use for races composed of Michigan-bred horses.

Sec. 802. (1) The appropriation of $297,100.00 in part 1 for standardbred purses and supplements - licensed tracks is intended to provide state purse supplements for 4 races

at state licensed pari-mutuel horse racing tracks. The purse supplements are to be used for races comprised only of Michigan-bred horses segregated into a 4-year-old colt trot division, a 4-year-old filly trot division, a 4-year-old colt pace division, and a 4-year-old filly pace division.

(2) The appropriation in part 1 for licensed tracks - light horse racing shall be allocated as follows:

Arabian and Appaloosa horse racing	$	23,400
Quarter horse racing		70,100

Thoroughbred yearling show.

Sec. 803. Included in the appropriation made in part 1 for the thoroughbred program is $30,500.00 for the Michigan united thoroughbred breeders and owners association to conduct a thoroughbred yearling show. The Michigan united thoroughbred breeders and owners association shall submit to the department an itemized list of expenses showing that the expenses of the yearling show were paid.

Thoroughbred owners' awards program; use.

Sec. 804. From the funds appropriated in section 110 for thoroughbred owners' awards, the department shall develop a program to provide for thoroughbred owners' awards that will be given to owners of Michigan-bred horses finishing first in nonrestricted races at licensed pari-mutuel tracks in Michigan.

Agriculture equine industry development fund; notice of reductions.

Sec. 805. The department shall notify the senate and house appropriations subcommittees on agriculture and the senate and house fiscal agencies of any planned reductions in appropriations, allocations, or expenditures from the agriculture equine industry development fund no less than 10 days before such reductions are implemented.

Prizes, awards, and deadlines; publication of rules; grievances; complaints.

Sec. 806. A county fair, district fair, 4-H fair, or state fair receiving funds in section 110 to be used for prizes or awards, in whole or in part, as a condition precedent to the receiving of the funds for those purposes, shall publish the rules relative to the prizes, awards, and deadlines for entries eligible for the funds in their official premium books or lists relative to the prizes or awards. An aggrieved exhibitor may make a written complaint to the fair within 10 days after the fair ends. If the fair has not satisfactorily settled the grievance within 45 days after it is submitted to the fair, the aggrieved person may file the complaint with the department and the department shall investigate the complaint and make a finding of fact regarding the complaint and take appropriate action regarding the complaint.

Overnight purse supplements.

Sec. 807. Of the amount appropriated in section 110 for purses and supplements - fairs/licensed tracks, a sufficient amount is appropriated to provide for overnight purse supplements pursuant to the horse racing law of 1995, 1995 PA 279, MCL 431.301 to 431.336.

Michigan horse show association - fall youth show.

Sec. 808. Of the amount appropriated in section 110 for premiums, $11,400.00 shall be expended as a grant for the Michigan horse show association - fall youth show.

Animal agriculture industry; youth involvement and adult exhibitions.

Sec. 809. From the appropriations for premiums - county and state fairs in section 110, $120,000.00 shall be awarded through a competitive grant program to local, regional, or state fairs or expositions to promote youth involvement and adult exhibitions in the animal agriculture industry. Appropriate exhibition classes for youth shall be developed that encourage a production exhibit for which premium awards may be paid. The age for youth exhibitors shall be determined by the standards of the association requesting the grant or, if standards do not exist, the age for youth exhibitors shall be ages 9 through 21. Implementation of the latest technologies into the evaluation of the animals shall be encouraged in the production exhibit. Adult exhibitions should focus on the performance or end product, or both, with the appropriate technologies used to enhance placings and the awarding of premiums.

Distribution of outstanding winning tickets; availability for expenditure.

Sec. 811. The funds appropriated in section 110 for distribution of outstanding winning tickets are not available for expenditure until they are deposited in the agriculture equine industry development fund pursuant to section 2 of 1951 PA 90, MCL 431.252. These funds shall be expended in accordance with section 2 of 1951 PA 90, MCL 431.252, and only after they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Compiler's note: This section was repealed by 2003 PA 39, Imd. Eff. July 8, 2003.

Lessee ineligible for state subsidy.

Sec. 812. An individual or other entity that leases land, a building, or other property under the Michigan exposition and fairgrounds act, 1978 PA 361, MCL 285.161 to 285.176, is not eligible for a state grant, loan, appropriation, or other state subsidy related to the leased land, building, or other property.

Estimate of unreserved and unencumbered agriculture equine industry development fund; transfer request.

Sec. 813. (1) On or before January 29, 2003, the department, together with the senate and house fiscal agencies and the department of management and budget, shall estimate the unreserved and unencumbered closing balance of the agriculture equine industry development fund for the fiscal year ending September 30, 2002. The estimate shall consider lapsed appropriations from the fund and any carryforward amounts designated for appropriation in the fiscal year ending September 30, 2003.

(2) On or before February 5, 2003, the department shall request a legislative transfer in accordance with section 393 of the management and budget act, 1984 PA 431, MCL 18.1393, to appropriate any estimated unreserved and unencumbered agriculture equine industry development fund balance in excess of $250,000.00. The appropriations included in the transfer request shall be in accordance with the requirements of section 20 of the horse racing law of 1995, 1995 PA 279, MCL 431.320. At the same time the department forwards its transfer request to the department of management and budget, the department shall submit copies of the transfer request to the senate and house appropriations subcommittees on agriculture and the senate and house fiscal agencies.

Promotions, capital improvements, or race operations; distribution of funds; report.

Sec. 815. From the appropriation in section 110 for building and track improvement - county and state fairs, $49,000.00 shall be awarded to licensed race meet operators for

promotions, capital improvements, or operations at race meets which are conducted on facilities leased from county fairs. On or before December 31, 2002, the department shall report to the senate and house appropriations subcommittees on agriculture and the senate and house fiscal agencies on the distribution of these funds.

Sec. 816. The appropriation in section 110 for fairs and festivals promotion shall be used by the department to provide grants to the industry for statewide volunteer staff education and promotion of commodities.

OFFICE OF RACING COMMISSIONER

Crimes involving horse racing industry; rewards.

Sec. 901. The racing commissioner may pay rewards of not more than $5,800.00 to a person who provides information that results in the arrest and conviction on a felony or misdemeanor charge for a crime that involves the horse racing industry. A reward paid pursuant to this section shall be paid out of the office of racing commissioner line item.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 517]
(HB 5643)

AN ACT to make appropriations for the department of career development and the Michigan strategic fund and certain other state purposes for the fiscal year ending September 30, 2003; to provide for the expenditure of the appropriations; and to provide for the disposition of fees and other income received by the state agencies.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; department of career development and Michigan strategic fund.

Sec. 101. There is appropriated for the department of career development and the Michigan strategic fund for the fiscal year ending September 30, 2003, from the funds indicated in this part, the following:

TOTAL APPROPRIATIONS		
Full-time equated unclassified positions	6.0	
Full-time equated classified positions	1,320.5	
GROSS APPROPRIATION		$ 606,028,100
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		$ 100,900

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
ADJUSTED GROSS APPROPRIATION	$	605,927,200
Federal revenues:		
Total federal revenues		469,422,500
Special revenue funds:		
Total local revenues		15,011,900
Total private revenues		3,249,400
Total other state restricted revenues		53,711,500
State general fund/general purpose	$	64,531,900

Department of career development.

Sec. 102. DEPARTMENT OF CAREER DEVELOPMENT

(1) APPROPRIATION SUMMARY:		
Full-time equated unclassified positions	6.0	
Full-time equated classified positions	1,089.0	
GROSS APPROPRIATION	$	459,846,600
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	459,846,600
Federal revenues:		
Total federal revenues		406,469,200
Special revenue funds:		
Total local revenues		15,011,900
Total private revenues		2,396,300
Total other state restricted revenues		8,661,500
State general fund/general purpose	$	27,307,700
(2) DEPARTMENTAL ADMINISTRATION		
Full-time equated unclassified positions	6.0	
Unclassified salaries	$	506,800
GROSS APPROPRIATION	$	506,800
Appropriated from:		
State general fund/general purpose	$	506,800
(3) DEPARTMENT OPERATIONS		
Full-time equated classified positions	60.0	
Administration—60.0 FTE positions	$	7,054,200
Building occupancy charges - property development services		923,400
Special project advances		200,000
Workers' compensation		217,800
GROSS APPROPRIATION	$	8,395,400
Appropriated from:		
Federal revenues:		
CNS		205,800
DED-OSERS, rehabilitation services, vocational rehabilitation of state grants		2,578,200
DOL-ETA, workforce investment act		355,300
DOL, federal funds		1,708,500
Federal revenues		135,500
HHS, temporary assistance for needy families		337,700

		For Fiscal Year Ending Sept. 30, 2003
Special revenue funds:		
Private-special project advances	$	200,000
Contingent fund, penalty and interest account		436,100
State general fund/general purpose	$	2,438,300
(4) WORKFORCE DEVELOPMENT		
Full-time equated classified positions....659.0		
Employment training services—566.0 FTE positions	$	70,836,500
Michigan career and technical institute—93.0 FTE positions		10,993,600
GROSS APPROPRIATION	$	81,830,100
Appropriated from:		
Federal revenues:		
CNS		1,663,800
DAG, employment and training		167,600
DED-OPSE, multiple grants		815,500
DED-OSERS, centers for independent living		58,200
DED-OSERS, rehabilitation long-term training		566,900
DED-OSERS, rehabilitation services, vocational rehabilitation of state grants		46,245,900
DED-OSERS, state grants for technical related assistance		56,000
DED, Perkins act		173,600
DOL-ETA, workforce investment act		3,994,000
DOL, federal funds		5,000,000
HHS-SSA, supplemental security income		4,394,800
HHS, temporary assistance for needy families		3,128,400
Special revenue funds:		
Local vocational rehabilitation match		3,247,100
Private-gifts, bequests, and donations		1,396,300
Rehabilitation services fees		1,245,900
Second injury fund		51,500
Student fees		308,000
Training material fees		256,300
State general fund/general purpose	$	9,060,300
(5) CAREER EDUCATION PROGRAMS		
Full-time equated classified positions....72.0		
Career and technical education—32.0 FTE positions	$	3,494,300
Postsecondary education—23.0 FTE positions		2,490,300
Adult education—15.0 FTE positions		2,180,000
Commission on Spanish speaking affairs—2.0 FTE positions		220,500
GROSS APPROPRIATION	$	8,385,100
Federal revenues:		
Federal revenues		6,108,400
Special revenue funds:		
Defaulted loan collection fees		100,000
Private occupational school license fees		378,900
State general fund/general purpose	$	1,797,800
(6) DEPARTMENT GRANTS		
Adult basic education	$	13,500,000

		For Fiscal Year Ending Sept. 30, 2003
Council of Michigan foundations	$	3,000,000
Focus:HOPE		5,744,300
Gear-up program grants		3,000,000
Job training programs subgrantees		98,802,700
Michigan community service commission subgrantees		6,757,300
Personal assistance services		462,000
Pre-college programs in engineering and the sciences		940,200
Supported employment grants		1,441,300
Technology assistance grants		1,378,700
Carl D. Perkins grants		42,500,000
Vocational rehabilitation client services/facilities		51,339,200
Vocational rehabilitation independent living		3,190,700
Welfare-to-work programs		72,898,600
Michigan virtual university		1,000,000
GROSS APPROPRIATION	$	305,955,000
Appropriated from:		
Interdepartmental grant revenues:		
Federal revenues:		
CNS		5,500,000
DAG, employment and training		13,000,000
DED-OESE, gear-up		3,000,000
DED-OSERS, centers for independent living		525,000
DED-OSERS, client assistance for individuals with disabilities		440,000
DED-OSERS, rehabilitation services, vocational rehabilitation of state grants		35,972,900
DED-OSERS, rehabilitation services facilities		2,272,500
DED-OSERS, supported employment		1,441,300
DED-OSERS, state grants for technical related assistance		1,378,700
DED-OVAE, adult education		13,500,000
DED-OVAE, basic grants to states		42,500,000
DOL-ETA, welfare-to-work		20,000,000
DOL-ETA, workforce investment act		104,602,700
HHS-SSA, supplemental security income		2,480,600
HHS, temporary assistance for needy families		32,399,000
Special revenue funds:		
Local vocational rehabilitation facilities match		1,278,300
Local vocational rehabilitation match		6,437,400
Private-gifts, bequests, and donations		800,000
Contingent fund, penalty and interest account		1,000,000
Tobacco settlement revenue		3,000,000
State general fund/general purpose	$	14,426,600
(7) EMPLOYMENT SERVICE AGENCY		
Full-time equated classified positions 298.0		
Building occupancy charges - property development service	$	858,100
Worker's compensation		53,800
Employment service—246.0 FTE positions		43,798,800
Labor market information—52.0 FTE positions		4,492,900
GROSS APPROPRIATION	$	49,203,600

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
DED-OSERS, rehabilitation services, vocational rehabilitation of state grants	$	1,317,400
DOL, federal funds		41,952,300
Special revenue funds:		
Local revenues		4,049,100
Contingent fund, penalty and interest account		1,884,800
State general fund/general purpose	$	0
(8) INFORMATION TECHNOLOGY		
Information technology services	$	6,492,700
GROSS APPROPRIATION	$	6,492,700
Appropriated from:		
Federal revenue		6,492,700
State general fund/general purpose	$	0
(9) EARLY RETIREMENT AND BUDGETARY SAVINGS		
Early retirement savings	$	(575,300)
Budgetary savings		(346,800)
GROSS APPROPRIATION	$	(922,100)
Appropriated from:		
State general fund/general purpose	$	(922,100)

Michigan strategic fund.

Sec. 103. MICHIGAN STRATEGIC FUND

(1) APPROPRIATION SUMMARY		
Full-time equated classified positions 231.5		
GROSS APPROPRIATION	$	146,181,500
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		100,900
ADJUSTED GROSS APPROPRIATION	$	146,080,600
Federal revenues:		
Total federal revenues		62,953,300
Special revenue funds:		
Total local revenues		0
Total private revenues		853,100
Total other state restricted revenues		45,050,000
State general fund/general purpose	$	37,224,200
(2) MICHIGAN STRATEGIC FUND		
Full-time equated classified positions 231.5		
Administration—40.0 FTE positions	$	5,228,100
Job creation services—191.5 FTE positions		23,818,900
Michigan promotion program		6,742,500
Economic development job training grants		6,748,000
Community development block grants		60,000,000
Life sciences corridor initiative		45,000,000
GROSS APPROPRIATION	$	147,537,500
Appropriated from:		
Interdepartmental grant revenues:		
IDG-MDEQ, air quality fees		100,900

		For Fiscal Year Ending Sept. 30, 2003
Federal revenues:		
DOL-ETA, employment service		783,700
HUD-CPD, community development block grant		62,169,600
Special revenue funds:		
Private-Michigan certified development corporation fees		353,100
Private-special project advances		500,000
Industry support fees		50,000
Tobacco settlement trust fund		45,000,000
State general fund/general purpose	$	38,580,200
(3) EARLY RETIREMENT AND BUDGETARY SAVINGS		
Early retirement savings	$	(895,200)
Budgetary savings		(460,800)
GROSS APPROPRIATION	$	(1,356,000)
Appropriated from:		
State general fund/general purpose	$	(1,356,000)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $118,243,400.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $4,500,000.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

MICHIGAN STRATEGIC FUND		
Economic development job training grants	$	4,500,000
Total Michigan strategic fund	$	4,500,000

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this appropriation act:

(a) "CDBG" means community development block grant.

(b) "CEO" means chief executive officer of the Michigan strategic fund.

(c) "CNS" means the corporation for national services.

(d) "DAG" means the United States department of agriculture.

(e) "DED" means the United States department of education.

(f) "DED-OESE" means the DED office of elementary and secondary education.

(g) "DED-OPSE" means the DED office of postsecondary education.

(h) "DED-OSERS" means the DED office of special education rehabilitation services.

(i) "DED-OVAE" means the DED office of vocational and adult education.

(j) "Department" means the department of career development.

(k) "Director" means the director of the department of career development.

(*l*) "DOL" means the United States department of labor.

(m) "DOL-ETA" means the DOL employment and training act.

(n) "DOL-NOICC" means the DOL national occupational information coordinating committee.

(o) "Fiscal agencies" means the Michigan house fiscal agency and the Michigan senate fiscal agency.

(p) "FTE" means full-time equated.

(q) "Fund" means the Michigan strategic fund.

(r) "GED" means general education degree.

(s) "HHS" means the United States department of health and human services.

(t) "HHS-SSA" means HHS social security administration.

(u) "HUD-CPD" means HUD community planning and development.

(v) "IDG" means interdepartmental grant.

(w) "MDEQ" means the Michigan department of environmental quality.

(x) "MDOC" means the Michigan department of corrections.

(y) "Subcommittees" means all members of the subcommittees of the house and senate appropriations committees with jurisdiction over the budgets for the department and the fund.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause a loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous month and the reasons to justify the exception.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated for the department and the fund in part 1, there is appropriated an amount not to exceed $41,000,000.00 for the department and $7,000,000.00 for the fund for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $2,000,000.00 for the department and $1,000,000.00 for the fund for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $8,000,000.00 for the department for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $1,000,000.00 for the department and $500,000.00 for the fund for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization; project plan.

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the subcommittees and the fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the fiscal agencies and to the subcommittees within 30 months.

Reporting requirements; use of Internet.

Sec. 208. Unless otherwise specified, the department and fund shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an Internet or Intranet site. Quarterly, the department and fund shall provide to the subcommittee, state budget office, and the fiscal agencies an electronic and paper copy listing of the reports submitted during the most recent 3-month period along with the Internet or Intranet site of each report, if any.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available.

Businesses in deprived and depressed communities; contracts to provide services or supplies.

Sec. 210. The director or the CEO of each department and agency receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director or CEO shall strongly encourage firms with which the department

contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Notice of grants.

Sec. 211. Of the funds appropriated in part 1 that are in units other than the grants unit, the department and the fund shall not provide grants to local government agencies, institutions of higher education, or nonprofit organizations unless the department or the fund provides notice of the grant to the subcommittees at least 10 days before the grant is issued or at least 72 hours before any announcement to local governmental units or the public.

Affirmative action programs.

Sec. 212. The department and the fund shall establish and maintain affirmative action programs based on guidelines developed by the state equal opportunity workforce planning council which was created by Executive Order No. 1996-13 in order to receive general fund/general purpose dollars.

Retention of reports and records.

Sec. 213. The departments and state agencies receiving appropriations under this act shall receive and retain copies of all reports funded from appropriations in part 1. These departments and state agencies shall follow federal and state guidelines for short-term and long-term retention of these reports and records.

Technology related services and projects; user fees.

Sec. 259. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology related services and projects. Such user fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

Information technology as work project; availability of funds for expenditure.

Sec. 260. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Early retirement savings; hiring freeze; adjustments.

Sec. 261. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the department director and approved by the state budget director.

(3) Appropriation authorization adjustments required due to negative appropriations for early retirement savings and budgetary savings shall be made only after the approval

of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Additional appropriations; condition.

Sec. 262. (1) Subject to subsection (2), in addition to the amounts appropriated under part 1, the following amounts are appropriated for the fiscal year ending September 30, 2003:

(a) $1,000,000.00 is appropriated to the council of Michigan foundations from the tobacco settlement trust fund.

(b) $250,000.00 is appropriated to focus:HOPE from the state general fund.

(c) $225,000.00 is appropriated to adult education learning grants from the state general fund.

(d) $6,800,000.00 is appropriated to economic development job training grants from the state general fund.

(e) $700,000.00 is appropriated to the Michigan promotion program from the state general fund.

(2) The appropriations in subsection (1) shall become effective only if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack of cigarettes on or before September 30, 2002.

DEPARTMENT OF CAREER DEVELOPMENT

Michigan career and technical institute; support of staff services.

Sec. 301. The Michigan career and technical institute may receive equipment and in-kind contributions for the direct support of staff services through the Pine Lake fund, the Delton-Kellogg school district or other local or intermediate school district, or any combination of local or intermediate school districts in addition to those authorized in part 1.

Obtaining federal vocational rehabilitation funds; use of matching funds.

Sec. 302. The Michigan rehabilitation service shall make every effort to ensure that all sources of matching funds in this state are used to obtain federal vocational rehabilitation funds. All sources include, but are not limited to, privately raised funds to support public nonprofit rehabilitation centers as permitted by the rehabilitation act of 1973, Public Law 93-112, 29 U.S.C. 701 to 718, 720 to 751, 760 to 765, 771 to 776, 780 to 785, 791 to 794e, 795 to 795n, and 796 to 796*l*.

Vocational rehabilitation facilities establishment grants; local match requirements.

Sec. 303. The local match requirements for vocational rehabilitation facilities establishment grants shall not exceed 21.3% for the fiscal year ending September 30, 2003.

Centers for independent living; use of funds; applications; report; required information; submission.

Sec. 304. (1) Of the funds appropriated in part 1 for vocational rehabilitation independent living, all general fund/general purpose revenue not used to match federal funds shall be

used for the support of centers for independent living which are in compliance with federal standards for such centers, for the development of new centers in areas presently unserved or underserved, for technical assistance to centers, and for projects to build capacity of centers to deliver independent living services. Applications for such funds shall be reviewed in accordance with criteria and procedures established by the statewide independent living council, the Michigan rehabilitation services unit within the department, and the Michigan commission for the blind. Funds must be used in a manner consistent with the priorities established in the state plan for independent living. The department is directed to work with the Michigan association of centers for independent living and the local workforce development boards to identify other competitive sources of funding.

(2) The statewide independent living council and the Michigan association of centers for independent living shall jointly produce a report providing the following information:

(a) Results in terms of enhanced statewide access to independent living services to individuals who do not have access to such services through other existing public agencies, including measures by which these results can be monitored over time. These measures shall include:

(*i*) Total number of persons assisted by the centers and a comparison to the number assisted in the previous year.

(*ii*) Number of persons moved out of nursing homes into independent living situations and a comparison to the number assisted in the previous year.

(*iii*) Number of persons for whom accommodations were provided to enable independent living or access to employment and a comparison to the number assisted in the previous year.

(*iv*) The total number of disabled individuals served by personal care attendants and the number of personal care attendants provided through the use of any funds appropriated in part 1 administered by a center for independent living and a comparison to the number served in the previous year.

(b) Information from each center for independent living receiving funding through appropriations in part 1 detailing their total budget for their most recently completed fiscal year as well as the amount within that budget funded through the vocational rehabilitation independent living grant program referenced in part 1, the total amount funded through other state agencies, the amount funded through federal sources, and the amount funded through local and private sources.

(c) Savings to state taxpayers in other specific areas that can be shown to be the direct result of activities funded from the vocational rehabilitation independent living grant program during the most recently completed state fiscal year.

(3) The report required in subsection (2) shall be submitted to the appropriate appropriations subcommittees, the fiscal agencies, and the state budget director on or before January 30, 2003.

Work first program; participation requirements.

Sec. 305. (1) The appropriation in part 1 to the department for the work first program shall be expended for grants which provide employment and training services to family independence program applicants and recipients and may be expended for grants which provide employment and training services to former family independence program recipients, as well as to recipients of noncash public assistance, specifically child day care, Medicaid, or food stamp benefits. The work first program, however, shall not be construed to be an entitlement to services.

(2) An applicant may be a school district, intermediate school district, community college, public or private nonprofit college or university, nonprofit organization that provides school-to-work transition programs or that provides employment and training services or vocational rehabilitation programs or state licensed accredited vocational or technical education programs, proprietary school licensed by the state board of education, local workforce development board, or a consortium consisting of any combination of school districts, intermediate school districts, community colleges, nonprofit organizations described in this subsection, licensed proprietary schools, or public or private nonprofit colleges or universities described in this subsection.

(3) When the work first job search requirements have been completed, if the participant has not found employment, the work first site shall identify the barriers which may have prevented the participant from obtaining employment and assist the client in removing those barriers. The work first site shall also identify appropriate education and job training programs which would be available to the participant. The department shall encourage the Michigan works! agencies to consider transportation challenges for work first participants placed in employment. When an individual is re-referred to work first because of an inability to retain employment, the department shall confer with the Michigan rehabilitation services, the family independence agency, or other professionals if deemed appropriate by the Michigan works! agency to screen for and identify issues that are preventing the participant from succeeding in the labor market. Each Michigan works! agency shall determine locally the number of times an individual may be re-referred back to the program before consulting with other service agencies. If no prohibitive barriers to work are found, the individual shall comply with the work first program, or be subject to appropriate penalties.

(4) Work first program participants shall include applicants and recipients of the family independence program established under section 57a of the social welfare act, 1939 PA 280, MCL 400.57a, and such individuals referred to a job club program by a county family independence agency board or a county friend of the court as long as the participation in the job club is part of an application made under this section.

(5) Participants in the work first program shall not be enrolled and counted in membership in a school district or intermediate school district.

(6) The department will work with the family independence agency to coordinate support services to work first participants relating to special/emergency needs.

(7) Work first program participants must receive or be provided an explanation of the program including their benefits and responsibilities before the job interview phase of the program. This explanation shall include clear guidelines with regard to an individual's eligibility for postemployment training support and for applying hours in training toward federal work requirements.

(8) The department shall make every effort to place a minimum of 50% of clients who participate in the work first program in positions that provide wages of $6.00 per hour or more.

(9) The department shall submit to the fiscal agencies and the state budget director by March 15, 2003, a report on the work first program, including the number of participants served under this section, the number of persons who located employment through work first, the average wage of participants who found employment, the number of persons who retained jobs for 90 days, the number of participants placed in employment training and education programs, the number of clients referred to work first who failed to report, a compilation of barriers to employment by incidence and type experienced by participants, and the number of participants referred back to the family independence agency.

(10) The department shall provide to the state budget director and the fiscal agencies by May 15 and November 15 of each year a report on the work first grants. The report due by May 15 shall provide the information described in this subsection for each grant or contract awarded during the preceding 2 quarters of the state fiscal year. The report due by November 15 shall provide this information for each grant or contract awarded during the preceding full fiscal year. The report shall contain both of the following:

(a) The amount and recipient of each grant or contract.

(b) The number of participants in each service delivery area and the number of clients placed in employment in each service delivery area.

(11) The department shall make available to work first participants guidelines on eligibility for postemployment training and how training/education hours are applied toward federal work participation requirements. These guidelines will be presented during joint orientation conducted by the family independence agency and the department contracted staff in accordance with department policy issuances and family independence agency program bulletins. These guidelines presented by the department and the family independence agency shall balance the ability of participants to obtain training and subsequent long-term high-wage employment with the need to connect participants with the workplace. Any and all training/education, with the exception of high school completion and GED preparation, must be occupationally relevant and in demand in the labor market as determined by the workforce development board. Participants must make satisfactory progress to continue in a training/education component.

(12) The work participation requirement is up to 40 hours per week. However, work first participants may meet the work participation requirement by combining a minimum of 10 hours per week of work with training/education. Training/education may last up to 12 months and the calculated hours may include actual classroom seat time up to 10 hours per week plus up to 1 hour of study time for each hour of classroom seat time. The combined work and training/education hours must equal the minimum number of hours required to meet the federal work participation requirements, 30 hours per week for a single parent, 35 hours per week for 2-parent families, 55 hours if utilizing federally funded day care, and 20 hours per week for single parents with a child under the age of 6. Work first participants may enroll in additional hours of classroom seat time beyond 10 hours. However, these hours and the related study time will not count toward the work participation requirement. The training may be no longer than a 1-year program or the final year of a 2- or 4-year undergraduate program designed to lead to immediate labor force attachment.

(13) Work first participants may meet the federal work participation requirement through enrollment in a short-term vocational program requiring 30 hours of classroom seat time per week for a period not to exceed 6 months, or by enrollment in full-time internships, practicums, or clinicals required by an academic or training institution for licensure, professional certification, or degree completion, without an additional work requirement. Two-parent families who receive federally funded day care must work an additional 25 hours per week to meet the federal work participation requirement. In cases where a short-term vocational program lasts less than 6 months, the participant shall be eligible to enroll in 1 additional short-term vocational program for a combined period not to exceed a total of 6 months.

(14) Work first participants who lack a high school diploma or GED and who enroll in high school completion or classes to obtain a GED may count up to 10 hours of classroom seat time, combined with a minimum number of hours of work per week, to meet their

federal work participation requirement. There shall be no time limit on high school completion. GED preparation shall be limited to 6 months.

Study of former work first participants; data to be included; report; formulation and acquisition of data; retention of third party to conduct studies.

Sec. 306. (1) Using all relevant state data sources, the department shall conduct a 3-year longitudinal study of all former work first participants, whose family independence program cases closed due to earnings during fiscal year 1999 and in succeeding fiscal years. The data will include the following:

(a) The number and percentage employed.

(b) The average hourly wage of those employed.

(c) The current hourly wage of those employed.

(d) The range of wages earned by those employed.

(e) The number of individuals that earned each wage amount.

(f) The number and percentage receiving health care benefits from their employer.

(g) The number and percentage receiving tuition reimbursement from their employer.

(h) The number and percentage receiving training benefits from their employer.

(i) The type of jobs obtained by former participants in general categories.

(j) The length of time former participants have retained their jobs, or if participants have had more than 1 job, the length of time employed at each job.

(k) The number and percentage continuing to receive any type of public assistance.

(*l*) If the former recipient has children, whether the children are enrolled in and attending school.

(m) The extent to which the former participant feels that they and their family are better off now than when they were on cash assistance with regard to household income, housing, food and nutritional needs, child health care, and access to health insurance coverage.

(2) The department shall file a report containing the identified data with the subcommittees, fiscal agencies, and state budget director by March 15, 2003.

(3) The department shall cooperate with the family independence agency in formulating and acquiring the identified data.

(4) The department may retain a third party to conduct the studies to obtain the data identified under this section.

Expenditures by local workforce development boards; condition.

Sec. 307. State and federal funds allocated to local workforce development boards for disbursement shall not be expended unless the local workforce development boards maintain a partnership with governmental agencies, public school districts, and public colleges located within the local service delivery area. Each board shall appoint an education advisory group made up of high-level administrators within local educational institutions, workforce development board members, other employers, labor, academic educators, and parents of public school pupils.

Precollege programs in engineering and sciences; report.

Sec. 309. (1) Of the funds appropriated in part 1 for precollege programs in engineering and the sciences, $558,000.00 shall be provided in the form of a grant to the Detroit

precollege engineering program, incorporated and $382,200.00 shall be provided in the form of a grant to the Grand Rapids area precollege engineering program.

(2) The department shall submit a report to the subcommittees and the fiscal agencies by February 1, 2003 regarding dropout rates, grade point averages, enrollment in science, engineering, and math-based curricula, and employment in science, engineering, and math-based fields for students within the programs. The report shall continue to evaluate the effectiveness of the precollege programs in engineering and sciences funded through part 1 appropriations and shall make recommendations on whether state support to expand such programs to other areas of the state is warranted in future fiscal years.

Use of excess funds for employment service agency; staffing and operating expenses.

Sec. 310. Funds earned or authorized by the United States department of labor in excess of the gross appropriation in part 1 for the employment service agency from the United States department of labor are appropriated and may be expended for staffing and related expenses incurred in the operation of its programs. These funds may be spent after the department notifies the subcommittees, fiscal agencies, and the state budget office of the purpose and amount of each grant award.

Disabled veterans outreach specialist or local veterans employment representative; availability at Michigan works! employment services office; duties; notice; employer services; placement of veterans as priority.

Sec. 311. (1) The department shall have at least 1 disabled veterans outreach program specialist or local veterans employment representative present, if able and willing to serve, at each Michigan works! employment services office on a full- or part-time basis during hours of operation.

(2) The department shall ensure that each Michigan works! employment services office shall have the necessary equipment to allow the disabled veterans outreach specialist or local veterans employment representative to perform his or her duties in the same manner they were performed prior to February 1, 1999.

(3) The department shall require each Michigan works! employment services office to have an employee available to ask each individual who enters the office for service whether that individual is a veteran and to refer each veteran to the disabled veterans outreach program specialist or local veterans employment representative on duty at the time.

(4) The department shall require that each Michigan works! employment services office shall have posted in a conspicuous place within the office a notice advising veterans that a disabled veterans outreach program specialist or a local veterans employment representative is available to assist him or her.

(5) The department shall require each Michigan works! employment services office to provide free mediated services to employers wishing to hire a veteran.

(6) The department shall continue to make the appropriate placement of veterans and disabled veterans a priority.

Michigan community service commission volunteer investment grants.

Sec. 312. The department shall report to the subcommittees by September 30, 2003, on the distribution of the Michigan community service commission volunteer investment grants.

Distribution of tobacco settlement funds to council of Michigan foundations; formula.

Sec. 313. The funds appropriated in part 1 for the council of Michigan foundations from tobacco settlement revenue shall be distributed to the council of Michigan foundations as a grant to support local community efforts to address youth and senior health needs. The council may distribute the funds according to a formula determined by the council or may invest these funds. Any investment earnings from this appropriation shall be used for the same purpose as the original appropriation.

Federal pass-through funds to local institutions and governments.

Sec. 314. The department may carry into the succeeding fiscal year unexpended federal pass-through funds to local institutions and governments that do not require additional state matching funds. Federal pass-through funds to local institutions and governments that are received in amounts in addition to those included in part 1 and that do not require additional state matching funds are appropriated for the purposes intended.

Private occupational school license fees; use.

Sec. 315. Of the amounts appropriated in part 1 for postsecondary education, private occupational school license fees shall fund related administrative costs of the proprietary schools oversight unit within the department.

School fee fund; carrying over unexpended funds.

Sec. 316. Money in the school fee fund that is unexpended at the end of the fiscal year may be carried over to the succeeding fiscal year.

Administration of loan collections.

Sec. 317. The department is appropriated an amount not to exceed $100,000.00 from collection of defaulted loans under the future faculty program in the Martin Luther King, Jr. - Cesar Chavez - Rosa Parks programs to offset costs of administering the loan collections.

King-Chavez-Parks initiative on employment outcomes for program participants; data compilation.

Sec. 318. From the funds appropriated in part 1 for postsecondary education, the department shall compile data from each university that receives funding for the future faculty program within the King-Chavez-Parks initiative on employment outcomes for program participants. The report shall be distributed to the house and senate appropriations committees by February 1 of each year. The report shall include data from each participating university covering the most recently completed fiscal year. The data shall include all of the following:

(a) The number of participants receiving support under the program.

(b) The number of participants obtaining full-time employment.

(c) The number of participants obtaining full-time employment in college faculty positions.

(d) The number of participants obtaining full-time employment in college faculty positions within the university through which they received future faculty program support for graduate studies.

Adult education program.

Sec. 319. The appropriation in part 1 for adult education shall be utilized to support the administration of up to $100,000,000.00 in general fund/general purpose revenue for adult education programs. It is the intent of the legislature that department staff funded through the appropriation in part 1 ensure that at least $75,000,000.00 in adult education program funding be distributed through the existing grant process as outlined in section 107 of the state school aid act of 1979, 1979 PA 94, MCL 388.1707. No more than $20,000,000.00 may be administered through any alternative process.

Medicaid buy-in program for working disabled.

Sec. 320. The department shall work with the department of community health to establish a Medicaid buy-in program for the working disabled through the options available under the federal ticket to work and work incentives improvement act of 1999.

King-Chavez-Parks initiative; marketing; report.

Sec. 321. The King-Chavez-Parks initiative shall be marketed by the department to Michigan parents and high school and college students, to promote the benefits and the availability of the college day, select student support services, college/university partnership, visiting professors, Morris Hood, Jr. educator development, and future faculty programs. The department shall provide a report to the subcommittees on December 30, 2002, identifying all efforts taken to market these programs, including, but not limited to, the amount of funding allocated for this purpose, the fund source and any expenditures or encumbrances relating to this marketing effort. It is the intent of the legislature that the department administer the King-Chavez-Parks initiative in the same manner as when it was previously contained in the department of education and consistent with all boilerplate language pertaining to the above listed programs as included in the appropriations act for higher education institutions.

State jobs lost as result of agency or program reorganized, modified, or eliminated; training program.

Sec. 325. The department shall work cooperatively with the department of civil service to identify state employees who will lose their jobs as a result of an agency or program being reorganized, modified, or eliminated and shall develop training programs and provide training to these individuals that will provide them an opportunity and skills necessary to secure new employment within state government or the private sector. It shall be a priority of the department to provide training and employment opportunities to these individuals through their employment service locations.

Michigan works! service centers; funding.

Sec. 326. From the funds appropriated in part 1 to job training programs subgrantees, the department shall allocate sufficient funds to the Michigan works! service centers to allow these centers to remain fully operational.

Assistive technology for persons with disabilities; loan program.

Sec. 327. It is the intent of the legislature that the department shall work with the disability rights coalition to identify all sources of state funding that may be used to match federal or private funding to create a loan program for assistive technology for persons with disabilities.

Michigan virtual university.

Sec. 328. From the funds appropriated in part 1 for the Michigan virtual university, the department shall work with the Michigan virtual university to do the following:

(a) Promote the use of education technology to accelerate career and workforce development by improving the learning environment, stimulating innovative teaching methods, and providing residents of this state with greater technology-based career choices.

(b) Promote technology-based training to public and private sector organizations that emphasize partnerships between public education and the business sector.

(c) Support and encourage various collaborative efforts among educational institutions and government agencies to meet the training needs of the state's workforce.

Focus:HOPE; report.

Sec. 329. (1) Focus:HOPE shall submit a report on the use of the grant's funds appropriated in part 1 to the chairs of the house and senate subcommittees and the fiscal agencies that includes, but is not limited to, the following:

(a) Detailed expenditures for administration including salaries and wages of employees.

(b) Amount allocated for education and training programs including number of students served by each program.

(c) Amount allocated for job search assistance and career planning including the number of students served by each program.

(d) Detailed expenditures for any contracts entered into with the use of these funds.

(e) Detailed expenditures for any program enhancements including number of new hires and capital expenditures.

(2) The report shall be submitted on or before January 31, 2003.

MICHIGAN STRATEGIC FUND

Economic development job training grants.

Sec. 401. (1) The appropriation in part 1 to the fund for economic development job training shall be expended for competitive grants that ensure employers have the trained workers they need to compete in the global economy. The fund shall expedite grant awards for employers locating or expanding in Michigan and thereby creating significant numbers of new jobs in the state. The fund shall award all grants in the first 2 quarters of the state fiscal year but this requirement shall not be applicable to funds available for the rapid response grants as allowed in subsection (10), funds contained in the Michigan growth capital fund as allowed in subsection (22), and the university research grant match as allowed in subsection (21).

(2) Not more than 5% of the total grant, administration, and operating funds appropriated in part 1 for the fund's economic development job training grants program may be expended for administrative costs. Not more than 12% of the total grant awarded to recipients may be expended for administration costs.

(3) No funds appropriated in part 1 to the fund for economic development job training grants may be expended for the training of permanent striker replacement workers.

(4) Of the total funds appropriated in part 1 for economic development job training grants, at least 90% of the funds shall be awarded to community colleges or a consortium of community colleges and other eligible applicants pursuant to subsection (6).

(5) Training grants provided by private sector trainers may reach or exceed 20% of total grants, but not less than 10%.

(6) An applicant may be a school district, intermediate school district, community college, public or private nonprofit college or university, nonprofit organization whose primary purpose is to provide education programs or employment and training services or vocational rehabilitation programs or school-to-work transition programs, local workforce development board, the headquarters of a federal and state sponsored manufacturing technology center, or a consortium consisting of any combination of school districts, intermediate school districts, community colleges, nonprofit organizations described in this subsection, or public or private nonprofit colleges or universities described in this subsection.

(7) On or before October 1, 2002, the fund shall publish proposed application criteria, instructions, and forms for use by eligible applicants. The fund shall provide at least a 2-week period for public comment prior to finalization of the application criteria, instructions, and forms.

(8) The award process will include a simple notice of intent to be reviewed to see if the application merits further consideration. If so, a full application may be submitted. Applications for all grants shall be submitted to the fund, and each application shall contain at least all of the following:

(a) The name, address, and total number of employees of each business organization whose employees are receiving job training.

(b) A description of the specific job skills that will be taught.

(c) A clear statement of the project's scope of activities and number of participants to be involved.

(d) A commitment to maintain participant records in a form and manner required by the fund.

(e) A budget which relates to the proposed activities and various program components.

(9) Priority in the fund's awarding of grants shall be based on the following criteria:

(a) Demonstrated need for the type of training offered.

(b) Creation and/or retention of high wage and high skilled level jobs.

(c) Other criteria determined by the fund to be important.

(10) Not more than $5,000,000.00 of the amount appropriated in part 1 for economic development job training may be allocated to rapid response grants for employee training programs which maintain or attract permanent jobs for Michigan residents. A grant under this subsection shall be awarded to eligible applicants under subsection (1).

(11) Participants in economic development job training programs shall be 16 years or older and not enrolled and counted in membership in a school district or intermediate school district.

(12) Funds allocated under this section shall be for the purpose of ensuring that employers have trained workers they need to compete in the global economy. The fund shall have on file a specific plan to accomplish its objectives.

(13) A recipient of a grant under this section shall not charge tuition or fees to participants in the program funded by the grant. However, a nonprofit organization may

charge tuition or fees if the tuition plan or fees are recognized by the state and the nonprofit organization receives additional funding from other governmental or private funding sources for its programs.

(14) For incumbent worker training, the business organization shall provide 25% of the program costs in matching funds as determined by the program.

(15) Grant funds shall be expended on a cost reimbursement basis.

(16) A recipient of a grant under this section shall allow the fund or the agency's designee to audit all records related to the grant for all entities that receive money, either directly or indirectly through a contract, from the grant funds. A grant recipient or contractor shall reimburse the state for all disallowances found in the audit.

(17) The fund shall provide to the state budget director and the fiscal agencies by April 15 and November 1 of each year a report on the economic development job training grants. The report due by April 15 shall provide the information described in this subsection for each grant or contract awarded during the preceding 2 quarters of the state fiscal year. The report due by November 1 shall provide this information for each grant or contract awarded during the preceding full fiscal year. The report shall contain all of the following:

(a) The amount and recipient of each grant or contract.

(b) The number of participants under each grant or contract and the number of new hires who are in training under the grant.

(c) The names, addresses, and total number of employees of all business organizations for whom training is or will be provided.

(d) The matching funds, if any, to be provided by a business organization.

(18) Of the funds appropriated in part 1 for economic development job training grants, the fund shall not use these funds to finance the startup or in any way subsidize any private distributor of liquor products in Michigan.

(19) As a condition of receiving funds under part 1 of this act, the fund shall not expend any of the economic development job training grant funds to train any employee who is an officer of a corporation in a corporation employing more than 250 employees.

(20) Of the funds appropriated in part 1, $1,000,000.00 may be used for a recruitment program. This will be a program that provides worker recruitment assistance to companies in Michigan. Priority for using the funds shall be to recruit workers from outside the state of Michigan. However, in the event funds are available for in-state recruitment efforts, the Michigan works! agencies shall be utilized unless they indicate they are unable to provide the service.

(21) The Michigan growth capital fund shall be used to develop the technology business sector in Michigan. The fund will be used to encourage private and public investment in the technology business sector, and all of the following apply:

(a) An applicant must match state funds on a 1:1 basis.

(b) Eligible uses of the fund include investments in organizations and programs that promote the development of new industry sectors in Michigan; inducements to attract additional venture capital funds to finance technology development; support organizations, initiatives, or events that promote entrepreneurship; provide match for university federal research grants; and support technology transfer and commercialization programs with universities and the private sector.

(c) The Michigan economic development corporation shall administer the Michigan growth capital fund.

(d) All funds received from repayment of loans, unused grants, revenues received from sales or cash flow participation agreements, guarantees, or any combination thereof or interest thereon, originally distributed as part of the Michigan growth capital fund, shall be received, held, and applied by the Michigan strategic fund for the purposes described in this subsection.

(e) The Michigan economic development corporation shall provide an annual report on the status of Michigan growth capital fund to the subcommittees, the fiscal agencies, and the state budget office by January 31, 2003.

(22) Of the funds appropriated in part 1, $1,000,000.00 may be used to provide match for federal research grants made to Michigan public universities. These funds shall be distributed through a competitive grant program. No grant shall be greater than $500,000.00 and no university shall receive more than 1 grant in a fiscal year.

(23) It is the intent of the legislature that the fiscal year 2003 economic development job training grant program be continued in fiscal year 2004 and be funded at a level not less than that in effect in fiscal year 2002.

Travel Michigan; fees.

Sec. 402. Travel Michigan may establish and collect a fee to cover the cost of materials and processing of photographic prints, slides, videotapes, and travel product database information that are requested by the media and other segments of the public and private sectors. The fees collected shall be appropriated for all expenses necessary to purchase and distribute these photographic prints, slides, videotapes, and travel product database information. The funds are available for expenditure when they are received by the department of treasury.

Annual status report.

Sec. 403. The fund shall submit an annual status report to the subcommittees, fiscal agencies, and the state budget director on all activities, grants, and investment programs financed from the strategic fund using investment or Indian gaming revenues. The report shall provide a list of individual grants and loans made from the fund.

"Michigan Great Lakes. Great Times." slogan; use of revenue.

Sec. 404. Travel Michigan may receive and expend private revenue related to the use of the "Michigan Great Lakes. Great Times." copyrighted slogan and image. This revenue may come from the direct licensing of the name and image or from the royalty payments from various merchandise sales. Revenue collected is appropriated for the marketing of the state as a travel destination. The funds are available for expenditure when they are received by the department of treasury.

Promotion of tourism activities.

Sec. 405. Of the funds appropriated in part 1 for the Michigan promotion program, at least 25% of all program funds shall be used to promote cultural tourism opportunities in Michigan. In addition, $25,000.00 shall be used to promote tourism activities in the northeast region of this state.

Listing of grants.

Sec. 406. The fund shall submit on or before May 1, 2003, and November 1, 2003, to the subcommittees, state budget office, and the fiscal agencies a listing of all grants which

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

have been awarded by the fund or by the Michigan economic development corporation from the funds appropriated in part 1. The list shall include all of the following:

(a) The name of the recipient.

(b) The amount awarded to the recipient.

(c) The purpose of the grant.

Program reports.

Sec. 407. (1) The fund shall provide reports to the relevant subcommittees, the state budget director, and the fiscal agencies concerning the activities of the Michigan economic development corporation. The report shall include, but not be limited to, the following programs funded in part 1:

(a) Travel Michigan.

(b) Michigan business development.

(c) Global business development.

(d) Small, minority, and disabled business services.

(e) Community development block grants.

(f) Strategic fund administration.

(g) Renaissance zones.

(h) Business roundtables.

(i) Business and clean air ombudsman.

(j) Economic development job training grants.

(k) Health and aging research and development initiative.

(*l*) Community assistance team.

(m) Any other programs of the fund.

(2) The reports in subsection (1) shall be submitted by January 1, 2003. The report for each program in subsection (1)(a) through (m) shall include details on the actual spending and number of FTEs for that program for the previous fiscal year.

Local government contracting with private organization; cooperation.

Sec. 408. As a condition of receiving funds under part 1, any interlocal agreement entered into by the fund shall include language which states that if a local unit of government has a contract or memorandum of understanding with a private economic development agency, the Michigan economic development corporation will work cooperatively with that private organization in that local area.

Land purchase; conditions; "economically distressed area" defined.

Sec. 409. (1) Of the funds appropriated to the fund or through grants to the Michigan economic development corporation, no funds shall be expended for the purchase of options on land or the purchase of land unless at least 1 of the following conditions applies:

(a) The land is located in an economically distressed area.

(b) The land is obtained through a purchase or exercise of an option at the invitation of the local unit of government and local economic development agency.

(2) Consideration may be given to purchases where the proposed use of the land is consistent with a regional land use plan, will result in the redevelopment of an economically distressed area, can be supported by existing infrastructure, and will not cause shifts in population away from the area's population centers.

(3) As used in this section, "economically distressed area" means an area in a city, village, or township that has been designated as blighted; a city, village, or township that shows negative population change from 1970 and a poverty rate and unemployment rate greater than the statewide average; or an area certified as a neighborhood enterprise zone.

Life sciences research.

Sec. 410. (1) The funds appropriated in part 1 for the life sciences corridor initiative are appropriated to support basic and applied research in health-related areas, with emphasis on issues related to aging. The program shall be administered by the Michigan economic development corporation.

(2) A life sciences steering committee, appointed by the governor, shall consist of 14 members including the CEO of the Michigan economic development corporation, a member from Michigan State University, the University of Michigan, Wayne State University, the Van Andel Institute, and 2 members from the private sector. The remaining members shall be appointed at large and may include members from the private sector, public sector, or other Michigan universities. Committee members are authorized to designate alternate members. The purpose of the steering committee is to provide advice and oversight of the initiative, including the development of criteria for the award of contracts or grants to qualifying universities, institutions, or individuals. The steering committee will make decisions regarding distribution of these grant funds and has the authority to make adjustments to the category funding percentage from basic research and collaborative research grants to the commercialization fund based upon the demands within categories and the quality of the applications received.

(3) Of the funds appropriated, up to $2,500,000.00 may be used for administering the initiative and not less than $5,000,000.00 shall be used to support a commercial development fund to support commercialization opportunities for life science research in Michigan. In allocating funding to the commercial development fund, it is the intent of the legislature that the life sciences steering committee give maximum priority to supporting all potential commercialization opportunities that appear to have merit. Of the remaining funds appropriated, 45% are allocated for a basic research fund, to be distributed on a competitive basis to Michigan universities or Michigan nonprofit research institutes, or both, for basic research in health-related areas. Not less than $4,000,000.00 is allocated to research related to aging diseases and health problems. In addition, 55% of the remaining appropriated funds are earmarked for a collaborative research fund to support peer-reviewed collaborative grants among Michigan universities and/or private research facilities, with emphasis on testing or developing emerging discoveries.

(4) Repayment of any funds received as a result of awards made under 1999 PA 120, 2000 PA 292, 2001 PA 80, or this act including, but not limited to, funds received as interest or return on investment shall be deposited in the fund described in subsection (3) from which it was awarded to be expended for the same purposes. These funds are authorized for expenditure upon receipt and shall not lapse to the general fund.

(5) The records of the life sciences steering committee involving a proposal submitted by an eligible entity that are of a scientific, technical, or proprietary nature, the release of which could cause competitive harm to the eligible entity as determined by the health and aging steering committee, are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Compiler's note: This section was repealed by 2003 PA 39, Imd. Eff. July 8, 2003.

Premiums or advertising material; certain spending prohibited; exception.

Sec. 411. The money appropriated in part 1 to the fund is subject to the condition that none is spent for premiums or advertising material involving personal effects or apparel

including, but not limited to, t-shirts, hats, coffee mugs, or other promotional items, except travel Michigan.

Disposition of unexpended or unencumbered funds.

Sec. 412. (1) From the general fund/general purpose appropriations in part 1 to the fund and granted or transferred to the Michigan economic development corporation, any unexpended or unencumbered balance shall be disposed of in accordance with the requirements in the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, unless carryforward authorization has been otherwise provided for.

(2) Any encumbered funds shall be used for the same purposes for which funding was originally appropriated in this act.

Receipt of funds by public body corporate; requirements.

Sec. 413. As a condition of receiving funds under part 1, the fund shall ensure that a public body corporate, created under section 28 of article VII of the state constitution of 1963, and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund, complies with all of the following:

(a) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(b) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(c) Annual audits of all financial records by the auditor general or his or her designee.

(d) All reports required by law to be submitted to the legislature.

Disposition of loan repayments; unused grants, sales or cash flow participation; report.

Sec. 414. As a condition for receiving the appropriations in part 1, any staff of the Michigan economic development corporation involved in private fund-raising activities shall not be party to any decisions regarding the awarding of grants or tax abatements from the Michigan strategic fund, Michigan economic development corporation, or the Michigan economic growth authority.

Funds received as part of care communities fund; report.

Sec. 415. (1) All funds received from repayment of loans, unused grants, revenues received from sales or cash flow participation agreements, guarantees, or any combination thereof or interest thereon, originally distributed as part of the core communities fund, shall be received, held, and applied by the Michigan strategic fund for the purposes described in this act.

(2) The fund shall provide an annual report on the status of this fund. The report shall be provided to the subcommittees, the fiscal agencies, and the state budget office by January 31, 2003.

Ethnic festivals and events.

Sec. 416. Travel Michigan shall coordinate with Michigan-based ethnic destination marketing organizations to promote ethnic festivals and events in Michigan target markets.

Urban revitalization infrastructure program; economic development awards; duties of Michigan economic development corporation.

Sec. 418. (1) The funding appropriated in part 1 of 2000 PA 291 for the Michigan core communities fund will be used to create an urban revitalization infrastructure program in

the Michigan strategic fund for economic development awards to create new jobs or contribute to redevelopment and encourage private investment in core communities.

(2) Awards will be provided to qualified local governmental units as defined in the obsolete property rehabilitation act, 2000 PA 146, or certified technology parks, as defined in the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(3) Awards can be used for land and property acquisition and assembly, demolition, site development, utility modifications and improvements, street and road improvements, telecommunication infrastructure, site location and relocation, infrastructure improvements, and any other costs related to the successful development and implementation of core community or certified technology park projects, at the discretion of the Michigan economic development corporation.

(4) Funding may be provided in the form of loans, grants, sales or cash flow participation agreements, guarantees, or any combination of these. A cash match of at least 10%, or local repayment guarantee with a dedicated funding source, is required. Priority shall be given to projects which are integrated with existing economic development programs, and to projects in proportion to the amount that local matching rates exceed 10%.

(5) The Michigan economic development corporation shall have all administrative responsibility for the Michigan core communities fund and shall establish application and application scoring criteria and approve awards. The Michigan economic development corporation may utilize up to 1/2 of 1% of the fund for administrative purposes.

(6) Funds will be awarded through an open competitive process based on criteria including the following: project impact, project marketability, lack of adequate infrastructure or land assembly financing sources, local administrative capacity, and the level of local matching funds. Awardees shall agree to expedite the local development process, such as fast-track permitting procedures, streamlined regulatory requirements, standardized construction and building codes, and the use of competitive construction permitting fees.

(7) No single applicant shall be awarded more than $10,000,000.00 per project.

(8) Fifteen days prior to the award of the funds, notification shall be provided to the speaker of the house of representatives, the senate majority leader, the members of the house and senate appropriations committees, and the house and senate fiscal agencies.

(9) Funds shall not be awarded for any of the following purposes:

(a) Land sited for use as, or support for, a gaming facility.

(b) Land or other facilities owned or operated by a gaming facility.

(c) Publicly owned land or facilities which may directly or indirectly support a gaming facility.

(10) As used in this section, "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If the Michigan economic development corporation is unable for any reason to perform its duties under this act, the Michigan strategic fund may exercise those duties.

(11) Up to $1,000,000.00 of any unexpended and unencumbered funds in the Michigan core communities fund and any funds received from the repayment of loans, unused

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

grants, revenues received from sales or cash flow participation agreements, guarantees, or the payment of interest on these funds shall be used to support the capital access program.

Michigan technical assistance center in Port Huron.

Sec. 419. Of the funds appropriated in part 1 for job creation services, $20,000.00 shall be allocated in fiscal year 2003 to the Michigan technical assistance center in Port Huron.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 518]

(SB 1099)

AN ACT to make appropriations for certain capital outlay programs and state departments and agencies for the fiscal year ending September 30, 2003; to implement the appropriations within the budgetary process; to make appropriations for planning and construction at state agencies; to make appropriations for state building authority rent and insurance; to make a grant for state building authority rent; to provide for the acquisition of land and buildings; to provide for the elimination of fire hazards; to provide for special maintenance, remodeling and addition, alteration, renovation, demolition, and other projects; to provide for elimination of occupational safety and health hazards; to provide for the award and implementation of contracts; to provide for the purchase of furnishings and equipment relative to occupancy of a project; to provide for the development of public recreation facilities; to provide for certain advances from the general fund; to prescribe powers and duties of certain state officers and agencies; to require certain reports, plans, and agreements; to provide for leases; to provide for transfers; to prescribe standards and conditions relating to the appropriations; and to provide for the expenditure of appropriations.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Summary.

Sec. 101. SUMMARY

Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for certain capital outlay projects at the various state agencies for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

CAPITAL OUTLAY

GROSS APPROPRIATION	$	577,271,800
Total interdepartmental grants and intradepartmental transfers	$	4,000,000
ADJUSTED GROSS APPROPRIATION	$	573,271,800

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Total federal revenues		167,542,000
Total local revenues		43,000,000
Total private revenues		0
Total state restricted revenues		58,245,000
State general fund/general purpose	$	304,484,800

Department of agriculture.

Sec. 102. DEPARTMENT OF AGRICULTURE

Farmland and open space development acquisition	$	7,500,000
GROSS APPROPRIATION	$	7,500,000
Appropriated from:		
Federal revenues:		
DAG, multiple grants		2,500,000
Special revenue funds:		
Agriculture preservation fund		5,000,000
State general fund/general purpose	$	0

Department of management and budget.

Sec. 103. DEPARTMENT OF MANAGEMENT AND BUDGET

Lump sum projects:		
Special maintenance, remodeling and additions:		
For state agencies special maintenance projects estimated to cost more than $100,000 but less than $1,000,000	$	4,000,000
Major special maintenance and remodeling for department of community health		500,000
Major special maintenance and remodeling for department of corrections		2,077,700
Major special maintenance and remodeling for family independence agency		550,000
Major special maintenance and remodeling for department of management and budget		712,500
Major special maintenance and remodeling for department of state police		256,300
GROSS APPROPRIATION	$	8,096,500
Appropriated from:		
Interdepartmental grant revenues:		
IDG from building occupancy charges		4,000,000
State general fund/general purpose	$	4,096,500

Department of military affairs.

Sec. 104. DEPARTMENT OF MILITARY AFFAIRS

Lump sum projects:		
For department of military affairs remodeling and additions and special maintenance projects	$	2,711,700
GROSS APPROPRIATION	$	2,711,700
Appropriated from:		
Federal revenues:		
DOD, department of the army, national guard bureau		1,492,000
State general fund/general purpose	$	1,219,700

	For Fiscal Year Ending Sept. 30, 2003

State agency, community college, and university planning projects.

Sec. 104a. STATE AGENCY, COMMUNITY COLLEGE, AND UNIVERSITY PLANNING PROJECTS

Alpena Community College - instructional addition/renovation project, for program and planning to be paid for from college revenues ...	$ 100
Bay De Noc Community College - Dickinson County facility, for program and planning to be paid for from college revenues.....	100
Jackson Community College - new downtown center renovation project - for program and planning to be paid for from college revenues	100
Delta College - allied health and nursing "F" wing renovations, for program and planning to be paid for from college revenues.....	100
Grand Rapids Community College - campus renovations - for program and planning to be paid for from college revenues	100
Kalamazoo Valley Community College - center for new media, for program and planning to be paid for from college revenues.....	100
Lansing Community College - master plan phase I - technology facility, for program and planning to be paid for from college revenues	100
Muskegon Community College - library/technology center project, for program and planning to be paid for from college revenues ...	100
North Central Michigan College - university and science center, for program and planning to be paid for from college revenues.....	100
Schoolcraft College - technical service facility, for program and planning to be paid for from college revenues	100
Southwestern Michigan College - M-Tech center expansion, for program and planning to be paid for from college revenues.....	100
Washtenaw Community College - renovations and science laboratory upgrade, for program and planning to be paid for from college revenues	100
West Shore Community College - media center building, for program and planning to be paid for from college revenues	100
Central Michigan University - education building, for program and planning to be paid for from college revenues	100
Eastern Michigan University - Pray-Harrold classroom building modernization project, for program and planning to be paid for from college revenues	100
University of Michigan - school of public health, for program and planning to be paid for from college revenues	100
Ferris State University - optometry building, for program and planning to be paid for from college revenues	100
Grand Valley State University - library addition and remodeling - for program and planning to be paid for from university revenues...	100
Western Michigan University - Sangren hall/education building, for program and planning to be paid for from college revenues.....	100
GROSS APPROPRIATION.....	$ 1,900

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
State general fund/general purpose	$	1,900

Department of natural resources.

Sec. 105. DEPARTMENT OF NATURAL RESOURCES

(1) STATE PARKS		
State parks repair and maintenance	$	2,500,000
Forest roads, bridges, and facilities		800,000
GROSS APPROPRIATION	$	3,300,000
Appropriated from:		
Special revenue funds:		
State park improvement fund	$	1,500,000
State park endowment fund		1,000,000
Forest development fund		800,000
State general fund/general purpose	$	0
(2) WILDLIFE		
Deer habitat development and acquisition	$	1,500,000
State game and wildlife area maintenance		550,000
GROSS APPROPRIATION	$	2,050,000
Appropriated from:		
Federal revenues:		
DOI, U.S. fish and wildlife service, Pittman-Robertson		550,000
Special revenue funds:		
Deer range improvement fund		1,500,000
State general fund/general purpose	$	0
(3) WATERWAYS BOATING PROGRAM		
Boating program, state boating access projects	$	25,000
Boating program, boating access sites, grants in aid:		
Delta County, Escanaba, north shore boating access site (total project cost $1,333,000, federal share $1,000,000, local share $333,000)		1,000,000
Boating program, harbors and docks, state facilities:		
Infrastructure improvements and engineering studies		3,400,000
Land acquisition		2,200,000
Cedar River, new marina, phase II (total cost $5,200,000, state share $5,200,000)		1,600,000
Mackinaw City, new marina, state dock, phase II (total cost $7,200,000, federal share $2,575,000, state share $4,625,000)		3,025,000
Mackinac Island, marina expansion (total project cost $11,025,000, state share $11,025,000)		9,025,000
Boating program, harbors and docks, local facilities:		
Infrastructure improvements and engineering studies		800,000
Traverse City, Grand Traverse County, facility rehabilitation, phase II (total project cost $10,000,000, state share $7,500,000)		2,500,000
Muskegon County, Whitehall, restroom/shower upgrade (total project cost $250,000, state share $125,000)		125,000
GROSS APPROPRIATION	$	23,700,000

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Federal revenues:		
DOI, U.S. fish and wildlife service, Dingell-Johnson	$	3,000,000
Special revenue funds:		
Michigan state waterways fund		20,700,000
State general fund/general purpose	$	0

Department of transportation.

Sec. 106. DEPARTMENT OF TRANSPORTATION

STATE TRUNKLINE FUND		
Department buildings and facilities:		
Salt storage buildings and brine runoff control systems - contract agencies locations	$	1,000,000
Design and construct washbay additions at various maintenance garages locations		500,000
Gaylord, regional office building		1,000,000
Grayling, transportation service center		1,000,000
Monroe welcome center, construction authorization (total project cost not to exceed $3,000,000)		3,000,000
Purchase property, various statewide locations		500,000
Reroof, fence, bituminous surfacing, various locations		450,000
Institutional and agency roads		750,000
Mason maintenance garage, addition or modification of offices, lunchrooms and restrooms		400,000
Miscellaneous remodeling, additions, emergency maintenance		1,000,000
GROSS APPROPRIATION	$	9,600,000
Appropriated from:		
Special revenue funds:		
State trunkline fund		9,600,000
State general fund/general purpose	$	0

Department of transportation.

Sec. 107. DEPARTMENT OF TRANSPORTATION

AERONAUTICS FUND: AIRPORT PROGRAMS		
Airport improvement programs	$	212,000,000
Airport safety and protection plan		17,000,000
Adrian - Lenawee County airport		
Allegan - Padgham field		
Alma - Gratiot community airport		
Alpena - Alpena County regional airport		
Ann Arbor - Ann Arbor municipal airport		
Atlanta - Atlanta municipal airport		
Bad Axe - Huron County memorial airport		
Baraga - new airport		
Battle Creek - W.K. Kellogg airport		
Bay City - James Clements airport		
Bellaire - Antrim County airport		
Benton Harbor - southwest Michigan regional airport		

For Fiscal Year
Ending Sept. 30,
2003

Big Rapids - Roben-Hood airport
Cadillac - Wexford County airport
Caro - Tuscola area/Caro municipal airport
Charlevoix - Charlevoix municipal airport
Charlotte - Fitch H. Beach airport
Cheboygan - Cheboygan County airport
Clare - Clare municipal airport
Coldwater - Branch County airport
Detroit - Detroit city airport
Detroit - Detroit metropolitan airport, Wayne County airport
Detroit - Willow Run airport
Dowagiac - Cass County airport
Drummond Island - Drummond Island airport
Escanaba - Delta County airport
Evart - Evart municipal airport
Flint - Bishop international airport
Frankfort - Frankfort Dow memorial airport
Fremont - Fremont municipal airport
Gaylord - Otsego County airport
Gladwin - Gladwin Zettal memorial airport
Grand Haven - Grand Haven memorial airpark
Grand Ledge - Abrams municipal airport
Grand Rapids - Gerald R. Ford international airport
Grayling - Grayling army airfield
Greenville - Greenville municipal airport
Grosse Ile - Grosse Ile municipal airport
Hancock - Houghton County memorial airport
Harbor Springs - Harbor Springs municipal airport
Hastings - Hastings city/Barry County airport
Hart Shelby - Oceana County airport
Hillsdale - Hillsdale municipal airport
Holland - tulip city airport
Houghton Lake - Roscommon County airport
Howell - Livingston County airport
Ionia - Ionia County airport
Iron County - county airports
Iron Mountain - Ford airport
Ironwood - Gogebic-Iron County (Wisconsin) airport
Jackson - Jackson County-Reynolds field
Kalamazoo - Kalamazoo/Battle Creek international airport
Lakeview - Lakeview-Griffith field
Lambertville - suburban airport
Lansing - capital city airport
Lapeer - Dupont-Lapeer airport
Linden - Price airport
Ludington - Mason County airport
Mackinac Island - Mackinac Island airport
Manistee - Manistee County airport
Manistique - Schoolcraft County airport

	For Fiscal Year Ending Sept. 30, 2003
Marlette - Marlette Township airport	
Marquette - Sawyer airport	
Marshall - Brooks field	
Mason - Mason Jewett field	
Menominee - Menominee-Marinette twin city airport	
MDOT - airport obstruction analysis	
Midland - Jack Barstow airport	
Monroe - Custer airport	
Mt. Pleasant - Mt. Pleasant municipal airport	
Munising - Hanley field	
Muskegon - Muskegon County airport	
New Hudson - Oakland-southwest airport	
Newberry - Luce County airport	
Niles - Jerry Tyler memorial airport	
Ontonagon - Ontonagon County airport	
Oscoda - Wurtsmith airport	
Owosso - Owosso community airport	
Pellston - Pellston regional airport	
Plymouth - Canton-Plymouth-Mettetal airport	
Pontiac - Oakland County international airport	
Port Huron - St. Clair County international airport	
Rogers City - Presque Isle County/Rogers City airport	
Romeo - Romeo state airport	
Saginaw - Harry W. Browne airport	
Saginaw - MBS international airport	
St. Ignace - Mackinac County airport	
St. James - Beaver Island airport	
Sandusky - Sandusky city airport	
Sault Ste. Marie - Chippewa County international airport	
South Haven - South Haven area regional airport	
Sparta - Sparta airport	
Statewide - various sites	
Sturgis - Kirsch municipal airport	
Three Rivers - Three Rivers municipal, Dr. Haines airport	
Traverse City - cherry capital airport	
Troy - Oakland-Troy airport	
West Branch - West Branch community airport	
White Cloud - White Cloud airport	
GROSS APPROPRIATION	$ 229,000,000
Appropriated from:	
Federal revenues:	
DOT, federal aviation administration	160,000,000
Special revenue funds:	
Combined comprehensive transportation bond proceeds fund - aeronautics	12,000,000
Local aeronautics match	43,000,000
State aeronautics fund	2,000,000
State general fund/general purpose	$ 12,000,000

	For Fiscal Year Ending Sept. 30, 2003

State building authority rent.

Sec. 108. STATE BUILDING AUTHORITY RENT

State building authority rent - state agencies	$	61,585,200
State building authority rent - department of corrections		81,893,500
State building authority rent - universities		128,031,000
State building authority rent - community colleges		19,802,000
GROSS APPROPRIATION	$	291,311,700
Appropriated from:		
Special revenue funds:		
Grand tower facility reimbursement		2,150,000
Roosevelt parking reimbursement		275,000
State building authority, University of Michigan, third party reimbursement		200,000
State lottery funds		1,520,000
State general fund/general purpose	$	287,166,700

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government; notice of approximate shortfall.

Sec. 201. (1) Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources for fiscal year 2002-2003 is estimated at $362,729,800.00 in part 1 of this appropriation act and state spending from state resources paid to local units of government for fiscal year 2002-2003 is estimated at $17,425,000.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

CAPITAL OUTLAY		
Department of natural resources - waterways	$	3,425,000
State transportation department - state aeronautics program		14,000,000
TOTAL	$	17,425,000

(2) If it appears to the principal executive officer of a department or branch that state spending to local units of government will be less than the amount that was projected to be expended under subsection (1), the principal executive officer shall immediately give notice of the approximate shortfall to the state budget director.

Definitions.

Sec. 202. As used in this act:

(a) "ADA" means the Americans with disabilities act.

(b) "Board" means the state administrative board.

(c) "Community college" does not include a state agency or university.

(d) "Department" means the department of management and budget.

(e) "Director" means the director of the department of management and budget.

(f) "DAG" means the United States department of agriculture.

(g) "DOD" means the United States department of defense.

(h) "DOI" means the United States department of interior.

(i) "DOT" means the United States department of transportation.

(j) "Fiscal agencies" means the senate fiscal agency and the house fiscal agency.

(k) "HHS-HCFA" means the United States department of health and human services, health care financing administration.

(*l*) "ICF/MR" means intermediate care facilities for the mentally retarded.

(m) "IDG" means interdepartmental grant.

(n) "JCOS" means the joint capital outlay subcommittee of the appropriations committees.

(o) "MDOT" means the Michigan department of transportation.

(p) "MIOSHA" means the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.

(q) "Self-liquidating project" means a project constructed by a community college or university with money raised through the use of a debt instrument or other fund sources including, but not limited to, gifts, grants, federal funds, or institutional sources, that is expected to generate revenues to amortize the loan. A self-liquidating project may or may not be a self-supporting project. Examples of a self-liquidating project include dormitories, parking facilities, and stadia.

(r) "Self-supporting project" means a project of a community college or university that will house a function or activity from which revenue is generated that will cover all the direct and indirect operating costs of the project without the additional transfer of any other general fund money of the community college or university.

(s) "SEMCOG" means the southeast Michigan council of governments.

(t) "State agency" means an agency of state government. State agency does not include a community college or university.

(u) "State building authority" means the authority created under 1964 PA 183, MCL 830.411 to 830.425.

(v) "University" means a 4-year university supported by the state. University does not include a community college or a state agency.

(w) "Utility system" means a utility supply or distribution system, or a combination utility supply and distribution system.

Non-Michigan goods or services.

Sec. 203. Funds appropriated in part 1 shall not be used for the purchase of non-Michigan goods or services, or both, if competitively priced and of comparable quality Michigan goods or services, or both, are available.

DEPARTMENT OF AGRICULTURE

Development rights and grant awards.

Sec. 251. Of the amounts appropriated in part 1 for farmland and open space development acquisition, the funds shall be used for the purchase of development rights and the awarding of grants by the agriculture preservation fund board under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

DEPARTMENT OF CORRECTIONS

Watchtowers.

Sec. 301. A maximum security prison that is constructed or completed after October 1, 1986, shall have operating manned watchtowers equipped with the weaponry, lighting, sighting, and communications devices necessary for effective execution of its function. The watchtowers shall be constructed pursuant to the American correctional association standards for watchtowers.

New correctional facility; unidentified site.

Sec. 302. (1) An appropriation and authorization contained in this act or a previous appropriations act for the construction of a new correctional facility, including a correctional camp, for which a specific site was not identified with the appropriation shall not be expended until approved by JCOS.

(2) For the purposes of this section, "site" means a city, village, township, or county in which a correctional facility may be located.

CAPITAL OUTLAY PROCESSES, PROCEDURES, AND REPORTS

Capital outlay project; compliance with §§ 18.1101 to 18.1594.

Sec. 401. Each capital outlay project authorized in this act or any previous capital outlay act shall comply with the procedures required by the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594. Capital outlay projects shall not be funded from operating accounts unless approved by the department and the JCOS.

Facility operating cost; inclusion with program statement and planning documents.

Sec. 402. A statement of a proposed facility's operating cost shall be included with the facility's program statement and planning documents when the plans are presented to JCOS for approval.

Planning and construction projects at community colleges and universities; agreement.

Sec. 403. (1) Before proceeding with final planning and construction for projects at community colleges and universities included in an appropriations bill, the community college or university shall sign an agreement with the department that includes the following provisions:

(a) The university or community college agrees to construct the project within the total authorized cost established by the legislature pursuant to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, and an appropriations act.

(b) The design and program scope of the project shall not deviate from the design and program scope represented in the program statement and preliminary planning documents approved by the department.

(c) Any other items as identified by the department that are necessary to complete the project.

(2) The department retains the authority and responsibility normally associated with the prudent maintenance of the public's financial and policy interests relative to the state-financed construction projects managed by a community college or university.

Planning or construction project; reports.

Sec. 404. (1) The department shall provide the JCOS and the fiscal agencies with reports as considered necessary relative to the status of each planning or construction project financed by the state building authority, by this act, or by previous acts.

(2) Before the end of each fiscal year, the department shall report to the JCOS and the fiscal agencies for each capital outlay project other than lump sums all of the following:

(a) The account number and name of each construction project.

(b) The balance remaining in each account.

(c) The date of the last expenditure from the account.

(d) The anticipated date of occupancy if the project is under construction.

(e) The appropriations history for the project.

(f) The professional service contractor.

(g) The amount of a project financed with federal funds.

(h) The amount of a project financed through the state building authority.

(i) The total authorized cost for the project and the state authorized share if different than the total.

(3) Before the end of each fiscal year, the department shall report the following for each project by a state agency, university, or community college that is authorized for planning but is not yet authorized for construction:

(a) The name of the project and account number.

(b) Whether a program statement is approved.

(c) Whether schematics are approved by the department.

(d) Whether preliminary plans are approved by the department.

(e) The name of the professional service contractor.

(4) As used in this section, "project" includes appropriation line items made for purchase of real estate.

Capital outlay appropriation; failure to review by JCOS; notice.

Sec. 405. (1) If a capital outlay appropriation is contained in a public act that was not reviewed by the JCOS during the legislative process, the director shall notify the JCOS of an expenditure of that capital outlay appropriation not less than 60 days before the expenditure.

(2) For the purposes of this section, "capital outlay appropriation" means an appropriation that provides for the construction, renovation, or repair of a capital facility or acquisition or development of land and that is normally reviewed by the JCOS.

Availability of federal and other money; use as matching funds.

Sec. 406. A state agency, college, or university shall take steps necessary to make available federal and other money indicated in this act, to make available federal or other money that may become available for the purposes for which appropriations are made in this act, and to use any part or all of the appropriations to meet matching requirements that are considered to be in the best interest of this state. However, the purpose, scope, and total estimated cost of a project shall not be altered to meet the matching requirements.

Comparative cost analysis.

Sec. 407. (1) Before money is released for the construction or lease of a capital outlay project costing over $1,000,000.00, at the request of the JCOS the department shall submit to the JCOS, with preliminary planning documents, a detailed comparative cost analysis. The cost analysis shall include a comparison of the financial and other benefits of construction, financing, operation, and maintenance of the proposed facility between all of the following:

(a) The state.

(b) The private sector.

(c) A combination of the state and the private sector.

(d) A lease agreement.

(2) If the department's recommendation for financing is inconsistent with the findings of the comparative cost analysis, the department shall present written documentation to the JCOS outlining the rationale for the recommendation.

(3) For purposes of this section, "capital outlay project" means a construction project or lease requiring JCOS approval including, but not limited to, a general office facility, special use facility, warehouse, institutional facility, or utility system designed for use by a state agency or university. Capital outlay project does not include a special maintenance and remodeling project, grant-in-aid project, prison facility, legislative facility, judicial facility, community college facility, or self-liquidating project constructed by a university.

Capital outlay plans and priority requests; submission to JCOS and fiscal agencies.

Sec. 408. Pursuant to section 242(2) of the management and budget act, 1984 PA 431, MCL 18.1242, the department shall submit 5-year capital outlay plans and capital outlay priority requests developed by state agencies (and as approved by the department of management and budget), universities, and community colleges to the chairperson and ranking vice-chairperson of the JCOS and the fiscal agencies upon the release of the executive budget recommendation.

USE AND FINANCE STATEMENTS

Nonstate-funded project; approval; request for legislative authorization; violation; project estimate more than certain amount; requirements.

Sec. 501. (1) A university or community college shall not let a contract for new construction of a nonstate-funded project estimated to cost more than $1,000,000.00 unless the project is authorized by the JCOS through approval of a use and financing statement defined by a policy adopted by the JCOS. The request for legislative authorization shall be initially submitted for review to the JCOS and the department. The use and financing statement for a nonstate-funded project shall contain the estimated total construction cost and all associated estimated operating costs including a statement of anticipated project revenues. As used in this section, "new construction" includes land or property acquisition, remodeling and additions, and maintenance projects.

(2) A project that is constructed in violation of this section shall not receive state appropriations for purposes of operating the project, or support for future infrastructure enhancements that are necessitated, in part or in total, by construction of the project.

(3) A state agency, including the department of military affairs, shall not let a contract, including those for a direct federally-funded capital outlay construction or major maintenance or remodeling project if the total project is estimated to cost more than $1,000,000.00 and is to be constructed on state-owned lands, unless the project is approved by the department and by the JCOS through approval of a use and financing statement defined by a policy adopted by the JCOS. For projects over $1,000,000.00, the state agency shall submit a use and financing statement as required for community colleges and universities in subsection (1). As used in this subsection, "direct federally-funded" refers to a project for which federal payments are made directly to the construction vendor and not to the state of Michigan.

(4) A public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund shall not let a contract for new construction estimated to cost more than $1,000,000.00 unless the project is authorized by the JCOS through the approval of a use and financing statement defined by a policy adopted by the JCOS. For purposes of this subsection, the use and financing statement for a project shall contain the estimated total construction cost and all associated estimated operating costs. As used in this subsection, "new construction" means land or property acquisition, remodeling or additions, lease or lease purchase, and maintenance projects for the corporate office of the public body corporate described in this subsection.

LUMP SUMS AND SPECIAL MAINTENANCE

Lump-sum projects.

Sec. 601. (1) The director shall allocate lump-sum appropriations made in this act for remodeling and addition, special maintenance, major special maintenance, energy conservation, demolition, ICF/MR, air-conditioning, and fire protection projects. The director shall allocate other lump sums in order of program priority and need of the various state agencies or as otherwise based on actual building inspection reports by regulatory agencies.

(2) The state budget director may authorize that funds appropriated for lump sum special maintenance shall be available for no more than 2 fiscal years following the fiscal year in which the original appropriation was made. Any remaining balance from allocations made in this section shall lapse to the fund from which it was appropriated pursuant to the lapsing of funds as provided in the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

(3) Before the end of each fiscal year, the department shall submit a report to the JCOS and the fiscal agencies indicating the total cost and status of all lump-sum projects funded under this act and any previous act that have been designated as proposed, designed, bid, under construction, or completed within the current fiscal year.

Demolition projects.

Sec. 602. (1) The department may expend from the lump-sum special maintenance account amounts necessary to demolish any building that is specifically authorized by law to be demolished.

(2) Before the end of each fiscal year, each state agency, community college, and university shall report each year to the department the status of and planned schedule for demolition projects already authorized but not yet started, the estimated cost of the projects, and the anticipated sources of financing of the projects.

Expenditures; limitation.

Sec. 603. Pursuant to department policy, state agencies may expend not more than $1,000,000.00 from their operating budget for special maintenance, remodeling, additions, or other capital outlay purposes, unless specifically authorized by the legislature.

STATE BUILDING AUTHORITY

State building authority projects for lease to state agency; expenditures to meet cash flow requirements; cash advances; repayment.

Sec. 701. (1) Subject to section 242 of the management and budget act, 1984 PA 431, MCL 18.1242, and upon the approval of the state building authority, the department may expend from the general fund of the state during the fiscal year ending September 30, 2003 an amount to meet the cash flow requirements of those state building authority projects solely for lease to a state agency identified in both part 1 and this section, and for which state building authority bonds or notes have not been issued, and for the sole acquisition by the state building authority of equipment and furnishings for lease to a state agency as permitted by 1964 PA 183, MCL 830.411 to 830.425, for which the issuance of bonds or notes is authorized by a legislative concurrent resolution that is effective for a fiscal year ending September 30, 2003. Any general fund advances for which state building authority bonds have not been issued shall bear an interest cost to the state building authority at a rate not to exceed that earned by the state treasurer's common cash fund during the period in which the advances are outstanding and are repaid to the general fund of the state.

(2) Upon sale of bonds or notes for the projects identified in part 1 or for equipment as authorized by legislative concurrent resolution and in this section, the state building authority shall credit the general fund of the state an amount equal to that expended from the general fund plus interest, if any, as defined in this section.

(3) For state building authority projects for which bonds or notes have been issued and upon the request of the state building authority, the state treasurer shall make advances without interest from the general fund as necessary to meet cash flow requirements for the projects, which advances shall be reimbursed by the state building authority when the investments earmarked for the financing of the projects mature.

(4) In the event that a project identified in part 1 is terminated after final design is complete, advances made on behalf of the state building authority for the costs of final design shall be repaid to the general fund in a manner recommended by the director and approved by the JCOS.

Construction or renovation of facility collecting excess revenue; reimbursement; credit; audit.

Sec. 702. (1) State building authority funding to finance construction or renovation of a facility that collects revenue in excess of money required for the operation of that facility shall not be released to a university or community college unless the institution agrees to reimburse that excess revenue to the state building authority. The excess revenue shall be credited to the general fund to offset rent obligations associated with the

retirement of bonds issued for that facility. The auditor general shall annually identify and present an audit of those facilities that are subject to this section. Costs associated with the administration of the audit shall be charged against money recovered pursuant to this section.

(2) As used in this section, "revenue" includes state appropriations, facility opening money, other state aid, indirect cost reimbursement, and other revenue generated by the activities of the facility.

Rent obligations and insurance premiums.

Sec. 703. (1) The state building authority rent appropriations in part 1 may also be expended for the payment of required premiums for insurance on facilities owned by the state building authority or payment of costs that may be incurred as the result of any deductible provisions in such insurance policies.

(2) If the amount appropriated in part 1 for state building authority rent is not sufficient to pay the rent obligations and insurance premiums and deductibles identified in subsection (1) for state building authority projects, there is appropriated from the general fund of the state the amount necessary to pay such obligations.

Construction projects; status report.

Sec. 704. The department shall provide the JCOS and the fiscal agencies a report, not more than 15 days after the reporting date, relative to the status of construction projects associated with state building authority bonds on March 31 and September 30 of each year, or not more than 30 days after a refinancing or restructuring bond issue is sold. The report shall include, but is not limited to, the following:

(a) A list of all completed construction projects for which state building authority bonds have been sold, and which bonds are currently active.

(b) A list of all projects under construction for which sale of state building authority bonds are pending.

(c) A list of all projects authorized for construction or identified in an appropriations act for which approval of schematic/preliminary plans or total authorized cost is pending that have state building authority bonds identified as a source of financing.

Hospital rental requirements.

Sec. 705. It is the intention of the legislature that the University of Michigan take the necessary actions to ensure that eligible interest reimbursements from Medicare and Medicaid programs are made available to the state to satisfy part of the amount appropriated for the University of Michigan adult general hospital facility rent appropriation of $27,917,000.00 contained within the state building authority rent appropriation in part 1. To the extent of a difference between the estimated and actual amount received, there is appropriated from the general fund of the state the amounts necessary to satisfy the hospital rental requirements of the state building authority's 1986 revenue refunding bonds, series I. To the extent payments made to the state by the University of Michigan are required to be reimbursed pursuant to the agreement with the University of Michigan, there is appropriated from the general fund the amount necessary for such reimbursement.

COLLEGES AND UNIVERSITIES

Community colleges; remodeling and additions, special maintenance, or construction; authorization; receipt of federal money.

Sec. 801. (1) This section applies only to projects for community colleges.

(2) State support is directed towards the remodeling and additions, special maintenance, or construction of certain community college buildings. The community college shall obtain or provide for site acquisition and initial main utility installation to operate the facility. Funding shall be comprised of local and state shares, and the state share shall include 50% of any federal money awarded for projects appropriated in this act. Not more than 50% of a capital outlay project, not including a lump-sum special maintenance project or remodeling and addition project, for a community college shall be appropriated from state and federal funds, unless otherwise appropriated by the legislature.

(3) An expenditure under this act is authorized when the release of the appropriation is approved by the board upon the recommendation of the director. The director may recommend to the board the release of any appropriation in part 1 only after the director is assured that the legal entity operating the community college to which the appropriation is made has complied with this act and has matched the amounts appropriated as required by this act. A release of funds in part 1 shall not exceed 50% of the total cost of planning and construction of any project, not including lump-sum remodeling and additions and special maintenance, unless otherwise appropriated by the legislature. Further planning and construction of a project authorized by this act or applicable sections of the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594, shall be in accordance with the purpose and scope as defined and delineated in the approved program statements and planning documents. This act is applicable to all projects for which planning appropriations were made in previous acts.

(4) The community college shall take the steps necessary to secure available federal construction and equipment money for projects funded for construction in this act if an application was not previously made. If there is a reasonable expectation that a prior year unfunded application may receive federal money in a subsequent year, the college shall take whatever action necessary to keep the application active. If federal money is received, the state share shall be adjusted accordingly as provided by this act.

Funds reduction.

Sec. 802. If matching revenues are received in an amount less than the appropriations contained in this act, the state funds of the appropriation shall be reduced in proportion to the amount of matching revenue received.

Project match and governing board approval.

Sec. 804. (1) The director may require that community colleges and universities that have an authorized project listed in part 1 submit documentation regarding the project match and governing board approval of the authorized project not more than 60 days after the beginning of the fiscal year.

(2) If the documentation required by the director under subsection (1) is not submitted, or does not adequately authenticate the availability of the project match or board approval of the authorized project, the authorization may terminate. The authorization terminates 30 days after the director notifies the JCOS of the intent to terminate the project unless the JCOS convenes to extend the authorization.

Authorization for programming and schematic planning; availability of bonding required.

Sec. 805. The appropriation for planning projects authorized in part 1 provides authorization to complete programming and schematic planning documents. These projects will not receive construction authorization unless there is sufficient bonding capacity available under the state building authority's statutory bond capacity limit.

DEPARTMENT OF MANAGEMENT AND BUDGET

Federal surplus property warehouses.

Sec. 901. If the JCOS approves, the department, for purposes of administrative and fiscal efficiency, may consolidate or discontinue federal surplus property warehouses administered under 1961 PA 139, MCL 18.251 to 18.261.

Privately owned leased space.

Sec. 902. (1) The department shall provide the JCOS and the fiscal agencies a report, not more than 15 days after the reporting date, of privately owned leased space by state agencies, by March 31 and September 30 of each year, consisting of the following:

(a) Department.

(b) Agency division and leased number.

(c) Building location (address and city).

(d) Type of building.

(e) County.

(f) Name and address of lessor.

(g) Square footage and net square footage rate.

(h) Monthly and annual cost.

(i) Date lease started and expires.

(j) Options and services.

(2) The lease report shall be summarized for office space, group homes, and other space for the Lansing area and statewide, excepting the Lansing area.

DEPARTMENT OF NATURAL RESOURCES

Boating facilities; construction and improvement.

Sec. 1001. The appropriation made in this act for the harbors and docks program is for the purpose of participating with the federal government and assisting political entities and subdivisions of this state in the construction and improvement of recreational boating facilities within this state. Subject to the approval of the board, this money shall be allocated by the department of natural resources to the federal government, or to the political entities or local units of government involved in the particular projects. An allocation shall not exceed the state portion as listed with each project description. The department of natural resources shall take the steps necessary to match federal money available for the construction and improvement of recreational boating facilities within this state, and to meet requirements of the federal government.

Project status; report; request for reauthorization.

Sec. 1002. (1) Before the end of each fiscal year, the department of natural resources shall report each year to the JCOS the status of each project that received an appropriation in any capital outlay act, if the project is either not completed or has a balance remaining in its account. The report shall be in the same form and contain the information as required under section 404. The report shall be separated into the following areas, by fund sources:

(a) Waterways projects.

(b) Urban recreation projects.

(c) State park projects.

(d) Wildlife and fisheries projects.

(e) Other projects.

(2) A project request for reauthorization by the department of natural resources shall also be identified within the report required by subsection (1). These reauthorization requests shall identify the subsection number of section 248 of the management and budget act, 1984 PA 431, MCL 18.1248, that provides the reason and justification for the requested reauthorization.

(3) A project shall be reauthorized if approved by the JCOS after review by the department.

Transfer from harbor development fund to state waterways fund.

Sec. 1003. The department of natural resources may transfer $4,900,000.00 from the harbor development fund to the state waterways fund for the purposes appropriated in part 1 of this act.

STATE TRANSPORTATION DEPARTMENT

Publicly used airports and landing fields; construction and improvement contracts; local and state allocations; additional federal funds; funding of comprehensive northwest airlines midfield terminal project; allocations for expansion at Detroit-Willow Run airport prohibited.

Sec. 1101. (1) From federal-state-local project appropriations contained in part 1 for the purpose of assisting political entities and subdivisions of this state in the construction and improvement of publicly used airports and landing fields within this state, the state transportation department may permit the award of contracts on behalf of units of local government for the authorized locations not to exceed the indicated amounts, of which the state allocated portion shall not exceed the amount appropriated in part 1.

(2) Political entities and subdivisions shall provide not less than 5% of the cost of any project under this section. State money shall not be allocated until local money is allocated, and except as provided in subsection (4) state money for any 1 project shall not exceed 1/3 of the total appropriation in part 1 from state funds for airport improvement programs.

(3) The Michigan aeronautics commission may take those steps necessary to match federal money available for airport construction and improvement within this state, and to meet the matching requirements of the federal government. Whether acting alone or jointly with another political subdivision or public agency or with this state, a political subdivision or public agency of this state shall not submit to any agency of the federal government a project application for airport planning or development unless it is authorized in this act and the project application is approved by the governing body of each political

subdivision or public agency making the application, and by the Michigan aeronautics commission.

(4) The department of transportation shall notify the state budget director if additional federal aeronautics funds are anticipated beyond those appropriated in part 1 of this act. In the event that additional federal funds are available, the state budget director shall recommend to the legislature an appropriation of state and local funds necessary to meet any federal matching requirements.

(5) From appropriations contained in part 1 for airport improvement programs, $12,000,000.00 of the state general fund shall be used as state resources for state-funded components of the comprehensive northwest airlines midfield terminal project. The allocation of state general fund money is subject to audit by the auditor general.

(6) From the appropriations contained in part 1 for airport improvement programs, no funds shall be allocated for any runway extensions, taxiway extensions, or apron extensions at the Detroit-Willow Run airport. Further, it is the intent of the legislature that no state funds shall be expended to improve or repair the airport where the purpose of the improvement or repair is to expand the usage of the airport including, but not limited to, anything approximating a tradeport as that term is defined in the international tradeport development authority act, 1994 PA 325, MCL 152.2521 to 152.2546.

Status report by department of transportation.

Sec. 1102. Before the end of each fiscal year, the state transportation department shall report to the JCOS the status of projects funded in part 1 with the estimated dollars allocated for each project. If there has to be a delay in reporting, the state transportation department shall notify JCOS in writing of the date the report will be received.

Airport program; availability of planning or construction project; lapse of remaining allocations.

Sec. 1104. (1) A planning project or construction project appropriated for the airport program shall be made available for no more than 2 fiscal years following the fiscal year in which the original appropriation was made.

(2) Any remaining balance from allocations made in this section shall lapse to the fund from which it was appropriated pursuant to the lapsing of funds as provided in the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594. **MISCELLANEOUS**

Antenna site management revolving fund.

Sec. 1201. (1) Revenue collected from licenses issued under the antenna site management project shall be deposited into the antenna site management revolving fund created for this purpose in the department of management and budget. The department may receive and expend funds from the fund for costs associated with the antenna site management project, including the cost of the third-party site manager. Any excess revenue remaining in the fund at the close of the fiscal year shall be proportionately transferred to the appropriate state restricted funds as designated in statute or by constitution.

(2) An antenna shall not be sited pursuant to this section without prior compliance with the respective local zoning codes and local unit of government processes.

Site preparation economic development fund.

Sec. 1202. (1) A site preparation economic development fund is hereby created in the department of management and budget. As used in this section, "economic development sites" means those state owned sites declared as surplus property pursuant to section 251

of the management and budget act, 1984 PA 431, MCL 18.1251, that would provide economic benefit to the area or to the state. The Michigan economic development corporation board and the state budget director shall determine whether or not a specific state owned site qualifies for inclusion in the fund created under this subsection.

(2) Proceeds from the sale of any sites designated in subsection (1) shall be deposited into the fund created in subsection (1) and shall be available for site preparation expenditures, unless otherwise provided by law. The economic development sites authorized in subsection (1) are hereby authorized for sale consistent with state law. Expenditures from the fund are hereby authorized for site preparation activities that enhance the marketable sale value of the sites. Site preparation activities include, but are not limited to, demolition, environmental studies and abatement, utility enhancement, and site excavation.

(3) A cash advance in an amount of not more than $25,000,000.00 is hereby authorized from the general fund to the site preparation economic development fund.

(4) An annual report shall be transmitted to the senate and house of representatives appropriations committees not later than December 31 of each year. This report shall detail both of the following:

(a) The revenue and expenditure activity in the fund for the preceding fiscal year.

(b) The sites identified as economic development sites under subsection (1).

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 519]

(SB 1101)

AN ACT to make appropriations for the department of community health and certain state purposes related to mental health, public health, and medical services for the fiscal year ending September 30, 2003; to provide for the expenditure of those appropriations; to create funds; to require and provide for reports; to prescribe the powers and duties of certain local and state agencies and departments; and to provide for disposition of fees and other income received by the various state agencies.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS - FISCAL YEAR 2002-2003

Appropriations; department of community health.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of community health for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

DEPARTMENT OF COMMUNITY HEALTH

Full-time equated unclassified positions 6.0
Full-time equated classified positions.....5,666.3

		For Fiscal Year Ending Sept. 30, 2003
Average population	1,438.0	
GROSS APPROPRIATION	$	9,799,182,300
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers	$	69,172,900
ADJUSTED GROSS APPROPRIATION	$	9,730,009,400
Federal revenues:		
Total federal revenues		5,177,291,200
Special revenue funds:		
Total local revenues		1,065,265,900
Total private revenues		64,736,600
Tobacco settlement revenue		70,768,200
Total other state restricted revenues		874,240,600
State general fund/general purpose	$	2,477,706,900

Departmentwide administration.

Sec. 102. DEPARTMENTWIDE ADMINISTRATION

Full-time equated unclassified positions	6.0	
Full-time equated classified positions	343.5	
Director and other unclassified—6.0 FTE positions	$	581,500
Community health advisory council		28,900
Departmental administration and management—319.7 FTE positions		26,969,200
Certificate of need program administration—13.0 FTE positions		944,800
Worker's compensation program		10,506,800
Rent and building occupancy		9,020,100
Developmental disabilities council and projects—9.0 FTE positions		2,743,600
Rural health services		726,000
Michigan essential health care provider program		954,100
Palliative and hospice care		316,200
Primary care services—1.8 FTE positions		2,890,500
GROSS APPROPRIATION	$	55,681,700
Appropriated from:		
Interdepartmental grant revenues:		
Interdepartmental grant from the department of treasury, Michigan state hospital finance authority		101,600
Federal revenues:		
Total federal revenues		14,786,000
Special revenue funds:		
Total private revenues		185,900
Total other state restricted revenues		2,357,100
State general fund/general purpose	$	38,251,100

Mental health/substance abuse services administration and special projects.

Sec. 103. MENTAL HEALTH/SUBSTANCE ABUSE SERVICES ADMINISTRATION AND SPECIAL PROJECTS

Full-time equated classified positions	101.0	
Mental health/substance abuse program administration—101.0 FTE positions	$	10,172,600

	For Fiscal Year Ending Sept. 30, 2003
Gambling addiction	$ 3,500,000
Protection and advocacy services support	818,300
Mental health initiatives for older persons	1,165,800
Community residential and support services	4,473,600
Highway safety projects	1,837,200
Federal and other special projects	1,977,200
GROSS APPROPRIATION	$ 23,944,700
Federal revenues:	
Total federal revenues	5,813,100
Special revenue funds:	
Total private revenues	190,000
Total other state restricted revenues	3,682,300
State general fund/general purpose	$ 14,259,300

Community mental health/substance abuse services program.

Sec. 104. COMMUNITY MENTAL HEALTH/SUBSTANCE ABUSE SERVICES PROGRAMS

Full-time equated classified positions	2.0
Medicaid mental health services	$ 1,521,686,200
Community mental health non-medicaid services	276,930,200
Multicultural services	5,663,800
Medicaid substance abuse services	26,127,500
Respite services	3,318,600
CMHSP, purchase of state services contracts	174,651,000
Civil service charges	2,606,400
Federal mental health block grant—2.0 FTE positions	15,317,400
State disability assistance program substance abuse services	6,600,000
Community substance abuse prevention, education and treatment programs	79,740,400
GROSS APPROPRIATION	$ 2,112,641,500
Appropriated from:	
Federal revenues:	
Total federal revenues	951,551,600
Special revenue funds:	
Total other state restricted revenues	134,542,400
State general fund/general purpose	$ 1,026,547,500

State psychiatric hospitals, centers for persons with developmental disabilities, and forensic and prison mental health services.

Sec. 105. STATE PSYCHIATRIC HOSPITALS, CENTERS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, AND FORENSIC AND PRISON MENTAL HEALTH SERVICES

Total average population	1,438.0
Full-time equated classified positions	4,289.0
Caro regional mental health center-psychiatric hospital-adult—498.0 FTE positions	$ 39,828,900
Average population	184.0
Kalamazoo psychiatric hospital-adult—402.0 FTE positions	29,559,400

		For Fiscal Year Ending Sept. 30, 2003
Average population		136.0
Northville psychiatric hospital-adult—844.0 FTE positions	$	65,451,800
Average population		377.0
Walter P. Reuther psychiatric hospital-adult—440.0 FTE positions		35,332,500
Average population		232.0
Hawthorn center-psychiatric hospital-children and adolescents—333.0 FTE positions		24,627,200
Average population		118.0
Mount Pleasant center-developmental disabilities—498.0 FTE positions		36,883,300
Average population		181.0
Center for forensic psychiatry—522.0 FTE positions		41,835,500
Average population		210.0
Forensic mental health services provided to the department of corrections—741.0 FTE positions		68,088,700
Revenue recapture		750,000
IDEA, federal special education		120,000
Special maintenance and equipment		947,800
Purchase of medical services for residents of hospitals and centers		1,358,200
Closed site, transition, and related costs—11.0 FTE positions		1,066,900
Severance pay		216,900
Gifts and bequests for patient living and treatment environment		500,000
GROSS APPROPRIATION	$	346,567,100
Appropriated from:		
Interdepartmental grant revenues:		
Interdepartmental grant from the department of corrections		68,088,700
Federal revenues:		
Total federal revenues		33,145,700
Special revenue funds:		
CMHSP, purchase of state services contracts		174,651,000
Other local revenues		17,121,200
Total private revenues		500,000
Total other state restricted revenues		10,396,000
State general fund/general purpose	$	42,664,500

Public health administration.

Sec. 106. PUBLIC HEALTH ADMINISTRATION

Full-time equated classified positions		81.3
Executive administration—12.0 FTE positions	$	1,129,200
Minority health grants and contracts		650,000
Vital records and health statistics—69.3 FTE positions		5,610,500
GROSS APPROPRIATION	$	7,389,700
Appropriated from:		
Interdepartmental grant revenues:		
Interdepartmental grant from family independence agency		447,800
Federal revenues:		
Total federal revenues		2,045,100

		For Fiscal Year Ending Sept. 30, 2003
Special revenue funds:		
Total other state restricted revenues	$	2,432,200
State general fund/general purpose	$	2,464,600

Infectious disease control.

Sec. 107. INFECTIOUS DISEASE CONTROL

Full-time equated classified positions....44.3		
AIDS prevention, testing, and care programs—9.8 FTE positions..	$	27,608,300
Immunization local agreements		14,324,400
Immunization program management and field support—7.7 FTE positions		1,699,600
Sexually transmitted disease control local agreements		3,541,700
Sexually transmitted disease control management and field support—26.8 FTE positions		3,503,500
GROSS APPROPRIATION	$	50,677,500
Appropriated from:		
Federal revenues:		
Total federal revenues		36,057,700
Special revenue funds:		
Total private revenues		1,847,000
Total other state restricted revenues		7,684,100
State general fund/general purpose	$	5,088,700

Laboratory services.

Sec. 108. LABORATORY SERVICES

Full-time equated classified positions....113.2		
Laboratory services—113.2 FTE positions	$	13,326,700
GROSS APPROPRIATION	$	13,326,700
Appropriated from:		
Interdepartmental grant revenues:		
Interdepartmental grant from environmental quality		392,100
Federal revenues:		
Total federal revenues		3,411,100
Special revenue funds:		
Total other state restricted revenues		3,131,300
State general fund/general purpose	$	6,392,200

Epidemiology.

Sec. 109. EPIDEMIOLOGY

Full-time equated classified positions....64.5		
AIDS surveillance and prevention program—7.0 FTE positions	$	1,772,800
Asthma prevention and control		675,000
Bioterrorism preparedness—33.0 FTE positions		9,503,400
Epidemiology administration—24.5 FTE positions		5,624,000
Tuberculosis control and recalcitrant AIDS program		867,000
GROSS APPROPRIATION	$	18,442,200

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Federal revenues:		
Total federal revenues		15,936,100
Special revenue funds:		
Total other state restricted revenues		179,000
State general fund/general purpose	$	2,327,100

Local health administration and grants.

Sec. 110. LOCAL HEALTH ADMINISTRATION AND GRANTS

Full-time equated classified positions....3.0		
Implementation of 1993 PA 133, MCL 333.17015	$	100,000
Lead abatement program—3.0 FTE positions		1,550,200
Local health services		223,800
Local public health operations		41,070,200
Medical services cost reimbursement to local health departments		1,500,000
GROSS APPROPRIATION	$	44,444,200
Appropriated from:		
Federal revenues:		
Total federal revenues		2,949,100
Special revenue funds:		
Total other state restricted revenues		101,100
State general fund/general purpose	$	41,394,000

Chronic disease and injury prevention and health promotion.

Sec. 111. CHRONIC DISEASE AND INJURY PREVENTION AND HEALTH PROMOTION

Full-time equated classified positions....30.7		
African-American male health initiative	$	5,000
AIDS and risk reduction clearinghouse and media campaign		1,576,000
Alzheimer's information network		440,000
Cancer prevention and control program—13.6 FTE positions		12,081,400
Chronic disease prevention		1,527,400
Diabetes and kidney program—8.0 FTE positions		1,388,500
Health education, promotion, and research programs—2.9 FTE positions		1,352,800
Injury control intervention project		430,000
Morris Hood Wayne State University diabetes outreach		500,000
Obesity program		255,000
Physical fitness, nutrition, and health		755,000
Public health traffic safety coordination		650,000
Smoking prevention program—6.2 FTE positions		3,644,700
Tobacco tax collection and enforcement		810,000
Violence prevention		1,446,900
GROSS APPROPRIATION	$	26,862,700
Appropriated from:		
Federal revenues:		
Total federal revenues		15,203,200

		For Fiscal Year Ending Sept. 30, 2003
Special revenue funds:		
Total other state restricted revenues	$	7,625,800
State general fund/general purpose	$	4,033,700

Community living, children, and families.

Sec. 112. COMMUNITY LIVING, CHILDREN, AND FAMILIES

Full-time equated classified positions....84.0		
Childhood lead program—5.0 FTE positions	$	1,412,200
Children's waiver home care program		22,828,400
Community living, children, and families administration—68.5 FTE positions		7,285,100
Dental programs		510,400
Dental program for persons with developmental disabilities		151,000
Family planning local agreements		8,393,900
Family support subsidy		14,737,100
Housing and support services—1.0 FTE positions		5,579,300
Local MCH services		13,050,200
Medicaid outreach and service delivery support		6,488,600
Migrant health care		200,000
Newborn screening follow-up and treatment services		2,428,000
Omnibus budget reconciliation act implementation—9.0 FTE positions		12,770,500
Pediatric AIDS prevention and control		1,026,300
Pregnancy prevention program		2,851,100
Prenatal care outreach and service delivery support		4,299,300
Southwest community partnership		1,547,300
Special projects—0.5 FTE positions		6,337,500
Sudden infant death syndrome program		321,300
GROSS APPROPRIATION	$	112,217,500
Appropriated from:		
Federal revenues:		
Total federal revenues		73,009,800
Special revenue funds:		
Total private revenues		261,100
Total other state restricted revenues		8,490,000
State general fund/general purpose	$	30,456,600

Women, infants, and children food and nutrition programs.

Sec. 113. WOMEN, INFANTS, AND CHILDREN FOOD AND NUTRITION PROGRAMS

Full-time equated classified positions....42.0		
Women, infants, and children program administration and special projects—42.0 FTE positions	$	4,951,300
Women, infants, and children program local agreements and food costs		164,311,000
GROSS APPROPRIATION	$	169,262,300

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Federal revenues:		
Total federal revenues	$	121,386,400
Special revenue funds:		
Total private revenues		47,875,900
State general fund/general purpose	$	0

Children's special health care services.

Sec. 114. CHILDREN'S SPECIAL HEALTH CARE SERVICES

Full-time equated classified positions....66.6		
Children's special health care services administration—66.6 FTE positions	$	5,058,500
Amputee program		184,600
Bequests for care and services		1,579,600
Case management services		3,923,500
Conveyor contract		559,100
Medical care and treatment		151,600,000
GROSS APPROPRIATION	$	162,905,300
Appropriated from:		
Federal revenues:		
Total federal revenues		77,985,400
Special revenue funds:		
Total private revenues		750,000
Total other state restricted revenues		650,000
State general fund/general purpose	$	83,519,900

Office of drug control policy.

Sec. 115. OFFICE OF DRUG CONTROL POLICY

Full-time equated classified positions....17.0		
Drug control policy—17.0 FTE positions	$	1,973,400
Anti-drug abuse grants		28,659,200
GROSS APPROPRIATION	$	30,632,600
Appropriated from:		
Federal revenues:		
Total federal revenues		30,246,600
State general fund/general purpose	$	386,000

Crime victim services commission.

Sec. 116. CRIME VICTIM SERVICES COMMISSION

Full-time equated classified positions....9.0		
Grants administration services—9.0 FTE positions	$	1,040,500
Justice assistance grants		15,000,000
Crime victim rights services grants		7,655,300
GROSS APPROPRIATION	$	23,695,800
Appropriated from:		
Federal revenues:		
Total federal revenues		15,939,900

		For Fiscal Year Ending Sept. 30, 2003
Special revenue funds:		
Total other state restricted revenues	$	7,240,900
State general fund/general purpose	$	515,000

Office of services to the aging.

Sec. 117. OFFICE OF SERVICES TO THE AGING

Full-time equated classified positions	41.5	
Commission (per diem $50.00)	$	10,500
Long-term care advisor—3.0 FTE positions		761,000
Office of services to aging administration—38.5 FTE positions		4,201,200
Community services		34,589,900
Nutrition services		37,289,300
Senior volunteer services		5,970,000
Senior citizen centers staffing and equipment		1,130,000
Employment assistance		2,818,300
Respite care program		7,100,000
GROSS APPROPRIATION	$	93,870,200
Appropriated from:		
Federal revenues:		
Total federal revenues		48,813,400
Special revenue funds:		
Tobacco settlement revenue		5,761,000
Total other state restricted revenues		2,600,000
State general fund/general purpose	$	36,695,800

Medical services administration.

Sec. 118. MEDICAL SERVICES ADMINISTRATION

Full-time equated classified positions	333.7	
Medical services administration—333.7 FTE positions	$	42,419,700
Facility inspection contract - state police		132,800
MIChild administration		4,527,800
GROSS APPROPRIATION	$	47,080,300
Appropriated from:		
Federal revenues:		
Total federal revenues		30,839,700
Special revenue funds:		
State general fund/general purpose	$	16,240,600

Medical services.

Sec. 119. MEDICAL SERVICES

Hospital services and therapy	$	781,065,800
Hospital disproportionate share payments		45,000,000
Physician services		176,587,900
Medicare premium payments		153,600,000
Pharmaceutical services		543,923,100
Home health services		26,800,000
Transportation		8,300,000
Auxiliary medical services		90,300,000
Ambulance services		5,000,000

		For Fiscal Year Ending Sept. 30, 2003
Long-term care services	$	1,225,927,400
Home and community based waiver program		126,000,000
Elder prescription insurance coverage		145,000,000
Health maintenance organizations		1,581,188,600
MIChild program		57,067,100
MIFamily plan		191,091,900
Personal care services		20,816,200
Maternal and child health		9,234,500
Adult home help		187,387,800
Social services to the physically disabled		1,344,900
Subtotal basic medical services program		5,375,635,200
School-based services		65,094,200
Special adjustor payments		1,014,000,900
Subtotal special medical services payments		1,079,095,100
GROSS APPROPRIATION	$	6,454,730,300
Appropriated from:		
Federal revenues:		
Total federal revenues		3,679,486,100
Special revenue funds:		
Total local revenues		873,493,700
Total private revenues		13,126,700
Tobacco settlement revenue		65,007,200
Total other state restricted revenues		681,334,600
State general fund/general purpose	$	1,142,282,000

Information technology.

Sec. 120. INFORMATION TECHNOLOGY

Information technology services and projects	$	35,834,300
GROSS APPROPRIATION	$	35,834,300
Appropriated from:		
Interdepartmental grant revenues:		
Interdepartmental grant from the department of corrections		142,700
Federal revenues:		
Total federal revenues		18,685,200
Special revenue funds:		
Total other state restricted revenues		1,793,800
State general fund/general purpose	$	15,212,600

Budgetary savings.

Sec. 121. BUDGETARY SAVINGS

Budgetary savings	$	(25,630,600)
GROSS APPROPRIATION	$	(25,630,600)
Appropriated from:		
Special revenue funds:		
State general fund/general purpose	$	(25,630,600)

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Early retirement savings.

Sec. 122. EARLY RETIREMENT SAVINGS

Early retirement savings	$	(5,393,700)
GROSS APPROPRIATION	$	(5,393,700)
Appropriated from:		
State general fund/general purpose	$	(5,393,700)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS FOR FISCAL YEAR 2002-2003

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $3,422,715,700.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $1,089,306,700.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF COMMUNITY HEALTH		
DEPARTMENTWIDE ADMINISTRATION		
Departmental administration and management	$	15,656,500
Rural health services		35,000
MENTAL HEALTH/SUBSTANCE ABUSE SERVICES ADMINISTRATION AND SPECIAL PROJECTS		
Mental health initiatives for older persons		1,165,800
COMMUNITY MENTAL HEALTH/SUBSTANCE ABUSE SERVICES PROGRAMS		
State disability assistance program substance abuse services		6,600,000
Community substance abuse prevention, education, and treatment programs		19,133,500
Medicaid mental health services		660,538,700
Community mental health non-Medicaid services		276,930,200
Multicultural services		5,663,800
Medicaid substance abuse services		11,647,600
Respite services		3,318,600
INFECTIOUS DISEASE CONTROL		
AIDS prevention, testing and care programs		1,466,800
Immunization local agreements		2,973,900
Sexually transmitted disease control local agreements		452,900
LOCAL HEALTH ADMINISTRATION AND GRANTS		
Local public health operations		41,070,200

CHRONIC DISEASE AND INJURY PREVENTION AND HEALTH PROMOTION		
Cancer prevention and control program	$	722,400
Smoking prevention program		690,400
COMMUNITY LIVING, CHILDREN, AND FAMILIES		
Childhood lead program		85,000
Family planning local agreements		1,301,400
Local MCH services		246,100
Omnibus budget reconciliation act implementation		2,152,700
Prenatal care outreach and service delivery support		1,235,000
CHILDREN'S SPECIAL HEALTH CARE SERVICES		
Case management services		3,319,900
MEDICAL SERVICES		
Transportation		866,200
OFFICE OF SERVICES TO THE AGING		
Community services		13,292,900
Nutrition services		12,848,500
Senior volunteer services		841,400
CRIME VICTIM SERVICES COMMISSION		
Crime victim rights services grants		5,051,300
TOTAL OF PAYMENTS TO LOCAL UNITS OF GOVERNMENT	$	1,089,306,700

Appropriations subject to §§ 18.1101 to 18.1594; state as custodian or agent.

Sec. 202. (1) The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

(2) Funds for which the state is acting as the custodian or agent are not subject to annual appropriation.

Definitions.

Sec. 203. As used in this act:

(a) "ACCESS" means Arab community center for economic and social services.

(b) "AIDS" means acquired immunodeficiency syndrome.

(c) "CMHSP" means a community mental health services program as that term is defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a.

(d) "DAG" means the United States department of agriculture.

(e) "Disease management" means a comprehensive system that incorporates the patient, physician, and health plan into 1 system with the common goal of achieving desired outcomes for patients.

(f) "Department" means the Michigan department of community health.

(g) "DSH" means disproportionate share hospital.

(h) "EPIC" means elder prescription insurance coverage program.

(i) "EPSDT" means early and periodic screening, diagnosis, and treatment.

(j) "FTE" means full-time equated.

(k) "GME" means graduate medical education.

(*l*) "Health plan" means, at a minimum, an organization that meets the criteria for delivering the comprehensive package of services under the department's comprehensive health plan.

(m) "HIV" means human immunodeficiency virus.

(n) "HMO" means health maintenance organization.

(o) "IDEA" means individual disability education act.

(p) "MCH" means maternal and child health.

(q) "MSS/ISS" means maternal and infant support services.

(r) "Title XVIII" means title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28, 1395x to 1395yy, and 1395bbb to 1395ggg.

(s) "Title XIX" means title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(t) "Title XX" means title XX of the social security act, chapter 531, 49 U.S.C. 1397 to 1397f.

(u) "WIC" means women, infants, and children supplemental nutrition program.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining the vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous month and the reasons to justify the exception.

Contingency funds; availability for expenditure; transfer.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $20,000,000.00 for state-restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $20,000,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $10,000,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization.

Sec. 207. At least 120 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Electronic transmission of reports; use of internet.

Sec. 208. Unless otherwise specified, the department shall use the internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on the internet or intranet site. Quarterly, the department shall provide to the house of representatives and senate appropriations subcommittees' members, the state budget office, and the house and senate fiscal agencies an electronic and paper listing of the reports submitted during the most recent 3-month period along with the internet or intranet site of each report, if any.

Purchase of foreign goods or services.

Sec. 209. (1) Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and comparable quality American goods or services, or both, are available.

(2) Funds appropriated in part 1 shall not be used for the purchase of out-of-state goods or services, or both, if competitively priced and comparable quality Michigan goods or services, or both, are available.

Businesses in deprived and depressed communities; contracts to provide services or supplies.

Sec. 210. (1) The director shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. The director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

(2) The director shall take all reasonable steps to ensure equal opportunity for all who compete for and perform contracts to provide services or supplies, or both, for the department. The director shall strongly encourage firms with which the department

contracts to provide equal opportunity for subcontractors to provide services or supplies, or both.

Carrying forward revenues in excess of fees and collections.

Sec. 211. If the revenue collected by the department from fees and collections exceeds the amount appropriated in part 1, the revenue may be carried forward with the approval of the state budget director into the subsequent fiscal year. The revenue carried forward under this section shall be used as the first source of funds in the subsequent fiscal year.

Maternal and child health block grant, preventive health and health services block grant, substance abuse block grant, healthy Michigan fund, Michigan health initiative; amounts; report.

Sec. 212. (1) From the amounts appropriated in part 1, no greater than the following amounts are supported with federal maternal and child health block grant, preventive health and health services block grant, substance abuse block grant, healthy Michigan fund, and Michigan health initiative funds:

(a) Maternal and child health block grant	$	20,627,000
(b) Preventive health and health services block grant		6,115,300
(c) Substance abuse block grant		61,371,200
(d) Healthy Michigan fund		35,200,000
(e) Michigan health initiative		9,060,200

(2) On or before February 1, 2003, the department shall report to the house of representatives and senate appropriations subcommittees on community health, the house and senate fiscal agencies, and the state budget director on the detailed name and amounts of federal, restricted, private, and local sources of revenue that support the appropriations in each of the line items in part 1 of this act.

(3) Upon the release of the fiscal year 2003-2004 executive budget recommendation, the department shall report to the same parties in subsection (2) on the amounts and detailed sources of federal, restricted, private, and local revenue proposed to support the total funds appropriated in each of the line items in part 1 of the fiscal year 2003-2004 executive budget proposal.

(4) The department shall provide to the same parties in subsection (2) all revenue source detail for consolidated revenue line item detail upon request to the department.

Departments, agencies, and commissions receiving tobacco tax funds; report.

Sec. 213. The state departments, agencies, and commissions receiving tobacco tax funds from part 1 shall report by January 1, 2003, to the senate and house of representatives appropriations committees, the senate and house fiscal agencies, and the state budget director on the following:

(a) Detailed spending plan by appropriation line item including description of programs.

(b) Description of allocations or bid processes including need or demand indicators used to determine allocations.

(c) Eligibility criteria for program participation and maximum benefit levels where applicable.

(d) Outcome measures to be used to evaluate programs.

(e) Any other information considered necessary by the house of representatives or senate appropriations committees or the state budget director.

Tobacco tax revenue; prohibited use.

Sec. 214. The use of state-restricted tobacco tax revenue received for the purpose of tobacco prevention, education, and reduction efforts and deposited in the healthy Michigan fund shall not be used for lobbying as defined in 1978 PA 472, MCL 4.411 to 4.431.

Write-offs and prior year obligations; report on prior years reimbursements, refunds, adjustments, and settlements.

Sec. 216. (1) In addition to funds appropriated in part 1 for all programs and services, there is appropriated for write-offs of accounts receivable, deferrals, and for prior year obligations in excess of applicable prior year appropriations, an amount equal to total write-offs and prior year obligations, but not to exceed amounts available in prior year revenues.

(2) The department's ability to satisfy appropriation deductions in part 1 shall not be limited to collections and accruals pertaining to services provided in fiscal year 2002-2003, but shall also include reimbursements, refunds, adjustments, and settlements from prior years.

(3) The department shall report by March 15, 2003 and September 15, 2003 to the house of representatives and senate appropriations subcommittees on community health on all reimbursements, refunds, adjustments, and settlements from prior years.

Basic health services.

Sec. 218. Basic health services for the purpose of part 23 of the public health code, 1978 PA 368, MCL 333.2301 to 333.2321, are: immunizations, communicable disease control, sexually transmitted disease control, tuberculosis control, prevention of gonorrhea eye infection in newborns, screening newborns for the 7 conditions listed in section 5431(1)(a) through (g) of the public health code, 1978 PA 368, MCL 333.5431, community health annex of the Michigan emergency management plan, and prenatal care.

Michigan public health institute; project design and implementation; report.

Sec. 219. (1) The department may contract with the Michigan public health institute for the design and implementation of projects and for other public health related activities prescribed in section 2611 of the public health code, 1978 PA 368, MCL 333.2611. The department may develop a master agreement with the institute to carry out these purposes for up to a 3-year period. The department shall report to the house of representatives and senate appropriations subcommittees on community health, the house and senate fiscal agencies, and the state budget director on or before November 1, 2002 and May 1, 2003 all of the following:

(a) A detailed description of each funded project.

(b) The amount allocated for each project, the appropriation line item from which the allocation is funded, and the source of financing for each project.

(c) The expected project duration.

(d) A detailed spending plan for each project, including a list of all subgrantees and the amount allocated to each subgrantee.

(2) If a report required under subsection (1) is not received by the house of representatives and senate appropriations subcommittees on community health, the house and senate fiscal agencies, and the state budget director on or before the date specified for that report, the disbursement of funds to the Michigan public health institute under

this section shall stop. The disbursement of those funds shall recommence when the overdue report is received.

(3) On or before September 30, 2003, the department shall provide to the same parties listed in subsection (1) a copy of all reports, studies, and publications produced by the Michigan public health institute, its subcontractors, or the department with the funds appropriated in part 1 and allocated to the Michigan public health institute.

Michigan public health institute; submission to financial and performance audits.

Sec. 220. All contracts with the Michigan public health institute funded with appropriations in part 1 shall include a requirement that the Michigan public health institute submit to financial and performance audits by the state auditor general of projects funded with state appropriations.

Publications, videos, conferences, and workshops; collection of fees.

Sec. 223. The department of community health may establish and collect fees for publications, videos and related materials, conferences, and workshops. Collected fees shall be used to offset expenditures to pay for printing and mailing costs of the publications, videos and related materials, and costs of the workshops and conferences. The costs shall not exceed fees collected.

Information technology; user fees.

Sec. 259. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology-related services and projects. The user fees are subject to provisions of any interagency agreement between the department and the department of information technology.

Information technology; designation as work project.

Sec. 260. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Negative appropriation for early retirement savings; satisfaction by savings from hiring freeze; adjustments.

Sec. 261. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the department director and approved by the state budget director.

(3) Appropriation authorization adjustments required due to negative appropriations for early retirement savings and budgetary savings shall be made only after the approval of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Failure to expend funds; written explanation; requirements.

Sec. 262. (1) As a condition of expending funds appropriated in part 1, the department shall provide the members of the house of representatives and senate appropriations subcommittees on community health and the house and senate fiscal agencies with a written explanation of the reason or reasons why the department did not fully expend appropriated funds each time any of the following occurs:

(a) A legislative transfer is proposed that would remove 10% or more of the funding in a line item.

(b) A legislative transfer is proposed that would bring the total of year-to-date transfers out of that line item to 10% or more of the originally appropriated amount.

(c) A legislative transfer is proposed that would remove funding in a line item that is the subject of boilerplate language expressing a legislative intent for program implementation.

(d) When it appears that 10% or more of a line item will lapse to the general fund at the close of the fiscal year.

(e) When it appears that 10% or more of a line item will be proposed to be included in a work project, or when the amount that may be included in a work project plus the sum of legislative transfers out of the line item will total 10% or more of the amount originally appropriated.

(2) A written explanation required by subsection (1)(a), (b), or (c) shall be provided on the same day that the department of management and budget requests approval of the legislative transfer. A written explanation required by subsection (1)(d) or (e) shall be provided by September 15, 2003.

(3) In addition, a written explanation that is provided with regard to an appropriation that is the subject of boilerplate language described in subsection (1)(c), whether or not the explanation is provided to comply with subsection (1)(c) or another subdivision of subsection (1), shall include a copy of the applicable boilerplate language.

Additional appropriations; condition.

Sec. 263. (1) Subject to subsection (2), in addition to the amount appropriated under part 1, the following amounts are appropriated for the fiscal year ending September 30, 2003:

(a) $189,100.00 is appropriated to the consumer involvement program.

(b) $339,100.00 is appropriated to minority health grants and contracts.

(c) $315,000.00 is appropriated to the African-American male health initiative.

(d) $1,500,000.00 is appropriated to cancer prevention and control to be allocated pursuant to section 1008.

(e) $45,000.00 is appropriated to chronic disease prevention for child and adult arthritis.

(f) $2,647,200.00 is appropriated to the diabetes and kidney program.

(g) $495,000.00 is appropriated to the injury control intervention project for safe kids program.

(h) $165,900.00 is appropriated to immunization local agreements for the meningitis initiative.

(i) $495,000.00 is appropriated to the Michigan essential health provider program.

(j) $195,000.00 is appropriated to the obesity program.

(k) $490,000.00 is appropriated to physical fitness, nutrition, and health.

(*l*) $3,495,000.00 is appropriated to the pregnancy prevention program.

(m) $1,900,000.00 is appropriated for smoking prevention.

(n) $195,000.00 is appropriated for special projects for fetal alcohol syndrome.

(o) $238,500.00 is appropriated for local health services for training and evaluation.

(2) The appropriation in subsection (1) shall become effective only if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack of cigarettes on or before September 30, 2002.

DEPARTMENTWIDE ADMINISTRATION

Payments in lieu of worker's compensation payments.

Sec. 301. From funds appropriated for worker's compensation, the department may make payments in lieu of worker's compensation payments for wage and salary and related fringe benefits for employees who return to work under limited duty assignments.

Community health advisory council; member per diems; other expenditures.

Sec. 302. Funds appropriated in part 1 for the community health advisory council may be used for member per diems of $50.00 and other council expenditures.

First-party payments for mental health services; prohibition.

Sec. 303. The department is prohibited from requiring first-party payment from individuals or families with a taxable income of $10,000.00 or less for mental health services for determinations made in accordance with section 818 of the mental health code, 1974 PA 258, MCL 330.1818.

Loan repayment for certain dentists.

Sec. 304. The funds appropriated in part 1 for the Michigan essential health care provider program may also provide loan repayment for dentists that fit the criteria established by part 27 of the public health code, 1978 PA 368, MCL 333.2701 to 333.2727.

Multicultural agencies providing primary care services.

Sec. 305. The department is directed to continue support of multicultural agencies that provide primary care services from the funds appropriated in part 1.

Federally qualified health services.

Sec. 307. From the funds appropriated in part 1 for primary care services, an amount not to exceed $2,890,500.00 is appropriated to enhance the service capacity of the federally qualified health centers and other health centers which are similar to federally qualified health centers.

Michigan essential health care provider program; loan repayments.

Sec. 309. The Breton health center shall be designated as a state-sponsored health center for the purpose of qualifying certified health care providers for loan repayments under the Michigan essential health care provider program.

Primary care clinics located in designated health professional shortage areas.

Sec. 310. (1) The department shall identify all primary care clinics located in federally designated health professional shortage areas.

(2) The department shall provide assistance, at the request of any primary care clinic identified in subsection (1), in attaining designation as a state-sponsored health center for the purpose of qualifying certified health care providers for loan repayments under the Michigan essential health care provider program.

(3) The department shall provide bimonthly reports to the senate and house appropriations subcommittees on community health and the senate and house fiscal agencies on the names and locations of all clinics located in federally designated health professional shortage areas and those clinics that have been designated as Michigan essential health care provider sites.

Palliative care, hospice, and end-of-life care; programs; hospice pilot project.

Sec. 311. From the amounts appropriated in part 1 for palliative and end-of-life care, $166,200.00 shall be allocated for education programs on and promotion of palliative care, hospice, and end-of-life care. The department shall provide a report on the interim results of the hospice pilot project to the house of representatives and senate appropriations subcommittees on community health and the house and senate fiscal agencies by October 1, 2002.

End-of-life care.

Sec. 312. From the funds appropriated in part 1 for palliative and hospice care, the department shall allocate $150,000.00 to the Michigan partnership for the advancement of end-of-life care. The funds shall be used for the continued development and implementation of the strategic plan to improve end-of-life care in Michigan. It is the intent of the legislature that the amount of this grant shall decrease by $50,000.00 in each of the next 3 fiscal years.

Compulsive gambling; report.

Sec. 313. By November 1, 2002, the department shall report to the house of representatives and senate appropriations subcommittees on community health, the house and senate fiscal agencies, and the state budget director on activities undertaken by the department to address compulsive gambling.

MENTAL HEALTH/SUBSTANCE ABUSE SERVICES ADMINISTRATION AND SPECIAL PROJECTS

Contract with protection and advocacy service; services.

Sec. 350. The department may enter into a contract with the protection and advocacy service, authorized under section 931 of the mental health code, 1974 PA 258, MCL 330.1931, or a similar organization to provide legal services for purposes of gaining and maintaining occupancy in a community living arrangement which is under lease or contract with the department or a community mental health services program to provide services to persons with mental illness or developmental disability.

Adolescent suicide; survey and assessment.

Sec. 352. From the funds appropriated, the department shall conduct a statewide survey of adolescent suicide and assessment of available preventative resources.

COMMUNITY MENTAL HEALTH/SUBSTANCE ABUSE SERVICES PROGRAMS

Community mental health services; authority and responsibility of local CMHSPs; contract.

Sec. 401. (1) Funds appropriated in part 1 are intended to support a system of comprehensive community mental health services under the full authority and responsibility of local CMHSPs. The department shall ensure that each CMHSP provides all of the following:

(a) A system of single entry and single exit.

(b) A complete array of mental health services which shall include, but shall not be limited to, all of the following services: residential and other individualized living arrangements, outpatient services, acute inpatient services, and long-term, 24-hour inpatient care in a structured, secure environment.

(c) The coordination of inpatient and outpatient hospital services through agreements with state-operated psychiatric hospitals, units, and centers in facilities owned or leased by the state, and privately-owned hospitals, units, and centers licensed by the state pursuant to sections 134 through 149b of the mental health code, 1974 PA 258, MCL 330.1134 to 330.1149b.

(d) Individualized plans of service that are sufficient to meet the needs of individuals, including those discharged from psychiatric hospitals or centers, and that ensure the full range of recipient needs is addressed through the CMHSP's program or through assistance with locating and obtaining services to meet these needs.

(e) A system of case management to monitor and ensure the provision of services consistent with the individualized plan of services or supports.

(f) A system of continuous quality improvement.

(g) A system to monitor and evaluate the mental health services provided.

(h) A system that serves at-risk and delinquent youth as required under the provisions of the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(2) In partnership with CMHSPs, the department shall continue the process to ensure the long-term viability of a single entry and exit and locally controlled community mental health system.

(3) A contract between a CMHSP and the department and any other state department or agency shall not be altered or modified without a prior written agreement of the parties to the contract.

Contracts between department and CMHSPs; provisions; report.

Sec. 402. (1) From funds appropriated in part 1, final authorizations to CMHSPs shall be made upon the execution of contracts between the department and CMHSPs. The contracts shall contain an approved plan and budget as well as policies and procedures governing the obligations and responsibilities of both parties to the contracts. Each contract with a CMHSP that the department is authorized to enter into under this

subsection shall include a provision that the contract is not valid unless the total dollar obligation for all of the contracts between the department and the CMHSPs entered into under this subsection for fiscal year 2002-2003 does not exceed the amount of money appropriated in part 1 for the contracts authorized under this subsection.

(2) The department shall immediately report to the senate and house of representatives appropriations subcommittees on community health, the senate and house fiscal agencies, and the state budget director if either of the following occurs:

(a) Any new contracts with CMHSPs that would affect rates or expenditures are enacted.

(b) Any amendments to contracts with CMHSPs that would affect rates or expenditures are enacted.

(3) The report required by subsection (2) shall include information about the changes and their effects on rates and expenditures.

Multicultural services providers.

Sec. 403. From the funds appropriated in part 1 for multicultural services, the department shall ensure that CMHSPs continue contracts with multicultural services providers.

Report; information to be included.

Sec. 404. (1) Not later than May 31 of each fiscal year, the department shall provide a report on the community mental health services programs to the members of the house of representatives and senate appropriations subcommittees on community health, the house and senate fiscal agencies, and the state budget director that includes the information required by this section.

(2) The report shall contain information for each CMHSP and a statewide summary, each of which shall include at least the following information:

(a) A demographic description of service recipients which, minimally, shall include reimbursement eligibility, client population, age, ethnicity, housing arrangements, and diagnosis.

(b) When the encounter data is available, a breakdown of clients served, by diagnosis. As used in this subdivision, "diagnosis" means a recipient's primary diagnosis, stated as a specifically named mental illness, emotional disorder, or developmental disability corresponding to terminology employed in the latest edition of the American psychiatric association's diagnostic and statistical manual.

(c) Per capita expenditures by client population group.

(d) Financial information which, minimally, shall include a description of funding authorized; expenditures by client group and fund source; and cost information by service category, including administration. Service category shall include all department approved services.

(e) Data describing service outcomes which shall include, but not be limited to, an evaluation of consumer satisfaction, consumer choice, and quality of life concerns including, but not limited to, housing and employment.

(f) Information about access to community mental health services programs which shall include, but not be limited to, the following:

(*i*) The number of people receiving requested services.

(*ii*) The number of people who requested services but did not receive services.

(*iii*) The number of people requesting services who are on waiting lists for services.

(*iv*) The average length of time that people remained on waiting lists for services.

(g) The number of second opinions requested under the code and the determination of any appeals.

(h) An analysis of information provided by community mental health service programs in response to the needs assessment requirements of the mental health code, including information about the number of persons in the service delivery system who have requested and are clinically appropriate for different services.

(i) An estimate of the number of FTEs employed by the CMHSPs or contracted with directly by the CMHSPs as of September 30, 2002 and an estimate of the number of FTEs employed through contracts with provider organizations as of September 30, 2002.

(j) Lapses and carryforwards during fiscal year 2001-2002 for CMHSPs.

(k) Contracts for mental health services entered into by CMHSPs with providers, including amount and rates, organized by type of service provided.

(*l*) Information on the community mental health Medicaid managed care program, including, but not limited to, both of the following:

(*i*) Expenditures by each CMHSP organized by Medicaid eligibility group, including per eligible individual expenditure averages.

(*ii*) Performance indicator information required to be submitted to the department in the contracts with CMHSPs.

(3) The department shall include data reporting requirements listed in subsection (2) in the annual contract with each individual CMHSP.

(4) The department shall take all reasonable actions to ensure that the data required are complete and consistent among all CMHSPs.

Employee wage pass-through funds; payment to direct care workers.

Sec. 405. It is the intent of the legislature that the employee wage pass-through funded to the community mental health services programs for direct care workers in local residential settings and for paraprofessional and other nonprofessional direct care workers in day programs, supported employment, and other vocational programs shall continue to be paid to direct care workers.

State disability assistance substance abuse services program; eligibility of clients; reimbursement rate.

Sec. 406. (1) The funds appropriated in part 1 for the state disability assistance substance abuse services program shall be used to support per diem room and board payments in substance abuse residential facilities. Eligibility of clients for the state disability assistance substance abuse services program shall include needy persons 18 years of age or older, or emancipated minors, who reside in a substance abuse treatment center.

(2) The department shall reimburse all licensed substance abuse programs eligible to participate in the program at a rate equivalent to that paid by the family independence agency to adult foster care providers. Programs accredited by department-approved accrediting organizations shall be reimbursed at the personal care rate, while all other eligible programs shall be reimbursed at the domiciliary care rate.

Individuals with mental illness and substance abuse diagnosis; contract with service providers; fee schedule.

Sec. 407. (1) The amount appropriated in part 1 for substance abuse prevention, education, and treatment grants shall be expended for contracting with coordinating

agencies or designated service providers. It is the intent of the legislature that the coordinating agencies and designated service providers work with the CMHSPs to coordinate the care and services provided to individuals with both mental illness and substance abuse diagnoses.

(2) The department shall establish a fee schedule for providing substance abuse services and charge participants in accordance with their ability to pay. Any changes in the fee schedule shall be developed by the department with input from substance abuse coordinating agencies.

Substance abuse prevention, education, and treatment programs; data report.

Sec. 408. (1) By April 15, 2003, the department shall report the following data from fiscal year 2001-2002 on substance abuse prevention, education, and treatment programs to the senate and house of representatives appropriations subcommittees on community health, the senate and house fiscal agencies, and the state budget office:

(a) Expenditures stratified by coordinating agency, by central diagnosis and referral agency, by fund source, by subcontractor, by population served, and by service type. Additionally, data on administrative expenditures by coordinating agency and by subcontractor shall be reported.

(b) Expenditures per state client, with data on the distribution of expenditures reported using a histogram approach.

(c) Number of services provided by central diagnosis and referral agency, by subcontractor, and by service type. Additionally, data on length of stay, referral source, and participation in other state programs.

(d) Collections from other first- or third-party payers, private donations, or other state or local programs, by coordinating agency, by subcontractor, by population served, and by service type.

(2) The department shall take all reasonable actions to ensure that the required data reported are complete and consistent among all coordinating agencies.

Substance abuse services; funding priority to providers furnishing child care services.

Sec. 409. The funding in part 1 for substance abuse services shall be distributed in a manner that provides priority to service providers that furnish child care services to clients with children.

Substance abuse treatment as condition for public assistance.

Sec. 410. The department shall assure that substance abuse treatment is provided to applicants and recipients of public assistance through the family independence agency who are required to obtain substance abuse treatment as a condition of eligibility for public assistance.

Jail diversion services.

Sec. 411. (1) The department shall ensure that each contract with a CMHSP requires the CMHSP to implement programs to encourage diversion of persons with serious mental illness, serious emotional disturbance, or developmental disability from possible jail incarceration when appropriate.

(2) Each CMHSP shall have jail diversion services and shall work toward establishing working relationships with representative staff of local law enforcement agencies,

including county prosecutors' offices, county sheriffs' offices, county jails, municipal police agencies, municipal detention facilities, and the courts. Written interagency agreements describing what services each participating agency is prepared to commit to the local jail diversion effort and the procedures to be used by local law enforcement agencies to access mental health jail diversion services are strongly encouraged.

Sec. 412. The department shall contract directly with the Salvation Army harbor light program and Salvation Army turning point of west Michigan to provide non-Medicaid substance abuse services at not less than the amount contracted for in fiscal year 2001-2002. To fund the contracts described in this section, the department shall make an administrative allocation from its existing appropriation of not less than 10% of the amount contracted for in fiscal year 2001-2002 for these programs of the Salvation Army.

Recalculating capitation rates.

Sec. 413. By October 10, 2002, the department shall report to the house of representatives and senate appropriations subcommittees on community health and the house and senate fiscal agencies on the methodology utilized and the adjustments made in recalculating the capitation rates payable to CMHSPs and other managing entities under the federal waiver for Michigan managed specialty services and supports program.

Managed care plan for specialized substance abuse services.

Sec. 414. Medicaid substance abuse treatment services shall be managed by selected CMHSPs pursuant to the centers for Medicare and Medicaid services' approval of Michigan's 1915(b) waiver request to implement a managed care plan for specialized substance abuse services. The selected CMHSPs shall receive a capitated payment on a per eligible per month basis to assure provision of medically necessary substance abuse services to all beneficiaries who require those services. The selected CMHSPs shall be responsible for the reimbursement of claims for specialized substance abuse services. The CMHSPs that are not coordinating agencies may continue to contract with a coordinating agency. Any alternative arrangement must be based on client service needs and have prior approval from the department.

Psychotropic medications.

Sec. 416. (1) Of the funds appropriated in part 1 for pharmaceutical services, community mental health boards shall not be held liable for the cost of prescribed psychotropic medications during fiscal year 2002-2003.

(2) In calculating the available amount of lapses for use in offsetting overexpenditures resulting from the implementation of this section, those lapses credited to community mental health line items shall only include appropriation lapses in excess of the amount calculated for the 5% carryforward defined in state statute.

(3) The department shall provide quarterly reports to the senate and house of representatives appropriations subcommittees on community health, their respective fiscal agencies, and community mental health boards that include data on psychotropic medications regarding the type, number, cost and prescribing patterns of Medicaid providers.

(4) Should expenditures for Medicaid mental health services and Medicaid substance abuse services exceed the appropriations contemplated in part 1 due to an increase in the

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number or mix of Medicaid eligibles, the department shall request the transfer of appropriation lapses or supplemental funding as may be necessary to offset such expenditures.

Regional partnerships.

Sec. 417. (1) It is the intent of the legislature that the department support projects by community mental health boards to establish regional partnerships. Community mental health boards located in counties within a 45-mile radius of each other shall be allowed to collaborate for the purpose of forming regional partnerships.

(2) The purpose of the regional partnerships should be to expand consumer choice, promote service integration, and produce system efficiencies through the coordination of efforts, or other outcomes, as may be determined by participating community mental health boards.

(3) The projects described in this section shall be completely voluntary and be based on projects proposed by the community mental health boards. Each proposed project shall be consistent with the scope, duration, risks, and inducements contained in the plan for competitive procurement that the department submits to the centers for Medicare and Medicaid services as part of the renewal request for the section 1915(b) managed specialty services waiver.

(4) As an additional incentive for community mental health boards to engage in the projects described in this section, the department shall allow any regional partnership formed under this section to retain 100% of any net lapses generated by the regional partnership.

Medicaid managed mental health care program; funding report.

Sec. 418. On or before the tenth of each month, the department shall report to the senate and house of representatives appropriations subcommittees on community health, the senate and house fiscal agencies, and the state budget director on the amount of funding paid to the CMHSPs to support the Medicaid managed mental health care program in that month. The information shall include the total paid to each CMHSP, per capita rate paid for each eligibility group for each CMHSP, and number of cases in each eligibility group for each CMHSP, and year-to-date summary of eligibles and expenditures for the Medicaid managed mental health care program.

Sec. 419. From the funds appropriated in part 1 for community substance abuse prevention, education, and treatment programs, the department and a CMHSP that contract with a substance abuse coordinating agency shall include a provision in the contract that allows the agency to carry forward up to 5% of its federal block grant revenue.

Management of psychotropic drug costs; pilot projects; reports.

Sec. 422. (1) It is the intent of the legislature that the department support pilot projects by CMHSPs to control and manage psychotropic drug costs associated with the managed specialty services and supports program.

(2) The purpose of the pilot projects is to allow CMHSPs to develop the necessary management and financial tools to assume risk for the responsibility of managing psychotropic drug costs.

(3) The pilot projects described in this section shall be completely voluntary and based on projects proposed by the CMHSPs.

(4) The department shall provide quarterly reports to the house of representatives and senate appropriations subcommittees on community health, the state budget office, and

the house and senate fiscal agencies as to any activities by CMHSPs to pilot projects under this section.

Substance abuse prevention, education, and treatment programs; delivery.

Sec. 423. The department shall work cooperatively with the family independence agency and the departments of corrections, education, state police, and military and veterans affairs to coordinate and improve the delivery of substance abuse prevention, education, and treatment programs within existing appropriations. The department shall report by March 15, 2003 on the outcomes of this cooperative effort to the house of representatives and senate appropriations subcommittees on community health, the house and senate fiscal agencies, and the state budget director.

Claims processing and payment procedure.

Sec. 424. Each community mental health services program that contracts with the department to provide services to the Medicaid population shall adhere to the following timely claims processing and payment procedure for claims submitted by health professionals and facilities:

(a) A "clean claim" as described in section 111i of the social welfare act, 1939 PA 280, MCL 400.111i, must be paid within 45 days after receipt of the claim by the community mental health services program. A clean claim that is not paid within this time frame shall bear simple interest at a rate of 12% per annum.

(b) A community mental health services program must state in writing to the health professional or facility any defect in the claim within 30 days after receipt of the claim.

(c) A health professional and a health facility have 30 days after receipt of a notice that a claim or a portion of a claim is defective within which to correct the defect. The community mental health services program shall pay the claim within 30 days after the defect is corrected.

Mental health and substance abuse services; data report.

Sec. 425. By April 1, 2003, the department, in conjunction with the department of corrections, shall report the following data from fiscal year 2001-2002 on mental health and substance abuse services to the house of representatives and senate appropriations subcommittees on community health and corrections, the house and senate fiscal agencies, and the state budget office:

(a) The number of prisoners receiving substance abuse services which shall include a description and breakdown on the type of substance abuse services provided to prisoners.

(b) The number of prisoners receiving mental health services which shall include a description and breakdown on the type of mental health services provided to prisoners.

(c) Data indicating if prisoners receiving mental health services were previously hospitalized in a state psychiatric hospital for persons with mental illness.

Mental health services to court-referred minors; report.

Sec. 426. (1) By May 31, 2003, the department shall assist the family independence agency in providing the senate and house appropriations subcommittees on community health, the senate and house fiscal agencies, and the state budget director with a report on mental health services to minors assigned or referred by the courts and found to meet CMHSP clinical and financial eligibility determination requirements for fiscal year 2001-2002.

(2) The report described in subsection (1) shall contain information for each CMHSP calculated by the department from fiscal year 2001-2002 data reporting requirements and a statewide summary, each of which shall contain at least the following information:

(a) The number of minors meeting the criteria in subsection (1) and evaluated as a result of court assignment or referral.

(b) The number of minors meeting the criteria in subsection (1) and receiving treatment after the court assignment or referral.

(c) A breakdown of minors meeting the criteria in subsection (1) receiving treatment, by the following categories:

(*i*) Age.

(*ii*) Primary diagnosis, stated as a specifically named condition corresponding to the terminology employed in the latest version of the diagnostic and statistical manual of the American psychiatric association.

(*iii*) Whether or not the score on the state designated outcome instrument indicated marked or severe functional impairment.

(*iv*) Average length of stay in CMHSP treatment.

(*v*) Unduplicated count of the number receiving residential service and average length of stay in residential service.

(*vi*) Number of recipients served under each categorical children's service heading maintained by the department for standard reporting purposes.

CMH Medicaid capitation rates; change.

Sec. 427. (1) Unless required by federal law, the department shall not enact any contract changes concerning capitation payments to CMHSPs for Medicaid eligibles unless agreed to by contract with CMHSPs.

(2) In the event that the federal government mandates that the department make any changes in eligibility or payment rates for CMHSP Medicaid capitation payments, the department shall inform the members of the senate and house of representatives appropriations subcommittees on community health, the senate and house fiscal agencies, and the state budget director within 2 weeks of the estimated change in CMH Medicaid expenditures due to the federally mandated policy change.

(3) The department may not alter CMH Medicaid capitation rates in order to offset any increases in costs due to increases in Medicaid caseload or case mixture.

(4) Before submitting any state plan amendment to the federal waiver for the managed specialty services and supports program to the centers for Medicare and Medicaid services, the department shall submit a copy of the amendment to the legislature.

Increase in capitation rates for CMHSPs; funds; distribution; basis; noncompliance with federal laws or regulations.

Sec. 428. (1) The department of community health shall establish a separate contingency appropriations account, in an amount not to exceed $100,000,000.00. The sole purpose of this account shall be to provide funding for an increase in Medicaid capitation rates, payable to CMHSPs, for Medicaid mental health services.

(2) Each CMHSP and affiliation of CMHSPs shall provide, from internal resources, local funds to be used as a bona fide part of the state match required under the Medicaid program in order to increase capitation rates for CMHSPs and affiliations of CMHSPs. These funds shall not include either state funds received by a CMHSP for services provided to non-Medicaid recipients or the state matching portion of the Medicaid capitation payments made to a CMHSP or an affiliation of CMHSPs.

(3) The distribution of the aforementioned increases in the capitation payment rates, if any, shall be based on a formula developed by a committee established by the department, including representatives from CMHSPs or affiliations of CMHSPs and department staff.

(4) The Medicaid capitation rate increase distribution formula, developed by the committee specified in subsection (3), shall be based upon an analysis of recipient characteristics, comparative needs, actuarial trends, equitable adjustments among funding sources, and other relevant considerations. The committee may also recommend changes in community mental health non-Medicaid (funding formula) payments to CMHSPs in conjunction with establishing the formula noted above in order to maximize funding for all CMHSPs. The committee shall report its findings by February 1, 2003 to the senate and house of representatives appropriations subcommittees on community health.

(5) The enactment of this section shall not result in any increase in the local match or county match obligation above the level of funding provided for mental health services in fiscal year 2001-2002. This section shall further confirm that the Medicaid program for specialty services and supports is part of the county-based community mental health services program system.

(6) This section shall not be implemented if it is found not to be in compliance with federal laws or regulations governing these types of transactions.

Sec. 430. From the funds appropriated in part 1 for community mental health non-Medicaid services, CMHSPs that contract with local providers of mental health services and services for persons with developmental disabilities, under a capitated reimbursement system, may include a provision in the contract that allows the providers to carry forward up to 5% of unobligated capitation payments.

Sec. 431. From the funds appropriated in part 1 for Medicaid mental health services, CMHSPs that contract with local providers of mental health services and services for persons with developmental disabilities, under a capitated reimbursement system, may include a provision in the contract that allows the providers to carry forward up to 5% of unobligated capitation payments.

Competitive procurement of services.

Sec. 432. It is the intent of the legislature that all community mental health services programs establish regular ongoing discussions with local providers of mental health services, substance abuse services, and services to persons with developmental disabilities in preparation for competitive procurement of these services as described in the plan approved by the centers for Medicare and Medicaid services. These discussions shall include representatives of the county or counties included in the service area of the community mental health services program and should take into account maintaining continuity of care for patients and service recipients in the transition to competitive procurement of services.

"System of change" grant.

Sec. 433. The department shall apply for a "system of change" grant from the centers for Medicare and Medicaid services. This grant is intended to support self-determination initiatives, including a consumer cooperative proposal, for persons with developmental disabilities and persons with mental illness.

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Matching funds; installments.

Sec. 435. A county required under the provisions of the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, to provide matching funds to a CMHSP for mental health services rendered to residents in its jurisdiction shall pay the matching funds in equal installments on not less than a quarterly basis throughout the fiscal year, with the first payment being made by October 1, 2002.

Specialty services and support waiver bidding process; minimal service disruptions.

Sec. 436. CMHSPs, regional partnerships, and other entities who are chosen to provide public mental health services through the 1915(b) specialty services and support waiver bidding process shall endeavor to minimize disruptions in services to their clientele due to potential changes in their contracts with providers.

Placement of persons in community residential settings; pilot projects; reports.

Sec. 439. (1) It is the intent of the legislature that the department, in conjunction with CMHSPs, support pilot projects that facilitate the movement of adults with mental illness from state psychiatric hospitals to community residential settings.

(2) The purpose of the pilot projects is to encourage the placement of persons with mental illness in community residential settings who may require any of the following:

(a) A secured and supervised living environment.

(b) Assistance in taking prescribed medications.

(c) Intensive case management services.

(d) Assertive community treatment team services.

(e) Alcohol or substance abuse treatment and counseling.

(f) Individual or group therapy.

(g) Day or partial day programming activities.

(h) Vocational, educational, or self-help training or activities.

(i) Other services prescribed to treat a person's mental illness to prevent the need for hospitalization.

(3) The pilot projects described in this section shall be completely voluntary.

(4) The department shall provide quarterly reports to the house of representatives and senate appropriations subcommittees on community health, the state budget office, and the house and senate fiscal agencies as to any activities undertaken by the department and CMHSPs to pilot projects under this section.

MI-Family services.

Sec. 442. (1) It is the intent of the legislature that the $40,000,000.00 in funding transferred from the community mental health non-Medicaid services line to the Medicaid mental health services line be used to provide state match for increases in Medicaid funding for mental health services provided to MI-Family enrollees and for economic increases for the Medicaid specialty services and supports program. Such redirection may only occur for these 2 purposes.

(2) The department shall assure that persons eligible for mental health services under the priority population sections of the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, will receive mandated services under this plan.

(3) Capitation payments to CMHSPs for persons that become enrolled in Medicaid under the MI-Family program shall be made at the same rates as payments for current Medicaid beneficiaries.

(4) If payments made to CMHSPs for MI-Family services are less than the revenue included in the Medicaid mental health services line for services to MI-Family enrollees, the general fund match for those unused federal dollars shall be transferred back to the community mental health non-Medicaid services line. The department is authorized to transfer up to $18,000,000.00 from the community mental health non-Medicaid services line to provide state match for increases in Medicaid funding for MI-Family services to the extent that persons are enrolled in the program. The department shall report quarterly to the senate and house of representatives appropriations subcommittees on community health the number of persons enrolled in the MI-Family program, the amount of funding transferred from the community mental health non-Medicaid services line per this subsection, the amount of Medicaid federal funds drawn down as a result of each transfer, and the services provided to MI-Family enrollees with these funds.

(5) The department shall establish a committee comprised of representatives of the department and the CMHSPs to establish a formula for distribution of payments for economic increases for the Medicaid specialty services and supports program referenced under subsection (1). The committee may recommend changes in community mental health non-Medicaid (funding formula) payments to CMHSPs in conjunction with establishing the formula noted above in order to maximize funding for all CMHSPs. The committee shall determine the level and cost of mental health services provided as a result of the MI-Family program and determine the amount of general fund dollars available to serve priority populations required by the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106. The committee shall report its findings by February 1, 2003 to the senate and house of representatives appropriations subcommittees on community health.

Mental and behavioral health services for children; preventive measures.

Sec. 444. The department shall ensure that appropriate continuum of mental and behavioral health services are available to meet the needs of children which include inpatient services, outpatient services, in-home visits, and family respite care. The department shall also promote mental health preventive measures for children which include school-based risk assessments of children and collaborative efforts between the state, communities, schools, and families.

Sec. 447. The department shall provide to the CMHSPs a fixed net cost rate for services provided by the state. This rate shall be equal to the operating cost of providing services minus that part of operating cost paid by federal and private funds, less the amount received by the state as reimbursement from those persons and insurers who are financially liable for the cost of such service. These rates shall be developed by October 1, 2002, and shall be included in the contract between the department and the CMHSPs. The department shall use these rates for CMHSP authorizations as well as for the rates which the department bills CMHSPs for state services.

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Sec. 448. As required under section 1903(w)(7)(A)(*viii*) of title XIX, 42 U.S.C. 1396b, a CMHSP or affiliate of a CMHSP that receives funds under this act for participating in the Medicaid managed specialty mental health and substance abuse program administered by the department shall comply with the provisions of section 224b of the insurance code of 1956, 1956 PA 218, MCL 500.224b, as if it were a health maintenance organization. The quality assurance assessment fee charged to the CMHSP or affiliate shall not exceed 6%.

Sec. 449. From the funds appropriated in part 1 for multicultural services, $2,500,000.00 shall be allocated for persons with severe mental, developmental, physical, or emotional disabilities who are not currently served under this program.

STATE PSYCHIATRIC HOSPITALS, CENTERS FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, AND FORENSIC AND PRISON MENTAL HEALTH SERVICES

Third-party payments for services.

Sec. 601. (1) In funding of staff in the financial support division, reimbursement, and billing and collection sections, priority shall be given to obtaining third-party payments for services. Collection from individual recipients of services and their families shall be handled in a sensitive and nonharassing manner.

(2) The department shall continue a revenue recapture project to generate additional revenues from third parties related to cases that have been closed or are inactive. Revenues collected through project efforts are appropriated to the department for departmental costs and contractual fees associated with these retroactive collections and to improve ongoing departmental reimbursement management functions so that the need for retroactive collections will be reduced or eliminated.

Gifts and bequests; purpose; use.

Sec. 602. Unexpended and unencumbered amounts and accompanying expenditure authorizations up to $500,000.00 remaining on September 30, 2003 from pay telephone revenues and the amounts appropriated in part 1 for gifts and bequests for patient living and treatment environments shall be carried forward for 1 fiscal year. The purpose of gifts and bequests for patient living and treatment environments is to use additional private funds to provide specific enhancements for individuals residing at state-operated facilities. Use of the gifts and bequests shall be consistent with the stipulation of the donor. The expected completion date for the use of gifts and bequests donations is within 3 years unless otherwise stipulated by the donor.

Forensic mental health services.

Sec. 603. The funds appropriated in part 1 for forensic mental health services provided to the department of corrections are in accordance with the interdepartmental plan developed in cooperation with the department of corrections. The department is authorized to receive and expend funds from the department of corrections in addition to the appropriations in part 1 to fulfill the obligations outlined in the interdepartmental agreements.

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Semiannual report.

Sec. 604. (1) The CMHSPs shall provide semiannual reports to the department on the following information:

(a) The number of days of care purchased from state hospitals and centers.

(b) The number of days of care purchased from private hospitals in lieu of purchasing days of care from state hospitals and centers.

(c) The number and type of alternative placements to state hospitals and centers other than private hospitals.

(d) Waiting lists for placements in state hospitals and centers.

(2) The department shall semiannually report the information in subsection (1) to the house of representatives and senate appropriations subcommittees on community health, the house and senate fiscal agencies, and the state budget director.

Closures or consolidations of state hospitals, centers, or agencies; conditions; closure plan; transfer of fund balance.

Sec. 605. (1) The department shall not implement any closures or consolidations of state hospitals, centers, or agencies until CMHSPs have programs and services in place for those persons currently in those facilities and a plan for service provision for those persons who would have been admitted to those facilities.

(2) All closures or consolidations are dependent upon adequate department-approved CMHSP plans that include a discharge and aftercare plan for each person currently in the facility. A discharge and aftercare plan shall address the person's housing needs. A homeless shelter or similar temporary shelter arrangements are inadequate to meet the person's housing needs.

(3) Four months after the certification of closure required in section 19(6) of the state employees' retirement act, 1943 PA 240, MCL 38.19, the department shall provide a closure plan to the house of representatives and senate appropriations subcommittees on community health.

(4) Upon the closure of state-run operations and after transitional costs have been paid, the remaining balances of funds appropriated for that operation shall be transferred to CMHSPs responsible for providing services for persons previously served by the operations.

Patient reimbursement; adjustment; carrying forward excess revenue.

Sec. 606. The department may collect revenue for patient reimbursement from first- and third-party payers, including Medicaid, to cover the cost of placement in state hospitals and centers. The department is authorized to adjust financing sources for patient reimbursement based on actual revenues earned. If the revenue collected exceeds current year expenditures, the revenue may be carried forward with approval of the state budget director. The revenue carried forward shall be used as a first source of funds in the subsequent year.

INFECTIOUS DISEASE CONTROL

Prevention, education, and outreach services; priority to adolescents.

Sec. 801. In the expenditure of funds appropriated in part 1 for AIDS programs, the department and its subcontractors shall ensure that adolescents receive priority for prevention, education, and outreach services.

AIDS provider education activities; funding to Michigan state medical society.

Sec. 802. In developing and implementing AIDS provider education activities, the department may provide funding to the Michigan state medical society to serve as lead agency to convene a consortium of health care providers, to design needed educational efforts, to fund other statewide provider groups, and to assure implementation of these efforts, in accordance with a plan approved by the department.

AIDS drug assistance program; eligibility criteria and drug formulary.

Sec. 803. The department shall continue the AIDS drug assistance program maintaining the prior year eligibility criteria and drug formulary. This section is not intended to prohibit the department from providing assistance for improved AIDS treatment medications.

Sec. 805. (1) From the funds appropriated in part 1 for immunization local agreements, the department shall establish a Natalia Horak and Matthew Knueppel meningitis prevention initiative fund in the amount of $334,100.00, unless otherwise adjusted pursuant to section 263. The department shall ensure that the fund may accept private and local contributions.

(2) The purpose of this fund shall be to provide grants to qualified organizations that will develop education modules targeted towards groups at increased risk of becoming infected with meningitis. The education modules shall provide information on the benefits and risks of vaccination as well as on early detection and treatment for all forms of the disease. Education pertaining to early detection, isolation, and treatment may also be developed for primary medical care providers and local health officers.

(3) The department shall establish the qualification criteria for organizations and shall provide quarterly reports on this initiative to the senate and house appropriations subcommittees on community health and the senate and house fiscal agencies.

EPIDEMIOLOGY

Asthma intervention program.

Sec. 851. From the funds appropriated in part 1 for asthma prevention and control, $300,000.00 shall be allocated for an asthma intervention program, including surveillance, community-based programs, and awareness and education. The department shall seek federal funds as they are made available for asthma programs.

Sec. 852. From the funds appropriated in part 1 for bioterrorism preparedness from federal bioterrorism hospital preparedness funding and consistent with federal requirements, the department shall make the following allocations: $300,000.00 to Sault Ste. Marie War Memorial Hospital, $300,000.00 to Traverse City Munson Healthcare, $300,000.00 to Battle Creek Health System, $500,000.00 to Grand Rapids Metropolitan Medical Response System, $1,000,000.00 to Sparrow Health System, and $1,000,000.00 to Detroit Medical Center.

Sec. 853. From the funds appropriated in part 1 for epidemiology administration, $100.00 shall be allocated to allow and support a collaborative and ongoing research

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initiative between the department, Michigan State University, and the Michigan farm bureau to be proactive in human health concerns regarding the mutation and transmission of traditionally animal-borne diseases to the human population.

LOCAL HEALTH ADMINISTRATION AND GRANTS

Implementation of § 333.17015; reimbursement.

Sec. 901. The amount appropriated in part 1 for implementation of the 1993 amendments to sections 9161, 16221, 16226, 17014, 17015, and 17515 of the public health code, 1978 PA 368, MCL 333.9161, 333.16221, 333.16226, 333.17014, 333.17015, and 333.17515, shall reimburse local health departments for costs incurred related to implementation of section 17015(15) of the public health code, 1978 PA 368, MCL 333.17015.

Dissolution of district health department; penalty.

Sec. 902. If a county that has participated in a district health department or an associated arrangement with other local health departments takes action to cease to participate in such an arrangement after October 1, 2002, the department shall have the authority to assess a penalty from the local health department's operational accounts in an amount equal to no more than 5% of the local health department's local public health operations funding. This penalty shall only be assessed to the local county that requests the dissolution of the health department.

Lead abatement program.

Sec. 903. The department shall provide a report annually to the house of representatives and senate appropriations subcommittees on community health, the senate and house fiscal agencies, and the state budget director on the expenditures and activities undertaken by the lead abatement program. The report shall include, but is not limited to, a funding allocation schedule, expenditures by category of expenditure and by subcontractor, revenues received, description of program elements, and description of program accomplishments and progress.

Immunizations, infectious disease control, sexually transmitted disease control and prevention, hearing screening, vision services, food protection, public water supply, private groundwater supply, and on-site sewage management.

Sec. 904. (1) Funds appropriated in part 1 for local public health operations shall be prospectively allocated to local health departments to support immunizations, infectious disease control, sexually transmitted disease control and prevention, hearing screening, vision services, food protection, public water supply, private groundwater supply, and on-site sewage management. Food protection shall be provided in consultation with the Michigan department of agriculture. Public water supply, private groundwater supply, and on-site sewage management shall be provided in consultation with the Michigan department of environmental quality.

(2) Local public health departments will be held to contractual standards for the services in subsection (1).

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(3) Distributions in subsection (1) shall be made only to counties that maintain local spending in fiscal year 2002-2003 of at least the amount expended in fiscal year 1992-1993 for the services described in subsection (1).

(4) By April 1, 2003, the department shall make available upon request a report to the senate or house of representatives appropriations subcommittee on community health, the senate or house fiscal agency, or the state budget director on the planned allocation of the funds appropriated for local public health operations.

Funding distribution methodology.

Sec. 905. In implementing the new funding distribution methodology developed by the local public health operations funding formula workgroup, the department shall allocate to local health departments in fiscal year 2002-2003 no less than 100% of their fiscal year 2001-2002 allocation.

CHRONIC DISEASE AND INJURY PREVENTION AND HEALTH PROMOTION

Promotion of awareness, education, and early detection of certain cancers.

Sec. 1001. From the state funds appropriated in part 1, the department shall allocate funds to promote awareness, education, and early detection of breast, cervical, prostate, and colorectal cancer, and provide for other health promotion media activities.

School health education curriculum; steering committee; parental request for course content.

Sec. 1002. (1) Provision of the school health education curriculum, such as the Michigan model or another comprehensive school health education curriculum, shall be in accordance with the health education goals established by the Michigan model for the comprehensive school health education state steering committee. The state steering committee shall be comprised of a representative from each of the following offices and departments:

(a) The department of education.

(b) The department of community health.

(c) The health administration in the department of community health.

(d) The bureau of mental health and substance abuse services in the department of community health.

(e) The family independence agency.

(f) The department of state police.

(2) Upon written or oral request, a pupil not less than 18 years of age or a parent or legal guardian of a pupil less than 18 years of age, within a reasonable period of time after the request is made, shall be informed of the content of a course in the health education curriculum and may examine textbooks and other classroom materials that are provided to the pupil or materials that are presented to the pupil in the classroom. This subsection does not require a school board to permit pupil or parental examination of test questions and answers, scoring keys, or other examination instruments or data used to administer an academic examination.

Alzheimer's information network.

Sec. 1003. Funds appropriated in part 1 for the Alzheimer's information network shall be used to provide information and referral services through regional networks for persons with Alzheimer's disease or related disorders, their families, and health care providers.

Michigan physical fitness and sports foundation.

Sec. 1005. From the funds appropriated in part 1 for physical fitness, nutrition, and health, up to $755,000.00, unless otherwise adjusted pursuant to section 263, may be allocated to the Michigan physical fitness and sports foundation. The allocation to the Michigan physical fitness and sports foundation is contingent upon the foundation providing at least a 20% cash match.

Prevention and smoking cessation program.

Sec. 1006. In spending the funds appropriated in part 1 for the smoking prevention program, priority shall be given to prevention and smoking cessation programs for pregnant women, women with young children, and adolescents.

Violence prevention.

Sec. 1007. (1) The funds appropriated in part 1 for violence prevention shall be used for, but not be limited to, the following:

(a) Programs aimed at the prevention of spouse, partner, or child abuse and rape.

(b) Programs aimed at the prevention of workplace violence.

(2) In awarding grants from the amounts appropriated in part 1 for violence prevention, the department shall give equal consideration to public and private nonprofit applicants.

(3) From the funds appropriated in part 1 for violence prevention, the department may include local school districts as recipients of the funds for family violence prevention programs.

Cancer prevention and control; allocations.

Sec. 1008. Contingent on the availability of additional funds appropriated for the cancer prevention and control program, including funds appropriated pursuant to section 263, $1,500,000.00 shall be allocated to the Karmanos Cancer Institute/Wayne State University, to the University of Michigan comprehensive cancer center, and to Michigan State University for cancer and cancer prevention services and activities, consistent with the current priorities of the Michigan cancer consortium.

Kidney disease prevention.

Sec. 1009. From the funds appropriated in part 1 for the diabetes and kidney program, a portion of the funds may be allocated to the National Kidney Foundation of Michigan for kidney disease prevention programming including early identification and education programs and kidney disease prevention demonstration projects.

Osteoporosis prevention and treatment education program.

Sec. 1010. Of the funds appropriated in part 1 for the health education, promotion, and research programs, the department shall allocate not less than $400,000.00 to implement the osteoporosis prevention and treatment education program targeting women and school health education. As part of the program, the department shall design and implement strategies for raising public awareness on the causes and nature of osteoporosis, personal risk factors, value of prevention and early detection, and options for diagnosing and treating osteoporosis.

African-American male health initiative; pilot project.

Sec. 1011. Contingent on the availability of additional funds appropriated for the African-American male health initiative, the department may provide funding to support a pilot project for cancer prevention and early detection for high-risk African-American low-income men. The pilot project may be conducted by a group composed of the department, the Barbara Ann Karmanos Cancer Institute, and federally qualified health centers. Services that the pilot project may make available to uninsured or underinsured high-risk men, subject to informed consent, include screening for prostate cancer and colorectal cancer. Funds may be used for diagnostic services if screening results are abnormal and for treatment services if cancer is diagnosed.

Michigan Parkinson's Initiative.

Sec. 1013. Contingent on the availability of additional funds appropriated for the Michigan Parkinson's Foundation, funds may be used for implementation of the Michigan Parkinson's Initiative which supports and educates persons with Parkinson's disease and their families. Members of the Michigan Parkinson's Initiative include the University of Michigan, Michigan State University, Wayne State University, Beaumont Hospital, St. John Hospital and Health Center, Henry Ford Health System, and other organizations as appropriate.

Stroke prevention, education, and outreach.

Sec. 1019. From the funds appropriated in part 1 for chronic disease prevention, $50,000.00 shall be allocated for stroke prevention, education, and outreach. The objectives of the program shall include education to assist persons in identifying risk factors, and education to assist persons in the early identification of the occurrence of a stroke in order to minimize stroke damage.

Childhood and adult arthritis program.

Sec. 1020. From the funds appropriated in part 1 for chronic disease prevention, $55,000.00, unless otherwise adjusted pursuant to section 263, shall be allocated for a childhood and adult arthritis program.

Spinal cord injury programs.

Sec. 1024. Funds may be allocated for spinal cord injury programs if federal funding becomes available.

Sec. 1025. From the funds appropriated in part 1 for the diabetes and kidney program, up to $50,000.00 shall be allocated to a Battle Creek diabetes and kidney prevention program.

Chronic disease prevention; David S. Holmes sickle cell anemia program.

Sec. 1026. Contingent on the availability of funds appropriated in part 1 for chronic disease prevention, funds may be provided for the David S. Holmes sickle cell anemia program and allocated to the Barbara Ann Karmanos Cancer Institute/Wayne State University and the Children's Hospital of Michigan.

African-American male health initiative; David S. Holmes sickle cell anemia program.

Sec. 1027. Contingent on the availability of funds appropriated in part 1 for the African-American male health initiative, funds may be provided for the David S. Holmes sickle cell anemia program and allocated to the Barbara Ann Karmanos Cancer Institute/Wayne State University and the Children's Hospital of Michigan.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

African-American male health initiative; Henry Ford health system program.

Sec. 1028. Contingent on the availability of funds appropriated in part 1 for the African-American male health initiative, funds may be allocated to the African-American male health initiative program at Henry Ford health system.

COMMUNITY LIVING, CHILDREN, AND FAMILIES

Women, infants, and children food supplement program; family planning; early and periodic screening, diagnosis, and treatment program; prenatal care outreach and service delivery support program.

Sec. 1101. The department shall review the basis for the distribution of funds to local health departments and other public and private agencies for the women, infants, and children food supplement program; family planning; early and periodic screening, diagnosis, and treatment program; and prenatal care outreach and service delivery support program and indicate the basis upon which any projected underexpenditures by local public and private agencies shall be reallocated to other local agencies that demonstrate need.

Adolescent health care services.

Sec. 1102. (1) Agencies receiving funds for adolescent health care services shall do all of the following:

(a) Require each adolescent health clinic funded by the agency to report to the department on an annual basis all of the following information:

(*i*) Funding sources of the adolescent health clinic.

(*ii*) Demographic information of populations served including sex, age, and race. Reporting and presentation of demographic data by age shall include the range of ages of 0-17 years and the range of ages of 18-23 years.

(*iii*) Utilization data that reflects the number of visits and repeat visits and types of services provided per visit.

(*iv*) Types and number of referrals to other health care agencies.

(*v*) Total number of claims submitted by payer type, cost and number of services represented by the claims, and the payment rate by payer type.

(b) As a condition of the contract, a contract shall include the establishment of a local advisory committee before the planning phase of an adolescent health clinic intended to provide services within that school district. The advisory committee shall be comprised of not less than 50% residents of the local school district, and shall not be comprised of more than 50% health care providers. A person who is employed by the sponsoring agency shall not have voting privileges as a member of the advisory committee.

(c) Not allow an adolescent health clinic funded by the agency, as part of the services offered, to provide abortion counseling or services or make referrals for abortion services.

(d) Require each adolescent health clinic funded by the agency to have a written policy on parental consent, developed by the local advisory committee and submitted to the local school board for approval if the services are provided in a public school building where instruction is provided in grades kindergarten through 12.

(e) Establish and implement a process for billing Medicaid, Medicaid HMOs, and other third-party payers. The billing and fee collection processes shall not breach the confidentiality of the client.

(2) A local advisory committee established under subsection (1)(b), in cooperation with the sponsoring agency, shall submit written recommendations regarding the implementation and types of services rendered by an adolescent health clinic to the local school board for approval of adolescent health services rendered in a public school building where instruction is provided in grades kindergarten through 12.

(3) The department shall submit a report to the members of the senate and house of representatives appropriations subcommittees on community health, the senate and house fiscal agencies, and the state budget director based on the information provided under subsection (1)(a). The report is due 90 days after the end of the calendar year.

MCH services, prenatal care outreach and service delivery support, family planning local agreements, and pregnancy prevention programs.

Sec. 1104. Before April 1, 2003, the department shall submit a report to the house and senate fiscal agencies and the state budget director on planned allocations from the amounts appropriated in part 1 for local MCH services, prenatal care outreach and service delivery support, family planning local agreements, and pregnancy prevention programs. Using applicable federal definitions, the report shall include information on all of the following:

(a) Funding allocations.

(b) Actual number of women, children, and/or adolescents served and amounts expended for each group for the fiscal year 2001-2002.

Agency evaluations; criteria.

Sec. 1105. For all programs for which an appropriation is made in part 1, the department shall contract with those local agencies best able to serve clients. Factors to be used by the department in evaluating agencies under this section shall include ability to serve high-risk population groups; ability to serve low-income clients, where applicable; availability of, and access to, service sites; management efficiency; and ability to meet federal standards, when applicable.

Family planning programs.

Sec. 1106. Each family planning program receiving federal title X family planning funds shall be in compliance with all performance and quality assurance indicators that the United States bureau of community health services specifies in the family planning annual report. An agency not in compliance with the indicators shall not receive supplemental or reallocated funds.

Abstinence education; program guidelines; funding priority; receipt of funds.

Sec. 1106a. (1) Federal abstinence money expended in part 1 for the purpose of promoting abstinence education shall provide abstinence education to teenagers most likely to engage in high-risk behavior as their primary focus, and may include programs that include 9- to 17-year-olds. Programs funded must meet all of the following guidelines:

(a) Teaches the gains to be realized by abstaining from sexual activity.

(b) Teaches abstinence from sexual activity outside of marriage as the expected standard for all school-age children.

(c) Teaches that abstinence is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other health problems.

(d) Teaches that a monogamous relationship in the context of marriage is the expected standard of human sexual activity.

(e) Teaches that sexual activity outside of marriage is likely to have harmful effects.

(f) Teaches that bearing children out of wedlock is likely to have harmful consequences.

(g) Teaches young people how to avoid sexual advances and how alcohol and drug use increases vulnerability to sexual advances.

(h) Teaches the importance of attaining self-sufficiency before engaging in sexual activity.

(2) Coalitions, organizations, and programs that do not provide contraceptives to minors and demonstrate efforts to include parental involvement as a means of reducing the risk of teens becoming pregnant shall be given priority in the allocations of funds.

(3) Programs and organizations that meet the guidelines of subsection (1) and criteria of subsection (2) shall have the option of receiving all or part of their funds directly from the department of community health.

Prenatal care outreach and service delivery support.

Sec. 1107. Of the amount appropriated in part 1 for prenatal care outreach and service delivery support, not more than 10% shall be expended for local administration, data processing, and evaluation.

Pregnancy prevention programs; abortion counseling, referrals, or services prohibited.

Sec. 1108. The funds appropriated in part 1 for pregnancy prevention programs shall not be used to provide abortion counseling, referrals, or services.

Volunteer dental program; report.

Sec. 1109. (1) From the amounts appropriated in part 1 for dental programs, funds shall be allocated to the Michigan dental association for the administration of a volunteer dental program that would provide dental services to the uninsured in an amount that is no less than the amount allocated to that program in fiscal year 1996-1997.

(2) Not later than November 1, 2002, the department shall make available upon request a report to the senate or house of representatives appropriations subcommittee on community health or the senate or house of representatives standing committee on health policy the number of individual patients treated, number of procedures performed, and approximate total market value of those procedures through September 30, 2002.

Agencies receiving pregnancy prevention funds; receipt of other family planning funds.

Sec. 1110. Agencies that currently receive pregnancy prevention funds and either receive or are eligible for other family planning funds shall have the option of receiving all of their family planning funds directly from the department of community health and be designated as delegate agencies.

Family planning/pregnancy prevention services.

Sec. 1111. The department shall allocate no less than 87% of the funds appropriated in part 1 for family planning local agreements and the pregnancy prevention program for the direct provision of family planning/pregnancy prevention services.

Communities with high infant mortality rates; allocations.

Sec. 1112. From the funds appropriated for prenatal care outreach and service delivery support, the department shall allocate at least $1,000,000.00 to communities with high infant mortality rates.

Infants with fetal alcohol syndrome or suffering from drug addiction; family services.

Sec. 1113. Contingent on the availability of additional funds appropriated for special projects, including funds appropriated pursuant to section 263, the department shall allocate no less than $200,000.00 to provide education and outreach to targeted populations on the dangers of drug use during pregnancy, neonatal addiction, and fetal alcohol syndrome and further develop its infant support services to target families with infants with fetal alcohol syndrome or suffering from drug addiction.

College students in need of pregnancy and parenting services.

Sec. 1115. From the funds appropriated in part 1 for special projects, the department may allocate $200,000.00 for pilot grants to institutions of higher education to make available a network of resources and support services for students enrolled in the participating institution of higher education who are in need of pregnancy and parenting services. The funds may also be utilized for administration of the grants and assessment of need. This appropriation may be established as a 3-year work project. For purposes of this section, "institution of higher education" means a university, college, or community college located in the state of Michigan.

EPSDT, maternal and infant support services outreach, and other Medicaid services.

Sec. 1120. The department shall allocate appropriate funds to local public health departments for the purpose of providing EPSDT, maternal and infant support services outreach, and other Medicaid outreach and support services.

Children's respite services.

Sec. 1121. Contingent on the availability of funds appropriated in part 1 for special projects, $150,000.00 may be allocated for the continuation of children's respite services that were funded in fiscal year 2000-2001.

Fetal infant mortality review network; additional block grant funds.

Sec. 1124. (1) From the funds appropriated in part 1 from the federal maternal and child health block grant, $450,000.00 shall be allocated if additional block grant funds are available for the statewide fetal infant mortality review network.

(2) It is the intent of the legislature that this project shall be funded with a like amount in fiscal year 2003-2004 should federal funds become available.

Migrant health care.

Sec. 1128. The department shall make every effort to maximize the receipt of federal Medicaid funds to support the activities of the migrant health care line item.

Elevated blood lead levels; report on number of children.

Sec. 1129. The department shall provide a report annually to the house of representatives and senate appropriations subcommittees on community health, the house and senate fiscal agencies, and the state budget director on the number of children with elevated blood lead levels. The report shall provide the information by county and shall include the level of blood lead reported.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Infant mortality rate data; release to local public health departments and public.

Sec. 1133. The department shall release infant mortality rate data to all local public health departments no later than 48 hours prior to releasing infant mortality rate data to the public.

Adolescent suicide and assessment pilot project.

Sec. 1134. On the condition that there are unallocated funds remaining in the special projects line item, following the allotment of funds from this line item to existing programs that are required to be funded under this act, the department may provide $100,000.00 to the yellow ribbon suicide prevention program for an adolescent suicide and assessment pilot project.

Sponsor-to-alien deeming policy; implementation.

Sec. 1135. (1) Pursuant to applicable federal law, the department shall implement a sponsor-to-alien deeming policy for all nonqualified or qualified aliens seeking services under any means-tested state-funded program.

(2) Prior to the effective date of the specified policy in subsection (1) but no sooner than October 1, 2002, the department shall seek reimbursement from the sponsors of record of any nonqualified or qualified alien who has received services under any means-tested state-funded program, unless the reimbursement is prohibited by federal law.

Sec. 1136. From the funds appropriated in part 1 for special projects, the department shall allocate a total of $1,100,000.00 to the child advocacy centers in this state, with $100,000.00 being allocated to each child advocacy center.

WOMEN, INFANTS, AND CHILDREN FOOD AND NUTRITION PROGRAM

Food programs.

Sec. 1150. In administering the federal summer food service program for children, the department shall work to effectively utilize when possible resources and infrastructure that are in place for existing food programs administered by the department and other state agencies including the department of education.

Project FRESH.

Sec. 1151. The department may work with local participating agencies to define local annual contributions for the farmer's market nutrition program, project FRESH, to enable the department to request federal matching funds by April 1, 2003 based on local commitment of funds.

CHILDREN'S SPECIAL HEALTH CARE SERVICES

Children with special health care needs; payment; exceptions.

Sec. 1201. Funds appropriated in part 1 for medical care and treatment of children with special health care needs shall be paid according to reimbursement policies determined

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Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

by the Michigan medical services program. Exceptions to these policies may be taken with the prior approval of the state budget director.

Department services.

Sec. 1202. The department may do 1 or more of the following:

(a) Provide special formula for eligible clients with specified metabolic and allergic disorders.

(b) Provide medical care and treatment to eligible patients with cystic fibrosis who are 21 years of age or older.

(c) Provide genetic diagnostic and counseling services for eligible families.

(d) Provide medical care and treatment to eligible patients with hereditary coagulation defects, commonly known as hemophilia, who are 21 years of age or older.

Children's special health care services; referral of eligible children to locally-based services.

Sec. 1203. All children who are determined medically eligible for the children's special health care services program shall be referred to the appropriate locally-based services program in their community.

CRIME VICTIM SERVICES COMMISSION

Crime victim services commission; per diem amount.

Sec. 1301. The per diem amount authorized for the crime victim services commission is $50.00.

Forensic nurse examiner programs; sexual assault evidence collection.

Sec. 1302. From the funds appropriated in part 1 for justice assistance grants, up to $50,000.00 shall be allocated for expansion of forensic nurse examiner programs to facilitate training for improved evidence collection for the prosecution of sexual assault. The funds shall be used for program coordination, training, and counseling. Unexpended funds shall be carried forward.

Evidence collection expenses; reimbursement to criminal sexual assault victims; condition.

Sec. 1303. (1) From the funds appropriated in part 1 for crime victim rights services grants, victims of criminal sexual assault shall be eligible to obtain reimbursement for the costs of any medically necessary services that may be needed for the collection of evidence used to identify, apprehend, and prosecute the offender or offenders, and that would otherwise be the financial responsibility of the victim.

(2) This section does not take effect unless Senate Bill No. 552 of the 91st Legislature is enacted into law, its effective date is a date in fiscal year 2002-2003, and it authorizes the reimbursements described in subsection (1).

Evidence collection; compliance with recommended procedures.

Sec. 1304. The department shall work with the department of state police, the Michigan hospital association, the Michigan state medical society, and the Michigan nurses association

to ensure that the recommendations included in the "Standard Recommended Procedures for the Emergency Treatment of Sexual Assault Victims" are followed in the collection of evidence.

OFFICE OF SERVICES TO THE AGING

Community and nutrition services and home services; eligibility.

Sec. 1401. The appropriation in part 1 to the office of services to the aging, for community and nutrition services and home services, shall be restricted to eligible individuals at least 60 years of age who fail to qualify for home care services under title XVIII, XIX, or XX.

Home delivered meals waiting lists; criteria; report.

Sec. 1403. The office of services to the aging shall require each region to report to the office of services to the aging home delivered meals waiting lists based upon standard criteria. Determining criteria shall include all of the following:

(a) The recipient's degree of frailty.

(b) The recipient's inability to prepare his or her own meals safely.

(c) Whether the recipient has another care provider available.

(d) Any other qualifications normally necessary for the recipient to receive home delivered meals.

Fees.

Sec. 1404. The area agencies and local providers may receive and expend fees for the provision of day care, care management, respite care, and certain eligible home and community-based services. The fees shall be based on a sliding scale, taking client income into consideration. The fees shall be used to expand services.

Respite care.

Sec. 1406. The appropriation of $5,000,000.00 of tobacco settlement funds to the office of services to the aging for the respite care program shall be allocated in accordance with a long-term care plan developed by the long-term care working group established in section 1657 of 1998 PA 336 upon implementation of the plan. The use of the funds shall be for direct respite care or adult respite care center services. Not more than 10% of the amount allocated under this section shall be expended for administration and administrative purposes.

Long-term care advisor.

Sec. 1407. (1) The appropriation of $761,000.00 of tobacco settlement funds to the office of services to the aging for the long-term care advisor shall be allocated in accordance with a long-term care plan developed by the long-term care working group established in section 1657 of 1998 PA 336 upon implementation of the plan.

(2) Activities of the long-term care advisor shall support awareness for a continuum of care for older adults including assisted living arrangements, and shall promote and support family involvement.

Award of funds at local level.

Sec. 1408. The office of services to the aging shall provide that funds appropriated under this act shall be awarded on a local level in accordance with locally determined needs.

Locally-based services; intent of legislature.

Sec. 1413. The legislature affirms the commitment to locally-based services. The legislature supports the role of local county board of commissioners in the approval of area agency on aging plans. The legislature supports choice and the right of local counties to change membership in the area agencies on aging if the change is to an area agency on aging that is contiguous to that county. The legislature supports the office of services to the aging working with others to provide training to commissions to better understand and advocate for aging issues. It is the intent of the legislature to prohibit area agencies on aging from providing direct services, including home and community-based waiver services, unless they receive a waiver from the department. The legislature's intent in this section is conditioned on compliance with federal and state laws, rules, and policies.

Services to frail elderly.

Sec. 1416. The legislature affirms the commitment to provide in-home services, resources, and assistance for the frail elderly who are not being served by the Medicaid home and community services waiver program.

MEDICAL SERVICES ADMINISTRATION

Ticket to work and work incentives improvement act of 1999; report.

Sec. 1505. The department shall work with the department of career development to explore options available under the ticket to work and work incentives improvement act of 1999, Public Law 106-170, 113 Stat. 1860. The department shall provide a report on the options to extend health care coverage for working disabled persons under federal law by October 1, 2002.

"Ticket to Work" initiative.

Sec. 1507. Of the amount appropriated to medical services administration for the "Ticket to Work" initiative in 2000 PA 296, $50,000.00 shall be considered a work project. Those funds shall not lapse on September 30, 2002 and shall be carried forward for the purpose of supporting expenditures for the "Ticket to Work" initiative in fiscal year 2002-2003.

Sec. 1508. From funds appropriated in part 1 for MIChild administration, up to $200,000.00 shall be allocated to school district health center training and assistance in MIChild enrollment, delivery system coordination, and service reimbursement procedures.

MEDICAL SERVICES

Financial eligibility; cost of remedial services.

Sec. 1601. The cost of remedial services incurred by residents of licensed adult foster care homes and licensed homes for the aged shall be used in determining financial eligibility for the medically needy. Remedial services include basic self-care and rehabilitation training for a resident.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Medical services to elderly and disabled persons; income requirements.

Sec. 1602. Medical services shall be provided to elderly and disabled persons with incomes less than or equal to 100% of the official poverty line, pursuant to the state's option to elect such coverage set out at section 1902(a)(10)(A)(*ii*) and (m) of title XIX, 42 U.S.C. 1396a.

Purchase of medical coverage.

Sec. 1603. (1) The department may establish a program for persons to purchase medical coverage at a rate determined by the department.

(2) The department may receive and expend premiums for the buy-in of medical coverage in addition to the amounts appropriated in part 1.

(3) The premiums described in this section shall be classified as private funds.

Protected income level.

Sec. 1604. (1) The department shall ascertain the steps required for federal approval to utilize the social security substantial gainful activity level as the state's Medicaid spend-down protected income level for nonelderly individuals receiving social security disability income.

(2) The department, after appropriate consultation with the federal government, shall project an annual cost to the department's budget if federal approval for the protected income level change referenced in subsection (1) were granted.

(3) Not later than March 1, 2003, the department shall report its findings regarding subsections (1) and (2) to the members of the house and senate appropriations subcommittees on community health, the house and senate fiscal agencies, and the state budget director.

Medicaid coverage; determination of protected income level; notice of revisions.

Sec. 1605. (1) The protected income level for Medicaid coverage determined pursuant to section 106(1)(b)(*iii*) of the social welfare act, 1939 PA 280, MCL 400.106, shall be 100% of the related public assistance standard.

(2) The department shall notify the senate and house of representatives appropriations subcommittees on community health and the state budget director of any proposed revisions to the protected income level for Medicaid coverage related to the public assistance standard 90 days prior to implementation.

Guardian and conservator charges; deductions as allowable expense.

Sec. 1606. For the purpose of guardian and conservator charges, the department of community health may deduct up to $60.00 per month as an allowable expense against a recipient's income when determining medical services eligibility and patient pay amounts.

Medicaid applicant; pregnancy as qualifying condition; services.

Sec. 1607. (1) An applicant for Medicaid, whose qualifying condition is pregnancy, shall immediately be presumed to be eligible for Medicaid coverage unless the preponderance of evidence in her application indicates otherwise.

(2) An applicant qualified as described in subsection (1) shall be given a letter of authorization to receive Medicaid covered services related to her pregnancy. In addition, the applicant shall receive a listing of Medicaid physicians and managed care plans in the immediate vicinity of the applicant's residence.

(3) An applicant that selects a Medicaid provider, other than a managed care plan, from which to receive pregnancy services, shall not be required to enroll in a managed care plan until the end of the second month postpartum.

(4) In the event that an applicant, presumed to be eligible pursuant to subsection (1), is subsequently found to be ineligible, a Medicaid physician or managed care plan that has been providing pregnancy services to an applicant under this section is entitled to reimbursement for those services until such time as they are notified by the department that the applicant was found to be ineligible for Medicaid.

(5) If the preponderance of evidence in an application indicates that the applicant is not eligible for Medicaid, the department shall refer that applicant to the nearest public health clinic or similar entity as a potential source for receiving pregnancy-related services.

Compiler's note: This section was repealed by P.A. 2002, No. 746, Imd. Eff. Dec. 30, 2002.

Patient rights and responsibilities; pamphlet; update.

Sec. 1608. The department shall update by October 1, 2002 and distribute by November 1, 2002 to health care providers the pamphlet identifying patient rights and responsibilities described in section 20201 of the public health code, 1978 PA 368, MCL 333.20201.

Review of cost report grievances; reimbursement.

Sec. 1610. The department of community health shall provide an administrative procedure for the review of cost report grievances by medical services providers with regard to reimbursement under the medical services program. Settlements of properly submitted cost reports shall be paid not later than 9 months from receipt of the final report.

Medical services payment; level of payment from third-party source; reimbursement for hospital services.

Sec. 1611. (1) For care provided to medical services recipients with other third-party sources of payment, medical services reimbursement shall not exceed, in combination with such other resources, including Medicare, those amounts established for medical services-only patients. The medical services payment rate shall be accepted as payment in full. Other than an approved medical services copayment, no portion of a provider's charge shall be billed to the recipient or any person acting on behalf of the recipient. Nothing in this section shall be considered to affect the level of payment from a third-party source other than the medical services program. The department shall require a nonenrolled provider to accept medical services payments as payment in full.

(2) Notwithstanding subsection (1), medical services reimbursement for hospital services provided to dual Medicare/medical services recipients with Medicare Part B coverage only shall equal, when combined with payments for Medicare and other third-party resources, if any, those amounts established for medical services-only patients, including capital payments.

Uniform Medicaid and school-based services billing form.

Sec. 1612. (1) It is the intent of the legislature that a uniform Medicaid and school-based services billing form be developed by the department in consultation with affected Medicaid providers. Every 2 months, the department shall provide reports to members of the senate and house of representatives appropriations subcommittees on community health and the senate and house fiscal agencies on the progress of this initiative.

(2) HMOs that contract with the department to provide services to the Medicaid population shall adhere to the time frames for payment of clean claims as defined in

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section 111i(2)(a) of the social welfare act, 1939 PA 280, MCL 400.111i, submitted by health professionals and facilities and provide notice of any defect in claims submitted as specified in section 111i of the social welfare act, 1939 PA 280, MCL 400.111i.

Electronic service billings.

Sec. 1615. Unless prohibited by federal or state law or regulation, the department may require enrolled Medicaid providers to submit their billings for services electronically. The department shall also develop and implement a program that provides a mechanism for Medicaid providers to submit their billings for services over the internet by April 1, 2003.

Pharmaceutical dispensing fee.

Sec. 1620. (1) For fee-for-service recipients, the pharmaceutical dispensing fee shall be $3.77 or the pharmacy's usual or customary cash charge, whichever is less.

(2) When carved-out of the capitation rate for managed care recipients, the pharmaceutical dispensing fee shall be $3.77 or the pharmacy's usual or customary cash charge or the usual charge allowed by the recipient's Medicaid HMO, whichever is less.

(3) The department shall require a prescription copayment for Medicaid recipients except as prohibited by federal or state law or regulation.

Prospective drug utilization review and disease management systems.

Sec. 1621. (1) The department may implement prospective drug utilization review and disease management systems. The prospective drug utilization review and disease management systems authorized by this subsection shall have physician oversight, shall focus on patient, physician, and pharmacist education, and shall be developed in consultation with the national pharmaceutical council, Michigan state medical society, Michigan association of osteopathic physicians, Michigan pharmacists' association, Michigan health and hospital association, and Michigan nurses' association.

(2) This section does not authorize or allow therapeutic substitution.

Pharmaceutical best practice initiative.

Sec. 1622. The department shall implement a pharmaceutical best practice initiative. All of the following apply to that initiative:

(a) A physician that calls the department's agent for prior authorization of drugs that are not on the department's preferred drug list shall be informed of the option to speak to the agent's physician on duty concerning the prior authorization request if the agent's pharmacist denies the prior authorization request. If immediate contact with the agent's physician on duty is requested, but cannot be arranged, the physician placing the call shall be immediately informed of the right to request a 72-hour supply of the nonauthorized drug.

(b) The department's prior authorization and appeal process shall be available on the department's website. The department shall also develop and implement a program that allows providers to file prior authorization and appeal requests electronically by October 1, 2002.

(c) The department shall provide authorization for prescribed drugs that are not on its preferred drug list if the prescribing physician verifies that the drugs are necessary for

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the continued stabilization of the patient's medical condition following documented previous failures on earlier prescription regimens. Documentation of previous failures may be provided by telephone, facsimile, or electronic transmission.

(d) Meetings of the department's pharmacy and therapeutics committee shall be open to the public with advance notice of the meeting date, time, place, and agenda posted on the department's website 14 days in advance of each meeting date. By January 31 of each year, the department shall publish the committee's regular meeting schedule for the year on the department's website. The pharmacy and therapeutics committee meetings shall be subject to the requirements of the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The committee shall provide an opportunity for interested parties to comment at each meeting following written notice to the committee's chairperson of the intent to provide comment.

(e) The pharmacy and therapeutics committee shall make recommendations for the inclusion of medications on the preferred drug list based on sound clinical evidence found in labeling, drug compendia, and peer-reviewed literature pertaining to use of the drug in the relevant population. The committee shall develop a method to receive notification and clinical information about new drugs. The department shall post this process and the necessary forms on the department's website.

(f) The department shall assure compliance with the published Medicaid bulletin implementing the Michigan pharmaceutical best practices initiative program. The department shall also include this information on its website.

(g) The department shall by March 15, 2003 provide to the members of the house and senate subcommittees on community health a report on the impact of the pharmaceutical best practice initiative on the Medicaid community. The report shall include, but not be limited to, the number of appeals used in the prior authorization process and any reports of patients who are hospitalized because of authorization denial.

(h) By May 15, 2003, the department shall provide a report to the members of the house and senate appropriations subcommittees on community health and the house and senate fiscal agencies identifying the prescribed drugs that are grandfathered in as preferred drugs and available without prior authorization and the population groups to which they apply. The report shall assess strategies to improve the drug prior authorization process.

Maintenance drugs.

Sec. 1623. (1) The department shall continue the Medicaid policy that allows for the dispensing of a 100-day supply for maintenance drugs.

(2) The department shall notify all HMOs, physicians, pharmacies, and other medical providers that are enrolled in the Medicaid program that Medicaid policy allows for the dispensing of a 100-day supply for maintenance drugs.

(3) The notice in subsection (2) shall also clarify that a pharmacy shall fill a prescription written for maintenance drugs in the quantity specified by the physician, but not more than the maximum allowed under Medicaid, unless subsequent consultation with the prescribing physician indicates otherwise.

EPIC program.

Sec. 1624. (1) An additional $20,000,000.00 from the tobacco settlement trust fund is appropriated to the elder prescription insurance coverage program for fiscal year 2002-2003 if the state budget director certifies that the federal funds appropriated to that program are unavailable and that sufficient tobacco settlement revenue is available to finance this

appropriation. As used in this section, "tobacco settlement revenue" and "tobacco settlement trust fund" mean those terms as defined in section 2 of the Michigan trust fund act, 2000 PA 489, MCL 12.252.

(2) None of the tobacco settlement or other state-restricted revenue appropriated by the department to the EPIC program in fiscal year 2001-2002 shall lapse.

(3) The department shall place any funds that would have lapsed in a reserve account for the sole purpose of providing revenue to fund the EPIC program during fiscal year 2002-2003, in the event the proposed federal revenue to enhance EPIC program funding is not available.

(4) If the proposed federal funds become available, the reserved tobacco settlement funds may either be lapsed to the tobacco settlement trust fund or the Medicaid trust fund.

Outpatient drugs; rebates from pharmaceutical manufacturers.

Sec. 1627. (1) The department shall use procedures and rebates amounts specified under section 1927 of title XIX, 42 U.S.C. 1396r-8, to secure quarterly rebates from pharmaceutical manufacturers for outpatient drugs dispensed to participants in state medical program, children's special health care services, and EPIC.

(2) For products distributed by pharmaceutical manufacturers not providing quarterly rebates as listed in subsection (1), the department may require preauthorization.

Compiler's note: This section was repealed by P.A. 2002, No. 746, Imd. Eff. Dec. 30, 2002.

Medicaid pharmacy rebates; use of savings.

Sec. 1628. It is the intent of the legislature that if the savings for Medicaid pharmacy rebates exceed the amount budgeted in this act, the savings shall first be used to offset any increase in pharmacy costs above that budgeted in this act and then to support and expand coverage under the EPIC program.

Adult dental services, podiatric services, and chiropractic services; utilization restrictions.

Sec. 1630. Medicaid adult dental services, podiatric services, and chiropractic services shall continue at not less than the level in effect on October 1, 1996, except that reasonable utilization limitations may be adopted in order to prevent excess utilization. The department shall not impose utilization restrictions on chiropractic services unless a recipient has exceeded 18 office visits within 1 year.

Copayments on certain services.

Sec. 1631. The department shall require copayments on dental, podiatric, chiropractic, vision, and hearing aid services provided to Medicaid recipients, except as prohibited by federal or state law or regulation.

Healthy kids dental program.

Sec. 1633. From the funds appropriated in part 1 for auxiliary medical services, the department shall expand the healthy kids dental program statewide if funds become available specifically for expansion of the program.

Ambulance services.

Sec. 1634. From the funds appropriated in part 1 for ambulance services, the department shall continue the 5% increase in payment rates for ambulance services implemented in fiscal year 2000-2001.

Medical services program; submission of cost report.

Sec. 1641. An institutional provider that is required to submit a cost report under the medical services program shall submit cost reports completed in full within 5 months after the end of its fiscal year.

Psychiatric residency training program.

Sec. 1643. Of the funds appropriated in part 1 for graduate medical education in the hospital services and therapy line item appropriation, $3,635,100.00 shall be allocated for the psychiatric residency training program that establishes and maintains collaborative relations with the schools of medicine at Michigan State University and Wayne State University if the necessary Medicaid matching funds are provided by the universities as allowable state match.

Sec. 1645. (1) No later than October 31, 2002, the department shall implement a hospital adjustor formula. The adjustor shall be paid to eligible hospitals as a 27% increase in Medicaid inpatient, outpatient, and rehabilitation hospital rates. The adjustor shall be paid to nonaffiliated hospitals that meet any of the following conditions:

(a) The hospital is located in a county with a population under 250,000.

(b) The hospital is located in a municipality with a population under 10,000.

(c) As of July 1, 2002, the hospital had fewer than 75 beds. It is the intent of the legislature that disbursement of funds to hospitals affected by this adjustor commence on November 1, 2002 subject to the conditions set forth in subsection (2).

(2) Funding for this adjustor is contingent upon the passage of an amendment to the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, that increases the tax by at least 30 cents per pack and that the net revenue from this increase exceeds the amount currently allocated to balance the fiscal year 2001-2002 and fiscal year 2002-2003 state budgets. In no event shall the funding for the adjustor specified in subsection (1) exceed $6,000,000.00.

Sec. 1646. From the funds appropriated in part 1 for hospital services and therapy, the department shall allocate $1,000,000.00 to establish a hospital transitional services fund and make payments from the fund to hospitals to offset costs associated with closure of the facility, transition of the facility to an urgent care center, or transition of the facility to a federally qualified health center. Up to $250,000.00 from the hospital transitional services fund shall be allocated to the regional consortium that includes the Battle Creek Health System, Oaklawn Hospital, and the Albion Health Alliance.

Graduate medical education.

Sec. 1647. From the funds appropriated in part 1 for hospital services, the department shall allocate for graduate medical education not less than the level of rates and payments in effect on April 1, 2002.

Medicaid recipient eligibility status; maintenance of toll-free phone line.

Sec. 1648. The department shall maintain an automated toll-free phone line to enable medical providers to verify the eligibility status of Medicaid recipients. There shall be no charge to providers for the use of the toll-free phone line.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Breast and cervical cancer treatment coverage.

Sec. 1649. From the funds appropriated in part 1 for medical services, the department shall continue breast and cervical cancer treatment coverage for women up to 250% of the federal poverty level, who are under age 65, and who are not otherwise covered by insurance. This coverage shall be provided to women who have been screened through the centers for disease control breast and cervical cancer early detection program, and are found to have breast or cervical cancer, pursuant to the breast and cervical cancer prevention and treatment act of 2000, Public Law 106-354, 114 Stat. 1381.

Medical services recipients; enrollment in preferred plan; assignment; criteria for medical exceptions to HMO enrollment.

Sec. 1650. (1) The department may require medical services recipients residing in counties offering managed care options to choose the particular managed care plan in which they wish to be enrolled. Persons not expressing a preference may be assigned to a managed care provider.

(2) Persons to be assigned a managed care provider shall be informed in writing of the criteria for exceptions to capitated managed care enrollment, their right to change HMOs for any reason within the initial 90 days of enrollment, the toll-free telephone number for problems and complaints, and information regarding grievance and appeals rights.

(3) The criteria for medical exceptions to HMO enrollment shall be based on submitted documentation that indicates a recipient has a serious medical condition, and is undergoing active treatment for that condition with a physician who does not participate in 1 of the HMOs. If the person meets the criteria established by this subsection, the department shall grant an exception to mandatory enrollment at least through the current prescribed course of treatment, subject to periodic review of continued eligibility.

Hospice services for enrollees in HMOs.

Sec. 1651. (1) Medical services patients who are enrolled in HMOs have the choice to elect hospice services or other services for the terminally ill that are offered by the HMOs. If the patient elects hospice services, those services shall be provided in accordance with part 214 of the public health code, 1978 PA 368, MCL 333.21401 to 333.21420.

(2) The department shall not amend the medical services hospice manual in a manner that would allow hospice services to be provided without making available all comprehensive hospice services described in 42 C.F.R. part 418.

Sec. 1653. Implementation and contracting for managed care by the department through HMOs are subject to the following conditions:

(a) Continuity of care is assured by allowing enrollees to continue receiving required medically necessary services from their current providers for a period not to exceed 1 year if enrollees meet the managed care medical exception criteria.

(b) The department shall require contracted HMOs to submit data determined necessary for evaluation on a timely basis.

(c) A health plans advisory council is functioning that meets all applicable federal and state requirements for a medical care advisory committee. The council shall review at least quarterly the implementation of the department's managed care plans.

(d) Mandatory enrollment of Medicaid beneficiaries living in counties defined as rural by the federal government, which is any nonurban standard metropolitan statistical area,

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is allowed if there is only 1 HMO serving the Medicaid population, as long as each Medicaid beneficiary is assured of having a choice of at least 2 physicians by the HMO.

(e) Enrollment of recipients of children's special health care services in HMOs shall be voluntary during fiscal year 2002-2003.

(f) The department shall develop a case adjustment to its rate methodology that considers the costs of persons with HIV/AIDS, end stage renal disease, organ transplants, epilepsy, and other high-cost diseases or conditions and shall implement the case adjustment when it is proven to be actuarially and fiscally sound. Implementation of the case adjustment must be budget neutral.

Sec. 1654. (1) Medicaid HMOs shall establish an ongoing internal quality assurance program for health care services provided to Medicaid recipients which includes all of the following:

(a) An emphasis on health outcomes.

(b) Establishment of written protocols for utilization review based on current standards of medical practice.

(c) Review by physicians and other health care professionals of the process followed in the provision of the health care services.

(d) Evaluation of the continuity and coordination of care that enrollees receive.

(e) Mechanisms to detect overutilization and underutilization of services.

(f) Actions to improve quality and assess the effectiveness of the action through systematic follow-up.

(g) Provision of information on quality and outcome measures to facilitate enrollee comparison and choice of health coverage options.

(h) Ongoing evaluation of the plans' effectiveness.

(i) Consumer involvement in the development of the quality assurance program and consideration of enrollee complaints and satisfaction survey results.

(2) Medicaid HMOs shall apply for accreditation by an appropriate external independent accrediting organization requiring standards recognized by the department once those HMOs have met the application requirements. The state shall accept accreditation of an HMO by an approved accrediting organization as proof that the HMO meets some or all of the state's requirements, if the state determines that the accrediting organization's standards meet or exceed the state's requirements.

(3) Medicaid HMOs shall report encounter data, including data on inpatient and outpatient hospital care, physician visits, pharmaceutical services, and other services specified by the department.

(4) Medicaid HMOs shall assure that all covered services are available and accessible to enrollees with reasonable promptness and in a manner that assures continuity. Medically necessary services shall be available and accessible 24 hours a day and 7 days a week. HMOs shall continue to develop procedures for determining medical necessity which may include a prior authorization process.

(5) Medicaid HMOs shall provide for reimbursement of HMO covered services delivered other than through the HMO's providers if medically necessary and approved by the HMO, immediately required, and that could not be reasonably obtained through the HMO's providers on a timely basis. Such services shall be considered approved if the

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HMO does not respond to a request for authorization within 24 hours of the request. Reimbursement shall not exceed the Medicaid fee-for-service payment for those services.

(6) Medicaid HMOs shall provide access to appropriate providers, including qualified specialists for all medically necessary services.

(7) Medicaid HMOs shall provide the department with a demonstration of the plan's capacity to adequately serve the HMO's expected enrollment of Medicaid enrollees.

(8) Medicaid HMOs shall provide assurances to the department that it will not deny enrollment to, expel, or refuse to reenroll any individual because of the individual's health status or need for services, and that it will notify all eligible persons of those assurances at the time of enrollment.

(9) Medicaid HMOs shall provide procedures for hearing and resolving grievances between the HMO and members enrolled in the HMO on a timely basis.

(10) Medicaid HMOs shall meet other standards and requirements contained in state laws, administrative rules, and policies promulgated by the department.

(11) Medicaid HMOs shall develop written plans for providing nonemergency medical transportation services funded through supplemental payments made to the plans by the department, and shall include information about transportation in their member handbook.

HMO lock-in; duration; exceptions; change.

Sec. 1655. (1) The department may require a 12-month lock-in to the HMO selected by the recipient during the initial and subsequent open enrollment periods, but allow for good cause exceptions during the lock-in period.

(2) Medicaid recipients shall be allowed to change HMOs for any reason within the initial 90 days of enrollment.

Complaint review procedure.

Sec. 1656. (1) The department shall provide an expedited complaint review procedure for Medicaid eligible persons enrolled in HMOs for situations in which failure to receive any health care service would result in significant harm to the enrollee.

(2) The department shall provide for a toll-free telephone number for Medicaid recipients enrolled in managed care to assist with resolving problems and complaints. If warranted, the department shall immediately disenroll persons from managed care and approve fee-for-service coverage.

(3) Annual reports summarizing the problems and complaints reported and their resolution shall be provided to the house of representatives and senate appropriations subcommittees on community health, the house and senate fiscal agencies, the state budget office, and the department's health plans advisory council.

Hospital emergency room reimbursement.

Sec. 1657. (1) Reimbursement for medical services to screen and stabilize a Medicaid recipient, including stabilization of a psychiatric crisis, in a hospital emergency room shall not be made contingent on obtaining prior authorization from the recipient's HMO. If the recipient is discharged from the emergency room, the hospital shall notify the recipient's HMO within 24 hours of the diagnosis and treatment received.

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(2) If the treating hospital determines that the recipient will require further medical service or hospitalization beyond the point of stabilization, that hospital must receive authorization from the recipient's HMO prior to admitting the recipient.

(3) Subsections (1) and (2) shall not be construed as a requirement to alter an existing agreement between an HMO and their contracting hospitals nor as a requirement that an HMO must reimburse for services that are not considered to be medically necessary.

(4) Prior to contracting with an HMO for managed care services that did not have a contract with the department before October 1, 2002, the department shall receive assurances from the office of financial and insurance services that the HMO meets the net worth and financial solvency requirements contained in chapter 35 of the insurance code, 1956 PA 218, MCL 500.3501 to 500.3580.

Sec. 1658. (1) It is the intent of the legislature that HMOs shall have contracts with hospitals within a reasonable distance from their enrollees. If a hospital does not contract with the HMO, in its service area, that hospital shall enter into a hospital access agreement as specified in the MSA bulletin Hospital 01-19.

(2) A hospital access agreement specified in subsection (1) shall be considered an affiliated provider contract pursuant to the requirements contained in chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3580.

Sections applicable to certain Medicaid managed care programs.

Sec. 1659. The following sections are the only ones that shall apply to the following Medicaid managed care programs, including the comprehensive plan, children's special health care services plan, MI Choice long-term care plan, and the mental health, substance abuse, and developmentally disabled services program: 402, 404, 414, 418, 424, 427, 428, 431, 436, 442, 448, 1612, 1650, 1651, 1653, 1654, 1655, 1656, 1657, 1658, 1660, 1661, 1662, 1699, 1704, and 1712.

EPSDT services.

Sec. 1660. (1) The department shall assure that all Medicaid children have timely access to EPSDT services as required by federal law. Medicaid HMOs shall provide EPSDT services to their child members in accordance with Medicaid EPSDT policy.

(2) The primary responsibility of assuring a child's hearing and vision screening is with the child's primary care provider. The primary care provider shall provide age appropriate screening or arrange for these tests through referrals to local health departments. Local health departments shall provide preschool hearing and vision screening services and accept referrals for these tests from physicians or from Head Start programs in order to assure all preschool children have appropriate access to hearing and vision screening. Local health departments shall be reimbursed for the cost of providing these tests for Medicaid eligible children by the Medicaid program.

(3) The department shall require Medicaid HMOs to provide EPSDT utilization data through the encounter data system, and health employer data and information set well child health measures in accordance with the National Committee on Quality Assurance prescribed methodology.

(4) The department shall require HMOs to be responsible for well child visits and maternal and infant support services as described in Medicaid policy. These responsibilities shall be specified in the information distributed by the HMOs to their members.

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(5) The department shall provide, on an annual basis, budget neutral incentives to Medicaid HMOs and local health departments to improve performance on measures related to the care of children and pregnant women.

MSS/ISS services; maternal support.

Sec. 1661. (1) The department shall assure that all Medicaid eligible children and pregnant women have timely access to MSS/ISS services. Medicaid HMOs shall assure that maternal support service screening is available to their pregnant members and that those women found to meet the maternal support service high-risk criteria are offered maternal support services. Local health departments shall assure that maternal support service screening is available for Medicaid pregnant women not enrolled in an HMO and that those women found to meet the maternal support service high-risk criteria are offered maternal support services or are referred to a certified maternal support service provider.

(2) The department shall prohibit HMOs from requiring prior authorization of their contracted providers for any EPSDT screening and diagnosis service, for any MSS/ISS screening referral, or for up to 3 MSS/ISS service visits.

(3) The department shall assure the coordination of MSS/ISS services with the WIC program, state-supported substance abuse, smoking prevention, and violence prevention programs, the family independence agency, and any other state or local program with a focus on preventing adverse birth outcomes and child abuse and neglect.

MSS/ISS and EPSDT services; coordination.

Sec. 1662. (1) The department shall require the external quality review contractor to conduct a review of all EPSDT components provided to children from a statistically valid sample of health plan medical records.

(2) The department shall provide a copy of the analysis of the Medicaid HMO annual audited health employer data and information set reports and the annual external quality review report to the senate and house of representatives appropriations subcommittees on community health, the senate and house fiscal agencies, and the state budget director, within 30 days of the department's receipt of the final reports from the contractors.

(3) The department shall work with the Michigan association of health plans and the Michigan association for local public health to improve service delivery and coordination in the MSS/ISS and EPSDT programs.

(4) The department shall provide training and technical assistance workshops on EPSDT and MSS/ISS for Medicaid health plans, local health departments, and MSS/ISS contractors.

MSS/ISS services; identification; referrals.

Sec. 1663. (1) Local health departments and HMOs shall work with interested hospitals in their area on training and coordination to identify and make MSS/ISS referrals.

(2) Local health departments shall work with interested hospitals, school-based health centers, clinics, other community organizations, and local family independence agency offices in their area on training and coordination to distribute and facilitate the completion of MIChild and Healthy Kids application forms for persons who are potentially eligible for the program.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

MIChild program; eligibility; contract; definitions; payments.

Sec. 1670. (1) The appropriation in part 1 for the MIChild program is to be used to provide comprehensive health care to all children under age 19 who reside in families with income at or below 200% of the federal poverty level, who are uninsured and have not had coverage by other comprehensive health insurance within 6 months of making application for MIChild benefits, and who are residents of this state. The department shall develop detailed eligibility criteria through the medical services administration public concurrence process, consistent with the provisions of this act. Health care coverage for children in families below 150% of the federal poverty level shall be provided through expanded eligibility under the state's Medicaid program. Health coverage for children in families between 150% and 200% of the federal poverty level shall be provided through a state-based private health care program.

(2) The department shall enter into a contract to obtain MIChild services from any HMO, dental care corporation, or any other entity that offers to provide the managed health care benefits for MIChild services at the MIChild capitated rate. As used in this subsection:

(a) "Dental care corporation", "health care corporation", "insurer", and "prudent purchaser agreement" mean those terms as defined in section 2 of the prudent purchaser act, 1984 PA 233, MCL 550.52.

(b) "Entity" means a health care corporation or insurer operating in accordance with a prudent purchaser agreement.

(3) The department may enter into contracts to obtain certain MIChild services from community mental health service programs.

(4) The department may make payments on behalf of children enrolled in the MIChild program from the line-item appropriation associated with the program as described in the MIChild state plan approved by the United States department of health and human services, or from other medical services line-item appropriations providing for specific health care services.

MIChild program; marketing and outreach.

Sec. 1671. From the funds appropriated in part 1, the department shall continue a comprehensive approach to the marketing and outreach of the MIChild program. The marketing and outreach required under this section shall be coordinated with current outreach, information dissemination, and marketing efforts and activities conducted by the department.

MIChild program; disqualification.

Sec. 1672. The department may provide up to 1 year of continuous eligibility to children eligible for the MIChild program unless the family fails to pay the monthly premium, a child reaches age 19, or the status of the children's family changes and its members no longer meet the eligibility criteria as specified in the federally approved MIChild state plan.

MIChild program; monthly premiums.

Sec. 1673. The department may establish premiums for MIChild eligible persons in families with income above 150% of the federal poverty level. The monthly premiums shall not exceed $5.00 for a family.

Copayments.

Sec. 1674. The department shall not require copayments under the MIChild program.

Eligibility changes.

Sec. 1675. Children whose category of eligibility changes between the Medicaid and MIChild programs shall be assured of keeping their current health care providers through the current prescribed course of treatment for up to 1 year, subject to periodic reviews by the department if the beneficiary has a serious medical condition and is undergoing active treatment for that condition.

MIChild program; income requirements; verification.

Sec. 1676. To be eligible for the MIChild program, a child must be residing in a family with an adjusted gross income of less than or equal to 200% of the federal poverty level. The department's verification policy shall be used to determine eligibility.

MIChild program; medically necessary services.

Sec. 1677. The MIChild program shall provide all benefits available under the state employee insurance plan that are delivered through contracted providers and consistent with federal law, including, but not limited to, the following medically necessary services:

(a) Inpatient mental health services, other than substance abuse treatment services, including services furnished in a state-operated mental hospital and residential or other 24-hour therapeutically planned structured services.

(b) Outpatient mental health services, other than substance abuse services, including services furnished in a state-operated mental hospital and community-based services.

(c) Durable medical equipment and prosthetic and orthotic devices.

(d) Dental services as outlined in the approved MIChild state plan.

(e) Substance abuse treatment services that may include inpatient, outpatient, and residential substance abuse treatment services.

(f) Care management services for mental health diagnoses.

(g) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

(h) Emergency ambulance services.

Sec. 1680. (1) It is the intent of the legislature that payment increases for enhanced wages and new or enhanced employee benefits provided through the Medicaid nursing home wage pass-through program in previous years be continued in fiscal year 2002-2003.

(2) The department shall provide a report to the house and senate appropriations subcommittees on community health and the house and senate fiscal agencies regarding the amount of nursing home employee wage and benefit increases provided through the nursing home wage pass-through program in fiscal year 2001-2002.

Sec. 1681. From the funds appropriated in part 1 for home and community-based services, the department and local waiver agents shall encourage the use of family members, friends, and neighbors of home and community-based services participants, where appropriate, to provide homemaker services, meal preparation, transportation, chore services, and other nonmedical covered services to participants in the Medicaid home and community-based services program. This section shall not be construed as allowing for the payment of family members, friends, or neighbors for these services unless explicitly provided for in federal or state law.

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Enforcement actions; penalty money.

Sec. 1682. (1) The department shall implement enforcement actions as specified in the nursing facility enforcement provisions of section 1919 of title XIX, 42 U.S.C. 1396r.

(2) The department is authorized to receive and spend penalty money received as the result of noncompliance with medical services certification regulations. Penalty money, characterized as private funds, received by the department shall increase authorizations and allotments in the long-term care accounts.

(3) Any unexpended penalty money, at the end of the year, shall carry forward to the following year.

Terminally and chronically ill; preservation of dignity and rights.

Sec. 1683. The department shall promote activities that preserve the dignity and rights of terminally ill and chronically ill individuals. Priority shall be given to programs, such as hospice, that focus on individual dignity and quality of care provided persons with terminal illness and programs serving persons with chronic illnesses that reduce the rate of suicide through the advancement of the knowledge and use of improved, appropriate pain management for these persons; and initiatives that train health care practitioners and faculty in managing pain, providing palliative care, and suicide prevention.

Sec. 1684. From the funds appropriated in part 1 for long-term care services, the department shall make available up to 1/2 of the economic increase for a wage pass-through for nursing facilities solely for payment increases for enhanced wages and new or enhanced employee benefits. This funding shall be provided to those facilities that make application for it to fund the Medicaid program share of wage and employee benefit increases of up to the equivalent of 50 cents per employee hour. Employee benefits shall include, but are not limited to, health benefits, retirement benefits, and quality of life benefits such as day care services. Nursing facilities shall be required to document that these wage and benefit increases were actually provided. If a nursing home that makes application for and receives the additional funding for the wage pass-through cannot document that these wage and benefit increases were actually provided, its reimbursement rate shall be reduced by 2.5%.

Sec. 1684a. The wage pass-through in section 1684 shall only be effective if all the funding goes to worker wages and benefits, with none of the funding going to union fees or other fees.

Sec. 1685. All nursing home rates, class I and class III, must have their respective fiscal year rate set 30 days prior to the beginning of their rate year. Rates may take into account the most recent cost report prepared and certified by the preparer, provider corporate owner or representative as being true and accurate, and filed timely, within 5 months of the fiscal year end in accordance with Medicaid policy. If the audited version of the last report is available, it shall be used. Any rate factors based on the filed cost report may be retroactively adjusted upon completion of the audit of that cost report.

Sec. 1687. The long-term care working group established in section 1657 of 1998 PA 336 shall continue to exist to review the allocation of the long-term care innovations grant funding and to monitor the implementation of the demonstration projects being funded. The department shall not implement a long-term care plan until the expiration of 24 days during which at least 1 house of the legislature convenes after the long-term care working group has submitted the written long-term care plan to the senate majority leader, the speaker of the house, the senate and house appropriations subcommittees on community health, and the state budget director.

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Sec. 1688. The department shall not impose a limit on per unit reimbursements to service providers that provide personal care or other services under the Medicaid home and community-based waiver program for the elderly and disabled. The department's per day per client reimbursement cap calculated in the aggregate for all services provided under the Medicaid home and community-based waiver is not a violation of this section.

Sec. 1689. (1) From the funds appropriated in part 1 for the home and community-based services program, the department shall develop an allocation formula that will allow for coverage of no fewer than 15,000 individuals, or a smaller number of individuals if required under federal law.

(2) At the end of each fiscal quarter, the department shall compare actual usage to that predicted by the allocation formula. Based on that evaluation, the department may redistribute home and community-based waiver program resources among the regional service providers.

(3) Priority in enrolling additional persons in the Medicaid home and community-based services program shall be given to those who are currently residing in nursing homes or who are eligible to be admitted to a nursing home if they are not provided home and community-based services. The department shall implement screening and assessment procedures to assure that no additional Medicaid eligible persons are admitted to nursing homes who would be more appropriately served by the Medicaid home and community-based services program. In each case where the program is successful in removing an individual from a nursing home, or prevents an individual from entering a nursing home who currently meets explicit medical criteria for admission to a nursing home, the department shall transfer the estimated amount of cost savings from the long-term care services line item to the home and community-based waiver program line item. The department shall make these transfers on a quarterly basis.

(4) Within 30 days of the end of each fiscal quarter, the department shall provide a report to the senate and house appropriations subcommittees on community health and the senate and house fiscal agencies that details existing and future allocations for the home and community-based waiver program by regions as well as the associated expenditures.

Sec. 1690. (1) From the funds appropriated in part 1 for long-term care services, the department shall allocate $1,000,000.00 to a provider engaged in the continuum of care for long-term care services.

(2) The provider shall use the funds described in subsection (1) to establish a pilot project to assess whether a managed care approach to the full spectrum of long-term care services can provide an appropriate level of care at a lower cost than achieved through purchasing those services on an individual basis.

(3) The department in conjunction with the service providers shall develop criteria to assess the ability of this provider to maintain the individuals at the most appropriate level of care, to improve the total quality of care, to increase compliance with Olmstead v L.C., 527 U.S. 581 (1999), and to reduce costs for the state's Medicaid program.

(4) The department shall provide bimonthly reports that detail the progress of this pilot project to the senate and house appropriations subcommittees on community health and to the senate and house fiscal agencies.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Medical services hospital services; funding pool; distributions; programs in rural, underserved areas.

Sec. 1691. (1) From the funds appropriated in part 1, the department, subject to the requirements and limitations in this section, shall establish a funding pool of up to $44,012,800.00 for the purpose of enhancing the aggregate payment for medical services hospital services.

(2) For a county with a population of more than 2,000,000 people, the department shall distribute $44,012,800.00 to hospitals if $15,026,700.00 is received by the state from such a county, which meets the criteria of an allowable state matching share as determined by applicable federal laws and regulations. If the state receives a lesser sum of an allowable state matching share from such a county, the amount distributed shall be reduced accordingly.

(3) The department may establish county-based, indigent health care programs that are at least equal in eligibility and coverage to the fiscal year 1996 state medical program.

(4) The department is authorized to establish and expand programs in counties that include rural, underserved areas if the expenditures for the programs do not increase state general fund/general purpose costs and local funds are provided.

Medical services provided in schools; reimbursement from Medicaid program.

Sec. 1692. (1) The department of community health is authorized to pursue reimbursement for eligible services provided in Michigan schools from the federal Medicaid program. The department and the state budget director are authorized to negotiate and enter into agreements, together with the department of education, with local and intermediate school districts regarding the sharing of federal Medicaid services funds received for these services. The department is authorized to receive and disburse funds to participating school districts pursuant to such agreements and state and federal law.

(2) From the funds appropriated in part 1 for medical services school services payments, the department is authorized to do all of the following:

(a) Finance activities within the medical services administration related to this project.

(b) Reimburse participating school districts pursuant to the fund sharing ratios negotiated in the state-local agreements authorized in subsection (1).

(c) Offset general fund costs associated with the medical services program.

Special adjustor payments; increase; submission of medical services state plan.

Sec. 1693. The special adjustor payments appropriation in part 1 may be increased if the department submits a medical services state plan amendment pertaining to this line item at a level higher than the appropriation. The department is authorized to appropriately adjust financing sources in accordance with the increased appropriation.

Distribution to children's hospitals with high indigent care volume.

Sec. 1694. The department of community health shall distribute $695,000.00 to children's hospitals that have a high indigent care volume. The amount to be distributed to any given hospital shall be based on a formula determined by the department of community health.

Magnetic card identification system.

Sec. 1696. The department shall by October 1, 2002 complete a study calculating the benefits of a single magnetic card identification system that has the capability to interface with various state benefit programs, including, but not limited to, food stamps, WIC, cash assistance, and Medicaid, and to assist in the eligibility verification process.

Funds obtained from qualifying health system; use as state match.

Sec. 1697. (1) As may be allowed by federal law or regulation, the department may use funds provided by a local or intermediate school district, which have been obtained from a qualifying health system, as the state match required for receiving federal Medicaid or children health insurance program funds. Any such funds received shall be used only to support new school-based or school-linked health services.

(2) A qualifying health system is defined as any health care entity licensed to provide health care services in the state of Michigan, that has entered into a contractual relationship with a local or intermediate school district to provide or manage school-based or school-linked health services.

Direct payments to qualifying hospitals.

Sec. 1699. The department may make separate payments directly to qualifying hospitals serving a disproportionate share of indigent patients, and to hospitals providing graduate medical education training programs. If direct payment for GME and DSH is made to qualifying hospitals for services to Medicaid clients, hospitals will not include GME costs or DSH payments in their contracts with HMOs.

Submission of Medicaid waiver to federal government.

Sec. 1700. The department shall not submit a Medicaid waiver or similar proposal to the federal centers for Medicare and Medicaid unless the proposal has been submitted to the house of representatives and senate appropriations subcommittees on community health at least 30 days before the submission to the federal government.

Sec. 1701. In addition to the funds appropriated in part 1, there is appropriated up to $6,600,000.00 to reestablish a nursing home quality care incentive program to provide financial incentives for nursing homes to develop high-quality care services. Grants under this section shall be awarded by the department to nursing homes that demonstrate an existing commitment to providing high-quality care. This appropriation is contingent upon the receipt of additional funds as a result of an increase in the federal Medicaid match rate above the fiscal year 2002-2003 rate of 55.42% and upon certification from the state budget director that the funds are available for expenditure.

Sec. 1702. From the funds appropriated in part 1 for long-term care services, the department shall work with local waiver agents to implement a pilot project that coordinates Medicaid home and community-based services with section 8 rental assistance subsidies available through the Michigan state housing development authority. The purpose of the pilot project shall be to provide rent and supportive services to 100 persons in assisted living housing arrangements who otherwise would be eligible to receive nursing home care through the Medicaid program. The home and community-based services days of care utilized for the pilot project shall be allocated from the existing allocation to local waiver agents for the current fiscal year.

Sec. 1703. From the funds appropriated in part 1 for long-term care services, the department shall allocate up to $200,000.00 to the Michigan association of centers for independent living for the accessing community-based support project, if additional funds become available for this purpose.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Per diem payment; deletion of references.

Sec. 1704. MSA bulletin Hospital 01-03 shall have all references to per diem payment deleted.

Pharmaceutical best practice initiative program.

Sec. 1706. The department shall develop and implement a public information campaign regarding the pharmaceutical best practice initiative program.

Reimbursement for indigent health care; distribution resulting from amendment to airport parking tax act.

Sec. 1709. From the funds appropriated in part 1 for medical services, the department shall allocate sufficient funds to each qualified county, as that term is defined in section 2 of the airport parking tax act, 1987 PA 248, MCL 207.372, to reimburse that county for the entire reduction in the amount of its distribution for indigent health care in fiscal year 2002-2003 from the amount of its distribution for indigent health care in fiscal year 2000-2001 resulting directly from any amendments to section 7 of the airport parking tax act, 1987 PA 248, MCL 207.377, in calendar year 2002 if House Bill No. 4454 of the 91st Legislature is enacted into law in fiscal year 2001-2002.

Sec. 1710. Any proposed changes by the department to the MIChoice home and community-based services waiver program screening process shall be provided to the members of the house and senate appropriations subcommittees on community health at least 30 days prior to implementation of the proposed changes.

Hospitalization utilization; program report.

Sec. 1711. The department shall provide an annual program report to the members of the house and senate appropriations subcommittees on community health and the house and senate fiscal agencies on the hospitalization utilization of Medicaid recipients by diagnostic-related group.

Sec. 1712. Notwithstanding section 20161(13)(*l*) of the public health code, 1978 PA 368, MCL 333.20161, as added by 2002 PA 303, section 224b(2)(j) of the insurance code of 1956, 1956 PA 218, as added by 2002 PA 304, and section 20161(14)(i) of the public health code, 1978 PA 368, MCL 333.20161, if added by enactment of House Bill No. 5103 of the 91st Legislature, the fiscal year 2002-2003 appropriations for long-term care services, health maintenance organizations, hospital services and therapy, and Medicaid mental health services are as specified in this act.

Medicaid school-based services; reimbursement to school district; certification of payment to vendor.

Sec. 1713. A school, local school district, intermediate school district, or group or consortium of school districts that is entitled to receive any payments for any Medicaid school-based services, either administrative services or fees for service, shall receive reimbursement from the department if it certifies to the department that it has paid in full the amounts billed by any vendor that provided Medicaid billing services on that district's behalf during the period 1998 to 2002, inclusive, that would have been paid had the school district been reimbursed in full, irrespective of the settlement agreement in Michigan Department of Community Health v Centers for Medicare and Medicaid Services,

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

departmental appeals board, United States department of health and human services, docket no. A-01-01 and A-02-01. A vendor may object to and challenge a district's certification of payment if the vendor believes that it has not received payment in full for all amounts it has billed to the district. In that event, the department shall withhold all reimbursements to the district until the vendor's objection is resolved to the satisfaction of the department.

Compiler's note: Section 1713 of 2002 PA 519 was repealed by enacting section 2 of 2002 PA 521.

Hospital services and therapy; condition.

Sec. 1714. The funding for hospital services and therapy in part 1 is predicated on the enactment into law of House Bill No. 5103 of the 91st Legislature. If House Bill No. 5103 is not enacted into law, gross appropriations for the Medicaid hospital services and therapy line item are reduced by $149,200,300.00.

Deposit of funds in Medicaid benefits trust fund.

Sec. 1715. Any additional funds that are available as a result of an increase in the federal Medicaid match rate above the fiscal year 2002-2003 rate of 55.42% that are not appropriated in section 449 or section 1701 shall be deposited in the Medicaid benefits trust fund established in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.256.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

Compiler's note: Section 1713 of this act was repealed by 2002 PA 521, Imd. Eff. July 25, 2002.
Senate Bill No. 552, referred to in section 1303, was not enacted into law.
House Bill No. 4454, referred to in section 1709, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 680, Eff. March 31, 2003.
House Bill No. 5103, referred to in section 1714, was vetoed by the Governor on July 6, 2002.

[No. 520]

(SB 1104)

AN ACT to make appropriations for the department of environmental quality for the fiscal year ending September 30, 2003; to provide for the expenditure of those appropriations; to create certain funds and accounts; to require certain reports; to prescribe the powers and duties of certain state agencies and officials; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by the various state agencies.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; department of environmental quality.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of environmental quality for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

		For Fiscal Year Ending Sept. 30, 2003
DEPARTMENT OF ENVIRONMENTAL QUALITY		
Full-time equated unclassified positions 6.0		
Full-time equated classified positions 1,590.7		
GROSS APPROPRIATION	$	404,819,600
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers	$	14,042,900
ADJUSTED GROSS APPROPRIATION	$	390,778,700
Federal revenues:		
Total federal revenues		131,521,400
Special revenue funds:		
Total local revenues		0
Total private revenues		435,700
Total other state restricted revenues		189,377,100
State general fund/general purpose	$	69,442,500
FUND SOURCE SUMMARY:		
GROSS APPROPRIATION	$	404,819,600
Interdepartmental grant revenues:		
IDG-MDCH, local public health operations		10,472,500
IDG-MDSP		632,200
IDG, Michigan transportation fund		884,800
IDT, interdivisional charges		2,053,400
Total interdepartmental grants and intradepartmental transfers		14,042,900
ADJUSTED GROSS APPROPRIATION	$	390,776,700
Federal revenues:		
DOC-NOAA, federal		3,063,500
DOD, federal		455,300
DOI, federal		457,800
EPA-GWDW		4,740,700
EPA-LUST trust		1,977,500
EPA-UST		238,000
EPA, federal		27,805,400
EPA, radon		323,500
EPA, superfund		7,057,800
Federal revenues		85,000,000
FEMA, federal		401,900
Total federal revenues		131,521,400
Special revenue funds:		
Private funds		435,700
Total private revenues		435,700
Aboveground storage tank fees		717,500
Air emissions fees		11,577,000
CESARS service fee		26,300
Clean Michigan initiative - administration		2,885,700
Clean Michigan initiative - clean water fund		3,020,000
Cleanup and redevelopment fund		12,700,000
Community pollution prevention fund		250,000
Drinking water revolving fund		6,059,500
Environmental education fund		184,500
Environmental pollution prevention fund		330,300

	For Fiscal Year Ending Sept. 30, 2003
Environmental protection fund	$ 15,542,700
Environmental response fund	17,933,900
Environmental training revenue	295,800
Fees and collections	818,700
Financial instruments	5,000,000
Great Lakes protection fund	2,151,100
Hazardous materials transportation permit fund	87,800
Land and water permit fees	3,111,300
Landfill maintenance trust fund	47,200
Metallic mining surveillance fee revenue	68,200
Michigan underground storage tank financial assurance fund	62,455,700
Mineral well regulatory fee revenue	215,300
Oil and gas regulatory fund	7,792,900
Orphan well fund	2,002,000
Public utility assessments	786,100
Public water supply fees	4,451,000
Publication revenue	103,200
Saginaw Bay and River restoration revenue	154,500
Sand extraction fee revenue	188,300
Scrap tire regulatory fund	1,821,500
Septage waste license fees	1,752,400
Settlement funds	3,402,100
Sewage sludge land application fee	742,500
Soil erosion and sedimentation control training fund	101,300
Solid waste program fees	1,319,900
Stormwater permit fees	1,364,000
Submerged log recovery fund	101,600
Underground storage tank fees	4,245,400
Waste reduction fee revenue	7,826,700
Wastewater operator training fees	168,400
Water analysis fees	2,600,400
Water pollution control revolving fund	2,884,300
Water quality protection fund	25,000
Water use reporting fees	65,100
Total other state restricted revenues	189,377,100
State general fund/general purpose	$ 69,442,500

Executive.

Sec. 102. EXECUTIVE

Full-time equated unclassified positions	6.0
Full-time equated classified positions	15.0
Unclassified salaries—6.0 FTE positions	$ 505,000
Executive direction—8.0 FTE positions	1,057,700
Office of the Great Lakes—7.0 FTE positions	773,200
GROSS APPROPRIATION	$ 2,335,900
Appropriated from:	
Federal revenues:	
DOI, federal	51,900
EPA, federal	101,100

		For Fiscal Year Ending Sept. 30, 2003
Special revenue funds:		
Environmental education fund	$	184,500
Environmental response fund		43,200
Great Lakes protection fund		101,100
Oil and gas regulatory fund		89,600
Settlement funds		210,700
State general fund/general purpose	$	1,553,800

Department support services.

Sec. 103. DEPARTMENT SUPPORT SERVICES

Full-time equated classified positions	75.0	
Financial and business services—32.0 FTE positions	$	1,182,800
Field operations support—20.0 FTE positions	$	1,427,300
Automated data processing		2,053,400
Office of special environmental projects—6.0 FTE positions		592,900
Personnel—13.0 FTE positions		781,500
Administrative hearings—4.0 FTE positions		404,700
Building occupancy charges		8,572,500
Rent-privately owned property		1,836,900
Environmental support projects		5,000,000
GROSS APPROPRIATION	$	21,852,000
Appropriated from:		
Interdepartmental grant revenues:		
IDT, interdivisional charges		2,053,400
Federal revenues:		
EPA, superfund		57,800
Special revenue funds:		
Aboveground storage tank fee revenue		25,600
Air emissions fees		401,800
Clean Michigan initiative - administration		162,600
Environmental pollution prevention fund		62,900
Environmental response fund		1,297,000
Fees and collections		99,400
Financial instruments		5,000,000
Land and water permit fees		107,500
Michigan underground storage tank financial assurance fund		333,300
Oil and gas regulatory fund		598,100
Public utility assessments		12,300
Public water supply fees		528,100
Scrap tire regulatory fund		88,400
Settlement funds		170,600
Solid waste program fees		69,600
Stormwater permit fees		50,500
Waste reduction fee revenue		54,700
Water analysis fees		187,700
Water pollution control revolving fund		14,900
Water use reporting fees		8,400
Underground storage tank fees		206,600
State general fund/general purpose	$	10,260,800

		For Fiscal Year Ending Sept. 30, 2003
Geological survey.		
Sec. 104. GEOLOGICAL SURVEY		
Full-time equated classified positions....70.5		
Services to oil and gas programs—61.0 FTE positions	$	6,756,100
Well plugging - orphan wells—2.5 FTE positions		2,002,000
Coal and sand dune management—3.0 FTE positions		594,200
Mineral wells management—3.0 FTE positions		215,300
Metallic mining reclamation program—1.0 FTE positions		68,200
GROSS APPROPRIATION	$	9,635,800
Appropriated from:		
Federal revenues:		
DOI, federal	$	405,900
Special revenue funds:		
Environmental response fund		75,900
Metallic mining surveillance fee revenue		68,200
Mineral well regulatory fee revenue		215,300
Oil and gas regulatory fund		6,444,500
Orphan well fund		2,002,000
Publication revenue		103,200
Sand extraction fee revenue		188,300
State general fund/general purpose	$	132,500
Land and water management.		
Sec. 105. LAND AND WATER MANAGEMENT		
Full-time equated classified positions....150.0		
Land and water program direction—11.0 FTE positions	$	896,900
Field permitting and project assistance—85.0 FTE positions		7,160,800
Water management—24.0 FTE positions		2,378,300
Great Lakes shorelands—30.0 FTE positions		2,860,900
Submerged log recovery program		101,600
GROSS APPROPRIATION	$	13,398,500
Appropriated from:		
Interdepartmental grant revenues:		
IDG, Michigan transportation fund		838,500
Federal revenues:		
EPA, federal		666,300
DOC-NOAA, federal		1,537,900
FEMA, federal		401,900
Special revenue funds:		
Land and water permit fees		2,897,100
Soil erosion and sedimentation control training fund		101,300
Submerged log recovery fund		101,600
State general fund/general purpose	$	6,853,900
Air quality.		
Sec. 106. AIR QUALITY		
Full-time equated classified positions....244.5		
Air quality programs—244.5 FTE positions	$	20,778,400
GROSS APPROPRIATION	$	20,778,400

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Federal revenues:		
EPA, federal	$	3,777,100
Special revenue funds:		
Air emissions fees		10,034,100
Environmental response fund		89,200
State general fund/general purpose	$	6,878,000

Surface water quality.

Sec. 107. SURFACE WATER QUALITY

Full-time equated classified positions....206.5		
Compliance and permits—109.0 FTE positions	$	9,338,400
Surface water surveillance program—36.5 FTE positions		7,932,800
Watershed management and nonpoint source—40.0 FTE positions.		3,550,900
Fish contaminant monitoring contracts		321,000
Sewage sludge land application program—6.5 FTE positions		742,500
Stormwater discharge program—14.5 FTE positions		1,233,500
GROSS APPROPRIATION	$	23,119,100
Appropriated from:		
Federal revenues:		
EPA, federal		7,474,300
Special revenue funds:		
CESARS service fee		26,300
Clean Michigan initiative - administration		577,000
Clean Michigan initiative - clean water fund		3,020,000
Environmental response fund		147,800
Saginaw Bay and River restoration revenue		154,500
Septage waste license fees		227,400
Sewage sludge land application fee		742,500
Stormwater permit fees		1,227,000
Water pollution control revolving fund		590,300
State general fund/general purpose	$	8,932,000

Drinking water protection and radiological health.

Sec. 108. DRINKING WATER PROTECTION AND RADIOLOGICAL HEALTH

Full-time equated classified positions....203.7		
Environmental health—34.0 FTE positions	$	3,241,500
Laboratory services administration—67.0 FTE positions		5,959,000
Drinking water—86.2 FTE positions		12,423,600
Radiological protection—16.5 FTE positions		1,604,400
Groundwater use reporting		150,000
Arsenic testing and public education program		500,000
GROSS APPROPRIATION	$	23,878,500
Appropriated from:		
Interdepartmental grant revenues:		
IDG-MSP		632,200

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Federal revenues:		
EPA, federal	$	1,128,600
EPA-GWDW		4,075,700
EPA, radon		233,500
Special revenue funds:		
Drinking water revolving fund		3,369,600
Environmental protection fund		500,000
Fees and collections		719,300
Great Lakes protection fund		150,000
Public water supply fees		2,257,600
Settlement funds		285,200
Water analysis fees		2,257,300
Water use reporting fees		56,700
State general fund/general purpose	$	8,212,800

Low-level radioactive waste authority.

Sec. 109. LOW-LEVEL RADIOACTIVE WASTE AUTHORITY

Full-time equated classified positions	2.0	
Low-level radioactive waste authority—2.0 FTE positions	$	769,700
GROSS APPROPRIATION		769,700
Appropriated from:		
Special revenue funds:		
Public utility assessments		769,700
State general fund/general purpose	$	0

Environmental response.

Sec. 110. ENVIRONMENTAL RESPONSE

Full-time equated classified positions	245.0	
Environmental cleanup and redevelopment program	$	16,544,700
Contaminated site investigations, cleanup, and revitalization—195.0 FTE positions		15,928,100
State cleanup (part 201 of 1994 PA 451)		3,027,900
Emergency cleanup actions		2,000,000
Federal cleanup project management—50.0 FTE positions		5,025,000
Superfund cleanup		7,000,000
GROSS APPROPRIATION	$	49,525,700
Appropriated from:		
Federal revenues:		
DOD, federal		455,300
EPA, federal		2,818,700
EPA, superfund		7,000,000
Special revenue funds:		
Private funds		135,700
Clean Michigan initiative - administration		1,472,800
Cleanup and redevelopment fund		7,234,000
Environmental protection fund		14,973,700
Environmental response fund		13,449,400
Landfill maintenance trust fund		47,200
Settlement funds		1,938,900
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2003
Storage tanks.		
Sec. 111. STORAGE TANKS		
Full-time equated classified positions....108.5		
MI underground storage tank financial assurance program—34.5 FTE positions	$	61,635,700
Underground storage tank program—37.0 FTE positions		4,102,900
Aboveground storage tank program—9.0 FTE positions		691,900
Leaking underground storage tank cleanup program		5,316,000
Emergency cleanup actions		2,000,000
Leaking underground storage tank program—28.0 FTE positions		3,700,200
GROSS APPROPRIATION	$	77,446,700
Appropriated from:		
Federal revenues:		
EPA-LUST trust		1,977,500
EPA-UST		238,000
Special revenue funds:		
Aboveground storage tank fees		691,900
Clean Michigan initiative - administration		590,900
Cleanup and redevelopment fund		2,966,000
Environmental response fund		2,439,000
Michigan underground storage tank financial assurance fund		61,635,700
Underground storage tank fees		3,864,900
State general fund/general purpose	$	3,042,800
Waste management.		
Sec. 112. WASTE MANAGEMENT		
Full-time equated classified positions....149.0		
Administration and technical support—19.0 FTE positions	$	1,526,800
Compliance and enforcement—72.0 FTE positions		5,250,500
Hazardous waste permits—28.0 FTE positions		2,637,700
Groundwater permits—18.0 FTE positions		1,275,800
Solid waste program—12.0 FTE positions		1,061,000
Hazardous waste program support		515,000
GROSS APPROPRIATION	$	12,266,800
Appropriated from:		
Federal revenues:		
EPA, federal		2,929,400
Special revenue funds:		
Environmental pollution prevention fund		267,400
Environmental response fund		262,700
Hazardous materials transportation permit fund		87,800
Scrap tire regulatory fund		915,000
Solid waste program fees		1,190,300
Waste reduction fee revenue		3,224,300
State general fund/general purpose	$	3,389,900
Environmental assistance division.		
Sec. 113. ENVIRONMENTAL ASSISTANCE DIVISION		
Full-time equated classified positions....99.0		

		For Fiscal Year Ending Sept. 30, 2003
Municipal assistance—32.5 FTE positions	$	2,908,200
Pollution prevention—34.0 FTE positions		3,010,800
Environmental services—12.0 FTE positions		1,847,100
Pollution prevention outreach		300,000
Technical assistance—20.5 FTE positions		3,028,200
GROSS APPROPRIATION	$	11,094,300
Appropriated from:		
Federal revenues:		
EPA, federal		664,600
EPA-GWDW		665,000
Special revenue funds:		
Private funds		300,000
Air emissions fees		654,200
Clean Michigan initiative - administration		82,400
Drinking water revolving fund		1,274,300
Environmental training revenue		295,800
Settlement funds		67,800
Stormwater permit fees		86,500
Waste reduction fee revenue		4,162,900
Wastewater operator training fees		168,400
Water pollution control revolving fund		2,159,300
State general fund/general purpose	$	513,100

Criminal investigations.

Sec. 114. CRIMINAL INVESTIGATIONS

Full-time equated classified positions	22.0	
Environmental investigations—22.0 FTE positions	$	1,904,900
GROSS APPROPRIATION	$	1,904,900
Appropriated from:		
Federal revenues:		
EPA, federal		129,900
Special revenue funds:		
MUSTFA fund		111,700
Oil and gas regulatory fund		116,500
Scrap tire regulatory fund		36,800
State general fund/general purpose	$	1,510,000

Grants.

Sec. 115. GRANTS

Grants to counties—air pollution	$	85,000
Water pollution control and drinking water revolving fund		102,353,500
Noncommunity water grants		1,400,000
Land and water management grants		1,800,000
Federal - nonpoint source water pollution grants		6,500,000
Federal - Great Lakes remedial action plan grants		700,000
Grants to counties - water quality monitoring		2,500,000
Great Lakes research and protection grants		1,900,000
Pollution prevention local grants		250,000
Radon grants		135,000
Septage waste compliance grants		1,525,000

		For Fiscal Year Ending Sept. 30, 2003
Scrap tire grants	$	700,000
Drinking water revolving fund implementation		1,330,000
Local health department operations		10,472,500
Volunteer river, stream, and creek cleanup		25,000
GROSS APPROPRIATION	$	131,676,000
Appropriated from:		
Interdepartmental grant revenues:		
IDG-MDCH, local public health operations		10,472,500
Federal revenues:		
DOC-NOAA, federal		1,500,000
EPA, federal		7,500,000
EPA, radon		90,000
Federal revenues		85,000,000
Special revenue funds:		
Cleanup and redevelopment fund		2,500,000
Community pollution prevention fund		250,000
Drinking water revolving fund		1,330,000
Great Lakes protection fund		1,900,000
Public water supply fees		1,400,000
Scrap tire regulatory fund		700,000
Septage waste license fees		1,525,000
Water quality protection fund		25,000
State general fund/general purpose	$	17,483,500

Information technology.

Sec. 116. INFORMATION TECHNOLOGY

Information technology services and projects	$	7,364,900
GROSS APPROPRIATION	$	7,364,900
Appropriated from:		
Interdepartmental grant revenues:		
IDG, Michigan transportation fund		46,300
Federal revenues:		
DOC-NOAA, federal		25,600
EPA, federal		615,400
Special revenue funds:		
Air emissions fees		486,900
Drinking water revolving fund		85,600
Environmental protection fund		69,000
Environmental response fund		129,700
Land and water permit fees		106,700
Michigan underground storage tank financial assurance fund		375,000
Oil and gas regulatory fund		544,200
Public utility assessments		4,100
Public water supply fees		265,300
Scrap tire regulatory fund		81,300
Settlement funds		728,900
Solid waste program fees		60,000
Underground storage tank fees		173,900

		For Fiscal Year Ending Sept. 30, 2003
Waste reduction fee revenue	$	384,800
Water analysis fees		155,400
Water pollution control revolving fund		119,800
State general fund/general purpose	$	2,907,000

Early retirement and budgetary savings.

Sec. 117. EARLY RETIREMENT AND BUDGETARY SAVINGS

Early retirement savings	$	(1,481,000)
Budgetary savings		(746,600)
GROSS APPROPRIATION	$	(2,227,600)
Appropriated from:		
State general fund/general purpose	$	(2,227,600)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $258,819,600.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $15,547,500.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF ENVIRONMENTAL QUALITY

GRANTS

Grants to counties - air pollution	$	85,000
Local health department operations		10,472,500
Septage waste compliance program		1,525,000
Scrap tire grants		700,000
Noncommunity water grants		1,400,000
Radon grants		35,000
Drinking water grants		1,330,000
TOTAL	$	15,547,500

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this act:

(a) "CESARS" means chemical evaluation search and retrieval system.

(b) "Department" means the department of environmental quality.

(c) "DOC" means the United States department of commerce.

(d) "DOC-NOAA" means the DOC national oceanic and atmospheric administration.

(e) "DOD" means the United States department of defense.

(f) "DOE" means the United States department of energy.

(g) "DOI" means the United States department of interior.

(h) "EPA" means the United States environmental protection agency.

(i) "EPA-GWDW" means the EPA groundwater drinking water.

(j) "EPA-LUST trust" means the EPA leaking underground storage tank trust fund.

(k) "EPA, radon" means the EPA radon grants.

(*l*) "EPA-UST" means the EPA underground storage tank.

(m) "FEMA" means the federal emergency management agency.

(n) "FTE" means full-time equated.

(o) "IDG" means interdepartmental grant.

(p) "IDT" means intradepartmental transfer.

(q) "MDCH" means the Michigan department of community health.

(r) "MDSP" means the Michigan department of state police.

(s) "MI" means Michigan.

(t) "NPL" means the federal national priority list.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) Beginning October 1, a hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to the hiring freeze described in subsection (1) when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause a loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exception.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $30,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $5,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization; project plan.

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Reporting requirements; use of internet.

Sec. 208. Unless otherwise specified in this act, the department shall use the internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an internet or intranet site.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 should not be used for the purchase of foreign goods or services, or both, if competitively priced American goods or services, or both, of comparable quality are available. Preference should be given to goods or services, or both, manufactured or provided by Michigan businesses if they are competitively priced and of comparable value.

Businesses in depressed and deprived communities; contracts to provide services or supplies.

Sec. 210. The director shall take all reasonable steps to ensure that businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Grant and loan programs; report.

Sec. 211. (1) From funds appropriated under part 1, the department shall prepare a report that lists all of the following regarding grant or loan or grant and loan programs administered by the department for the fiscal year ending on September 30, 2003:

(a) The name of each program.

(b) The goals of the program, the criteria, eligibility, process, filing fees, nominating procedures, and deadlines for each program.

(c) The maximum and minimum grant and loan available and whether there is a match requirement for each program.

(d) The amount of any required match, and whether in-kind contributions may be used as part or all of a required match.

(e) Information pertaining to the application process, timeline for each program, and the contact people within the department.

(f) The source of funds for each program, including the citation of pertinent authorizing acts.

(g) Information regarding plans for the next fiscal year for the phaseout, expansion, or changes for each program.

(h) A listing of all recipients of grants or loans awarded by the department by type and amount of grant or loan.

(2) The reports required under this section shall be submitted to the state budget office, the senate and house appropriations committees, and senate and house fiscal agencies by January 1, 2003.

Restricted fund balances, projected revenues, and expenditures; annual report.

Sec. 212. By February 15, 2003, the department shall provide the state budget director, the subcommittees on natural resources and environmental quality of the senate and house appropriations committees, and the senate and house fiscal agencies with an annual report on restricted fund balances, projected revenues, and expenditures for the fiscal years ending September 30, 2002 and September 30, 2003.

Legal settlement cases; disposition of funds.

Sec. 213. The department shall provide an annual report on the total amount of funds received from responsible parties and legal settlements, and the disposition of these funds. Included in the report shall be a listing of the individual settlement cases, the location of the facilities involved, the type of violation committed, and the amount of funds received.

Great Lakes water diversion; public meeting and comment.

Sec. 214. The department shall notify the legislature and shall provide a public meeting and public comment opportunity with respect to any request received by the state of Michigan to divert water from the Great Lakes pursuant to the water resources development act of 1986, Public Law 99-662, 100 Stat. 4082.

Environmental cleanup program allocations; report.

Sec. 215. (1) The department shall report all of the following information relative to allocations made in part 1 for the environmental cleanup and redevelopment program, state cleanup, emergency actions, superfund cleanup, the revitalization revolving loan program, the brownfield grants and loans program, the leaking underground storage tank cleanup program, the contaminated lake and river sediments cleanup program, and the environmental protection bond projects under section 19508(7) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.19508, to the state budget director, the senate and house appropriations subcommittees on environmental quality, and the senate and house fiscal agencies:

(a) The name and location of the site for which an allocation is made.

(b) The nature of the problem encountered at the site.

(c) A brief description of how the problem will be resolved if the allocation is made for a response activity.

(d) The estimated date that site closure activities will be completed.

(e) The amount of the allocation, or the anticipated financing for the site.

(f) A summary of the sites and the total amount of funds expended at the sites at the conclusion of the fiscal year.

(g) The number of sites that would qualify as brownfields that were redeveloped.

(2) The report prepared under subsection (1) shall also include all of the following:

(a) The status of all state-owned facilities that are on the list compiled under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

(b) The report shall include the total amount of funds expended during the fiscal year and the total amount of funds awaiting expenditure.

(c) The total amount of bonds issued for the environmental protection bond program pursuant to part 193 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.19301 to 324.19306, and bonds issued pursuant to the clean Michigan initiative act, 1998 PA 284, MCL 324.95101 to 324.95108.

(3) The report shall be made available by March 31 of each year.

Michigan youth conservation council.

Sec. 216. Of the money appropriated from the environmental education fund in part 1, $5,000.00 shall be allocated to Michigan State University Extension Service - 4-H Youth Programs to fund the Michigan Youth Conservation Council.

Receipt and retention of reports.

Sec. 217. The departments and state agencies receiving appropriations under this act shall receive and retain copies of all reports funded from appropriations in part 1. These departments and state agencies shall follow federal and state guidelines for short-term and long-term retention of these reports and records.

Unexpended and unencumbered amounts; use.

Sec. 218. (1) In addition to the funds appropriated in part 1 for the environmental cleanup and redevelopment program and the leaking underground storage tank cleanup program, the department of environmental quality is authorized to expend amounts remaining from prior fiscal year appropriations to meet funding needs of legislatively approved sites.

(2) Unexpended and unencumbered amounts remaining from appropriations from the environmental protection bond fund contained in 1989 PA 180, 1990 PA 55, 1990 PA 194, 1991 PA 31, 1991 PA 160, 1993 PA 74, 1993 PA 353, 1994 PA 442, 1996 PA 353, and 1997 PA 114 are appropriated for expenditure for any site listed in this act and any site listed in the public acts referenced in this section.

(3) Unexpended and unencumbered amounts remaining from appropriations from the cleanup and redevelopment fund and unclaimed bottle deposits fund contained in 1996 PA 319, 1997 PA 113, 1997 PA 114, 1998 PA 292, 1999 PA 125, 2000 PA 275, and 2001 PA 43 are appropriated for expenditure for any site listed in this act and any site listed in the public acts referenced in this section.

(4) Unexpended and unencumbered amounts remaining from appropriations from the clean Michigan initiative fund - response activities contained in 1999 PA 111, 2000 PA 52, 2000 PA 506, and 2001 PA 120 are appropriated for expenditure for any site listed in this act and any site listed in the public acts referenced in this section.

Environmental response fund; report on fund balance.

Sec. 220. The department shall report to the state budget office, the senate and house appropriations subcommittees on environmental quality, and the senate and house fiscal agencies at the end of each fiscal quarter the fund balance in the environmental response fund.

DEPARTMENT SUPPORT SERVICES

Rental payments or operational expenses at certain locations; prohibition.

Sec. 301. Due to the consolidation of the department of environmental quality operations for the purpose of increasing agency efficiencies, effective October 1, 2002, the department of environmental quality shall not expend any of the funds appropriated in part 1 for rental payments or operational expenses for the leased premises located at the following locations:

(a) 300 South Washington, Lansing, Michigan.

(b) 300 Stroh River Place, Detroit, Michigan.

(c) Shiawassee District Office at 10650 South Bennett Road, Morrice, Michigan.

LAND AND WATER MANAGEMENT

Great Lakes bottomland permit fees.

Sec. 403. The department shall collect Great Lakes bottomland permit fees uniformly and fairly from commercial and noncommercial users of the Great Lakes bottomlands.

Permit; fees.

Sec. 404. The department may waive permit fees for nonprofit organizations conducting approved stream habitat improvement projects.

AIR QUALITY

Expenditures and revenues; report.

Sec. 501. The department shall report quarterly, via the department's internet website, on air quality program expenditures and revenues. The report shall include expenditures and revenues by fund source and by program function.

SURFACE WATER QUALITY

Water quality monitoring activities; grants.

Sec. 601. Of the funds appropriated in part 1 for surface water surveillance, a minimum of $250,000.00 shall be designated for grants to local organizations for water quality monitoring activities.

Sec. 602. Of the funds appropriated in section 107 for water quality monitoring, $20,000.00 may be provided, on a 50:50 cost-sharing basis, to erect signs at beaches owned by governmental entities. These signs will inform the public where the most recent beach water quality information may be found.

"Greening the governments" report.

Sec. 604. The department shall review the 2002 report, "Greening the Governments", and present its analysis to the house and senate subcommittees on environmental quality on October 30, 2002. This analysis shall address specific findings of the "Greening the Governments" report that Michigan had the best water quality in 1999, as measured by the number of tons of toxic material released per $1,000,000.00 in industry gross state product. The analysis shall include specific recommendations on how Michigan can improve its environmental performance in these and other areas to be competitive with the other Great Lakes states.

DRINKING WATER

Groundwater database.

Sec. 701. The funds appropriated in part 1 for groundwater use reporting shall be awarded as a grant for the development of a groundwater database needed to model the demands for domestic water uses of groundwater supplies.

ENVIRONMENTAL RESPONSE

Cleanup programs as work project; carrying forward unencumbered or unallotted funds.

Sec. 801. The unexpended funds appropriated in part 1 for the state cleanup program, environmental cleanup and redevelopment program, emergency cleanup action, contaminated site investigations, cleanup and revitalization, and superfund cleanup projects are considered work project appropriations and any unencumbered or unallotted funds are carried forward into the succeeding fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the projects to be carried forward is to provide contaminated site cleanup.

(b) The projects will be accomplished by contract.

(c) The total estimated cost of all projects is identified in each line-item appropriation.

(d) The tentative completion date is September 30, 2007.

Hazardous substance research center; expenditure as state match.

Sec. 802. Of the funds appropriated in part 1 as state match for the superfund cleanup program, an amount not to exceed $250,000.00 shall be expended as the state match for the hazardous substance research center.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Redevelopment and cleanup activities; sites.

Sec. 803. The funds appropriated in part 1 for the environmental cleanup and redevelopment program shall be used to fund redevelopment and cleanup activities on the following sites:

Allegan	Saugatuck Twp. Contamination
Berrien	Coloma DCPA Site
Calhoun	Verona Well Field
Calhoun	Residential Wells Tekonsha - North Plume
Cass	Cass St. Area Edwardsburg
Cass	Sundstrand Heat Transfer
Charlevoix	East Jordan Laundromat
Charlevoix	Former Boyne City Chemical
Eaton	916 S. Main Street, Eaton Rapids
Gladwin	Buckeye Oil Field
Gratiot	Gratiot County Landfill
Hillsdale	Haischer Oil
Hillsdale	Wickens Oil
Hillsdale	Penland Oil
Jackson	Spring Arbor Wash & Dry
Kalamazoo	North 34th St. Area Richland
Kalamazoo	Schoolcraft Area Organics
Livingston	Main Street, Gregory
Monroe	Zieman Grames Rd. Dump
Muskegon	Ruddiman Creek Drum Dump
Oakland	Lapeer Road Residential Wells
Oakland	Waterford Hills Sanitary Landfill
Oscoda	Hoskins Manufacturing
Ottawa	Fenske Landfill Ottawa Co.
St. Joseph	SW Sturgis TCE
Van Buren	Commercial Street Industrial Area, Paw Paw
Wayne	Plymouth Industrial Holding Company
Wayne	General Oil Co.
Wayne	Standard Tube of Detroit
Wayne	CYB Tool
Wexford	AAR Cadillac Mfg.
Wexford	Yuma Tar

NPL municipal landfill match grants.

Sec. 804. Of the funds appropriated in part 1 for the environmental cleanup and redevelopment program, an amount not to exceed $2,000,000.00 shall be expended for the NPL municipal landfill match grants.

STORAGE TANKS

Michigan underground storage tank financial assurance fund.

Sec. 901. (1) The funds appropriated in part 1 from the Michigan underground storage tank financial assurance fund for the purpose of carrying out the duties and responsibilities as specified in part 215 of the natural resources and environmental protection act, 1994

PA 451, MCL 324.21501 to 324.21551, are considered work project appropriations and any unencumbered funds are carried forward into the succeeding fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the projects to be carried forward is to carry out the responsibilities of part 215 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.21501 to 324.21551.

(b) The projects will be accomplished by contract and state employees.

(c) The total estimated cost is identified in a line-item appropriation.

(d) The tentative completion date is September 30, 2007.

(2) The Michigan underground storage tank financial assurance policy board shall allocate the amount of the underground storage tank financial assurance fund to be distributed to the department. If the amount recommended by the board is less than that appropriated in part 1, expenditures shall be adjusted accordingly.

(3) Included in the funds appropriated in part 1 from the Michigan underground storage tank financial assurance fund are funds sufficient to pay debt service costs on the bonds or notes issued pursuant to part 215 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.21501 to 324.21551.

Michigan underground storage tank financial assurance fund; report.

Sec. 902. The department shall report to the state budget director, the senate and house appropriations subcommittees on environmental quality, and the senate and house fiscal agencies not later than October 31, 2003 on the Michigan underground storage tank financial assurance fund. The report shall include the fund balance, estimate of available revenues, number and dollar value of claims processed through September 30, 2002, and total estimated claims liability through December 22, 2004.

Leaking underground storage tank cleanup program as work project.

Sec. 903. The unexpended funds appropriated in part 1 for the leaking underground storage tank cleanup program are considered work project appropriations and any unencumbered or unallotted funds are carried over into the succeeding fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the projects to be carried over is to provide for redevelopment and contaminated site cleanup.

(b) These projects will be accomplished by contract.

(c) The total estimated costs of all projects is identified in each line-item appropriation.

(d) The tentative completion date for these projects is September 30, 2007.

Leaking underground storage tank cleanup program; unexpended funds as work project.

Sec. 904. The funds appropriated in part 1 for the leaking underground storage tank cleanup program shall be used to fund redevelopment and cleanup activities on the following sites:

Alger	Melstrand General Store
Eaton	5-Star Pizza

Eaton	Keweenaw Party Store
Jackson	Vandy's Party Store
Monroe	Mike's Quality Meats (former)
Montmorency	Stoddard's A-1 Party Mart
Newaygo	Up North Gift Co.

ENVIRONMENTAL ASSISTANCE

Scrap tire recycling and reuse.

Sec. 1002. The appropriation in part 1 for environmental assistance includes $200,000.00 to support research and technology demonstration projects which encourage scrap tire recycling and reuse.

Removal of automobile components; study.

Sec. 1003. If the department participates, consults, or collaborates on a study regarding removal of automobile components in 2002, it shall review other removal options for similar components by September 30, 2003 including, but not limited to, removal from other than end-of-life vehicles.

CRIMINAL INVESTIGATIONS

Imported solid waste; inspections.

Sec. 1101. From funds appropriated in part 1, the department shall conduct periodic inspections of imported solid waste at disposal facilities to mitigate the unpermitted disposal of waste at Michigan disposal sites.

Regulation of solid waste disposal; training.

Sec. 1102. With funds appropriated in part 1, the department shall provide training in support of local efforts to regulate solid waste disposal. Department environmental conservation officers shall be directed to help train law enforcement officers and other enforcement personnel to develop community partnerships to combat illegal dumping at the local level.

GRANTS

Septage waste compliance program.

Sec. 1201. If a certified health department does not exist in a city, county, or district or does not fulfill its responsibilities under part 117 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11701 to 324.11719, then the department may spend funds appropriated in part 1 under the septage waste compliance program in accordance with section 11716 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11716.

Scrap tire fire suppression costs.

Sec. 1202. Of the funds appropriated in part 1 for scrap tire grants, $100,000.00 shall be available for grants to communities to cover scrap tire fire suppression costs, provided owner liability bonds and other available funding sources have been exhausted.

Loans for public water supply systems; noncompliant with federal arsenic standards.

Sec. 1204. From the funds appropriated in section 115 for the drinking water revolving loan program, the department shall provide low-interest loans for public water supply systems found to be out of compliance with federal arsenic standards.

St. Clair River, Lake St. Clair, and Clinton River watershed; grants.

Sec. 1205. The money appropriated in section 115 for grants to counties—water quality monitoring shall be used to establish and operate a comprehensive monitoring program to protect and manage the environmental quality of the St. Clair River, Lake St. Clair, and the Clinton River watershed.

INFORMATION TECHNOLOGY

Technology related services and projects; rates, user fees, and charges.

Sec. 1301. The department of information technology shall establish a schedule of rates, user fees, and charges or assessments for standard services and information system support requirements to be made to departments for technology related services and projects. This schedule, as well as copies of related interagency agreements, shall be provided to the state budget office and the house and senate committees on appropriations before October 1, 2002.

Information technology amounts as work project.

Sec. 1302. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support department of environmental quality technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

EARLY RETIREMENT AND BUDGETARY SAVINGS

Early retirement and budgetary savings; satisfaction of negative appropriation.

Sec. 1501. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the department director and approved by the state budget director.

(3) Appropriation authorization adjustments required due to negative appropriations for early retirement savings and budgetary savings shall be made only after the approval of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Additional appropriations; condition.

Sec. 1502. (1) Subject to subsection (2), in addition to the amounts appropriated under part 1, the following amounts are appropriated for the fiscal year ending September 30, 2003:

(a) $250,000.00 is appropriated to superfund cleanup from the state general fund.

(b) $2,000,000.00 is appropriated to waste management, compliance, and enforcement from the state general fund. The appropriation from waste reduction fee revenue for this purpose is reduced by $2,000,000.00.

(c) $140,000.00 is appropriated to field permitting and project assistance from the state general fund.

(d) $500,000.00 is appropriated to financial support services from the state general fund.

(e) $100,000.00 is appropriated to Great Lakes shorelands from the state general fund.

(2) The appropriations in subsection (1) shall become effective only if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack of cigarettes on or before September 30, 2002.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 521]

(HB 5881)

AN ACT to amend 1979 PA 94, entitled "An act to make appropriations to aid in the support of the public schools and the intermediate school districts of the state; to make appropriations for certain other purposes relating to education; to provide for the disbursement of the appropriations; to supplement the school aid fund by the levy and collection of certain taxes; to authorize the issuance of certain bonds and provide for the security of those bonds; to prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 6, 11, 11f, 11g, 20, 22a, 22b, 24, 26a, 31a, 31d, 32a, 32b, 32c, 32d, 32f, 39a, 41, 51a, 51c, 51d, 53a, 54, 55, 56, 57, 61a, 62, 67, 68, 74, 81, 94, 94a, 96, 98, 99, 99a, 104a, 107, 108, and 147 (MCL 388.1606, 388.1611, 388.1611f, 388.1611g, 388.1620, 388.1622a, 388.1622b, 388.1624, 388.1626a, 388.1631a, 388.1631d, 388.1632a, 388.1632b, 388.1632c, 388.1632d, 388.1632f, 388.1639a, 388.1641, 388.1651a, 388.1651c, 388.1651d, 388.1653a, 388.1654, 388.1655, 388.1656, 388.1657, 388.1661a, 388.1662, 388.1667, 388.1668, 388.1674, 388.1681, 388.1694, 388.1694a, 388.1696, 388.1698, 388.1699, 388.1699a, 388.1704a, 388.1707, 388.1708, and 388.1747), sections 6, 11, 11f, 11g, 20, 22a, 22b, 24, 26a, 31a, 31d, 32a, 32b, 32c, 32d, 32f, 41, 51a, 51c, 53a, 54, 56, 57, 61a, 62, 67, 68, 74, 81, 94, 94a, 96, 98, 99, 107, 108, and 147 as amended and sections 39a, 51d, 55, and 99a as added by 2002 PA 191 and section 104a as amended by 1999 PA 119; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

388.1606 Additional definitions.

Sec. 6. (1) "Center program" means a program operated by a district or intermediate district for special education pupils from several districts in programs for the autistically impaired, trainable mentally impaired, severely mentally impaired, severely multiply impaired, hearing impaired, physically and otherwise health impaired, and visually impaired. Programs for emotionally impaired pupils housed in buildings that do not serve regular education pupils also qualify. Unless otherwise approved by the department, a center program either shall serve all constituent districts within an intermediate district or shall serve several districts with less than 50% of the pupils residing in the operating district. In addition, special education center program pupils placed part-time in noncenter programs to comply with the least restrictive environment provisions of section 612 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1412, may be considered center program pupils for pupil accounting purposes for the time scheduled in either a center program or a noncenter program.

(2) "District pupil retention rate" means the proportion of pupils who have not dropped out of school in the immediately preceding school year and is equal to 1 minus the quotient of the number of pupils unaccounted for in the immediately preceding school year, as determined pursuant to subsection (3), divided by the pupils of the immediately preceding school year.

(3) "District pupil retention report" means a report of the number of pupils, excluding migrant and adult, in the district for the immediately preceding school year, adjusted for those pupils who have transferred into the district, transferred out of the district, transferred to alternative programs, and have graduated, to determine the number of pupils who are unaccounted for. The number of pupils unaccounted for shall be calculated as determined by the department.

(4) "Membership", except as otherwise provided in this act, means for a district, public school academy, university school, or intermediate district the sum of the product of .8 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year, plus the product of .2 times the final audited count from the supplemental count day for the immediately preceding school year. All pupil counts used in this subsection are as determined by the department and calculated by adding the number of pupils registered for attendance plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit. The amount of the foundation allowance for a pupil in membership is determined under section 20. In making the calculation of membership, all of the following, as applicable, apply to determining the membership of a district, public school academy, university school, or intermediate district:

(a) Except as otherwise provided in this subsection, and pursuant to subsection (6), a pupil shall be counted in membership in the pupil's educating district or districts. An individual pupil shall not be counted for more than a total of 1.0 full-time equated membership.

(b) If a pupil is educated in a district other than the pupil's district of residence, if the pupil is not being educated as part of a cooperative education program, if the pupil's district of residence does not give the educating district its approval to count the pupil in membership in the educating district, and if the pupil is not covered by an exception specified in subsection (6) to the requirement that the educating district must have the

approval of the pupil's district of residence to count the pupil in membership, the pupil shall not be counted in membership in any district.

(c) A special education pupil educated by the intermediate district shall be counted in membership in the intermediate district.

(d) A pupil placed by a court or state agency in an on-grounds program of a juvenile detention facility, a child caring institution, or a mental health institution, or a pupil funded under section 53a, shall be counted in membership in the district or intermediate district approved by the department to operate the program.

(e) A pupil enrolled in the Michigan schools for the deaf and blind shall be counted in membership in the pupil's intermediate district of residence.

(f) A pupil enrolled in a vocational education program supported by a millage levied over an area larger than a single district or in an area vocational-technical education program established pursuant to section 690 of the revised school code, MCL 380.690, shall be counted only in the pupil's district of residence.

(g) A pupil enrolled in a university school shall be counted in membership in the university school.

(h) A pupil enrolled in a public school academy shall be counted in membership in the public school academy.

(i) For a new district, university school, or public school academy beginning its operation after December 31, 1994, membership for the first 2 full or partial fiscal years of operation shall be determined as follows:

(*i*) If operations begin before the pupil membership count day for the fiscal year, membership is the average number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the pupil membership count day for the current school year and on the supplemental count day for the current school year, as determined by the department and calculated by adding the number of pupils registered for attendance on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by a subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(*ii*) If operations begin after the pupil membership count day for the fiscal year and not later than the supplemental count day for the fiscal year, membership is the final audited count of the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the supplemental count day for the current school year.

(j) If a district is the authorizing body for a public school academy, then, in the first school year in which pupils are counted in membership on the pupil membership count day in the public school academy, the determination of the district's membership shall exclude from the district's pupil count for the immediately preceding supplemental count day any pupils who are counted in the public school academy on that first pupil membership count day who were also counted in the district on the immediately preceding supplemental count day.

(k) In a district, public school academy, university school, or intermediate district operating an extended school year program approved by the superintendent, a pupil enrolled, but not scheduled to be in regular daily attendance on a pupil membership count day, shall be counted.

(*l*) Pupils to be counted in membership shall be not less than 5 years of age on December 1 and less than 20 years of age on September 1 of the school year except a special education pupil who is enrolled and receiving instruction in a special education

program approved by the department and not having a high school diploma who is less than 26 years of age as of September 1 of the current school year shall be counted in membership.

(m) An individual who has obtained a high school diploma shall not be counted in membership. An individual who has obtained a general education development (G.E.D.) certificate shall not be counted in membership. An individual participating in a job training program funded under former section 107a or a jobs program funded under former section 107b, administered by the Michigan strategic fund or the department of career development, or participating in any successor of either of those 2 programs, shall not be counted in membership.

(n) If a pupil counted in membership in a public school academy is also educated by a district or intermediate district as part of a cooperative education program, the pupil shall be counted in membership only in the public school academy, and the instructional time scheduled for the pupil in the district or intermediate district shall be included in the full-time equated membership determination under subdivision (q). However, for pupils receiving instruction in both a public school academy and in a district or intermediate district but not as a part of a cooperative education program, the following apply:

(*i*) If the public school academy provides instruction for at least 1/2 of the class hours specified in subdivision (q), the public school academy shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the public school academy provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the district or intermediate district providing the remainder of the hours of instruction.

(*ii*) If the public school academy provides instruction for less than 1/2 of the class hours specified in subdivision (q), the district or intermediate district providing the remainder of the hours of instruction shall receive as its prorated share of the full-time equated membership for each of those pupils an amount equal to 1 times the product of the hours of instruction the district or intermediate district provides divided by the number of hours specified in subdivision (q) for full-time equivalency, and the remainder of the full-time membership for each of those pupils shall be allocated to the public school academy.

(o) An individual less than 16 years of age as of September 1 of the current school year who is being educated in an alternative education program shall not be counted in membership if there are also adult education participants being educated in the same program or classroom.

(p) The department shall give a uniform interpretation of full-time and part-time memberships.

(q) The number of class hours used to calculate full-time equated memberships shall be consistent with section 101(3). In determining full-time equated memberships for pupils who are enrolled in a postsecondary institution, a pupil shall not be considered to be less than a full-time equated pupil solely because of the effect of his or her postsecondary enrollment, including necessary travel time, on the number of class hours provided by the district to the pupil.

(r) Full-time equated memberships for pupils in kindergarten shall be determined by dividing the number of class hours scheduled and provided per year per kindergarten pupil by a number equal to 1/2 the number used for determining full-time equated memberships for pupils in grades 1 to 12.

(s) For a district, university school, or public school academy that has pupils enrolled in a grade level that was not offered by the district, university school, or public school

academy in the immediately preceding school year, the number of pupils enrolled in that grade level to be counted in membership is the average of the number of those pupils enrolled and in regular daily attendance on the pupil membership count day and the supplemental count day of the current school year, as determined by the department. Membership shall be calculated by adding the number of pupils registered for attendance in that grade level on the pupil membership count day plus pupils received by transfer and minus pupils lost as defined by rules promulgated by the superintendent, and as corrected by subsequent department audit, plus the final audited count from the supplemental count day for the current school year, and dividing that sum by 2.

(t) A pupil enrolled in a cooperative education program may be counted in membership in the pupil's district of residence with the written approval of all parties to the cooperative agreement.

(u) If, as a result of a disciplinary action, a district determines through the district's alternative or disciplinary education program that the best instructional placement for a pupil is in the pupil's home, if that placement is authorized in writing by the district superintendent and district alternative or disciplinary education supervisor, and if the district provides appropriate instruction as described in this subdivision to the pupil at the pupil's home, the district may count the pupil in membership on a pro rata basis, with the proration based on the number of hours of instruction the district actually provides to the pupil divided by the number of hours specified in subdivision (q) for full-time equivalency. For the purposes of this subdivision, a district shall be considered to be providing appropriate instruction if all of the following are met:

(*i*) The district provides at least 2 nonconsecutive hours of instruction per week to the pupil at the pupil's home under the supervision of a certificated teacher.

(*ii*) The district provides instructional materials, resources, and supplies, except computers, that are comparable to those otherwise provided in the district's alternative education program.

(*iii*) Course content is comparable to that in the district's alternative education program.

(*iv*) Credit earned is awarded to the pupil and placed on the pupil's transcript.

(v) A pupil enrolled in an alternative or disciplinary education program described in section 25 shall be counted in membership in the district or public school academy that expelled the pupil.

(w) If a pupil was enrolled in a public school academy on the pupil membership count day, if the public school academy's contract with its authorizing body is revoked, and if the pupil enrolls in a district within 45 days after the pupil membership count day, the department shall adjust the district's pupil count for the pupil membership count day to include the pupil in the count.

(x) For a public school academy that has been in operation for at least 2 years and that suspended operations for at least 1 semester and is resuming operations, membership is the sum of the product of .8 times the number of full-time equated pupils in grades K to 12 actually enrolled and in regular daily attendance on the first pupil membership count day or supplemental count day, whichever is first, occurring after operations resume, plus the product of .2 times the final audited count from the most recent pupil membership count day or supplemental count day that occurred before suspending operations, as determined by the superintendent.

(y) If a district's membership for a particular fiscal year, as otherwise calculated under this subsection, would be less than 1,550 pupils and the district has 4.5 or fewer pupils per square mile, as determined by the department, the district's membership shall be considered

to be the membership figure calculated under this subdivision. However, beginning in 2003-2004, this subdivision applies only to districts located in the Lower Peninsula. If a district educates and counts in its membership pupils in grades 9 to 12 who reside in a contiguous district that does not operate grades 9 to 12 and if 1 or both of the affected districts request the department to use the determination allowed under this sentence, the department shall include the square mileage of both districts in determining the number of pupils per square mile for each of the districts for the purposes of this subdivision. The membership figure calculated under this subdivision is the greater of the following:

(*i*) The average of the district's membership for the 3-fiscal-year period ending with that fiscal year, calculated by adding the district's actual membership for each of those 3 fiscal years, as otherwise calculated under this subsection, and dividing the sum of those 3 membership figures by 3.

(*ii*) The district's actual membership for that fiscal year as otherwise calculated under this subsection.

(z) If a public school academy that is not in its first or second year of operation closes at the end of a school year and does not reopen for the next school year, the department shall adjust the membership count of the district in which a former pupil of the public school academy enrolls and is in regular daily attendance for the next school year to ensure that the district receives the same amount of membership aid for the pupil as if the pupil were counted in the district on the supplemental count day of the preceding school year.

(5) "Public school academy" means a public school academy or strict discipline academy operating under the revised school code.

(6) "Pupil" means a person in membership in a public school. A district must have the approval of the pupil's district of residence to count the pupil in membership, except approval by the pupil's district of residence shall not be required for any of the following:

(a) A nonpublic part-time pupil enrolled in grades 1 to 12 in accordance with section 166b.

(b) A pupil receiving 1/2 or less of his or her instruction in a district other than the pupil's district of residence.

(c) A pupil enrolled in a public school academy or university school.

(d) A pupil enrolled in a district other than the pupil's district of residence under an intermediate district schools of choice pilot program as described in section 91a or former section 91 if the intermediate district and its constituent districts have been exempted from section 105.

(e) A pupil enrolled in a district other than the pupil's district of residence but within the same intermediate district if the educating district enrolls nonresident pupils in accordance with section 105.

(f) A pupil enrolled in a district other than the pupil's district of residence if the pupil has been continuously enrolled in the educating district since a school year in which the pupil enrolled in the educating district under section 105 or 105c and in which the educating district enrolled nonresident pupils in accordance with section 105 or 105c.

(g) A pupil who has made an official written complaint or whose parent or legal guardian has made an official written complaint to law enforcement officials and to school officials of the pupil's district of residence that the pupil has been the victim of a criminal sexual assault or other serious assault, if the official complaint either indicates that the

assault occurred at school or that the assault was committed by 1 or more other pupils enrolled in the school the pupil would otherwise attend in the district of residence or by an employee of the district of residence. A person who intentionally makes a false report of a crime to law enforcement officials for the purposes of this subdivision is subject to section 411a of the Michigan penal code, 1931 PA 328, MCL 750.411a, which provides criminal penalties for that conduct. As used in this subdivision:

(*i*) "At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

(*ii*) "Serious assault" means an act that constitutes a felony violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g, or that constitutes an assault and infliction of serious or aggravated injury under section 81a of the Michigan penal code, 1931 PA 328, MCL 750.81a.

(h) A pupil enrolled in a district located in a contiguous intermediate district, as described in section 105c, if the educating district enrolls those nonresident pupils in accordance with section 105c.

(i) A pupil whose district of residence changed after the pupil membership count day and before the supplemental count day and who continues to be enrolled on the supplemental count day as a nonresident in the district in which he or she was enrolled as a resident on the pupil membership count day of the same school year.

(j) A pupil enrolled in an alternative education program operated by a district other than his or her district of residence who meets 1 or more of the following:

(*i*) The pupil has been suspended or expelled from his or her district of residence for any reason, including, but not limited to, a suspension or expulsion under section 1310, 1311, or 1311a of the revised school code, MCL 380.1310, 380.1311, and 380.1311a.

(*ii*) The pupil had previously dropped out of school.

(*iii*) The pupil is pregnant or is a parent.

(*iv*) The pupil has been referred to the program by a court.

(k) A pupil enrolled in the Michigan virtual high school, for the pupil's enrollment in the Michigan virtual high school.

However, if a district that is not a first class district educates pupils who reside in a first class district and if the primary instructional site for those pupils is located within the boundaries of the first class district, the educating district must have the approval of the first class district to count those pupils in membership. As used in this subsection, "first class district" means a district organized as a school district of the first class under the revised school code.

(7) "Pupil membership count day" of a district or intermediate district means:

(a) Except as provided in subdivision (b), the fourth Wednesday in September each school year.

(b) For a district or intermediate district maintaining school during the entire school year, the following days:

(*i*) Fourth Wednesday in July.

(*ii*) Fourth Wednesday in September.

(*iii*) Second Wednesday in February.

(*iv*) Fourth Wednesday in April.

(8) "Pupils in grades K to 12 actually enrolled and in regular daily attendance" means pupils in grades K to 12 in attendance and receiving instruction in all classes for which they are enrolled on the pupil membership count day or the supplemental count day, as applicable. A pupil who is absent from any of the classes in which the pupil is enrolled on the pupil membership count day or supplemental count day and who does not attend each of those classes during the 10 consecutive school days immediately following the pupil membership count day or supplemental count day, except for a pupil who has been excused by the district, shall not be counted as 1.0 full-time equated membership. In addition, a pupil who is excused from attendance on the pupil membership count day or supplemental count day and who fails to attend each of the classes in which the pupil is enrolled within 30 calendar days after the pupil membership count day or supplemental count day shall not be counted as 1.0 full-time equated membership. Pupils not counted as 1.0 full-time equated membership due to an absence from a class shall be counted as a prorated membership for the classes the pupil attended. For purposes of this subsection, "class" means a period of time in 1 day when pupils and a certificated teacher or legally qualified substitute teacher are together and instruction is taking place.

(9) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) "The revised school code" means 1976 PA 451, MCL 380.1 to 380.1852.

(11) "School fiscal year" means a fiscal year that commences July 1 and continues through June 30.

(12) "State board" means the state board of education.

(13) "Superintendent", unless the context clearly refers to a district or intermediate district superintendent, means the superintendent of public instruction described in section 3 of article VIII of the state constitution of 1963.

(14) "Supplemental count day" means the day on which the supplemental pupil count is conducted under section 6a.

(15) "Tuition pupil" means a pupil of school age attending school in a district other than the pupil's district of residence for whom tuition may be charged. Tuition pupil does not include a pupil who is a special education pupil or a pupil described in subsection (6)(d) to (k). A pupil's district of residence shall not require a high school tuition pupil, as provided under section 111, to attend another school district after the pupil has been assigned to a school district.

(16) "State school aid fund" means the state school aid fund established in section 11 of article IX of the state constitution of 1963.

(17) "Taxable value" means the taxable value of property as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(18) "Total state aid" or "total state school aid" means the total combined amount of all funds due to a district, intermediate district, or other entity under all of the provisions of this act.

(19) "University school" means an instructional program operated by a public university under section 23 that meets the requirements of section 23.

388.1611 Appropriations.

Sec. 11. (1) For the fiscal year ending September 30, 2002, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum

of $10,990,148,200.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963 and the sum of $198,413,500.00 from the general fund. For the fiscal year ending September 30, 2003, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of $11,259,441,400.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963, the sum of $198,413,500.00 from the general fund, and the sum of $700,000.00 from local revenues. However, if legislation authorizing the transfer of $79,500,000.00 from the Michigan employment security act contingent fund, penalties and interest subaccount, is not enacted and in effect on or before October 1, 2002, there is instead appropriated from the general fund for 2002-2003 the sum of $122,656,500.00. For the fiscal year ending September 30, 2004, there is appropriated for the public schools of this state and certain other state purposes relating to education the sum of $11,246,667,400.00 from the state school aid fund established by section 11 of article IX of the state constitution of 1963 and the sum of $198,413,500.00 from the general fund. In addition, available federal funds are appropriated for each of those fiscal years.

(2) The appropriations under this section shall be allocated as provided in this act. Money appropriated under this section from the general fund and from available federal funds shall be expended to fund the purposes of this act before the expenditure of money appropriated under this section from the state school aid fund. If the maximum amount appropriated under this section from the state school aid fund for a fiscal year exceeds the amount necessary to fully fund allocations under this act from the state school aid fund, that excess amount shall not be expended in that state fiscal year and shall not lapse to the general fund, but instead shall remain in the state school aid fund.

(3) If the maximum amount appropriated under this section and section 11f from the state school aid fund for a fiscal year exceeds the amount available for expenditure from the state school aid fund for that fiscal year, payments under sections 11f, 11g, 22a, 31d, 51a(2), and 51c shall be made in full. In addition, for districts beginning operations after 1994-95 that qualify for payments under section 22b, payments under section 22b shall be made so that the qualifying districts receive an amount equal to the 1994-95 foundation allowance of the district in which the district beginning operations after 1994-95 is located. The amount of the payment to be made under section 22b for these qualifying districts shall be as calculated under section 22a, with the balance of the payment under section 22b being subject to the proration otherwise provided under this subsection. State payments under each of the other sections of this act from all state funding sources shall be prorated on an equal percentage basis as necessary to reflect the amount available for expenditure from the state school aid fund for that fiscal year. However, if the department of treasury determines that proration will be required under this subsection, the department of treasury shall notify the state budget director, and the state budget director shall notify the legislature at least 30 calendar days or 6 legislative session days, whichever is more, before the department reduces any payments under this act because of the proration. During the 30 calendar day or 6 legislative session day period after that notification by the state budget director, the department shall not reduce any payments under this act because of proration under this subsection. The legislature may prevent proration from occurring by, within the 30 calendar day or 6 legislative session day period after that notification by the state budget director, enacting legislation appropriating additional funds from the general fund, countercyclical budget and economic stabilization fund, state school aid fund balance, or another source to fund the amount of the projected shortfall.

(4) Except for the allocation under section 26a, any general fund allocations under this act that are not expended by the end of the state fiscal year are transferred to the state school aid fund.

388.1611f Payments to non-plaintiff districts pursuant to Durant v State of Michigan; payments for fiscal years ending September 30, 2002 through September 30, 2008; submission of waiver resolution; creation of obligation or liability; offer of settlement and compromise; payment date; use of payments; appropriation under § 18.1353e; form and substance of resolution.

Sec. 11f. (1) In addition to any other money appropriated under this act, there is appropriated from the state school aid fund an amount not to exceed $32,000,000.00 each fiscal year for the fiscal year ending September 30, 2002, for the fiscal year ending September 30, 2003, for the fiscal year ending September 30, 2004, and for each succeeding fiscal year through the fiscal year ending September 30, 2008. Payments under this section will cease after September 30, 2008. These appropriations are for paying the amounts described in subsection (4) to districts and intermediate districts, other than those receiving a lump sum payment under subsection (2), that were not plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492 and that, on or before March 2, 1998, submitted to the state treasurer a board resolution waiving any right or interest the district or intermediate district has or may have in any claim or litigation based on or arising out of any claim or potential claim through September 30, 1997 that is or was similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan. The waiver resolution shall be in form and substance as required under subsection (8). The state treasurer is authorized to accept such a waiver resolution on behalf of this state. The amounts described in this subsection represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this subsection.

(2) In addition to any other money appropriated under this act, there was appropriated from the state school aid fund an amount not to exceed $1,700,000.00 for the fiscal year ending September 30, 1999. This appropriation was for paying the amounts described in this subsection to districts and intermediate districts that were not plaintiffs in the consolidated cases known as Durant v State of Michigan; that, on or before March 2, 1998, submitted to the state treasurer a board resolution waiving any right or interest the district or intermediate district had or may have had in any claim or litigation based on or arising out of any claim or potential claim through September 30, 1997 that is or was similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan; and for which the total amount listed in section 11h and paid under this section was less than $75,000.00. For a district or intermediate district qualifying for a payment under this subsection, the entire amount listed for the district or intermediate district in section 11h was paid in a lump sum on November 15, 1998 or on the next business day following that date. The amounts paid under this subsection represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this subsection.

(3) This section does not create any obligation or liability of this state to any district or intermediate district that does not submit a waiver resolution described in this section. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, are not intended to admit liability or waive any defense that is or would be available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district.

(4) The amount paid each fiscal year to each district or intermediate district under subsection (1) shall be 1/20 of the total amount listed in section 11h for each listed district

or intermediate district that qualifies for a payment under subsection (1). The amounts listed in section 11h and paid in part under this subsection and in a lump sum under subsection (2) are offers of settlement and compromise to each of these districts or intermediate districts to resolve, in their entirety, any claim or claims that these districts or intermediate districts may have asserted for violations of section 29 of article IX of the state constitution of 1963 through September 30, 1997, which claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, shall not be construed to constitute an admission of liability to the districts or intermediate districts listed in section 11h or a waiver of any defense that is or would have been available to the state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district.

(5) The entire amount of each payment under subsection (1) each fiscal year shall be paid on November 15 of the applicable fiscal year or on the next business day following that date.

(6) Funds paid to a district or intermediate district under this section shall be used only for textbooks, electronic instructional material, software, technology, infrastructure or infrastructure improvements, school buses, school security, training for technology, or to pay debt service on voter-approved bonds issued by the district or intermediate district before the effective date of this section. For intermediate districts only, funds paid under this section may also be used for other nonrecurring instructional expenditures including, but not limited to, nonrecurring instructional expenditures for vocational education, or for debt service for acquisition of technology for academic support services. Funds received by an intermediate district under this section may be used for projects conducted for the benefit of its constituent districts at the discretion of the intermediate board. To the extent payments under this section are used by a district or intermediate district to pay debt service on debt payable from millage revenues, and to the extent permitted by law, the district or intermediate district may make a corresponding reduction in the number of mills levied for that debt service.

(7) The appropriations under this section are from the money appropriated and transferred to the state school aid fund from the countercyclical budget and economic stabilization fund under section 353e(2) and (3) of the management and budget act, 1984 PA 431, MCL 18.1353e.

(8) The resolution to be adopted and submitted by a district or intermediate district under this section and section 11g shall read as follows:

"Whereas, the board of _____ (name of district or intermediate district) desires to settle and compromise, in their entirety, any claim or claims that the district (or intermediate district) has or had for violations of section 29 of article IX of the state constitution of 1963, which claim or claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

Whereas, the district (or intermediate district) agrees to settle and compromise these claims for the consideration described in sections 11f and 11g of the state school aid act of 1979, 1979 PA 94, MCL 388.1611f and 388.1611g, and in the amount specified for the district (or intermediate district) in section 11h of the state school aid act of 1979, 1979 PA 94, MCL 388.1611h.

Whereas, the board of _____ (name of district or intermediate district) is authorized to adopt this resolution.

Now, therefore, be it resolved as follows:

1. The board of _____ (name of district or intermediate district) waives any right or interest it may have in any claim or potential claim through September 30, 1997 relating to the amount of funding the district or intermediate district is, or may have been, entitled to receive under the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, or any other source of state funding, by reason of the application of section 29 of article IX of the state constitution of 1963, which claims or potential claims are or were similar to the claims asserted by the plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

2. The board of _____ (name of district or intermediate district) directs its secretary to submit a certified copy of this resolution to the state treasurer no later than 5 p.m. eastern standard time on March 2, 1998, and agrees that it will not take any action to amend or rescind this resolution.

3. The board of _____ (name of district or intermediate district) expressly agrees and understands that, if it takes any action to amend or rescind this resolution, the state, its agencies, employees, and agents shall have available to them any privilege, immunity, and/or defense that would otherwise have been available had the claims or potential claims been actually litigated in any forum.

4. This resolution is contingent on continued payments by the state each fiscal year as determined under sections 11f and 11g of the state school aid act of 1979, 1979 PA 94, MCL 388.1611f and 388.1611g. However, this resolution shall be an irrevocable waiver of any claim to amounts actually received by the school district or intermediate school district under sections 11f and 11g of the state school aid act of 1979.".

388.1611g Payments to non-plaintiff districts pursuant to Durant v State of Michigan; payments for fiscal years ending September 30, 2002 through September 30, 2013; waiver resolution; offers of settlement and compromise; creation of obligation or liability; calculation of amount; payment date; use of funds.

Sec. 11g. (1) From the general fund money appropriated in section 11, there is allocated an amount not to exceed $40,000,000.00 for the fiscal year ending September 30, 2002, for the fiscal year ending September 30, 2003, for the fiscal year ending September 30, 2004, and for each succeeding fiscal year through the fiscal year ending September 30, 2013. Payments under this section will cease after September 30, 2013. These appropriations are for paying the amounts described in subsection (3) to districts and intermediate districts, other than those receiving a lump sum payment under section 11f(2), that were not plaintiffs in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492 and that, on or before March 2, 1998, submitted to the state treasurer a waiver resolution described in section 11f. The amounts paid under this section represent offers of settlement and compromise of any claim or claims that were or could have been asserted by these districts and intermediate districts, as described in this section.

(2) This section does not create any obligation or liability of this state to any district or intermediate district that does not submit a waiver resolution described in section 11f. This section, any other provision of this act, and section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, are not intended to admit liability or waive any defense that is or would be available to this state or its agencies, employees, or agents in any litigation or future litigation with a district or intermediate district regarding these claims or potential claims.

(3) The amount paid each fiscal year to each district or intermediate district under this section shall be the sum of the following:

(a) 1/30 of the total amount listed in section 11h for the district or intermediate district.

(b) If the district or intermediate district borrows money and issues bonds under section 11i, an additional amount in each fiscal year calculated by the department of treasury that, when added to the amount described in subdivision (a), will cause the net present value as of November 15, 1998 of the total of the 15 annual payments made to the district or intermediate district under this section, discounted at a rate as determined by the state treasurer, to equal the amount of the bonds issued by that district or intermediate district under section 11i and that will result in the total payments made to all districts and intermediate districts in each fiscal year under this section being no more than the amount appropriated under this section in each fiscal year.

(4) The entire amount of each payment under this section each fiscal year shall be paid on May 15 of the applicable fiscal year or on the next business day following that date. If a district or intermediate district borrows money and issues bonds under section 11i, the district or intermediate district shall use funds received under this section to pay debt service on bonds issued under section 11i. If a district or intermediate district does not borrow money and issue bonds under section 11i, the district or intermediate district shall use funds received under this section only for the following purposes, in the following order of priority:

(a) First, to pay debt service on voter-approved bonds issued by the district or intermediate district before the effective date of this section.

(b) Second, to pay debt service on other limited tax obligations.

(c) Third, for deposit into a sinking fund established by the district or intermediate district under the revised school code.

(5) To the extent payments under this section are used by a district or intermediate district to pay debt service on debt payable from millage revenues, and to the extent permitted by law, the district or intermediate district may make a corresponding reduction in the number of mills levied for debt service.

(6) A district or intermediate district may pledge or assign payments under this section as security for bonds issued under section 11i, but shall not otherwise pledge or assign payments under this section.

388.1620 Foundation allowance per membership pupil; payments to districts, public school academies, and university schools; definitions.

Sec. 20. (1) For 2001-2002, the basic foundation allowance is $6,300.00 per membership pupil. For 2002-2003 and for 2003-2004, the basic foundation allowance is $6,700.00 per membership pupil.

(2) The amount of each district's foundation allowance shall be calculated as provided in this section, using a basic foundation allowance in the amount specified in subsection (1).

(3) Except as otherwise provided in this section, the amount of a district's foundation allowance shall be calculated as follows, using in all calculations the total amount of the district's foundation allowance as calculated before any proration:

(a) Except as otherwise provided in this subsection, for a district that in the immediately preceding state fiscal year had a foundation allowance in an amount at least equal to the amount of the basic foundation allowance for the immediately preceding state fiscal year, the district shall receive a foundation allowance in an amount equal to the sum

of the district's foundation allowance for the immediately preceding state fiscal year plus the dollar amount of the adjustment from the immediately preceding state fiscal year to the current state fiscal year in the basic foundation allowance. However, for 2002-2003, the foundation allowance for a district under this subdivision is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus $200.00.

(b) For a district that in the 1994-95 state fiscal year had a foundation allowance greater than $6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of the increase in the basic foundation allowance for the current state fiscal year, as compared to the immediately preceding state fiscal year, or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b. For 2002-2003, for a district that in the 1994-95 state fiscal year had a foundation allowance greater than $6,500.00, the district's foundation allowance is an amount equal to the sum of the district's foundation allowance for the immediately preceding state fiscal year plus the lesser of $200.00 or the product of the district's foundation allowance for the immediately preceding state fiscal year times the percentage increase in the United States consumer price index in the calendar year ending in the immediately preceding fiscal year as reported by the May revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b.

(c) For a district that has a foundation allowance that is not a whole dollar amount, the district's foundation allowance shall be rounded up to the nearest whole dollar.

(d) Beginning in 2002-2003, for a district that receives a payment under section 22c for 2001-2002, the district's 2001-2002 foundation allowance shall be considered to have been an amount equal to the sum of the district's actual 2001-2002 foundation allowance as otherwise calculated under this section plus the per pupil amount of the district's equity payment for 2001-2002 under section 22c.

(4) Except as otherwise provided in this subsection, the state portion of a district's foundation allowance is an amount equal to the district's foundation allowance or $6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district described in subsection (3)(b), the state portion of the district's foundation allowance is an amount equal to $6,962.00 plus the difference between the district's foundation allowance for the current state fiscal year and the district's foundation allowance for 1998-99, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980

PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur. The $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(5) The allocation calculated under this section for a pupil shall be based on the foundation allowance of the pupil's district of residence. However, for a pupil enrolled pursuant to section 105 or 105c in a district other than the pupil's district of residence, the allocation calculated under this section shall be based on the lesser of the foundation allowance of the pupil's district of residence or the foundation allowance of the educating district. For a pupil in membership in a K-5, K-6, or K-8 district who is enrolled in another district in a grade not offered by the pupil's district of residence, the allocation calculated under this section shall be based on the foundation allowance of the educating district if the educating district's foundation allowance is greater than the foundation allowance of the pupil's district of residence. The calculation under this subsection shall take into account a district's per pupil allocation under section 20j(2).

(6) Subject to subsection (7) and section 22b(3) and except as otherwise provided in this subsection, for pupils in membership, other than special education pupils, in a public school academy or a university school, the allocation calculated under this section is an amount per membership pupil other than special education pupils in the public school academy or university school equal to the sum of the local school operating revenue per membership pupil other than special education pupils for the district in which the public school academy or university school is located and the state portion of that district's foundation allowance, or the sum of the basic foundation allowance under subsection (1) plus $500.00, whichever is less. However, beginning in 2002-2003, this $500.00 amount shall instead be $300.00. Notwithstanding section 101(2), for a public school academy that begins operations in 2001-2002, 2002-2003, or 2003-2004, as applicable, after the pupil membership count day, the amount per membership pupil calculated under this subsection shall be adjusted by multiplying that amount per membership pupil by the number of hours of pupil instruction provided by the public school academy after it begins operations, as determined by the department, divided by the minimum number of hours of pupil instruction required under section 101(3). The result of this calculation shall not exceed the amount per membership pupil otherwise calculated under this subsection.

(7) If more than 25% of the pupils residing within a district are in membership in 1 or more public school academies located in the district, then the amount per membership pupil calculated under this section for a public school academy located in the district shall be reduced by an amount equal to the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield

redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership excluding special education pupils, in the school fiscal year ending in the current state fiscal year, calculated as if the resident pupils in membership in 1 or more public school academies located in the district were in membership in the district. In order to receive state school aid under this act, a district described in this subsection shall pay to the authorizing body that is the fiscal agent for a public school academy located in the district for forwarding to the public school academy an amount equal to that local school operating revenue per membership pupil for each resident pupil in membership other than special education pupils in the public school academy, as determined by the department.

(8) If a district does not receive an amount calculated under subsection (9); if the number of mills the district may levy on a homestead and qualified agricultural property under section 1211(1) of the revised school code, MCL 380.1211, is 0.5 mills or less; and if the district elects not to levy those mills, the district instead shall receive a separate supplemental amount calculated under this subsection in an amount equal to the amount the district would have received had it levied those mills, as determined by the department of treasury. A district shall not receive a separate supplemental amount calculated under this subsection for a fiscal year unless in the calendar year ending in the fiscal year the district levies 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a homestead or qualified agricultural property.

(9) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than $6,500.00 and that had fewer than 350 pupils in membership, if the district elects not to reduce the number of mills from which a homestead and qualified agricultural property are exempt and not to levy school operating taxes on a homestead and qualified agricultural property as provided in section 1211(1) of the revised school code, MCL 380.1211, and not to levy school operating taxes on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, there is calculated under this subsection for 1994-95 and each succeeding fiscal year a separate supplemental amount in an amount equal to the amount the district would have received per membership pupil had it levied school operating taxes on a homestead and qualified agricultural property at the rate authorized for the district under section 1211(1) of the revised school code, MCL 380.1211, and levied school operating taxes on all property at the rate authorized for the district under section 1211(2) of the revised school code, MCL 380.1211, as determined by the department of treasury. If in the calendar year ending in the fiscal year a district does not levy 18 mills or the number of mills of school operating taxes levied by the district in 1993, whichever is less, on property that is not a homestead or qualified agricultural property, the amount calculated under this subsection will be reduced by the same percentage as the millage actually levied compares to the 18 mills or the number of mills levied in 1993, whichever is less.

(10) For a district that is formed or reconfigured after June 1, 2002 by consolidation of 2 or more districts or by annexation, the resulting district's foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the lesser of an amount equal to the sum of the highest foundation allowance, as calculated under this section, among the original or affected districts plus $50.00 or an amount equal to $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under this section for the current state fiscal year and $5,000.00. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(11) Each fraction used in making calculations under this section shall be rounded to the fourth decimal place and the dollar amount of an increase in the basic foundation allowance shall be rounded to the nearest whole dollar.

(12) State payments related to payment of the foundation allowance for a special education pupil are not calculated under this section but are instead calculated under section 51a.

(13) To assist the legislature in determining the basic foundation allowance for the subsequent state fiscal year, each revenue estimating conference conducted under section 367b of the management and budget act, 1984 PA 431, MCL 18.1367b, shall calculate a pupil membership factor, a revenue adjustment factor, and an index as follows:

(a) The pupil membership factor shall be computed by dividing the estimated membership in the school year ending in the current state fiscal year, excluding intermediate district membership, by the estimated membership for the school year ending in the subsequent state fiscal year, excluding intermediate district membership. If a consensus membership factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(b) The revenue adjustment factor shall be computed by dividing the sum of the estimated total state school aid fund revenue for the subsequent state fiscal year plus the estimated total state school aid fund revenue for the current state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund and excluding money transferred into that fund from the countercyclical budget and economic stabilization fund under section 353e of the management and budget act, 1984 PA 431, MCL 18.1353e, by the sum of the estimated total school aid fund revenue for the current state fiscal year plus the estimated total state school aid fund revenue for the immediately preceding state fiscal year, adjusted for any change in the rate or base of a tax the proceeds of which are deposited in that fund. If a consensus revenue factor is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(c) The index shall be calculated by multiplying the pupil membership factor by the revenue adjustment factor. If a consensus index is not determined at the revenue estimating conference, the principals of the revenue estimating conference shall report their estimates to the house and senate subcommittees responsible for school aid appropriations not later than 7 days after the conclusion of the revenue conference.

(14) If the principals at the revenue estimating conference reach a consensus on the index described in subsection (13)(c), the basic foundation allowance for the subsequent state fiscal year shall be at least the amount of that consensus index multiplied by the basic foundation allowance specified in subsection (1).

(15) If at the January revenue estimating conference it is estimated that pupil membership, excluding intermediate district membership, for the subsequent state fiscal year will be greater than 101% of the pupil membership, excluding intermediate district membership, for the current state fiscal year, then it is the intent of the legislature that the executive budget proposal for the school aid budget for the subsequent state fiscal year include a general fund/general purpose allocation sufficient to support the membership in excess of 101% of the current year pupil membership.

(16) For a district that had combined state and local revenue per membership pupil in the 1993-94 state fiscal year of more than $6,500.00, that had fewer than 7 pupils in membership in the 1993-94 state fiscal year, that has at least 1 child educated in the district in the current state fiscal year, and that levies the number of mills of school operating taxes authorized for the district under section 1211 of the revised school code, MCL 380.1211, a minimum amount of combined state and local revenue shall be calculated for the district as provided under this subsection. The minimum amount of combined state and local revenue for 1999-2000 shall be $67,000.00 plus the district's additional expenses to educate pupils in grades 9 to 12 educated in other districts as determined and allowed by the department. The minimum amount of combined state and local revenue under this subsection, before adding the additional expenses, shall increase each fiscal year by the same percentage increase as the percentage increase in the basic foundation allowance from the immediately preceding fiscal year to the current fiscal year. The state portion of the minimum amount of combined state and local revenue under this subsection shall be calculated by subtracting from the minimum amount of combined state and local revenue under this subsection the sum of the district's local school operating revenue and an amount equal to the product of the sum of the state portion of the district's foundation allowance plus the amount calculated under section 20j times the district's membership. As used in this subsection, "additional expenses" means the district's expenses for tuition or fees, not to exceed $6,500.00 as adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, plus a room and board stipend not to exceed $10.00 per school day for each pupil in grades 9 to 12 educated in another district, as approved by the department. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(17) For a district in which 7.75 mills levied in 1992 for school operating purposes in the 1992-93 school year were not renewed in 1993 for school operating purposes in the 1993-94 school year, the district's combined state and local revenue per membership pupil shall be recalculated as if that millage reduction did not occur and the district's foundation allowance shall be calculated as if its 1994-95 foundation allowance had been calculated using that recalculated 1993-94 combined state and local revenue per membership pupil as a base. A district is not entitled to any retroactive payments for fiscal years before 2000-2001 due to this subsection.

(18) For a district in which an industrial facilities exemption certificate that abated taxes on property with a state equalized valuation greater than the total state equalized valuation of the district at the time the certificate was issued or $700,000,000.00, whichever is greater, was issued under 1974 PA 198, MCL 207.551 to 207.572, before the calculation of the district's 1994-95 foundation allowance, the district's foundation allowance for 2002-2003 is an amount equal to the sum of the district's foundation allowance for 2002-2003, as otherwise calculated under this section, plus $250.00.

(19) For a district that received a grant under former section 32e for 2001-2002, the district's foundation allowance for 2002-2003 shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of the amount of the grant award to the district for 2001-2002 under former section 32e divided by the district's membership for 2001-2002. A district qualifying for a foundation allowance adjustment under this section shall use the funds resulting from this adjustment for purposes allowable under former section 32e as in effect for 2001-2002.

(20) For a district that is a qualifying school district with a school reform board in place under part 5a of the revised school code, MCL 380.371 to 380.376, the district's foundation allowance for 2002-2003 shall be adjusted to be an amount equal to the sum of the district's foundation allowance, as otherwise calculated under this section, plus the quotient of $15,000,000.00 divided by the district's membership for 2002-2003. If a district ceases to meet the requirements of this subsection, the department shall adjust the district's foundation allowance in effect at that time based on a 2002-2003 foundation allowance for the district that does not include the 2002-2003 adjustment under this subsection.

(21) Payments to districts, university schools, or public school academies shall not be made under this section. Rather, the calculations under this section shall be used to determine the amount of state payments under section 22b.

(22) If an amendment to section 2 of article VIII of the state constitution of 1963 allowing state aid to some or all nonpublic schools is approved by the voters of this state, each foundation allowance or per pupil payment calculation under this section may be reduced.

(23) As used in this section:

(a) "Combined state and local revenue" means the aggregate of the district's state school aid received by or paid on behalf of the district under this section and the district's local school operating revenue.

(b) "Combined state and local revenue per membership pupil" means the district's combined state and local revenue divided by the district's membership excluding special education pupils.

(c) "Current state fiscal year" means the state fiscal year for which a particular calculation is made.

(d) "Homestead" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(e) "Immediately preceding state fiscal year" means the state fiscal year immediately preceding the current state fiscal year.

(f) "Local school operating revenue" means school operating taxes levied under section 1211 of the revised school code, MCL 380.1211.

(g) "Local school operating revenue per membership pupil" means a district's local school operating revenue divided by the district's membership excluding special education pupils.

(h) "Membership" means the definition of that term under section 6 as in effect for the particular fiscal year for which a particular calculation is made.

(i) "Qualified agricultural property" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(j) "School operating purposes" means the purposes included in the operation costs of the district as prescribed in sections 7 and 18.

(k) "School operating taxes" means local ad valorem property taxes levied under section 1211 of the revised school code, MCL 380.1211, and retained for school operating purposes.

(*l*) "Taxable value per membership pupil" means taxable value, as certified by the department of treasury, for the calendar year ending in the current state fiscal year divided by the district's membership excluding special education pupils for the school year ending in the current state fiscal year.

388.1622a Allocations for 2001-2002, 2002-2003, and 2003-2004; payments to districts, university schools, and public school academies; definitions.

Sec. 22a. (1) From the appropriation in section 11, there is allocated an amount not to exceed $7,022,000,000.00 for 2001-2002 and an amount not to exceed $6,953,000,000.00 each fiscal year for 2002-2003 and for 2003-2004 for payments to districts, qualifying university schools, and qualifying public school academies to guarantee each district, qualifying university school, and qualifying public school academy an amount equal to its 1994-95 total state and local per pupil revenue for school operating purposes under section 11 of article IX of the state constitution of 1963. Pursuant to section 11 of article IX of the state constitution of 1963, this guarantee does not apply to a district in a year in which the district levies a millage rate for school district operating purposes less than it levied in 1994. However, subsection (2) applies to calculating the payments under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22b and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) To ensure that a district receives an amount equal to the district's 1994-95 total state and local per pupil revenue for school operating purposes, there is allocated to each district a state portion of the district's 1994-95 foundation allowance in an amount calculated as follows:

(a) Except as otherwise provided in this subsection, the state portion of a district's 1994-95 foundation allowance is an amount equal to the district's 1994-95 foundation allowance or $6,500.00, whichever is less, minus the difference between the product of the taxable value per membership pupil of all property in the district that is not a homestead or qualified agricultural property times the lesser of 18 mills or the number of mills of school operating taxes levied by the district in 1993-94 and the quotient of the ad valorem property tax revenue of the district captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership. For a district that has a millage reduction required under section 31 of article IX of the state constitution of 1963, the state portion of the district's foundation allowance shall be calculated as if that reduction did not occur.

(b) For a district that had a 1994-95 foundation allowance greater than $6,500.00, the state payment under this subsection shall be the sum of the amount calculated under subdivision (a) plus the amount calculated under this subdivision. The amount calculated under this subdivision shall be equal to the difference between the district's 1994-95 foundation allowance minus $6,500.00 and the current year hold harmless school operating taxes per pupil. If the result of the calculation under subdivision (a) is negative, the negative amount shall be an offset against any state payment calculated under this subdivision. If the result of a calculation under this subdivision is negative, there shall not be a state payment or a deduction under this subdivision. The taxable values per membership pupil used in the calculations under this subdivision are as adjusted by ad valorem property tax revenue captured under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, or the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, divided by the district's membership.

(3) For pupils in membership in a qualifying public school academy or qualifying university school, there is allocated under this section each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to the authorizing body that is the fiscal agent for the qualifying public school academy for forwarding to the qualifying public school academy, or to the board of the public university operating the qualifying university school, an amount equal to the 1994-95 per pupil payment to the qualifying public school academy or qualifying university school under section 20.

(4) A district, qualifying university school, or qualifying public school academy may use funds allocated under this section in conjunction with any federal funds for which the district, qualifying university school, or qualifying public school academy otherwise would be eligible.

(5) For a district that is formed or reconfigured after June 1, 2000 by consolidation of 2 or more districts or by annexation, the resulting district's 1994-95 foundation allowance under this section beginning after the effective date of the consolidation or annexation shall be the average of the 1994-95 foundation allowances of each of the original or affected districts, calculated as provided in this section, weighted as to the percentage of pupils in total membership in the resulting district in the state fiscal year in which the consolidation takes place who reside in the geographic area of each of the original districts. If an affected district's 1994-95 foundation allowance is less than the 1994-95 basic foundation allowance, the amount of that district's 1994-95 foundation allowance shall be considered for the purpose of calculations under this subsection to be equal to the amount of the 1994-95 basic foundation allowance.

(6) As used in this section:

(a) "1994-95 foundation allowance" means a district's 1994-95 foundation allowance calculated and certified by the department of treasury or the superintendent under former section 20a as enacted in 1993 PA 336 and as amended by 1994 PA 283.

(b) "Current state fiscal year" means the state fiscal year for which a particular calculation is made.

(c) "Current year hold harmless school operating taxes per pupil" means the per pupil revenue generated by multiplying a district's 1994-95 hold harmless millage by the district's current year taxable value per membership pupil.

(d) "Hold harmless millage" means, for a district with a 1994-95 foundation allowance greater than $6,500.00, the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property could be reduced as provided in section 1211(1) of the revised school code, MCL 380.1211, and the number of mills of school operating taxes that could be levied on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, as certified by the department of treasury for the 1994 tax year.

(e) "Homestead" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(f) "Membership" means the definition of that term under section 6 as in effect for the particular fiscal year for which a particular calculation is made.

(g) "Qualified agricultural property" means that term as defined in section 1211 of the revised school code, MCL 380.1211.

(h) "Qualifying public school academy" means a public school academy that was in operation in the 1994-95 school year and is in operation in the current state fiscal year.

(i) "Qualifying university school" means a university school that was in operation in the 1994-95 school year and is in operation in the current fiscal year.

(j) "School operating taxes" means local ad valorem property taxes levied under section 1211 of the revised school code, MCL 380.1211, and retained for school operating purposes.

(k) "Taxable value per membership pupil" means each of the following divided by the district's membership:

(*i*) For the number of mills by which the exemption from the levy of school operating taxes on a homestead and qualified agricultural property may be reduced as provided in section 1211(1) of the revised school code, MCL 380.1211, the taxable value of homestead and qualified agricultural property for the calendar year ending in the current state fiscal year.

(*ii*) For the number of mills of school operating taxes that may be levied on all property as provided in section 1211(2) of the revised school code, MCL 380.1211, the taxable value of all property for the calendar year ending in the current state fiscal year.

388.1622b Allocations for 2001-2002, 2002-2003, and 2003-2004; discretionary nonmandated payments; administration of standardized assessment; payments for court costs; allegation of unfunded constitutional requirement; escrowed funds as work project; use; determination; review of claim by local claims review board; removal to court of appeals; payment provisions.

Sec. 22b. (1) From the appropriation in section 11, there is allocated an amount not to exceed $2,368,000,000.00 for 2001-2002, an amount not to exceed $2,883,500,000.00 for 2002-2003, and an amount not to exceed $2,880,000,000.00 for 2003-2004 for discretionary nonmandated payments to districts under this section. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 51c in order to fully fund those calculated allocations for the same fiscal year.

(2) Subject to subsection (3), subsections (5) to (9), and section 11, the allocation to a district under this section shall be an amount equal to the sum of the amounts calculated under sections 20, 20j, 51a(2), 51a(3), and 51a(12), minus the sum of the allocations to the district under sections 22a and 51c.

(3) In order to receive an allocation under this section, each district shall administer in each grade level that it operates in grades 1 to 5 a standardized assessment approved by the department of grade-appropriate basic educational skills. A district may use the Michigan literacy progress profile to satisfy this requirement for grades 1 to 3. Also, if the revised school code is amended to require annual assessments at additional grade levels, in order to receive an allocation under this section each district shall comply with that requirement.

(4) From the allocation in subsection (1), the department shall expend funds to pay for necessary costs associated with resolving matters pending in federal court impacting payments to districts, including, but not limited to, expert witness fees. Beginning in 2001-2002, from the allocation in subsection (1), the department shall also pay up to $1,000,000.00 in litigation costs incurred by this state associated with lawsuits filed by 1 or more districts or intermediate districts against this state. If the allocation under this section is insufficient to fully fund all payments required under this section, the payments under this subsection shall be made in full before any proration of remaining payments under this section.

(5) It is the intent of the legislature that all constitutional obligations of this state have been fully funded under sections 22a, 31d, 51a, and 51c. If a claim is made by an entity

receiving funds under this act that challenges the legislative determination of the adequacy of this funding or alleges that there exists an unfunded constitutional requirement, the state budget director may escrow or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the claim before making any payments to districts under subsection (2). If funds are escrowed, the escrowed funds are a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of litigation. The work project shall be completed upon resolution of the litigation.

(6) If the local claims review board or a court of competent jurisdiction makes a final determination that this state is in violation of section 29 of article IX of the state constitution of 1963 regarding state payments to districts, the state budget director shall use work project funds under subsection (5) or allocate from the discretionary funds for nonmandated payments under this section the amount as may be necessary to satisfy the amount owed to districts before making any payments to districts under subsection (2).

(7) If a claim is made in court that challenges the legislative determination of the adequacy of funding for this state's constitutional obligations or alleges that there exists an unfunded constitutional requirement, any interested party may seek an expedited review of the claim by the local claims review board. If the claim exceeds $10,000,000.00, this state may remove the action to the court of appeals, and the court of appeals shall have and shall exercise jurisdiction over the claim.

(8) If payments resulting from a final determination by the local claims review board or a court of competent jurisdiction that there has been a violation of section 29 of article IX of the state constitution of 1963 exceed the amount allocated for discretionary nonmandated payments under this section, the legislature shall provide for adequate funding for this state's constitutional obligations at its next legislative session.

(9) If a lawsuit challenging payments made to districts related to costs reimbursed by federal title XIX medicaid funds is filed against this state during 2001-2002, 2002-2003, or 2003-2004, 50% of the amount allocated in subsection (1) not previously paid out for 2002-2003 and each succeeding fiscal year is a work project appropriation and the funds are carried forward into the following fiscal year. The purpose of the work project is to provide for any payments that may be awarded to districts as a result of the litigation. The work project shall be completed upon resolution of the litigation. In addition, this state reserves the right to terminate future federal title XIX medicaid reimbursement payments to districts if the amount or allocation of reimbursed funds is challenged in the lawsuit. As used in this subsection, "title XIX" means title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

388.1624 Allocations for 2001-2002, 2002-2003, and 2003-2004; payments for educating students assigned by court or family independence agency.

Sec. 24. (1) Subject to subsection (2), from the appropriation in section 11, there is allocated each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to the educating district or intermediate district an amount equal to 100% of the added cost each fiscal year for educating all pupils assigned by a court or the family independence agency to reside in or to attend a juvenile detention facility or child caring institution licensed by the family independence agency or the department of consumer and industry services and approved by the department to provide an on-grounds education program. The total amount to be paid under this section for added cost shall not exceed $8,400,000.00 for 2001-2002 and $8,900,000.00 each fiscal year for 2002-2003 and for 2003-2004. For the purposes of this

section, "added cost" shall be computed by deducting all other revenue received under this act for pupils described in this section from total costs, as approved by the department, for educating those pupils in the on-grounds education program or in a program approved by the department that is located on property adjacent to a juvenile detention facility or child caring institution. Costs reimbursed by federal funds are not included.

(2) A district or intermediate district educating pupils described in this section at a residential child caring institution may operate, and receive funding under this section for, a department-approved on-grounds educational program for those pupils that is longer than 181 days, but not longer than 233 days, if the child caring institution was licensed as a child caring institution and offered in 1991-92 an on-grounds educational program that was longer than 181 days but not longer than 233 days and that was operated by a district or intermediate district.

(3) Special education pupils funded under section 53a shall not be funded under this section.

388.1626a Reimbursements to districts, intermediate districts, and school aid fund pursuant to § 125.2692; adjustments.

Sec. 26a. From the general fund appropriation in section 11, there is allocated an amount not to exceed $8,800,000.00 for 2001-2002 and an amount not to exceed $10,174,000.00 each fiscal year for 2002-2003 and for 2003-2004 to reimburse districts, intermediate districts, and the state school aid fund pursuant to section 12 of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2692, for taxes levied in 2001, 2002, and 2003, respectively. This reimbursement shall be made by adjusting payments under section 22a to eligible districts, adjusting payments under section 56, 62, or 81 to eligible intermediate districts, and adjusting the state school aid fund. The adjustments shall be made not later than 60 days after the department of treasury certifies to the department and to the state budget director that the department of treasury has received all necessary information to properly determine the amounts due to each eligible recipient.

388.1631a Funding to eligible districts and public school academies; additional allowance; number of pupils meeting criteria for free breakfast, lunch, or milk; "at-risk pupil" defined.

Sec. 31a. (1) From the state school aid fund money appropriated in section 11, there is allocated for 2001-2002 an amount not to exceed $314,200,000.00 and there is allocated each fiscal year for 2002-2003 and for 2003-2004 an amount not to exceed $314,200,000.00 for payments to eligible districts and eligible public school academies under this section. Subject to subsection (11), the amount of the additional allowance under this section shall be based on the number of actual pupils in membership in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined under the Richard B. Russell national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766a, 1769, 1769b to 1769c, and 1769f to 1769h, and reported to the department by October 31 of the immediately preceding fiscal year and adjusted not later than December 31 of the immediately preceding fiscal year. However, for a public school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year, the basis for the additional allowance under this section shall be the number of actual pupils in membership in the public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the current state fiscal year, as determined under the Richard B. Russell national school lunch act.

(2) To be eligible to receive funding under this section, other than funding under subsection (6), a district or public school academy that has not been previously determined to be eligible shall apply to the department, in a form and manner prescribed by the department, and a district or public school academy must meet all of the following:

(a) The sum of the district's or public school academy's combined state and local revenue per membership pupil in the current state fiscal year, as calculated under section 20, plus the amount of the district's per pupil allocation under section 20j(2), is less than or equal to $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and $5,000.00. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subdivision shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(b) The district or public school academy agrees to use the funding only for purposes allowed under this section and to comply with the program and accountability requirements under this section.

(3) Except as otherwise provided in this subsection, an eligible district or eligible public school academy shall receive under this section for each membership pupil in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk, as determined under the Richard B. Russell national school lunch act and as reported to the department by October 31 of the immediately preceding fiscal year and adjusted not later than December 31 of the immediately preceding fiscal year, an amount per pupil equal to 11.5% of the sum of the district's foundation allowance or public school academy's per pupil amount calculated under section 20, plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and $5,000.00, or of the public school academy's per membership pupil amount calculated under section 20 for the current state fiscal year. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00. A public school academy that began operations as a public school academy after the pupil membership count day of the immediately preceding school year shall receive under this section for each membership pupil in the public school academy who met the income eligibility criteria for free breakfast, lunch, or milk, as determined under the Richard B. Russell national school lunch act and as reported to the department by October 31 of the current fiscal year and adjusted not later than December 31 of the current fiscal year, an amount per pupil equal to 11.5% of the public school academy's per membership pupil amount calculated under section 20 for the current state fiscal year.

(4) Except as otherwise provided in this section, a district or public school academy receiving funding under this section shall use that money only to provide instructional programs and direct noninstructional services, including, but not limited to, medical or counseling services, for at-risk pupils; for school health clinics; and for the purposes of subsection (5) or (6), and shall not use any of that money for administrative costs or to supplant another program or other funds, except for funds allocated to the district or public school academy under this section in the immediately preceding year and already being used by the district or public school academy for at-risk pupils. The instruction or direct noninstructional services provided under this section may be conducted before or after regular school hours or by adding extra school days to the school year and may be conducted using a tutorial method, with paraprofessionals working under the supervision

of a certificated teacher. The ratio of pupils to paraprofessionals shall be between 10:1 and 15:1. Only 1 certificated teacher is required to supervise instruction using a tutorial method. As used in this subsection, "to supplant another program" means to take the place of a previously existing instructional program or direct noninstructional services funded from a funding source other than funding under this section.

(5) A district or public school academy that receives funds under this section and that operates a school breakfast program under section 1272a of the revised school code, MCL 380.1272a, shall use from the funds received under this section an amount, not to exceed $10.00 per pupil for whom the district or public school academy receives funds under this section, necessary to operate the school breakfast program.

(6) From the funds allocated under subsection (1), there is allocated for 2001-2002 an amount not to exceed $2,400,000.00 to support teen health centers. These 2001-2002 funds shall be distributed to existing teen health centers in a manner determined by the department in collaboration with the department of community health. From the funds allocated under subsection (1), there is allocated each fiscal year for 2002-2003 and for 2003-2004 an amount not to exceed $3,743,000.00 for competitive grants to support teen health centers. These grants for 2002-2003 and 2003-2004 shall be awarded in a form and manner approved jointly by the department and the department of community health. If any funds allocated under this subsection are not used for the purposes of this subsection for the fiscal year in which they are allocated, those unused funds shall be used that fiscal year to avoid or minimize any proration that would otherwise be required under subsection (11) for that fiscal year.

(7) Each district or public school academy receiving funds under this section shall submit to the department by July 15 of each fiscal year a report, not to exceed 10 pages, on the usage by the district or public school academy of funds under this section, which report shall include at least a brief description of each program conducted by the district or public school academy using funds under this section, the amount of funds under this section allocated to each of those programs, the number of at-risk pupils eligible for free or reduced price school lunch who were served by each of those programs, and the total number of at-risk pupils served by each of those programs. If a district or public school academy does not comply with this subsection, the department shall withhold an amount equal to the August payment due under this section until the district or public school academy complies with this subsection. If the district or public school academy does not comply with this subsection by the end of the state fiscal year, the withheld funds shall be forfeited to the school aid fund.

(8) In order to receive funds under this section, a district or public school academy shall allow access for the department or the department's designee to audit all records related to the program for which it receives those funds. The district or public school academy shall reimburse the state for all disallowances found in the audit.

(9) Subject to subsections (5) and (6), any district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) exceeds the district's aggregate percentage of those pupils. Subject to subsections (5) and (6), if a district obtains a waiver from the department, the district may use up to 100% of the funds it receives under this section to reduce the ratio of pupils to teachers in grades K-6, or any combination of those grades, in school buildings in which the percentage of pupils described in subsection (1) is at least 60% of the district's aggregate percentage of those pupils and at least 30% of the total number of pupils enrolled in the school building. To obtain a waiver, a district must apply to the department

and demonstrate to the satisfaction of the department that the class size reductions would be in the best interests of the district's at-risk pupils.

(10) A district or public school academy may use funds received under this section for adult high school completion, general education development (G.E.D.) test preparation, or adult basic education programs described in section 107.

(11) If necessary, and before any proration required under section 11, the department shall prorate payments under this section by reducing the amount of the per pupil payment under this section by a dollar amount calculated by determining the amount by which the amount necessary to fully fund the requirements of this section exceeds the maximum amount allocated under this section and then dividing that amount by the total statewide number of pupils who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding fiscal year, as described in subsection (1).

(12) Funds allocated under this section that are unexpended and unencumbered at the end of the fiscal year for which they were allocated shall be carried forward and used in subsequent fiscal years to avoid or minimize any proration that would otherwise be required under subsection (11).

(13) If a district is formed by consolidation after June 1, 1995, and if 1 or more of the original districts was not eligible before the consolidation for an additional allowance under this section, the amount of the additional allowance under this section for the consolidated district shall be based on the number of pupils described in subsection (1) enrolled in the consolidated district who reside in the territory of an original district that was eligible before the consolidation for an additional allowance under this section.

(14) A district or public school academy that does not meet the eligibility requirement under subsection (2)(a) is eligible for funding under this section if at least 1/4 of the pupils in membership in the district or public school academy met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined and reported as described in subsection (1), and at least 4,500 of the pupils in membership in the district or public school academy met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding state fiscal year, as determined and reported as described in subsection (1). A district or public school academy that is eligible for funding under this section because the district meets the requirements of this subsection shall receive under this section for each membership pupil in the district or public school academy who met the income eligibility criteria for free breakfast, lunch, or milk in the immediately preceding fiscal year, as determined and reported as described in subsection (1), an amount per pupil equal to 5.75% for 2001-2002 and 11.5% for 2002-2003 and subsequent fiscal years of the sum of the district's foundation allowance or public school academy's per pupil allocation under section 20, plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current state fiscal year and $5,000.00. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(15) As used in this section, "at-risk pupil" means a pupil for whom the district has documentation that the pupil meets at least 2 of the following criteria: is a victim of child abuse or neglect; is below grade level in English language and communication skills or mathematics; is a pregnant teenager or teenage parent; is eligible for a federal free or reduced-price lunch subsidy; has atypical behavior or attendance patterns; or has a family history of school failure, incarceration, or substance abuse. For pupils for whom the

results of at least the applicable Michigan education assessment program (MEAP) test have been received, at-risk pupil also includes a pupil who does not meet the other criteria under this subsection but who did not achieve at least a score of moderate on the most recent MEAP reading test for which results for the pupil have been received, did not achieve at least a score of moderate on the most recent MEAP mathematics test for which results for the pupil have been received, or did not achieve at least a score of novice on the most recent MEAP science test for which results for the pupil have been received. For pupils in grades K-3, at-risk pupil also includes a pupil who is at risk of not meeting the district's core academic curricular objectives in English language, communication skills, or mathematics.

388.1631d Reimbursement to districts providing school lunch programs.

Sec. 31d. (1) From the state school aid fund appropriation in section 11, there is allocated an amount not to exceed $16,477,700.00 for 2001-2002 and an amount not to exceed $17,337,200.00 each fiscal year for 2002-2003 and for 2003-2004, and from the general fund appropriation in section 11, there is allocated an amount not to exceed $722,300.00 for 2001-2002 and an amount not to exceed $762,800.00 each fiscal year for 2002-2003 and for 2003-2004 for the purpose of making payments to districts, intermediate districts, and other eligible entities under this section.

(2) The amounts allocated from state sources under this section shall be used to pay the amount necessary to reimburse districts for 6.0127% of the necessary costs of the state mandated portion of the school lunch programs provided by those districts. The amount due to each district under this section shall be computed by the department using the methods of calculation adopted by the Michigan supreme court in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492.

(3) The payments made under this section include all state payments made to districts so that each district receives at least 6.0127% of the necessary costs of operating the state mandated portion of the school lunch program in a fiscal year.

(4) From the federal funds appropriated in section 11, there is allocated each fiscal year for 2002-2003 and for 2003-2004 all available federal funding, estimated at $272,125,000.00 each fiscal year, for the national school lunch program and all available federal funding, estimated at $2,506,000.00, for the emergency food assistance program.

(5) Notwithstanding section 17b, payments to intermediate districts and other eligible entities under this section shall be paid on a schedule determined by the department.

388.1632a Funding for all students achieve program (ASAP); additional funding for improving parenting skills, improving school readiness, reducing number of pupils retained in grade, and reducing number of pupils requiring special education services.

Sec. 32a. (1) From the state school aid fund appropriation in section 11, there is allocated an amount not to exceed $189,250,000.00 for 2001-2002 and an amount not to exceed $72,600,000.00 each fiscal year for 2002-2003 and for 2003-2004 to fund the all students achieve program (ASAP) as provided under sections 32b to 32h. In addition, from the general fund appropriations in section 11, there is allocated an amount not to exceed $2,200,100.00 for 2001-2002 and an amount not to exceed $2,200,000.00 each fiscal year for 2002-2003 and for 2003-2004 for the purposes of sections 32b to 32f. The programs funded through this section are for the purposes of improving parenting skills, improving school readiness, reducing the number of pupils retained in grade, and reducing the number of pupils requiring special education services.

(2) Each grant recipient approved by the department shall implement department-approved data collection methods and evaluation or assessment tools to measure the impact of the proposed program.

(3) A district shall not use funds received under sections 32b to 32f to supplant any local or federal funds it currently receives. A district may use these funds in combination with other federal, local, public, or private funds to enhance existing programs with similar purposes.

388.1632b Programs to improve school readiness and positive parenting skills, enhance parent-child interaction, promote growth, and access community services; grants; data collection system; office for safe schools; duties of department and superintendent; use of funds; carrying over unexpended funds.

Sec. 32b. (1) From the state school aid fund allocation in section 32a(1), there is allocated an amount not to exceed $45,000,000.00 for 2001-2002 and $0.00 for 2002-2003 and 2003-2004 for grants to intermediate districts and districts for programs for preschool children and their parents. The purpose of these programs is to improve school readiness and foster the maintenance of stable families by encouraging positive parenting skills; enhancing parent-child interaction; providing learning opportunities to promote intellectual, physical, and social growth; and promoting access to needed community services through a community-school-home partnership that provides parents with information on child development from birth to age 5.

(2) To qualify for funding under this section, a program shall meet all of the following:

(a) The program must provide services to all families with children age 5 or younger residing within the intermediate district or district who choose to participate, including at least all of the following services:

(*i*) Home visits by parent educators trained in child development to help parents understand appropriate expectations for each stage of their child's development, to encourage learning opportunities, and to promote strong parent-child relationships.

(*ii*) Group meetings of participating families.

(*iii*) Periodic developmental screening of the child's overall development, health, hearing, and vision.

(*iv*) A community resource network that provides referrals to other state, local, and private agencies as appropriate to assist parents in preparing their children for academic success and to foster the maintenance of stable families.

(*v*) Connection with quality preschool programs.

(b) The program must be a collaborative community effort that includes at least the intermediate district or district, local multipurpose collaborative bodies, local health and welfare agencies, and private nonprofit agencies involved in programs and services for preschool children and their parents.

(3) To compete for a grant under this section, an intermediate district or district shall apply to the superintendent not later than December 1, 2000 in the form and manner prescribed by the superintendent. To be considered for a grant under this section, a grant application must provide all of the following in a manner prescribed by the department:

(a) Provide a plan for the delivery of the program components described in subsection (2).

(b) Demonstrate an adequate collaboration of local entities involved in providing programs and services for preschool children and their parents.

(c) Provide evidence of a review and approval by the local multipurpose collaborative body of the program plan.

(d) Provide a projected budget for the program to be funded. The intermediate district shall provide at least a 20% local match from local public or private resources for the funds received under this section. Not more than 1/2 of this matching requirement, up to a total of 10% of the total project budget, may be satisfied through in-kind services provided by participating providers of programs or services. In addition, not more than 10% of the grant may be used for program administration.

(4) Each successful grant recipient shall agree to include a data collection system and an evaluation tool approved by the department to measure the impact of the program on improving school readiness, reducing the number of children needing special education programs and services, and fostering the maintenance of stable families. The data collection system shall provide a report by October 15 of each year on the number of children in families with income below 200% of the federal poverty level that received services under this program and the total number of children who received services under this program.

(5) From the general fund allocation under section 32a(1), there is allocated an amount not to exceed $100.00 for 2001-2002 and $0.00 for 2002-2003 and 2003-2004 to the department, including the office for safe schools, for implementation and evaluation of activities under this section. Further, upon receipt of the federal drug-free schools grant, the department shall allocate $200,000.00 of that grant to the office for safe schools within the department.

(6) The department and superintendent shall do all of the following:

(a) The department shall make applications available for the purposes of this section not later than October 15, 2000.

(b) The superintendent shall approve or disapprove applications and notify the applying intermediate district or district of that decision not later than February 1, 2001. Priority in awarding grants shall be given to programs that focus on reducing the percentage of children needing special education programs and services when they enter school. The superintendent shall ensure that the intermediate districts and districts receiving grants under this section are geographically and economically diverse and that not more than 10% of the total allocation under this section is paid to any 1 particular intermediate district or district.

(c) The department shall ensure that all programs funded under this section utilize the most current validated research-based methods and curriculum for providing the program components described in subsection (2).

(d) The department shall submit a report to the legislature, the state budget director, and the senate and house fiscal agencies detailing the evaluations described in subsection (4) by December 1 of each year.

(7) Except as otherwise provided in subsection (8), an intermediate district or district receiving funds under this section shall use the funds only for the program funded under this section. Subject to subsection (8), grants awarded by February 1, 2001 may be used for the following school year.

(8) A district or intermediate district receiving funds under this section may carry over any unexpended funds received under this section to subsequent fiscal years and may expend those unused funds in subsequent fiscal years. Notwithstanding any other provision of this section, funds carried over under this subsection may be used to facilitate programs that are substantially similar in purpose to those funded under this section.

388.1632c Grants for community-based collaborative prevention services; distribution of funds through joint request for proposals process; requirements; agreement.

Sec. 32c. (1) From the general fund allocation in section 32a(1), there is allocated an amount not to exceed $2,000,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to the department for grants for community-based collaborative prevention services designed to foster positive parenting skills; improve parent/child interaction, especially for children 0-3 years of age; promote access to needed community services; increase local capacity to serve families at risk; improve school readiness; and support healthy family environments that discourage alcohol, tobacco, and other drug use. The allocation under this section is to fund secondary prevention programs as defined by the children's trust fund for the prevention of child abuse and neglect.

(2) The funds allocated under subsection (1) shall be distributed through a joint request for proposals process established by the department in conjunction with the children's trust fund and the state's interagency systems reform workgroup. Projects funded with grants awarded under this section shall meet all of the following:

(a) Be secondary prevention initiatives and voluntary to consumers. This appropriation is not intended to serve the needs of children for whom and families in which neglect or abuse has been substantiated.

(b) Demonstrate that the planned services are part of a community's integrated comprehensive family support strategy endorsed by the local multi-purpose collaborative body.

(c) Provide a 25% local match, of which not more than 10% may be in-kind services, unless this requirement is waived by the interagency systems reform workgroup.

(3) Notwithstanding section 17b, payments under this section may be made pursuant to an agreement with the department.

388.1632d School readiness grants; evaluation; contract; report; "employment status" defined.

Sec. 32d. (1) From the state school aid fund allocation under section 32a(1), there is allocated an amount not to exceed $72,600,000.00 for 2001-2002, and from the state school aid fund money allocated under section 32a, there is allocated an amount not to exceed $72,600,000.00 each fiscal year for 2002-2003 and for 2003-2004, for school readiness grants to enable eligible districts, as determined under section 37, to develop or expand, in conjunction with whatever federal funds may be available, including, but not limited to, federal funds under title I of the elementary and secondary education act of 1965, Public Law 89-10, 108 Stat. 3519, chapter 1 of title I of the Hawkins-Stafford elementary and secondary school improvement amendments of 1988, Public Law 89-10, 102 Stat. 140, and the head start act, subchapter B of chapter 8 of subtitle A of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, comprehensive compensatory programs designed to improve the readiness and subsequent achievement of educationally disadvantaged children as defined by the department who will be at least 4, but less than 5 years of age, as of December 1 of the school year in which the programs are offered, and who show evidence of 2 or more risk factors as defined in the state board report entitled "children at risk" that was adopted by the state board on April 5, 1988. A comprehensive compensatory program funded under this section shall include an age-appropriate educational curriculum, nutritional services, health screening for participating children, a plan for parent and legal guardian involvement, and provision of referral services for families eligible for community social services. In addition, from the general fund

allocations under section 32a(1), there is allocated an amount not to exceed $200,000.00 for 2001-2002 for the purposes of subsection (2), and from the general fund money allocated under section 32a, there is allocated an amount not to exceed $200,000.00 each fiscal year for 2002-2003 and for 2003-2004 for the purposes of subsection (2).

(2) From the general fund allocation in subsection (1), there is allocated each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 an amount not to exceed $200,000.00 for a competitive grant to continue a longitudinal evaluation of children who have participated in the Michigan school readiness program.

(3) A district receiving a grant under this section may contract for the provision of the comprehensive compensatory program and retain for administrative services an amount equal to not more than 5% of the grant amount.

(4) A grant recipient receiving funds under this section shall report to the department no later than October 15 of each year the number of children participating in the program who meet the income or other eligibility criteria specified under section 37(3)(g) and the total number of children participating in the program. For children participating in the program who meet the income or other eligibility criteria specified under section 37(3)(g), grant recipients shall also report whether or not a parent is available to provide care based on employment status. For the purposes of this subsection, "employment status" shall be defined by the family independence agency in a manner consistent with maximizing the amount of spending that may be claimed for temporary assistance for needy families maintenance of effort purposes.

388.1632f Allocations under § 388.1632a(1); purpose; eligibility criteria; application form and manner; availability of matching funds; grant award decision; priority; report; payment schedule; carrying forward excess amount.

Sec. 32f. (1) From the state school aid fund allocation under section 32a(1), there is allocated for 2001-2002 an amount not to exceed $45,000,000.00 and for 2002-2003 and 2003-2004 $0.00, for grants under this section. From the general fund allocation under section 32a(1), there is allocated each fiscal year for 2001-2002, 2002-2003, and 2003-2004 $0.00 for the purposes of subsection (3).

(2) From the allocation in subsection (1), there is allocated for 2001-2002 an amount not to exceed $2,000,000.00 and for 2002-2003 and 2003-2004 $0.00, for providing grants to the 8 regional literacy centers for the purposes of expanding training programs for trainers and teachers in the use of strategies for reading instruction and assessment, including the Michigan literacy progress profile.

(3) From the general fund allocation in subsection (1), there is allocated to the department $0.00 each fiscal year for 2001-2002, 2002-2003, and 2003-2004 for the development and dissemination of read, educate, and develop youth (READY) kits to parents of preschool and kindergarten children to provide these parents with information about how they can prepare their children for reading success.

(4) From the general fund allocation in subsection (1), there is allocated to the department each fiscal year for 2001-2002, 2002-2003, and 2003-2004 $0.00 for the grant review process and grant administration under this section.

(5) Except as otherwise provided in subsection (17), to be eligible for a grant under this section, a district must have had at least 1,500 pupils in membership in 1998-99, and the number of pupils in the district that have been determined to have a specific learning disability according to R 340.1713 of the Michigan administrative code, as determined in the December 1, 1998 head count required under the individuals with disabilities education

act, title VI of Public Law 91-230, must equal or exceed 5% of the district's membership. In addition, a district is eligible for a grant under this section if the district had at least 1,500 pupils in membership in 1998-99 and if not more than 41% of the district's pupils who took the spring 1999 fourth grade MEAP reading test achieved a score of at least satisfactory. Except as otherwise provided in subsection (17), for a public school academy to be eligible for a grant under this section, the public school academy must be located in a district that is eligible under this subsection.

(6) From the allocation in subsection (1), there is allocated for 2001-2002 an amount not to exceed $43,000,000.00 and for 2002-2003 and 2003-2004 $0.00, for competitive grants to eligible districts, to intermediate districts, and to public school academies located within eligible districts for reading improvements programs for pupils in grades K to 4, reading disorders and reading methods programs, mentoring programs, language and literacy outreach programs, or cognitive development programs. For 2001-2002, grants under this subsection shall be paid to grant recipients in the same proportion of the total allocation under this subsection as for 2000-2001. If the legislature enacts legislation authorizing the appropriation of federal funds for reading improvement programs for 2001-2002, for 2002-2003, or for 2003-2004, then it is the intent of the legislature that these funds be used to the extent possible for the purposes of this subsection. Federal funds received for reading improvement programs that can be used for substantially similar purposes as described under this section shall be first expended for the purposes of this subsection before funds appropriated from the state school aid fund allocated under this subsection, and the expenditure of funds under this subsection from the state school aid fund shall be reduced by an amount equal to the amount of the expenditure of federal funds under this subsection. If any conflict exists between federal reading program guidelines and this section, federal law will control.

(7) Except as otherwise provided in subsection (17), to qualify for funding under this section, a proposed reading improvement program must meet all of the following:

(a) The program shall include assessment of reading skills of pupils in grades K to 4 to identify those pupils who are reading below grade level and must provide special reading assistance for these pupils.

(b) The program shall be a research-based, validated, structured reading program.

(c) The program shall include continuous assessment of pupils and individualized education plans for pupils.

(d) The program shall align learning resources to state standards.

(e) For each school building receiving funding under this section for a reading improvement program, the program shall serve at least 25% of pupils who are identified as at-risk, as determined by the Michigan literacy progress profile, of reading failure, and the amount of the grant shall not exceed $85,000.00 per school building annually.

(8) Funds allocated for programs described in subsection (7) may be used to reimburse grant recipients for funds paid by districts for up to 1/2 of the salaries and benefits for each teacher trained and certified to provide a reading improvement program.

(9) Except as otherwise provided under subsection (17), to qualify for funding under this section, a proposed mentoring program must be a research-based, validated program or a statewide 1-to-1 mentoring program to enhance the independence and life quality of pupils who are mentally impaired by providing opportunities for mentoring and integrated employment.

(10) Except as otherwise provided under subsection (17), to qualify for funding under this section, a proposed cognitive development program must be a research-based,

validated educational service program, focused on assessing and building essential cognitive and perceptual learning abilities to strengthen pupil concentration and learning.

(11) Except as otherwise provided under subsection (17), to qualify for funding under this section, a proposed structured mentoring-tutorial reading program for preschool to grade 4 pupils must be a research-based, validated program that develops individualized instructional plans based on each pupil's age, assessed needs, reading level, interests, and learning style.

(12) A program receiving funding under this section may be conducted outside of regular school hours or outside the regular school calendar.

(13) To compete for a grant under this section, an applicant shall apply to the superintendent in the form and manner prescribed by the superintendent. The department shall make applications available for this purpose. An applicant shall include in its application a projected budget for the programs. The grant recipient shall provide at least a 20% local match from local public or private resources for the funds received under this section. Not more than 1/2 of this matching requirement, up to a total of 10% of the total project budget, may be satisfied through in-kind services provided by participating providers of programs or services. In addition, not more than 10% of the grant may be used for program administration.

(14) The superintendent shall approve or disapprove applications and notify the applicant of that decision. Priority in awarding grants shall be given to programs that focus on accelerating student achievement on a cost-effective basis, reducing the number of pupils requiring special education programs and services, and improving pupil scores on standardized tests and assessments.

(15) A grant recipient receiving funds under this section shall report to the department, in the form and manner prescribed by the department, on the results achieved by the program. At a minimum, the grant recipient shall report to the department by October 15 regarding the program's impact on reducing the number of pupils requiring special education programs and services and on improving pupil scores on standardized tests and assessments, and information on the costs and benefits per unit of pupil improvement. In addition, the report shall state the number of pupils eligible for free or reduced price school lunch who received services under the program and the total number of pupils who received services under the program. Not later than November 15 of each fiscal year, the department shall submit a report to the legislature, the state budget director, and the senate and house fiscal agencies detailing the results of the programs. It is the intent of the legislature that further funding for the programs under this section will reflect the results achieved in these programs.

(16) Notwithstanding section 17b, payments under this section shall be paid on a schedule determined by the department.

(17) For a district or public school academy awarded a grant under former section 32, the determination of whether the district or public school academy is eligible for a grant under this section may be made according to the eligibility standards in effect under former section 32. Further, the district or public school academy may continue to use the grant proceeds for any use permissible under this section or former section 32 as in effect at the time the district or public school academy was awarded the grant.

(18) If the maximum amount appropriated under this section exceeds the amount necessary to fully fund allocations under this section, that excess amount shall not be expended in that state fiscal year but shall instead be carried forward to the succeeding fiscal year and added to any funds appropriated for that fiscal year for expenditure in that fiscal year.

(19) A district that received funding for 1999-2000 under former section 32 shall receive funding under this section for 2001-2002.

(20) A district or intermediate district receiving funds under this section may carry over any unexpended funds received under this section to subsequent fiscal years and may expend those unused funds in subsequent fiscal years.

388.1639a Allocation of federal funds; definitions.

Sec. 39a. (1) From the appropriation in section 11, there is allocated each fiscal year for 2002-2003 and for 2003-2004 to districts, intermediate districts, and other eligible entities all available federal funding, estimated at $634,919,400.00 each fiscal year, for the federal programs under the no child left behind act of 2001, Public Law 107-110, 115 Stat. 1425. These funds are allocated for each fiscal year as follows:

(a) An amount estimated at $1,666,300.00 for community service state grants, funded from DED-OESE, community service state grant funds.

(b) An amount estimated at $15,520,100.00 to provide students with drug- and violence-prevention programs and to implement strategies to improve school safety, funded from DED-OESE, drug-free schools and communities funds.

(c) An amount estimated at $22,572,000.00 for the purpose of improving teaching and learning through a more effective use of technology, funded from DED-OESE, educational technology state grant funds.

(d) An amount estimated at $104,568,800.00 for the purpose of preparing, training, and recruiting high-quality teachers and class size reduction, funded from DED-OESE, improving teacher quality funds.

(e) An amount estimated at $4,647,700.00 for programs to teach English to limited English proficient (LEP) children, funded from DED-OESE, language acquisition state grant funds.

(f) An amount estimated at $8,550,000.00 for the Michigan charter school subgrant program, funded from DED-OESE, charter school funds.

(g) An amount estimated at $247,600.00 for Michigan model partnership for character education programs, funded from DED-OESE, title X, fund for improvement of education funds.

(h) An amount estimated at $1,909,600.00 for rural and low income schools, funded from DED-OESE, rural and low income school funds.

(i) An amount estimated at $11,123,700.00 to help schools develop and implement comprehensive school reform programs, funded from DED-OESE, title I and title X, comprehensive school reform funds.

(j) An amount estimated at $401,388,600.00 to provide supplemental programs to enable educationally disadvantaged children to meet challenging academic standards, funded from DED-OESE, title I, disadvantaged children funds.

(k) An amount estimated at $8,246,600.00 for the purpose of providing unified family literacy programs, funded from DED-OESE, title I, even start funds.

(*l*) An amount estimated at $8,953,100.00 for the purpose of identifying and serving migrant children, funded from DED-OESE, title I, migrant education funds.

(m) An amount estimated at $22,779,000.00 to promote high-quality school reading instruction for grades K-3, funded from DED-OESE, title I, reading first state grant funds.

(n) An amount estimated at $11,585,100.00 for the purpose of implementing innovative strategies for improving student achievement, funded from DED-OESE, title VI, innovative strategies funds.

(o) An amount estimated at $11,161,200.00 for the purpose of providing high-quality extended learning opportunities, after school and during the summer, for children in low-performing schools, funded from DED-OESE, twenty-first century community learning center funds.

(2) From the federal funds appropriation in section 11, there is allocated each fiscal year for 2002-2003 and for 2003-2004 to districts, intermediate districts, and other eligible entities all available federal funding, estimated at $6,495,300.00 each fiscal year, for the following programs that are funded by federal grants:

(a) An amount estimated at $600,000.00 for acquired immunodeficiency syndrome education grants, funded from HHS-center for disease control, AIDS funding.

(b) An amount estimated at $976,000.00 for at-risk child care, funded from HHS-ACF, at-risk child care funds.

(c) An amount estimated at $1,553,500.00 for emergency services to immigrants, funded from DED-OBEMLA, emergency immigrant education assistance funds.

(d) An amount estimated at $1,468,300.00 to provide services to homeless children and youth, funded from DED-OVAE, homeless children and youth funds.

(e) An amount estimated at $400,000.00 for refugee children school impact grants, funded from HHS-ACF, refugee children school impact funds.

(f) An amount estimated at $857,500.00 for school-age child care grants, funded from HHS-ACF, dependent care block grant funds.

(g) An amount estimated at $640,000.00 for serve America grants, funded from the corporation for national and community service funds.

(3) All federal funds allocated under this section shall be distributed in accordance with federal law and with flexibility provisions outlined in Public Law 107-116 and in the education flexibility partnership act of 1999, Public Law 106-25, 113 Stat. 41. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(4) As used in this section:

(a) "DED" means the United States department of education.

(b) "DED-OBEMLA" means the DED office of bilingual education and minority languages affairs.

(c) "DED-OESE" means the DED office of elementary and secondary education.

(d) "DED-OVAE" means the DED office of vocational and adult education.

(e) "HHS" means the United States department of health and human services.

(f) "HHS-ACF" means the HHS administration for children and families.

388.1641 Bilingual instruction for pupils of limited English-speaking ability; allocation; reimbursement; use of funds.

Sec. 41. From the appropriation in section 11, there is allocated an amount not to exceed $4,212,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to applicant districts and intermediate districts offering programs of bilingual instruction for pupils of limited English-speaking ability under section 1153 of the revised school code,

MCL 380.1153. Reimbursement shall be on a per pupil basis and shall be based on the number of pupils of limited English-speaking ability in membership on the pupil membership count day. Funds allocated under this section shall be used solely for bilingual instruction in speaking, reading, writing, or comprehension of pupils of limited English-speaking ability.

388.1651a Allocations for reimbursement to districts and intermediate districts for special education programs, services, and personnel, certain net tuition payments, and programs for pupils eligible for special education programs; allocation of state and federal funds; reimbursement; total payment; adjustments; rights, benefits, and tenure of transferred personnel; refund; foundation allowance; order of expenditures.

Sec. 51a. (1) From the appropriation in section 11, there is allocated for 2001-2002 an amount not to exceed $796,401,900.00 from state sources and all available federal funding under sections 611 to 619 of part B of the individuals with disabilities education act, title VI of Public Law 91-230, 20 U.S.C. 1411 to 1419, estimated at $203,000,000.00, plus any carryover federal funds from previous year appropriations; and there is allocated each fiscal year for 2002-2003 and for 2003-2004 an amount not to exceed $852,721,900.00 from state sources and all available federal funding, estimated at $235,000,000.00 each fiscal year, plus any carryover federal funds from previous year appropriations. The allocations under this subsection are for the purpose of reimbursing districts and intermediate districts for special education programs, services, and special education personnel as prescribed in article 3 of the revised school code, MCL 380.1701 to 380.1766; net tuition payments made by intermediate districts to the Michigan schools for the deaf and blind; and special education programs and services for pupils who are eligible for special education programs and services according to statute or rule. For meeting the costs of special education programs and services not reimbursed under this article, a district or intermediate district may use money in general funds or special education funds, not otherwise restricted, or contributions from districts to intermediate districts, tuition payments, gifts and contributions from individuals, or federal funds that may be available for this purpose, as determined by the intermediate district plan prepared pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766. All federal funds allocated under this section in excess of those allocated under this section for 2001-2002 may be distributed in accordance with 34 C.F.R. 300.234 and section 613(a)(2)(D) of part B of title VI of the individuals with disabilities education act, Public Law 91-230, 20 U.S.C. 1413. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(2) From the funds allocated under subsection (1), there is allocated each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 the amount necessary, estimated at $139,200,000.00 for 2001-2002 and $149,500,000.00 each fiscal year for 2002-2003 and for 2003-2004, for payments toward reimbursing districts and intermediate districts for 28.6138% of total approved costs of special education, excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Allocations under this subsection shall be made as follows:

(a) The initial amount allocated to a district under this subsection toward fulfilling the specified percentages shall be calculated by multiplying the district's special education pupil membership, excluding pupils described in subsection (12), times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted

by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00, or, for a special education pupil in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil calculated under section 20(6). For an intermediate district, the amount allocated under this subdivision toward fulfilling the specified percentages shall be an amount per special education membership pupil, excluding pupils described in subsection (12), and shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00, and that district's per pupil allocation under section 20j(2). However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subdivision shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(b) After the allocations under subdivision (a), districts and intermediate districts for which the payments under subdivision (a) do not fulfill the specified percentages shall be paid the amount necessary to achieve the specified percentages for the district or intermediate district.

(3) From the funds allocated under subsection (1), there is allocated each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 the amount necessary, estimated at $2,000,000.00 each fiscal year, to make payments to districts and intermediate districts under this subsection. If the amount allocated to a district or intermediate district for a fiscal year under subsection (2)(b) is less than the sum of the amounts allocated to the district or intermediate district for 1996-97 under sections 52 and 58, there is allocated to the district or intermediate district for the fiscal year an amount equal to that difference, adjusted by applying the same proration factor that was used in the distribution of funds under section 52 in 1996-97 as adjusted to the district's or intermediate district's necessary costs of special education used in calculations for the fiscal year. This adjustment is to reflect reductions in special education program operations between 1996-97 and subsequent fiscal years. Adjustments for reductions in special education program operations shall be made in a manner determined by the department and shall include adjustments for program shifts.

(4) If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) is not sufficient to fulfill the specified percentages in subsection (2), then the shortfall shall be paid to the district or intermediate district during the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. If the department determines that the sum of the amounts allocated for a fiscal year to a district or intermediate district under subsection (2)(a) and (b) exceeds the sum of the amount necessary to fulfill the specified percentages in subsection (2), then the department shall deduct the amount of the excess from the district's or intermediate district's payments under this act for the fiscal year beginning on the October 1 following the determination and payments under subsection (3) shall be adjusted as necessary. However, if the amount allocated under subsection (2)(a) in itself exceeds the amount necessary to fulfill the specified percentages in subsection (2), there shall be no deduction under this subsection.

(5) State funds shall be allocated on a total approved cost basis. Federal funds shall be allocated under applicable federal requirements, except that an amount not to exceed $3,500,000.00 each fiscal year may be allocated by the department for 2001-2002, for 2002-2003, and for 2003-2004 to districts or intermediate districts on a competitive grant basis

for programs, equipment, and services that the department determines to be designed to benefit or improve special education on a statewide scale.

(6) From the amount allocated in subsection (1), there is allocated an amount not to exceed $2,200,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to reimburse 100% of the net increase in necessary costs incurred by a district or intermediate district in implementing the revisions in the administrative rules for special education that became effective on July 1, 1987. As used in this subsection, "net increase in necessary costs" means the necessary additional costs incurred solely because of new or revised requirements in the administrative rules minus cost savings permitted in implementing the revised rules. Net increase in necessary costs shall be determined in a manner specified by the department.

(7) For purposes of this article, all of the following apply:

(a) "Total approved costs of special education" shall be determined in a manner specified by the department and may include indirect costs, but shall not exceed 115% of approved direct costs for section 52 and section 53a programs. The total approved costs include salary and other compensation for all approved special education personnel for the program, including payments for social security and medicare and public school employee retirement system contributions. The total approved costs do not include salaries or other compensation paid to administrative personnel who are not special education personnel as defined in section 6 of the revised school code, MCL 380.6. Costs reimbursed by federal funds, other than those federal funds included in the allocation made under this article, are not included. Special education approved personnel not utilized full time in the evaluation of students or in the delivery of special education programs, ancillary, and other related services shall be reimbursed under this section only for that portion of time actually spent providing these programs and services, with the exception of special education programs and services provided to youth placed in child caring institutions or juvenile detention programs approved by the department to provide an on-grounds education program.

(b) Reimbursement for ancillary and other related services, as defined by R 340.1701 of the Michigan administrative code, shall not be provided when those services are covered by and available through private group health insurance carriers or federal reimbursed program sources unless the department and district or intermediate district agree otherwise and that agreement is approved by the state budget director. Expenses, other than the incidental expense of filing, shall not be borne by the parent. In addition, the filing of claims shall not delay the education of a pupil. A district or intermediate district shall be responsible for payment of a deductible amount and for an advance payment required until the time a claim is paid.

(8) From the allocation in subsection (1), there is allocated each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 an amount not to exceed $15,313,900.00 each fiscal year to intermediate districts. The payment under this subsection to each intermediate district shall be equal to the amount of the 1996-97 allocation to the intermediate district under subsection (6) of this section as in effect for 1996-97.

(9) A pupil who is enrolled in a full-time special education program conducted or administered by an intermediate district or a pupil who is enrolled in the Michigan schools for the deaf and blind shall not be included in the membership count of a district, but shall be counted in membership in the intermediate district of residence.

(10) Special education personnel transferred from 1 district to another to implement the revised school code shall be entitled to the rights, benefits, and tenure to which the person would otherwise be entitled had that person been employed by the receiving district originally.

(11) If a district or intermediate district uses money received under this section for a purpose other than the purpose or purposes for which the money is allocated, the department may require the district or intermediate district to refund the amount of money received. Money that is refunded shall be deposited in the state treasury to the credit of the state school aid fund.

(12) From the funds allocated in subsection (1), there is allocated each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 the amount necessary, estimated at $7,200,000.00 each fiscal year, to pay the foundation allowances for pupils described in this subsection. The allocation to a district under this subsection shall be calculated by multiplying the number of pupils described in this subsection who are counted in membership in the district times the sum of the foundation allowance under section 20 of the pupil's district of residence plus the amount of the district's per pupil allocation under section 20j(2), not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00, or, for a pupil described in this subsection who is counted in membership in a district that is a public school academy or university school, times an amount equal to the amount per membership pupil under section 20(6). The allocation to an intermediate district under this subsection shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and $5,000.00, and that district's per pupil allocation under section 20j(2). However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00. This subsection applies to all of the following pupils:

(a) Pupils described in section 53a.

(b) Pupils counted in membership in an intermediate district who are not special education pupils and are served by the intermediate district in a juvenile detention or child caring facility.

(c) Emotionally impaired pupils counted in membership by an intermediate district and provided educational services by the department of community health.

(13) After payments under subsections (2) and (12) and section 51c, the remaining expenditures from the allocation in subsection (1) shall be made in the following order:

(a) 100% of the reimbursement required under section 53a.

(b) 100% of the reimbursement required under subsection (6).

(c) 100% of the payment required under section 54.

(d) 100% of the payment required under subsection (3).

(e) 100% of the payment required under subsection (8).

(f) 100% of the payments under section 56.

(14) The allocations under subsection (2), subsection (3), and subsection (12) shall be allocations to intermediate districts only and shall not be allocations to districts, but instead shall be calculations used only to determine the state payments under section 22b.

388.1651c Reimbursement for percentage of special education and special education transportation costs.

Sec. 51c. As required by the court in the consolidated cases known as Durant v State of Michigan, Michigan supreme court docket no. 104458-104492, from the allocation under section 51a(1), there is allocated each fiscal year for 2001-2002, for 2002-2003, and for

2003-2004 the amount necessary, estimated at $576,100,000.00 for 2001-2002 and $621,900,000.00 each fiscal year for 2002-2003 and for 2003-2004, for payments to reimburse districts for 28.6138% of total approved costs of special education excluding costs reimbursed under section 53a, and 70.4165% of total approved costs of special education transportation. Funds allocated under this section that are not expended in the state fiscal year for which they were allocated, as determined by the department, may be used to supplement the allocations under sections 22a and 22b in order to fully fund those calculated allocations for the same fiscal year.

388.1651d Federally funded special education programs; distribution; payment schedule; "DED-OSERS" defined.

Sec. 51d. (1) From the federal funds appropriated in section 11, there is allocated each fiscal year for 2002-2003 and for 2003-2004 all available federal funding, estimated at $59,837,200.00 each fiscal year, for special education programs that are funded by federal grants. All federal funds allocated under this section shall be distributed in accordance with federal law. Notwithstanding section 17b, payments of federal funds to districts, intermediate districts, and other eligible entities under this section shall be paid on a schedule determined by the department.

(2) From the federal funds allocated under subsection (1), the following amounts are allocated each fiscal year for 2002-2003 and for 2003-2004:

(a) An amount estimated at $16,000,000.00 for handicapped infants and toddlers, funded from DED-OSERS, handicapped infants and toddlers funds.

(b) An amount estimated at $13,500,000.00 for preschool grants (Public Law 94-142), funded from DED-OSERS, handicapped preschool incentive funds.

(c) An amount estimated at $30,337,200.00 for special education programs funded by DED-OSERS, handicapped program, individuals with disabilities act funds.

(3) As used in this section, "DED-OSERS" means the United States department of education office of special education and rehabilitative services.

388.1653a Special education programs and services; reimbursement of total approved costs; limitation; costs of transportation; allocation.

Sec. 53a. (1) For districts, reimbursement for pupils described in subsection (2), reimbursement shall be 100% of the total approved costs of operating special education programs and services approved by the department and included in the intermediate district plan adopted pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766, minus the district's foundation allowance calculated under section 20, and minus the amount calculated for the district under section 20j. For intermediate districts, reimbursement for pupils described in section (2) shall be calculated in the same manner as for a district, using the foundation allowance under section 20 of the pupil's district of residence, not to exceed $6,500.00 adjusted by the dollar amount of the difference between the basic foundation allowance under section 20 for the current fiscal year and the amount calculated for that district $5,000.00, and under section 20j. However, beginning in 2002-2003, the $6,500.00 amount prescribed in this subsection shall be adjusted each year by an amount equal to the dollar amount of the difference between the basic foundation allowance for the current state fiscal year and $5,000.00, minus $200.00.

(2) Reimbursement under subsection (1) is for the following special education pupils:

(a) Pupils assigned to a district or intermediate district through the community placement program of the courts or a state agency, if the pupil was a resident of another intermediate district at the time the pupil came under the jurisdiction of the court or a state agency.

(b) Pupils who are residents of institutions operated by the department of community health.

(c) Pupils who are former residents of department of community health institutions for the developmentally disabled who are placed in community settings other than the pupil's home.

(d) Pupils enrolled in a department-approved on-grounds educational program longer than 180 days, but not longer than 233 days, at a residential child care institution, if the child care institution offered in 1991-92 an on-grounds educational program longer than 180 days but not longer than 233 days.

(e) Pupils placed in a district by a parent for the purpose of seeking a suitable home, if the parent does not reside in the same intermediate district as the district in which the pupil is placed.

(3) Only those costs that are clearly and directly attributable to educational programs for pupils described in subsection (2), and that would not have been incurred if the pupils were not being educated in a district or intermediate district, are reimbursable under this section.

(4) The costs of transportation shall be funded under this section and shall not be reimbursed under section 58.

(5) Not more than $14,800,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 of the allocation in section 51a(1) shall be allocated under this section.

(6) From the allocation in subsection (5), there is allocated each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 an amount not to exceed $150,000.00 to an intermediate district that received at least $1,000,000.00 for 1999-2000 under subsection (4).

388.1654 Intermediate district to receive amount for pupil attending Michigan schools for the deaf and blind.

Sec. 54. In addition to the aid received under section 52, each intermediate district shall receive an amount per pupil for each pupil in attendance at the Michigan schools for the deaf and blind. The amount shall be proportionate to the total instructional cost at each school. Not more than $1,688,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 of the allocation in section 51a(1) shall be allocated under this section.

388.1655 Allocation to west Michigan center for autism spectrum disorders at Grand Valley state university.

Sec. 55. From the state school aid fund money appropriated in section 11, there is allocated $500,000.00 each fiscal year for 2002-2003 and for 2003-2004 to the west Michigan center for autism spectrum disorders located at Grand Valley State University for developing cooperative programs with area districts and intermediate districts to provide services to qualifying pupils. This funding is for development costs in 2002-2003 and is intended to continue to fund operational and program costs in succeeding fiscal years.

388.1656 Definitions; reimbursement to intermediate districts levying millages for special education; limitation; distribution plan; computation.

Sec. 56. (1) For the purposes of this section:

(a) "Membership" means for a particular fiscal year the total membership for the immediately preceding fiscal year of the intermediate district and the districts constituent to the intermediate district.

(b) "Millage levied" means the millage levied for special education pursuant to part 30 of the revised school code, MCL 380.1711 to 380.1743, including a levy for debt service obligations.

(c) "Taxable value" means the total taxable value of the districts constituent to an intermediate district, except that if a district has elected not to come under part 30 of the revised school code, MCL 380.1711 to 380.1743, membership and taxable value of the district shall not be included in the membership and taxable value of the intermediate district.

(2) From the allocation under section 51a(1), there is allocated an amount not to exceed $37,900,000.00 for 2001-2002 and an amount not to exceed $38,120,000.00 each fiscal year for 2002-2003 and for 2003-2004 to reimburse intermediate districts levying millages for special education pursuant to part 30 of the revised school code, MCL 380.1711 to 380.1743. The purpose, use, and expenditure of the reimbursement shall be limited as if the funds were generated by these millages and governed by the intermediate district plan adopted pursuant to article 3 of the revised school code, MCL 380.1701 to 380.1766. As a condition of receiving funds under this section, an intermediate district distributing any portion of special education millage funds to its constituent districts shall submit for departmental approval and implement a distribution plan.

(3) Reimbursement for those millages levied in 2000-2001 shall be made in 2001-2002 at an amount per 2000-2001 membership pupil computed by subtracting from $119,200.00 the 2000-2001 taxable value behind each membership pupil and multiplying the resulting difference by the 2000-2001 millage levied. Reimbursement for those millages levied in 2001-2002 shall be made in 2002-2003 at an amount per 2001-2002 membership pupil computed by subtracting from $125,900.00 the 2001-2002 taxable value behind each membership pupil and multiplying the resulting difference by the 2001-2002 millage levied. Reimbursement for those millages levied in 2002-2003 shall be made in 2003-2004 at an amount per 2002-2003 membership pupil computed by subtracting from $125,900.00 the 2002-2003 taxable value behind each membership pupil and multiplying the resulting difference by the 2002-2003 millage levied.

388.1657 Gifted and talented pupils; support services; summer institutes; development and operation of comprehensive programs.

Sec. 57. (1) From the appropriation in section 11, there is allocated an amount not to exceed $600,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to applicant intermediate districts that provide support services for the education of gifted and talented pupils. An intermediate district is entitled to 75% of the actual salary, but not to exceed $25,000.00 reimbursement for an individual salary, of a support services teacher approved by the department, and not to exceed $4,000.00 reimbursement for expenditures to support program costs, excluding in-county travel and salary, as approved by the department.

(2) From the appropriation in section 11, there is allocated an amount not to exceed $400,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to support part of the cost of summer institutes for gifted and talented students. This amount shall be contracted to applicant intermediate districts in cooperation with a local institution of higher education and shall be coordinated by the department.

(3) From the appropriation in section 11, there is allocated an amount not to exceed $4,000,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 for the development and operation of comprehensive programs for gifted and talented pupils. An eligible district or consortium of districts shall receive an amount not to exceed $100.00 per K-12 pupil for up to 5% of the district's or consortium's K-12 membership for the immediately preceding fiscal year with a minimum total grant of $6,000.00. Funding shall

be provided in the following order: the per pupil allotment, and then the minimum total grant of $6,000.00 to individual districts. An intermediate district may act as the fiscal agent for a consortium of districts. In order to be eligible for funding under this subsection, the district or consortium of districts shall submit each year a current 3-year plan for operating a comprehensive program for gifted and talented pupils and the district or consortium shall demonstrate to the department that the district or consortium will contribute matching funds of at least $50.00 per K-12 pupil. The plan or revised plan shall be developed in accordance with criteria established by the department and shall be submitted to the department for approval. Within the criteria, the department shall encourage the development of consortia among districts of less than 5,000 memberships.

388.1661a Vocational-technical programs; added cost; reimbursement for local vocational administration, shared-time vocational administration, and career education planning district vocational-technical administration; allocation.

Sec. 61a. (1) From the appropriation in section 11, there is allocated an amount not to exceed $31,027,600.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to reimburse on an added cost basis districts, except for a district that served as the fiscal agent for a vocational education consortium in the 1993-94 school year, and secondary area vocational-technical education centers for secondary-level vocational-technical education programs, including parenthood education programs, according to rules approved by the superintendent. Applications for participation in the programs shall be submitted in the form prescribed by the department. The department shall determine the added cost for each vocational-technical program area. The allocation of added cost funds shall be based on the type of vocational-technical programs provided, the number of pupils enrolled, and the length of the training period provided, and shall not exceed 75% of the added cost of any program. With the approval of the department, the board of a district maintaining a secondary vocational-technical education program may offer the program for the period from the close of the school year until September 1. The program shall use existing facilities and shall be operated as prescribed by rules promulgated by the superintendent.

(2) Except for a district that served as the fiscal agent for a vocational education consortium in the 1993-94 school year, districts and intermediate districts shall be reimbursed for local vocational administration, shared time vocational administration, and career education planning district vocational-technical administration. The definition of what constitutes administration and reimbursement shall be pursuant to guidelines adopted by the superintendent. Not more than $800,000.00 of the allocation in subsection (1) shall be distributed under this subsection.

(3) From the allocation in subsection (1), there is allocated an amount not to exceed $388,700.00 each fiscal year to intermediate districts with constituent districts that had combined state and local revenue per membership pupil in the 1994-95 state fiscal year of $6,500.00 or more, served as a fiscal agent for a state board designated area vocational education center in the 1993-94 school year, and had an adjustment made to their 1994-95 combined state and local revenue per membership pupil pursuant to section 20d. The payment under this subsection to the intermediate district shall equal the amount of the allocation to the intermediate district for 1996-97 under this subsection.

388.1662 Definitions; vocational-technical education programs; limitation.

Sec. 62. (1) For the purposes of this section:

(a) "Membership" means for a particular fiscal year the total membership for the immediately preceding fiscal year of the intermediate district and the districts constituent

to the intermediate district or the total membership for the immediately preceding fiscal year of the area vocational-technical program.

(b) "Millage levied" means the millage levied for area vocational-technical education pursuant to sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, including a levy for debt service obligations incurred as the result of borrowing for capital outlay projects and in meeting capital projects fund requirements of area vocational-technical education.

(c) "Taxable value" means the total taxable value of the districts constituent to an intermediate district or area vocational-technical education program, except that if a district has elected not to come under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, the membership and taxable value of that district shall not be included in the membership and taxable value of the intermediate district. However, the membership and taxable value of a district that has elected not to come under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690, shall be included in the membership and taxable value of the intermediate district if the district meets both of the following:

(*i*) The district operates the area vocational-technical education program pursuant to a contract with the intermediate district.

(*ii*) The district contributes an annual amount to the operation of the program that is commensurate with the revenue that would have been raised for operation of the program if millage were levied in the district for the program under sections 681 to 690 of the revised school code, MCL 380.681 to 380.690.

(2) From the appropriation in section 11, there is allocated an amount not to exceed $9,810,000.00 for 2001-2002 and an amount not to exceed $9,860,000.00 each fiscal year for 2002-2003 and for 2003-2004 to reimburse intermediate districts and area vocational-technical education programs established under section 690(3) of the revised school code, MCL 380.690, levying millages for area vocational-technical education pursuant to sections 681 to 690 of the revised school code, MCL 380.681 to 380.690. The purpose, use, and expenditure of the reimbursement shall be limited as if the funds were generated by those millages.

(3) Reimbursement for the millages levied in 2000-2001 shall be made in 2001-2002 at an amount per 2000-2001 membership pupil computed by subtracting from $122,300.00 the 2000-2001 taxable value behind each membership pupil, and multiplying the resulting difference by the 2000-2001 millage levied. Reimbursement for the millages levied in 2001-2002 shall be made in 2002-2003 at an amount per 2001-2002 membership pupil computed by subtracting from $130,200.00 the 2001-2002 taxable value behind each membership pupil, and multiplying the resulting difference by the 2001-2002 millage levied. Reimbursement for the millages levied in 2002-2003 shall be made in 2003-2004 at an amount per 2002-2003 membership pupil computed by subtracting from $130,200.00 the 2002-2003 taxable value behind each membership pupil and multiplying the resulting difference by the 2002-2003 millage levied.

388.1667 Michigan career preparation system grants; allocations; definitions.

Sec. 67. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed $350,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 for Michigan career preparation system grants under this section.

(2) From the allocation in subsection (1), there is allocated $150,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to the department to identify uniform career competency standards and assessments for career clusters, to establish a statewide

information system on current and anticipated employment opportunities and the required level of skills and education required for employment.

(3) From the allocation in subsection (1), there is allocated $100,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to the department to provide information to parents, pupils, school personnel, employers, and others regarding opportunities to receive integrated academic and technical preparation in the public schools of this state.

(4) From the allocation in subsection (1), there is allocated $100,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to the department to provide technical assistance to eligible education agencies and workforce development boards.

(5) As used in this section and in section 68:

(a) "Advanced career academy" means a career-technical education program operated by a district, by an intermediate district, or by a public school academy, that applies for and receives advanced career academy designation from the department. To receive this designation, a career-technical education program shall meet criteria established by the department, which criteria shall include at least all of the following:

(*i*) Operation of programs for those career clusters identified by the department as being eligible for advanced career academy status.

(*ii*) Involvement of employers in the design and implementation of career-technical education programs.

(*iii*) A fully integrated program of academic and technical education available to pupils.

(*iv*) Demonstration of an established career preparation system resulting in industry-validated career ladders for graduates of the program, including, but not limited to, written articulation agreements with postsecondary institutions to allow pupils to receive advanced college placement and credit or federally registered apprenticeships, as applicable.

(b) "Career cluster" means a grouping of occupations from 1 or more industries that share common skill requirements.

(c) "Career preparation system" is a system of programs and strategies providing pupils with opportunities to prepare for success in careers of their choice.

(d) "Department" means the department of career development.

(e) "Eligible education agency" means a district, intermediate district, or advanced career academy that participates in an approved regional career preparation plan.

(f) "FTE" means full-time equivalent pupil as determined by the department.

(g) "Workforce development board" means a local workforce development board established pursuant to the workforce investment act of 1998, Public Law 105-220, 112 Stat. 936, and the school-to-work opportunities act of 1994, Public Law 103-239, 108 Stat. 568, or the equivalent.

(h) "Strategic plan" means a department-approved comprehensive plan prepared by a workforce development board with input from local representatives, including the education advisory group, that includes career preparation system goals and objectives for the region.

388.1668 Michigan career preparation system; allocations and regional career preparation plan; review by education advisory group.

Sec. 68. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed $21,850,000.00 each fiscal year for 2001-2002, for 2002-2003, and for

2003-2004 to be used to implement the Michigan career preparation system in the corresponding school years as provided under this section. In order to receive funds under this section, an eligible education agency shall be part of an approved regional career preparation plan under subsection (2) and shall agree to expend the funds required under this section in accordance with the regional career preparation plan. Funds awarded under this section that are not expended in accordance with this section may be recovered by the department.

(2) In order to receive funding under this section, an eligible education agency shall be a part of an approved 3-year regional career preparation plan that is consistent with the workforce development board's strategic plan and is as described in this subsection. All of the following apply to a regional career preparation plan:

(a) A 3-year regional career preparation plan shall be developed under subdivisions (b), (c), and (d) for all public education agencies participating as part of a regional career preparation system within the geographical boundaries of a workforce development board, and revised annually. If an intermediate district is located within the geographical boundaries of more than 1 workforce development board, the board of the intermediate district shall choose 1 workforce development board with which to align and shall notify the department of this choice not later than October 31, 1997.

(b) The regional career preparation plan shall be developed by representatives of the education advisory group of each workforce development board in accordance with guidelines developed under former section 67(5), and in accordance with subdivisions (d) and (e). All of the following shall be represented on each education advisory group: workforce development board members, other employers, labor, districts, intermediate districts, postsecondary institutions, career/technical educators, parents of public school pupils, and academic educators. The representatives of districts, intermediate districts, and postsecondary institutions appointed to the education advisory group by the workforce development board shall be individuals designated by the board of the district, intermediate district, or postsecondary institution.

(c) By majority vote, the education advisory group may nominate 1 education representative, who may or may not be a member of the education advisory group, for appointment to the workforce development board. This education representative shall be in addition to existing education representation on the workforce development board. This education representative shall meet all workforce development board membership requirements.

(d) The components of the regional career preparation plan shall include, but are not limited to, all of the following:

(*i*) The roles of districts, intermediate districts, advanced career academies, postsecondary institutions, employers, labor representatives, and others in the career preparation system.

(*ii*) Programs to be offered, including at least career exploration activities, for middle school pupils.

(*iii*) Identification of integrated academic and technical curriculum, including related professional development training for teachers.

(*iv*) Identification of work-based learning opportunities for pupils and for teachers and other school personnel.

(*v*) Identification of testing and assessments that will be used to measure pupil achievement.

(*vi*) Identification of all federal, state, local, and private sources of funding available for career preparation activities in the region.

(e) The education advisory group shall develop a 3-year regional career preparation plan consistent with the workforce development board's strategic plan and submit the plan to the department for final approval. The submission to the department shall also include statements signed by the chair of the education advisory group and the chair of the workforce development board certifying that the plan has been reviewed by each entity. Upon department approval, all eligible education agencies designated in the regional career preparation plan as part of the career preparation delivery system are eligible for funding under this section.

(3) Funding under this section shall be distributed to eligible education agencies for allowable costs defined in this subsection and identified as necessary costs for implementing a regional career preparation plan, as follows:

(a) The department shall rank all career clusters, including career exploration, guidance, and counseling. Rank determination will be based on median salary data in career clusters and employment opportunity data provided by the council for career preparation standards. In addition, rank determination shall be based on placement data available for prior year graduates of the programs in the career clusters either in related careers or postsecondary education. The procedure for ranking of career clusters shall be determined by the department.

(b) Allowable costs to be funded under this section shall be determined by the department. Budgets submitted by eligible education agencies to the department in order to receive funding shall identify funds and in-kind contributions from the regional career education plan, excluding funds or in-kind contributions available as a result of funding received under section 61a, equal to at least 100% of anticipated funding under this section. Eligible categories of allowable costs are the following:

(*i*) Career exploration, guidance, and counseling.

(*ii*) Curriculum development, including integration of academic and technical content, and professional development for teachers directly related to career preparation.

(*iii*) Technology and equipment determined to be necessary.

(*iv*) Supplies and materials directly related to career preparation programs.

(*v*) Work-based learning expenses for pupils, teachers, and counselors.

(*vi*) Evaluation, including career competency testing and peer review.

(*vii*) Career placement services.

(*viii*) Student leadership organizations integral to the career preparation system.

(*ix*) Up to 10% of the allocation to an eligible education agency may be expended for planning, coordination, direct oversight, and accountability for the career preparation system.

(c) The department shall calculate career preparation costs per FTE for each career cluster, including career exploration, guidance, and counseling, by dividing the allowable costs for each career cluster by the prior year FTE enrollment for each career cluster. Distribution to eligible education agencies shall be the product of 50% of career preparation costs per FTE times the current year FTE enrollment of each career cluster. This allocation shall be distributed to eligible education agencies in decreasing order of the career cluster ranking described in subdivision (a) until the money allocated for grant recipients in this section is distributed. Beginning in 2001-2002, funds shall be distributed to eligible education agencies according to workforce development board geographic area

consistent with subsection (2)(a) based upon the proportion of each workforce development board area's K-12 public school membership to the total state K-12 public school membership.

(4) The department shall establish a review procedure for assessing the career preparation system in each region.

(5) An education advisory group is responsible for assuring the quality of the career preparation system. An education advisory group shall review the career preparation system in accordance with evaluation criteria established by the department.

(6) An education advisory group shall report its findings and recommendations for changes to the participating eligible education agencies, the workforce development board, and the department.

(7) The next revision of a regional career preparation plan shall take into account the findings of the education advisory group in accordance with evaluation criteria established by the department in order for the affected education agencies to receive continued funding under this section.

388.1674 School bus driver safety instruction or driver skills road tests; cost of instruction and driver compensation; nonspecial education auxiliary services transportation.

Sec. 74. (1) From the amount appropriated in section 11, there is allocated an amount not to exceed $1,625,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 for the purposes of subsections (2) and (3).

(2) From the allocation in subsection (1), there is allocated each fiscal year the amount necessary for payments to state supported colleges or universities and intermediate districts providing school bus driver safety instruction or driver skills road tests pursuant to sections 51 and 52 of the pupil transportation act, 1990 PA 187, MCL 257.1851 and 257.1852. The payments shall be in an amount determined by the department not to exceed 75% of the actual cost of instruction and driver compensation for each public or nonpublic school bus driver attending a course of instruction. For the purpose of computing compensation, the hourly rate allowed each school bus driver shall not exceed the hourly rate received for driving a school bus. Reimbursement compensating the driver during the course of instruction or driver skills road tests shall be made by the department to the college or university or intermediate district providing the course of instruction.

(3) From the allocation in subsection (1), there is allocated each fiscal year the amount necessary to pay the reasonable costs of nonspecial education auxiliary services transportation provided pursuant to section 1323 of the revised school code, MCL 380.1323. Districts funded under this subsection shall not receive funding under any other section of this act for nonspecial education auxiliary services transportation.

388.1681 Allocations to intermediate districts; amounts; report of adjustment and amount of increase; employment of person trained in pupil counting.

Sec. 81. (1) Except as otherwise provided in this section, from the appropriation in section 11, there is allocated each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 to the intermediate districts the sum necessary, but not to exceed $92,170,800.00 for 2001-2002 and not to exceed $95,028,100.00 each fiscal year for 2002-2003 and for 2003-2004 to provide state aid to intermediate districts under this section. Except as otherwise provided in this section, there shall be allocated to each intermediate district for 2001-2002

an amount equal to 105% of the amount of funding actually received by the intermediate district under this subsection for 2000-2001. Except as otherwise provided in this section, there shall be allocated to each intermediate district each fiscal year for 2002-2003 and for 2003-2004 an amount equal to 103.1% of the amount of funding actually received by the intermediate district under this subsection for 2001-2002. Funding provided under this section shall be used to comply with requirements of this act and the revised school code that are applicable to intermediate districts, and for which funding is not provided elsewhere in this act, and to provide technical assistance to districts as authorized by the intermediate school board.

(2) From the allocation in subsection (1), there is allocated to an intermediate district, formed by the consolidation or annexation of 2 or more intermediate districts or the attachment of a total intermediate district to another intermediate school district or the annexation of all of the constituent K-12 districts of a previously existing intermediate school district which has disorganized, an additional allotment of $3,500.00 each fiscal year for each intermediate district included in the new intermediate district for 3 years following consolidation, annexation, or attachment.

(3) If an intermediate district participated in 1993-94 in a consortium operating a regional educational media center under section 671 of the revised school code, MCL 380.671, and rules promulgated by the superintendent, and if the intermediate district obtains written consent from each of the other intermediate districts that participated in the consortium in 1993-94, the intermediate district may notify the department not later than December 30 of the current fiscal year that it is electing to directly receive its payment attributable to participation in that consortium. An intermediate district making that election, and that has obtained the necessary consent, shall receive each fiscal year for 2001-2002, for 2002-2003, or for 2003-2004, as applicable, for each pupil in membership in the intermediate district or a constituent district an amount equal to the quotient of the 1993-94 allocation to the fiscal agent for that consortium under former section 83, adjusted as determined by the department to account for that election, divided by the combined total membership for the current fiscal year in all of the intermediate districts that participated in that consortium and their constituent districts. The amount allocated to an intermediate district under this subsection for a fiscal year shall be deducted from the total allocation for that fiscal year under this section to the intermediate district that was the 1993-94 fiscal agent for the consortium.

(4) During a fiscal year, the department shall not increase an intermediate district's allocation under subsection (1) because of an adjustment made by the department during the fiscal year in the intermediate district's taxable value for a prior year. Instead, the department shall report the adjustment and the estimated amount of the increase to the house and senate fiscal agencies and the state budget director not later than June 1 of the fiscal year, and the legislature shall appropriate money for the adjustment in the next succeeding fiscal year.

(5) In order to receive funding under this section, an intermediate district shall demonstrate to the satisfaction of the department that the intermediate district employs at least 1 person who is trained in pupil counting procedures, rules, and regulations.

388.1694 Technical assistance to districts for school accreditation purposes.

Sec. 94. From the general fund money appropriated in section 11, there is allocated to the department an amount not to exceed $3,000,000.00 for 2001-2002 and an amount not to exceed $2,000,000.00 each fiscal year for 2002-2003 and for 2003-2004 to provide technical

assistance to districts for school accreditation purposes as described in section 1280 of the revised school code, MCL 380.1280.

388.1694a Center for educational performance and information.

Sec. 94a. (1) There is created within the office of the state budget director in the department of management and budget the center for educational performance and information. The center shall do all of the following:

(a) Coordinate the collection of all data required by state and federal law from all entities receiving funds under this act.

(b) Collect data in the most efficient manner possible in order to reduce the administrative burden on reporting entities.

(c) Establish procedures to ensure the validity and reliability of the data and the collection process.

(d) Develop state and model local data collection policies, including, but not limited to, policies that ensure the privacy of individual student data. State privacy policies shall ensure that student social security numbers are not released to the public for any purpose.

(e) Provide data in a useful manner to allow state and local policymakers to make informed policy decisions.

(f) Provide reports to the citizens of this state to allow them to assess allocation of resources and the return on their investment in the education system of this state.

(g) Assist all entities receiving funds under this act in complying with audits performed according to generally accepted accounting procedures.

(h) Other functions as assigned by the state budget director.

(2) The state budget director shall appoint a CEPI advisory committee, consisting of the following members:

(a) One representative from the house fiscal agency.

(b) One representative from the senate fiscal agency.

(c) One representative from the office of the state budget director.

(d) One representative from the state education agency.

(e) One representative each from the department of career development and the department of treasury.

(f) Three representatives from intermediate school districts.

(g) One representative from each of the following educational organizations:

(*i*) Michigan association of school boards.

(*ii*) Michigan association of school administrators.

(*iii*) Michigan school business officials.

(h) One representative representing private sector firms responsible for auditing school records.

(i) Other representatives as the state budget director determines are necessary.

(3) The CEPI advisory committee appointed under subsection (2) shall provide advice to the director of the center regarding the management of the center's data collection activities, including, but not limited to:

(a) Determining what data is necessary to collect and maintain in order to perform the center's functions in the most efficient manner possible.

(b) Defining the roles of all stakeholders in the data collection system.

(c) Recommending timelines for the implementation and ongoing collection of data.

(d) Establishing and maintaining data definitions, data transmission protocols, and system specifications and procedures for the efficient and accurate transmission and collection of data.

(e) Establishing and maintaining a process for ensuring the accuracy of the data.

(f) Establishing and maintaining state and model local policies related to data collection, including, but not limited to, privacy policies related to individual student data.

(g) Ensuring the data is made available to state and local policymakers and citizens of this state in the most useful format possible.

(h) Other matters as determined by the state budget director or the director of the center.

(4) The center may enter into any interlocal agreements necessary to fulfill its functions.

(5) From the general fund appropriation in section 11, there is allocated an amount not to exceed $2,332,000.00 for 2001-2002 for payments to the center. From the general fund appropriation in section 11, there is allocated an amount not to exceed $4,500,000.00 each fiscal year for 2002-2003 and for 2003-2004 to the department of management and budget to support the operations of the center. The center shall cooperate with the state education agency to ensure that this state is in compliance with federal law and is maximizing opportunities for increased federal funding to improve education in this state. In addition, from the federal funds appropriated in section 11 for 2002-2003 and for 2003-2004, there is allocated the following amounts each fiscal year in order to fulfill federal reporting requirements:

(a) An amount estimated at $1,000,000.00 funded from DED-OESE, title I, disadvantaged children funds.

(b) An amount estimated at $284,700.00 funded from DED-OESE, title I, reading first state grant funds.

(c) An amount estimated at $46,750.00 funded from DED-OESE, title I, migrant education funds.

(d) An amount estimated at $500,000.00 funded from DED-OESE, improving teacher quality funds.

(e) An amount estimated at $526,100.00 funded from DED-OESE, drug-free schools and communities funds.

(6) Funds allocated under this section that are not expended in the fiscal year in which they were allocated may be carried forward to a subsequent fiscal year. From the funds allocated for 1999-2000 that were carried forward under this section and from the general funds appropriated under this section for 2002-2003, the center shall make grants to intermediate districts for the purpose of assisting the intermediate districts and their constituent districts in data collection required by state and federal law or necessary for audits according to generally accepted accounting procedures. Grants to each intermediate district shall be made at the rate of $2.00 per each full-time equated membership pupil times the total number of 2000-2001 pupils in membership in the intermediate district and its constituent districts. An intermediate district shall develop a plan in cooperation with its constituent districts to distribute the grants between the intermediate district and its constituent districts. These grants shall be paid to intermediate districts no later than the next regularly scheduled school aid payment after the effective date of this section.

(7) If the applicable intermediate district determines that the pupil counts submitted by a district for the February 2002 supplemental pupil count using the single record student database cannot be audited by the intermediate district pursuant to section 101, all of the following apply:

(a) The district may submit its pupil count data for the February 2002 supplemental pupil count using the education data network system.

(b) If the applicable intermediate district determines that the pupil counts submitted by the district for the 2002-2003 pupil membership count day using the single record student database cannot be audited by the intermediate district pursuant to section 101, the district may submit its pupil count data for the 2002-2003 pupil membership count day using the education data network system.

(8) At least 30 days before implementing a proposed electronic data collection, submission, or collation process, or a proposed change to 1 or more of those processes, the center shall submit the proposal and an analysis of the proposal to the senate and house of representatives appropriations subcommittees responsible for this act. The analysis shall include at least a determination of the cost of the proposal for districts and intermediate districts and of available funding for districts and intermediate districts.

(9) As used in this section:

(a) "Center" means the center for educational performance and information created under this section.

(b) "DED-OESE" means the United States department of education office of elementary and secondary education.

(c) "State education agency" means the department.

388.1696 Golden apple awards.

Sec. 96. (1) From the state school aid fund money appropriated in section 11, there is allocated an amount not to exceed $0.00 for 2001-2002 and $1,320,000.00 each fiscal year for 2002-2003 and for 2003-2004 for golden apple awards under this section. The awards shall be based on elementary school achievement on the fourth grade and fifth grade Michigan education assessment program (MEAP) tests.

(2) To be eligible for a golden apple award, an elementary school shall meet all of the following:

(a) Has at least 50 pupils in membership.

(b) At least 90% of the fourth and fifth grade pupils enrolled and in regular daily attendance in the school on the pupil membership count day in that school year took the applicable MEAP tests.

(c) Meets 1 or both of the following:

(*i*) The composite score for the pupils in the school who took the applicable MEAP tests increased by at least 60 points over the 2 consecutive school years immediately preceding the state fiscal year in which the award is given.

(*ii*) The test scores for the pupils in the school who took the applicable MEAP tests are among the highest elementary school scores statewide, as determined by the department of treasury, for that school year.

(3) A golden apple award under this section shall be allocated to and used by a district exclusively for the purpose of distributing funds to each eligible elementary school. Beginning in 2002-2003, the monetary amount of a golden apple award shall be $10,000.00 to be allocated to each eligible elementary school. All money allocated under this section

shall be used for school improvements, as determined collectively by a majority vote of the full-time employees of the eligible elementary school.

(4) If the Michigan assessment governing board is established by law, the Michigan assessment governing board shall administer the golden apple award program under this section.

388.1698 Michigan virtual high school; powers and duties of Michigan virtual university.

Sec. 98. (1) From the general fund money appropriated in section 11, there is allocated an amount not to exceed $1,500,000.00 for 2001-2002 and an amount not to exceed $5,000,000.00 each fiscal year for 2002-2003 and for 2003-2004 to the department to provide a grant to the Michigan virtual university for the development, implementation, and operation of the Michigan virtual high school and to fund other purposes described in this section. In addition, from the federal funds appropriated in section 11, there is allocated each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 the following amounts:

(a) An amount estimated at $3,251,800.00 from DED-OESE, title II, improving teacher quality funds.

(b) An amount estimated at $1,188,000.00 from DED-OESE, title II, educational technology grants funds.

(c) An amount estimated at $2,044,400.00 from DED-OESE, title V, innovative strategies grants funds.

(d) An amount estimated at $100,500.00 from DED-OESE, title VI, rural and low income schools grants funds.

(2) The Michigan virtual high school shall have the following goals:

(a) Significantly expand curricular offerings for high schools across this state through agreements with districts or licenses from other recognized providers. The Michigan virtual university shall explore options for providing rigorous civics curricula online.

(b) Create statewide instructional models using interactive multimedia tools delivered by electronic means, including, but not limited to, the internet, digital broadcast, or satellite network, for distributed learning at the high school level.

(c) Provide pupils with opportunities to develop skills and competencies through on-line learning.

(d) Offer teachers opportunities to learn new skills and strategies for developing and delivering instructional services.

(e) Accelerate this state's ability to respond to current and emerging educational demands.

(f) Grant high school diplomas through a dual enrollment method with districts.

(g) Act as a broker for college level equivalent courses, as defined in section 1471 of the revised school code, MCL 380.1471, and dual enrollment courses from postsecondary education institutions.

(3) The Michigan virtual high school course offerings shall include, but are not limited to, all of the following:

(a) Information technology courses.

(b) College level equivalent courses, as defined in section 1471 of the revised school code, MCL 380.1471.

(c) Courses and dual enrollment opportunities.

(d) Programs and services for at-risk pupils.

(e) General education development test preparation courses for adjudicated youth.

(f) Special interest courses.

(g) Professional development programs and services for teachers.

(4) From the allocation in subsection (1), there is allocated $3,500,000.00 each fiscal year for 2002-2003 and for 2003-2004 for the purpose of developing innovative strategies to use wireless technology to improve student academic achievement in this state. The Michigan virtual university shall identify not more than 5 pilot project sites for these initiatives. The pilot project sites shall be geographically diverse and at least 1 of the pilot project sites shall be in the Upper Peninsula. The pilot projects shall be funded through public-private partnerships. In addition, the Michigan virtual university shall establish local fund matching requirements for the pilot project sites.

(5) The state education agency shall sign a memorandum of understanding with the Michigan virtual university regarding the DED-OESE, title II, improving teacher quality funds as provided under this subsection. To the extent allowed under federal law, the Michigan virtual university shall address the unique issues of providing educational opportunities in rural communities. The memorandum of understanding under this subsection shall require that the Michigan virtual university coordinate the following activities related to DED-OESE, title II, improving teacher quality funds in accordance with federal law:

(a) Develop, and assist districts in the development and use of, proven, innovative strategies to deliver intensive professional development programs that are both cost-effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(b) Encourage and support the training of teachers and administrators to effectively integrate technology into curricula and instruction.

(c) Coordinate the activities of eligible partnerships that include higher education institutions for the purposes of providing professional development activities for teachers, paraprofessionals, and principals as defined in federal law.

(6) The state education agency shall sign a memorandum of understanding with the Michigan virtual university regarding DED-OESE, title II, educational technology grants as provided under this subsection. The Michigan virtual university shall coordinate activities described in this subsection with the pilot project sites identified in subsection (4). The memorandum of understanding shall require that the Michigan virtual university coordinate the following state activities related to DED-OESE, title II, educational technology grants in accordance with federal law:

(a) Assist in the development of innovative strategies for the delivery of specialized or rigorous academic courses and curricula through the use of technology, including distance learning technologies.

(b) Establish and support public-private initiatives for the acquisition of educational technology for students in high-need districts.

(7) The state education agency shall sign a memorandum of understanding with the Michigan virtual university regarding DED-OESE, title V, innovative strategies grants as provided under this subsection. The Michigan virtual university shall coordinate activities described in this subsection with the pilot project sites identified in subsection (4). The memorandum of understanding shall require the Michigan virtual university to coordinate the following state-level activities related to DED-OESE, title V, innovative strategies grants in accordance with federal law:

(a) Programs for the development or acquisition and use of instructional and educational materials, including computer software and hardware for instructional use,

that will be used to improve student academic achievement as part of an overall education reform strategy.

(b) Programs and activities that expand learning opportunities through best-practice models designed to improve classroom learning and teaching.

(8) The state education agency shall sign a memorandum of understanding with the Michigan virtual university requiring that the Michigan virtual university coordinate the awarding of competitive grants to districts and state-level activities related to DED-OESE, title VI, rural and low income schools grants in accordance with federal law for the following purposes:

(a) Teacher professional development, including programs that train teachers to utilize technology, programs to improve teaching, and programs to train special needs teachers.

(b) Educational technology, including software and hardware, as described in federal law.

(9) Funds allocated under this section that are not expended in the state fiscal year for which they were allocated may be carried forward to a subsequent state fiscal year.

(10) The state education agency and the Michigan virtual university shall complete the memoranda of understanding required under this section within 60 days after the effective date of the amendatory act that added this subsection. It is the intent of the legislature that all plans or applications submitted by the state education agency to the United States department of education relating to the distribution of federal funds under this section shall be for the purposes described in this section.

(11) As used in this section:

(a) "DED-OESE" means the United States department of education office of elementary and secondary education.

(b) "State education agency" means the department.

388.1699 Mathematics and science centers.

Sec. 99. (1) From the state school aid fund appropriation in section 11, there is allocated an amount not to exceed $9,684,300.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 and from the general fund appropriation in section 11 there is allocated an amount not to exceed $548,000.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 for implementing the comprehensive master plan for mathematics and science centers developed by the department and approved by the state board on February 17, 1993.

(2) Within a service area designated locally, approved by the department, and consistent with the master plan described in subsection (1), an established mathematics and science center shall address 2 or more of the following 6 basic services, as described in the master plan, to constituent districts and communities: leadership, pupil services, curriculum support, community involvement, professional development, and resource clearinghouse services.

(3) The department shall not award a grant under this section to more than 1 mathematics and science center located in a particular intermediate district unless each of the grants serves a distinct target population or provides a service that does not duplicate another program in the intermediate district.

(4) As part of the technical assistance process, the department shall provide minimum standard guidelines that may be used by the mathematics and science center for providing fair access for qualified pupils and professional staff as prescribed in this section.

(5) Allocations under this section to support the activities and programs of mathematics and science centers shall be continuing support grants to all 25 established mathematics and science centers and, subject to subsection (9), the 8 satellite extensions that were funded in 1996-97. Each established mathematics and science center that was funded in 1999-2000 shall receive an amount equal to 105.3% of the amount it received under this section in 1999-2000.

(6) In order to receive funds under this section, a grant recipient shall allow access for the department or the department's designee to audit all records related to the program for which it receives such funds. The grant recipient shall reimburse the state for all disallowances found in the audit.

(7) From the state school aid fund allocation under subsection (1), there is allocated an amount not to exceed $611,800.00 each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 for additional funding under this subsection for mathematics and science centers that have come into compliance with the comprehensive master plan described in subsection (1). These amounts are in addition to the funding determined under subsection (5) and are as follows for each of those fiscal years:

(a) $68,000.00 each to the central Michigan science, mathematics, and technology center; the Hillsdale-Lenawee-Monroe mathematics and science center; the St. Clair mathematics, science, and technology network; the Saginaw valley state university regional center; the Genesee area mathematics, science, and technology center; the Grand Traverse area regional mathematics, science, and technology center; and the Livingston/Washtenaw mathematics and science center.

(b) $85,000.00 to the Grand valley state university regional mathematics and science center.

(c) $50,800.00 to the Seaborg center at Northern Michigan university.

(8) Not later than June 30, 2000, the department shall reevaluate and update the comprehensive master plan described in subsection (1), including any recommendations for upgrading satellite extensions to full centers.

(9) During the course of the 2000-2001 and 2001-2002 fiscal years, the department shall facilitate the conversion of the 8 existing satellite extensions to full mathematics and science centers. To this end, in 2000-2001 the department shall provide 4 satellite extensions, as selected by the department, with applications for conversion to full centers, and in 2001-2002 the department shall provide the remaining 4 satellite extensions with applications for conversion. The department shall provide the applications not later than October 15 of the applicable fiscal year; a satellite extension shall submit the application and a detail plan as prescribed by the department not later than November 15 of the applicable fiscal year; and the department shall review the applications and plans and notify the satellite extensions of their status not later than December 1 of the applicable fiscal year. The allocations under this section are sufficient to fund the conversion of the satellite extensions to full centers and to fund them as full centers.

388.1699a School health education curriculum; composition of comprehensive school education steering committee; request by parent or guardian to examine textbooks and materials.

Sec. 99a. (1) From the appropriation in section 11, there is allocated each fiscal year for 2002-2003 and for 2003-2004 an amount not to exceed $3,180,000.00 for grants to intermediate districts and districts for providing a school health education curriculum. The curriculum

provided, such as the Michigan model or another comprehensive school health curriculum, shall be in accordance with the health education goals established by the Michigan model for comprehensive school health education steering committee. This state steering committee shall be comprised of a representative from each of the following offices and departments:

(a) The department.

(b) The department of community health.

(c) The health administration in the department of community health.

(d) The bureau of mental and substance abuse services in the department of community health.

(e) The family independence agency.

(f) The department of state police.

(2) Upon written or oral request by a pupil who is at least 18 years of age or a parent or legal guardian of a pupil less than 18 years of age, school officials shall inform the pupil or parent, within a reasonable period of time after the request is made, of the content of a course in the health education curriculum and shall allow the pupil or parent to examine textbooks and other classroom materials that are provided to the pupil or materials that are presented to the pupil in the classroom. This subsection does not require a district to permit pupil or parental examination of test questions and answers, scoring keys, or other examination instruments or data used to administer an academic examination.

388.1704a State assessments to high school pupils.

Sec. 104a. (1) In order to receive state aid under this act, a district shall comply with this section and shall administer state assessments to high school pupils in the subject areas of communications skills, mathematics, science, and social studies. If the department or the Michigan assessment governing board, as applicable, determines that it would be consistent with the purposes of this section, the department or the Michigan assessment governing board, as applicable, may designate the grade 11 Michigan education assessment program tests as the assessments to be used for the purposes of this section. The district shall include on the pupil's high school transcript all of the following:

(a) For each high school graduate who has completed a subject area assessment under this section, the pupil's scaled score on the assessment.

(b) If the pupil's scaled score on a subject area assessment falls within the range required under subsection (2) for a category established under subsection (2), an indication that the pupil has achieved state endorsement for that subject area.

(c) The number of school days the pupil was in attendance at school each school year during high school and the total number of school days in session for each of those school years.

(2) The department shall develop scaled scores for reporting subject area assessment results for each of the subject areas under this section. The superintendent shall establish 3 categories for each subject area indicating basic competency, above average, and outstanding, and shall establish the scaled score range required for each category. The department shall design and distribute to districts, intermediate districts, and nonpublic schools a simple and concise document that describes these categories in each subject area and indicates the scaled score ranges for each category in each subject area. A district may award a high school diploma to a pupil who successfully completes local district requirements established in accordance with state law for high school graduation, regardless of whether the pupil is eligible for any state endorsement.

(3) The assessments administered for the purposes of this section shall be administered to pupils during the last 30 school days of grade 11. The department shall ensure that the assessments are scored and the scores are returned to pupils, their parents or legal guardians, and districts not later than the beginning of the pupil's first semester of grade 12. The department shall arrange for those portions of a pupil's assessment that cannot be scored mechanically to be scored in Michigan by persons who are Michigan teachers, retired Michigan teachers, or Michigan school administrators and who have been trained in scoring the assessments. The returned scores shall indicate the pupil's scaled score for each subject area assessment, the range of scaled scores for each subject area, and the range of scaled scores required for each category established under subsection (2). In reporting the scores to pupils, parents, and schools, the department shall provide specific, meaningful, and timely feedback on the pupil's performance on the assessment.

(4) For each pupil who does not achieve state endorsement in 1 or more subject areas, the board of the district in which the pupil is enrolled shall provide that there be at least 1 meeting attended by at least the pupil and a member of the district's staff or a local or intermediate district consultant who is proficient in the measurement and evaluation of pupils. The district may provide the meeting as a group meeting for pupils in similar circumstances. If the pupil is a minor, the district shall invite and encourage the pupil's parent, legal guardian, or person in loco parentis to attend the meeting and shall mail a notice of the meeting to the pupil's parent, legal guardian, or person in loco parentis. The purpose of this meeting and any subsequent meeting under this subsection shall be to determine an educational program for the pupil designed to have the pupil achieve state endorsement in each subject area in which he or she did not achieve state endorsement. In addition, a district may provide for subsequent meetings with the pupil conducted by a high school counselor or teacher designated by the pupil's high school principal, and shall invite and encourage the pupil's parent, legal guardian, or person in loco parentis to attend the subsequent meetings. The district shall provide special programs for the pupil or develop a program using the educational programs regularly provided by the district unless the board of the district decides otherwise and publishes and explains its decision in a public justification report.

(5) A pupil who wants to repeat an assessment administered under this section may repeat the assessment, without charge to the pupil, in the next school year or after graduation. An individual may repeat an assessment at any time the district administers an applicable assessment instrument or during a retesting period under subsection (7).

(6) The department shall ensure that the length of the assessments used for the purposes of this section and the combined total time necessary to administer all of the assessments are the shortest possible that will still maintain the degree of reliability and validity of the assessment results determined necessary by the department. The department shall ensure that the maximum total combined length of time that schools are required to set aside for administration of all of the assessments used for the purposes of this section does not exceed 8 hours. However, this subsection does not limit the amount of time that individuals may have to complete the assessments.

(7) The department shall establish, schedule, and arrange periodic retesting periods throughout the year for individuals who desire to repeat an assessment under this section. The department shall coordinate the arrangements for administering the repeat assessments and shall ensure that the retesting is made available at least within each intermediate district and, to the extent possible, within each district.

(8) A district shall provide accommodations to a pupil with disabilities for the assessments required under this section, as provided under section 504 of title V of the

rehabilitation act of 1973, Public Law 93-112, 29 U.S.C. 794; subtitle A of title II of the Americans with disabilities act of 1990, Public Law 101-336, 42 U.S.C. 12131 to 12134; and the implementing regulations for those statutes.

(9) For the purposes of this section, the superintendent shall develop or select and approve assessment instruments to measure pupil performance in communications skills, mathematics, social studies, and science. The assessment instruments shall be based on the model core academic content standards objectives under section 1278 of the revised school code, MCL 380.1278.

(10) Upon written request by the pupil's parent or legal guardian stating that the request is being made for the purpose of providing the pupil with an opportunity to qualify to take 1 or more postsecondary courses as an eligible student under the postsecondary enrollment options act, 1996 PA 160, MCL 388.511 to 388.524, the board of a district shall allow a pupil who is in at least grade 10 to take an assessment administered under this section without charge at any time the district regularly administers the assessment or during a retesting period established under subsection (7). A district is not required to include in an annual education report, or in any other report submitted to the department for accreditation purposes, results of assessments taken under this subsection by a pupil in grade 11 or lower until the results of that pupil's graduating class are otherwise reported.

(11) All assessment instruments developed or selected and approved by the state under any statute or rule for a purpose related to K to 12 education shall be objective-oriented and consistent with the model core academic content standards objectives under section 1278 of the revised school code, MCL 380.1278.

(12) A person who has graduated from high school after 1996 and who has not previously taken an assessment under this section may take an assessment used for the purposes of this section, without charge to the person, at the district from which he or she graduated from high school at any time that district administers the assessment or during a retesting period scheduled under subsection (7) and have his or her scaled score on the assessment included on his or her high school transcript. If the person's scaled score on a subject area assessment falls within the range required under subsection (2) for a category established under subsection (2), the district shall also indicate on the person's high school transcript that the person has achieved state endorsement for that subject area.

(13) A child who is a student in a nonpublic school or home school may take an assessment under this section. To take an assessment, a child who is a student in a home school shall contact the district in which the child resides, and that district shall administer the assessment, or the child may take the assessment at a nonpublic school if allowed by the nonpublic school. Upon request from a nonpublic school, the department shall supply assessments and the nonpublic school may administer the assessment.

(14) The purpose of the assessment under this section is to assess pupil performance in mathematics, science, social studies, and communication arts for the purpose of improving academic achievement and establishing a statewide standard of competency. The assessment under this section provides a common measure of data that will contribute to the improvement of Michigan schools' curriculum and instruction by encouraging alignment with Michigan's curriculum framework standards. These standards are based upon the expectations of what pupils should know and be able to do by the end of grade 11.

(15) If the Michigan assessment governing board is established by law, the Michigan assessment governing board shall administer this section and shall have all of the powers

and duties as otherwise provided under this section for the department or the superintendent.

(16) As used in this section:

(a) "Communications skills" means reading and writing.

(b) "Social studies" means geography, history, economics, and American government.

388.1707 Allocation for adult education programs.

Sec. 107. (1) From the appropriation in section 11, there is allocated an amount not to exceed $75,000,000.00 for 2001-2002 and an amount not to exceed $77,500,000.00 each fiscal year for 2002-2003 and for 2003-2004 for adult education programs authorized under this section.

(2) To be eligible to be a participant funded under this section, a person shall be enrolled in an adult basic education program, an adult English as a second language program, a general education development (G.E.D.) test preparation program, a job or employment related program, or a high school completion program, that meets the requirements of this section, and shall meet either of the following, as applicable:

(a) If the individual has obtained a high school diploma or a general education development (G.E.D.) certificate, the individual meets 1 of the following:

(*i*) Is less than 20 years of age on September 1 of the school year and is enrolled in the state technical institute and rehabilitation center.

(*ii*) Is less than 20 years of age on September 1 of the school year, is not attending an institution of higher education, and is enrolled in a job or employment-related program through a referral by an employer.

(*iii*) Is enrolled in an English as a second language program.

(*iv*) Is enrolled in a high school completion program.

(b) If the individual has not obtained a high school diploma or G.E.D. certificate, the individual meets 1 of the following:

(*i*) Is at least 20 years of age on September 1 of the school year.

(*ii*) Is at least 16 years of age on September 1 of the school year, has been permanently expelled from school under section 1311(2) or 1311a of the revised school code, MCL 380.1311 and 380.1311a, and has no appropriate alternative education program available through his or her district of residence.

(3) The amount allocated under subsection (1) shall be distributed as follows:

(a) For districts and consortia that received payments for 1995-96 under former section 107f and that received payments for 1996-97 under subsection (4) of this section as in effect in 1996-97, the amount allocated to each for 2001-2002, for 2002-2003, and for 2003-2004 shall be an amount each fiscal year equal to 36.76% of the amount the district or consortium received for 1995-96 under former section 107f.

(b) For districts and consortia that received payments under subsection (3) of this section as in effect for 1996-97, the amount allocated to each for 2001-2002, for 2002-2003, and for 2003-2004 shall be an amount each fiscal year equal to the product of the number of full-time equated participants actually enrolled and in attendance during the 1996-97 school fiscal year in the program funded under subsection (3) of this section as in effect for 1996-97 as reported to the department of career development, audited, and adjusted according to subsection (10) of this section as in effect for 1996-97, multiplied by $2,750.00.

(c) For districts and consortia that meet the conditions of both subdivisions (a) and (b), the amount allocated each fiscal year for 2001-2002, for 2002-2003, and for 2003-2004 shall be the sum of the allocations to the district or consortium under subdivisions (a) and (b).

(d) A district or consortium that received funding in 1996-97 under this section as in effect for 1996-97 may operate independently of a consortium or join or form a consortium for 2001-2002, for 2002-2003, or for 2003-2004. The allocation for 2001-2002, for 2002-2003, or for 2003-2004 to the district or the newly formed consortium under this subsection shall be determined by the department of career development and shall be based on the proportion of the amounts specified in subdivision (a) or (b), or both, that are attributable to the district or consortium that received funding in 1996-97. A district or consortium described in this subdivision shall notify the department of career development of its intention with regard to 2001-2002, 2002-2003, or for 2003-2004 by October 1 of the affected fiscal year.

(4) A district that operated an adult education program in 1996-97 and does not intend to operate a program in 2001-2002, 2002-2003, or 2003-2004 shall notify the department of career development by October 1 of the affected fiscal year of its intention. The funds intended to be allocated under this section to a district that does not operate a program in 2001-2002, 2002-2003, or 2003-2004 and the unspent funds originally allocated under this section to a district or consortium that subsequently operates a program at less than the level of funding allocated under subsection (3) shall instead be proportionately reallocated to the other districts described in subsection (3)(a) that are operating an adult education program in 2001-2002, 2002-2003, or 2003-2004 under this section.

(5) The amount allocated under this section per full-time equated participant is $2,850.00 for a 450-hour program. The amount shall be proportionately reduced for a program offering less than 450 hours of instruction.

(6) An adult basic education program or an adult English as a second language program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who are determined by an appropriate assessment to be below ninth grade level in reading or mathematics, or both, or to lack basic English proficiency.

(b) The program tests individuals for eligibility under subdivision (a) before enrollment and tests participants to determine progress after every 90 hours of attendance, using assessment instruments approved by the department of career development.

(c) A participant in an adult basic education program is eligible for reimbursement until 1 of the following occurs:

(*i*) The participant's reading and mathematics proficiency are assessed at or above the ninth grade level.

(*ii*) The participant fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction.

(d) A funding recipient enrolling a participant in an English as a second language program is eligible for funding according to subsection (10) until the participant meets 1 of the following:

(*i*) The participant is assessed as having attained basic English proficiency.

(*ii*) The participant fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction. The department of career development shall provide information to a funding recipient regarding appropriate assessment instruments for this program.

(7) A general education development (G.E.D.) test preparation program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who do not have a high school diploma.

(b) The program shall administer a G.E.D. pre-test approved by the department of career development before enrolling an individual to determine the individual's potential for success on the G.E.D. test, and shall administer other tests after every 90 hours of attendance to determine a participant's readiness to take the G.E.D. test.

(c) A funding recipient shall receive funding according to subsection (10) for a participant, and a participant may be enrolled in the program until 1 of the following occurs:

(*i*) The participant passes the G.E.D. test.

(*ii*) The participant fails to show progress on 2 successive tests used to determine readiness to take the G.E.D. test after having completed at least 450 hours of instruction.

(8) A high school completion program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults who do not have a high school diploma.

(b) A funding recipient shall receive funding according to subsection (10) for a participant in a course offered under this subsection until 1 of the following occurs:

(*i*) The participant passes the course and earns a high school diploma.

(*ii*) The participant fails to earn credit in 2 successive semesters or terms in which the participant is enrolled after having completed at least 900 hours of instruction.

(9) A job or employment-related adult education program operated on a year-round or school year basis may be funded under this section, subject to all of the following:

(a) The program enrolls adults referred by their employer who are less than 20 years of age, have a high school diploma, are determined to be in need of remedial mathematics or communication arts skills and are not attending an institution of higher education.

(b) An individual may be enrolled in this program and the grant recipient shall receive funding according to subsection (10) until 1 of the following occurs:

(*i*) The individual achieves the requisite skills as determined by appropriate assessment instruments administered at least after every 90 hours of attendance.

(*ii*) The individual fails to show progress on 2 successive assessments after having completed at least 450 hours of instruction. The department of career development shall provide information to a funding recipient regarding appropriate assessment instruments for this program.

(10) A funding recipient shall receive payments under this section in accordance with the following:

(a) Ninety percent for enrollment of eligible participants.

(b) Ten percent for completion of the adult basic education objectives by achieving an increase of at least 1 grade level of proficiency in reading or mathematics; for achieving basic English proficiency; for passage of the G.E.D. test; for passage of a course required for a participant to attain a high school diploma; or for completion of the course and demonstrated proficiency in the academic skills to be learned in the course, as applicable.

(11) As used in this section, "participant" means the sum of the number of full-time equated individuals enrolled in and attending a department-approved adult education program under this section, using quarterly participant count days on the schedule described in section 6(7)(b).

(12) A person who is not eligible to be a participant funded under this section may receive adult education services upon the payment of tuition. In addition, a person who is not eligible to be served in a program under this section due to the program limitations specified in subsection (6), (7), (8), or (9) may continue to receive adult education services in that program upon the payment of tuition. The tuition level shall be determined by the local or intermediate district conducting the program.

(13) An individual who is an inmate in a state correctional facility shall not be counted as a participant under this section.

(14) A district shall not commingle money received under this section or from another source for adult education purposes with any other funds of the district. A district receiving adult education funds shall establish a separate ledger account for those funds. This subsection does not prohibit a district from using general funds of the district to support an adult education or community education program.

(15) The department shall work with the department of education to ensure that this section is administered in the same manner as in 1998-99.

388.1708 Adult learning programs.

Sec. 108. (1) From the general fund appropriation in section 11, there is allocated an amount not to exceed $20,000,000.00 for 2001-2002 and an amount not to exceed $20,000,000.00 each fiscal year for 2002-2003 and for 2003-2004 for partnership for adult learning programs authorized under this section.

(2) To be eligible to be enrolled as a participant in an adult learning program funded under this section, a person shall be at least 16 years of age as of September 1 of the immediately preceding state fiscal year and shall meet the following, as applicable:

(a) If the individual has obtained a high school diploma or a general education development (G.E.D.) certificate, the individual is determined to have English language proficiency, reading, writing, or math skills below workforce readiness standards as determined by tests approved by the department of career development and is not enrolled in a postsecondary institution. An individual who has obtained a high school diploma is not eligible for enrollment in a G.E.D. test preparation program funded under this section.

(b) If the individual has not obtained a high school diploma or a G.E.D. certificate, the individual has not attended a secondary institution for at least 6 months before enrollment in an adult learning program funded under this section and is not enrolled in a postsecondary institution.

(3) From the allocation under subsection (1), an amount not to exceed $19,800,000.00 is allocated for 2001-2002 and an amount not to exceed $19,800,000.00 is allocated each fiscal year for 2002-2003 and for 2003-2004 to local workforce development boards for the purpose of providing regional adult learning programs. An application for a grant under this subsection shall be in the form and manner prescribed by the department of career development. Subject to subsections (4), (5), and (6), the amount allocated to each local workforce development board shall be as provided in this subsection, except that an eligible local workforce development board shall not receive an initial allocation under this section that is less than $70,000.00. The maximum amount of a grant awarded to an eligible local workforce development board shall be the sum of the following components:

(a) Thirty-four percent of the allocation under this subsection multiplied by the proportion of the family independence agency caseload in the local workforce development board region to the statewide family independence agency caseload.

(b) Thirty-three percent of the allocation under this subsection multiplied by the proportion of the number of persons in the local workforce development board region over age 17 who have not received a high school diploma compared to the statewide total of persons over age 17 who have not received a high school diploma.

(c) Thirty-three percent of the allocation under this subsection multiplied by the proportion of the number of persons in the local workforce development board region over age 17 for whom English is not a primary language compared to the statewide total of persons over age 17 for whom English is not a primary language.

(4) The amount of a grant to a local workforce development board under subsection (3) shall not exceed the cost for adult learning programs needed in the local workforce development board region, as documented in a manner approved by the department of career development.

(5) Not more than 9% of a grant awarded to a local workforce development board may be used for program administration, including contracting for the provision of career and educational information, counseling services, and assessment services.

(6) In order to receive funds under this section, a local workforce development board shall comply with the following requirements in a manner approved by the department of career development:

(a) The local workforce development board shall document the need for adult learning programs in the local workforce development region.

(b) The local workforce development board shall report participant outcomes and other measurements of program performance.

(c) The local workforce development board shall develop a strategic plan that incorporates adult learning programs in the region. A local workforce development board is not eligible for state funds under this section without a strategic plan approved by the department of career development.

(d) The local workforce development board shall furnish to the department of career development, in a form and manner determined by the department of career development, the information the department of career development determines is necessary to administer this section.

(e) The local workforce development board shall allow access for the department of career development or its designee to audit all records related to adult learning programs for which it receives funds. The local workforce development board shall reimburse this state for all disallowances found in the audit in a manner determined by the department of career development.

(7) Local workforce development boards shall distribute funds to eligible adult learning providers as follows:

(a) Not less than 85% of a grant award shall be used to support programs that improve reading, writing, and math skills to workforce readiness standards; English as a second language programs; G.E.D. preparation programs; high school completion programs; or workforce readiness programs in the local workforce development board region. These programs may include the provision of career and educational information, counseling services, and assessment services.

(b) Up to 15% of a grant award may be used to support workforce readiness programs for employers in the local workforce development board region as approved by the department of career development. Employers or consortia of employers whose employees participate in these programs must provide matching funds in a ratio of at least $1.00 of private funds for each $1.00 of state funds.

(8) Local workforce development boards shall award competitive grants to eligible adult learning providers for the purpose of providing adult learning programs in the local workforce development board region. Applications shall be in a form and manner

prescribed by the department of career development. In awarding grants, local workforce development boards shall consider all of the following:

(a) The ability of the provider to assess individuals before enrollment using assessment tools approved by the department of career development and to develop individual adult learner plans from those assessments for each participant.

(b) The ability of the provider to conduct continuing assessments in a manner approved by the department of career development to determine participant progress toward achieving the goals established in individual adult learner plans.

(c) The past effectiveness of an eligible provider in improving adult literacy skills and the success of an eligible provider in meeting or exceeding performance measures approved by the department of career development.

(d) Whether the program is of sufficient intensity and duration for participants to achieve substantial learning gains.

(e) Whether the program uses research-based instructional practices that have proven to be effective in teaching adult learners.

(f) Whether the program uses advances in technology, as appropriate, including computers.

(g) Whether the programs are staffed by well-trained teachers, counselors, and administrators.

(h) Whether the activities coordinate with other available resources in the community, such as schools, postsecondary institutions, job training programs, and social service agencies.

(i) Whether the provider offers flexible schedules and support services, such as child care and transportation, that enable participants, including individuals with disabilities or other special needs, to attend and complete programs.

(j) Whether the provider offers adequate job and postsecondary education counseling services.

(k) Whether the provider can maintain an information management system that has the capacity to report participant outcomes and monitor program performance against performance measures approved by the department of career development.

(*l*) Whether the provider will allow access for the local workforce development board or its designee to audit all records related to adult learning programs for which it receives funds. The adult learning provider shall reimburse the local workforce development board for all disallowances found in the audit.

(m) The cost per participant contact hour or unit of measurable outcome for each type of adult learning program for which the provider is applying.

(9) Contracts awarded by local workforce development boards to adult learning providers shall comply with the priorities established in a strategic plan approved by the department of career development.

(10) Adult learning providers that do not agree with the decisions of the local workforce development board in issuing or administering competitive grants may use the grievance procedure established by the department of career development.

(11) Local workforce development boards shall reimburse eligible adult learning providers under this section as follows:

(a) For a first-time provider, as follows:

(*i*) Fifty percent of the contract amount shall be allocated to eligible adult learning providers based upon enrollment of participants in adult learning programs. "Enrollment"

means a participant enrolled in the program who received a preenrollment assessment using assessment tools approved by the department of career development and for whom an individual adult learner plan has been developed.

(*ii*) Fifty percent of the contract amount shall be allocated to eligible adult learning providers based upon the following performance standards as measured in a manner approved by the department of career development:

(A) The percentage of participants taking both a pretest and a posttest in English language proficiency, reading, writing, and math.

(B) The percentage of participants showing improvement toward goals identified in their individual adult learner plan.

(C) The percentage of participants achieving their terminal goals as identified in their individual adult learner plan.

(b) Eligible providers that have provided adult learning programs previously under this section shall be reimbursed 100% of the contract amount based upon the performance standards in subdivision (a)(*ii*) as measured in a manner determined by the department of career development.

(c) A provider is eligible for reimbursement for a participant in an adult learning program until the participant's reading, writing, or math proficiency, as applicable, is assessed at workforce readiness levels or the participant fails to show progress on 2 successive assessments as determined by the department of career development.

(d) A provider is eligible for reimbursement for a participant in an English as a second language program until the participant is assessed as having attained basic English proficiency or the participant fails to show progress on 2 successive assessments as determined by the department of career development.

(e) A provider is eligible for reimbursement for a participant in a G.E.D. test preparation program until the participant passes the G.E.D. test or the participant fails to show progress on 2 successive assessments as determined by the department of career development.

(f) A provider is eligible for reimbursement for a participant in a high school completion program until the participant earns a high school diploma or the participant fails to show progress as determined by the department of career development.

(12) A person who is not eligible to be a participant funded under this section may receive adult learning services upon the payment of tuition or fees for service. The tuition or fee level shall be determined by the adult learning provider and approved by the local workforce development board.

(13) Adult learning providers may collect refundable deposits from participants for the use of reusable equipment and supplies and may provide incentives for program completion.

(14) A provider shall not be reimbursed under this section for an individual who is an inmate in a state correctional facility.

(15) In order to administer the partnership for adult learning system under this section, the department of career development shall do all of the following:

(a) Develop and provide guidelines to local workforce development boards for the development of strategic plans that incorporate adult learning.

(b) Develop and provide adult learning minimum program performance standards to be implemented by local workforce development boards.

(c) Identify approved assessment tools for assessing a participant's English language proficiency, reading, math, and writing skills.

(d) Approve workforce readiness standards for English language proficiency, reading, math, and writing skills that can be measured by nationally recognized assessment tools approved by the department of career development.

(16) Of the amount allocated in subsection (1), up to $200,000.00 is allocated to the department of career development for the development and administration of a standardized data collection system. Local workforce development boards and adult learning providers receiving funding under this section shall use the standardized data collection system for enrolling participants in adult learning programs, tracking participant progress, reporting participant outcomes, and reporting other performance measures.

(17) A provider is not required to use certificated teachers or certificated counselors to provide instructional and counseling services in a program funded under this section.

(18) As used in this section:

(a) "Adult education", for the purposes of complying with section 3 of article VIII of the state constitution of 1963, means a high school pupil receiving educational services in a nontraditional setting from a district or intermediate district in order to receive a high school diploma.

(b) "Adult learning program" means a program approved by the department of career development that improves reading, writing, and math skills to workforce readiness standards; an English as a second language program; a G.E.D. preparation program; a high school completion program; or a workforce readiness program that enhances employment opportunities.

(c) "Eligible adult learning provider" means a district, public school academy, intermediate district, community college, university, community-based organization, or other organization approved by the department of career development that provides adult learning programs under a contract with a local workforce development board.

(d) "Participant" means an individual enrolled in an adult learning program and receiving services from an eligible adult learning provider.

(e) "Strategic plan" means a document approved by the department of career development that incorporates adult learning goals and objectives for the local workforce development board region and is developed jointly by the local workforce development board and the education advisory groups.

(f) "Workforce development board" means a local workforce development board established pursuant to the workforce investment act of 1998, Public Law 105-220, 112 Stat. 936, and the school-to-work opportunities act of 1994, Public Law 103-239, 108 Stat. 568, or the equivalent.

(g) "Workforce readiness standard" means a proficiency level approved by the department of career development in English language, reading, writing, or mathematics, or any and all of these, as determined by results from assessments approved for use by the department of career development.

388.1747 Allocations to public school employees' retirement system.

Sec. 147. (1) The allocations for 2001-2002, for 2002-2003, and for 2003-2004 for the public school employees' retirement system pursuant to the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408, shall be made using the entry age normal cost actuarial method and risk assumptions adopted by the public school employees retirement board and the department of management and budget. The annual

level percentage of payroll contribution rate is estimated at 12.17% for the 2001-2002 state fiscal year and at 12.99% for the 2002-2003 state fiscal year. The portion of the contribution rate assigned to districts and intermediate districts for each fiscal year is all of the total percentage points. This contribution rate reflects an amortization period of 35 years for 2001-2002, 34 years for 2002-2003, and 33 years for 2003-2004. The public school employees' retirement system board shall notify each district and intermediate district by February 28 of each fiscal year of the estimated contribution rate for the next fiscal year.

(2) It is the intent of the legislature that the amortization period described in section 41(2) of the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1341, be reduced to 30 years by the end of the 2005-2006 state fiscal year by reducing the amortization period by not more than 1 year each fiscal year.

Total state spending; payments to local units of government.

Enacting section 1. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act and in 2002 PA 191, 2001 PA 121, and 2000 PA 297 from state sources for fiscal year 2002-2003 is estimated at $11,490,554,900.00 and state appropriations to be paid to local units of government for fiscal year 2002-2003 are estimated at $11,439,469,500.00. In accordance with section 30 of article IX of the state constitution of 1963, total state spending in this amendatory act from state sources for fiscal year 2003-2004 is estimated at $11,477,080,900.00 and state appropriations to be paid to local units of government for fiscal year 2003-2004 are estimated at $11,431,369,500.00.

Repeal of section 1713 of 2002 PA 519.

Enacting section 2. Section 1713 of 2002 PA 519 (Enrolled Senate Bill No. 1101 of the 91st Legislature) is repealed.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 50 cents or more per pack of cigarettes (25 mills per cigarette) effective on or before September 30, 2002 and the revenue from not less than 20 cents per pack of cigarettes (10 mills per cigarette) of that increase is dedicated by law for deposit into the state school aid fund established by section 11 of article IX of the state constitution of 1963.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 522]

(SB 1103)

AN ACT to make appropriations for the department of education and certain other purposes relating to education for the fiscal year ending September 30, 2003; to provide for the expenditure of the appropriations; to prescribe the powers and duties of certain state departments, school districts, and other governmental bodies; and to provide for the disposition of fees and other income received by certain legal entities and state agencies.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; department of education.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of education for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

DEPARTMENT OF EDUCATION

APPROPRIATION SUMMARY:		
Full-time equated unclassified positions	6.0	
Full-time equated classified positions	436.1	
GROSS APPROPRIATION	$	214,393,000
Interdepartmental grant revenues:		
Interdepartmental grant from corrections academy lease		1,000,000
Total interdepartmental grants and intradepartmental transfers		1,000,000
ADJUSTED GROSS APPROPRIATION	$	213,393,000
Federal revenues:		
Total federal revenues		165,731,500
Special revenue funds:		
Local cost sharing (schools for blind/deaf)		4,641,600
Local school district service fees		102,600
Total local revenues		4,744,200
Gifts, bequests, and donations		504,200
Private foundations		197,200
Total private revenues		701,400
Total local and private revenues		5,445,600
Certification fees		2,782,600
Commodity distribution fees		71,400
Driver fees		8,124,600
Lansing, Michigan school for the blind rent		739,000
Motorcycle license fees		1,543,800
Safety education fund		414,700
School loan exception fees		67,300
Student insurance revenue		205,100
Teacher testing fees		280,800
Training and orientation workshop fees		100,000
Total other state restricted revenues		14,329,300
State general fund/general purpose	$	27,886,600

State board of education/office of the superintendent.

Sec. 102. STATE BOARD OF EDUCATION/OFFICE OF THE SUPERINTENDENT

Full-time equated unclassified positions	6.0	
Full-time equated classified positions	14.0	
State board of education, per diem payments	$	24,400
Unclassified positions—6.0 FTE positions		515,600

		For Fiscal Year Ending Sept. 30, 2003
State board/superintendent operations—14.0 FTE positions	$	1,984,400
GROSS APPROPRIATION	$	2,524,400
Appropriated from:		
Federal revenues:		
Federal revenues		577,200
Special revenue funds:		
Private foundations		23,000
State general fund/general purpose	$	1,924,200

Central support.

Sec. 103. CENTRAL SUPPORT

Full-time equated classified positions	45.3	
Central support—45.3 FTE positions	$	5,414,600
Worker's compensation		101,000
Education commission of the states		99,300
Building occupancy charges - property management services		1,439,600
Training and orientation workshops		100,000
Terminal leave payments		260,500
GROSS APPROPRIATION	$	7,415,000
Appropriated from:		
Federal revenues:		
Federal revenues		4,066,400
Special revenue funds:		
Certification fees		172,000
Commodity distribution fees		6,100
Driver fees		24,700
Local cost sharing		48,900
Motorcycle license fees		4,600
Safety education fund		2,600
School loan exception fees		67,300
Teacher testing fees		11,000
Training and orientation workshop fees		100,000
State general fund/general purpose	$	2,911,400

School support services.

Sec. 104. SCHOOL SUPPORT SERVICES

Full-time equated classified positions	41.4	
School support operations—41.4 FTE positions	$	5,260,800
GROSS APPROPRIATION	$	5,260,800
Appropriated from:		
Federal revenues:		
Federal revenues		4,010,500
Special revenue funds:		
Commodity distribution fees		65,300
Driver fees		499,900
Motorcycle license fees		339,200
Safety education fund		117,800
State general fund/general purpose	$	228,100

		For Fiscal Year Ending Sept. 30, 2003
Information technology services.		
Sec. 105. INFORMATION TECHNOLOGY SERVICES		
Information technology operations	$	3,288,100
GROSS APPROPRIATION	$	3,288,100
Appropriated from:		
Interdepartmental grant revenues:		
Federal revenues:		
Federal revenues		1,063,800
Special revenue funds:		
Certification fees		168,200
State general fund/general purpose	$	2,056,100
Special education services.		
Sec. 106. SPECIAL EDUCATION SERVICES		
Full-time equated classified positions....69.6		
Special education operations—69.6 FTE positions	$	11,477,300
GROSS APPROPRIATION	$	11,477,300
Appropriated from:		
Federal revenues:		
Federal revenues		11,139,700
Special revenue funds:		
Certification fees		35,200
State general fund/general purpose	$	302,400
Lansing, Michigan school for the blind former site.		
Sec. 107. LANSING, MICHIGAN SCHOOL FOR THE BLIND FORMER SITE		
General services	$	1,749,000
GROSS APPROPRIATION	$	1,749,000
Appropriated from:		
Interdepartmental grant revenues:		
Interdepartmental grant from corrections academy lease		1,000,000
Special revenue funds:		
Gifts, bequests, and donations		10,000
Lansing, Michigan school for the blind rent		739,000
State general fund/general purpose	$	0
Michigan schools for the deaf and blind.		
Sec. 108. MICHIGAN SCHOOLS FOR THE DEAF AND BLIND		
Full-time equated classified positions....96.0		
Michigan schools for the deaf and blind operations—95.0 FTE positions	$	9,422,000
Summer institute		90,000
Camp Tuhsmeheta—1.0 FTE position		250,100
Private gifts - blind		90,000
Private gifts - deaf		50,000
GROSS APPROPRIATION	$	9,902,100

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Federal revenues:		
Federal revenues	$	4,507,500
Special revenue funds:		
Local cost sharing (schools for blind/deaf)		4,592,700
Local school district service fees		102,600
Gifts, bequests, and donations		494,200
Student insurance revenue		205,100
State general fund/general purpose	$	0

Professional preparation services.

Sec. 109. PROFESSIONAL PREPARATION SERVICES

Full-time equated classified positions 31.0		
Professional preparation operations—31.0 FTE positions	$	4,503,100
Department of attorney general		50,000
GROSS APPROPRIATION	$	4,553,100
Appropriated from:		
Federal revenues:		
Federal revenues		1,976,100
Special revenue funds:		
Certification fees		2,307,200
Teacher testing fees		269,800
State general fund/general purpose	$	0

Field services.

Sec. 110. FIELD SERVICES

Full-time equated classified positions 44.0		
Field services operations—44.0 FTE positions	$	5,279,200
GROSS APPROPRIATION	$	5,279,200
Appropriated from:		
Federal revenues:		
Federal revenues		4,873,500
State general fund/general purpose	$	405,700

Office of school excellence.

Sec. 111. OFFICE OF SCHOOL EXCELLENCE

Full-time equated classified positions 61.5		
School excellence operations—61.5 FTE positions	$	12,389,100
GROSS APPROPRIATION	$	12,389,100
Appropriated from:		
Federal revenues:		
Federal revenues		10,235,100
Private foundations		79,400
State general fund/general purpose	$	2,074,600

Government services.

Sec. 112. GOVERNMENT SERVICES

Full-time equated classified positions 13.0		
Government services operations—13.0 FTE positions	$	1,284,800
GROSS APPROPRIATION	$	1,284,800

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Federal revenues:		
Federal revenues	$	828,900
State general fund/general purpose	$	455,900

Safe schools and administrative law.

Sec. 113. SAFE SCHOOLS AND ADMINISTRATIVE LAW

Full-time equated classified positions		11.5
Safe schools operations—2.5 FTE positions	$	498,600
Administrative law operations—9.0 FTE positions		852,700
State tenure commission per diem		11,100
GROSS APPROPRIATION	$	1,362,400
Appropriated from:		
Federal revenues:		
Federal revenues		562,100
Special revenue funds:		
State general fund/general purpose	$	800,300

Education options, charters, and choice.

Sec. 114. EDUCATION OPTIONS, CHARTERS, AND CHOICE

Full-time equated classified positions		8.8
Education options operations—8.8 FTE positions	$	1,412,700
GROSS APPROPRIATION	$	1,412,700
Appropriated from:		
Federal revenues:		
Federal revenues		986,600
State general fund/general purpose	$	426,100

Grants and distributions.

Sec. 115. GRANTS AND DISTRIBUTIONS

FEDERAL PROGRAMS:		
Class size reduction grants	$	50,275,700
Eisenhower mathematics and science grants		12,940,000
Goals 2000 grants		6,000,000
Technology literacy challenge grants		6,000,000
Urgent school renovation		45,688,400
STATE PROGRAMS:		
Christa McAuliffe grants	$	94,800
Driver education		7,600,000
Motorcycle safety education		1,200,000
National board certification		100,000
Off-road vehicle safety training grant		294,300
School breakfast programs		6,274,900
School readiness grants		11,050,000
GROSS APPROPRIATION	$	147,518,100

	For Fiscal Year Ending Sept. 30, 2003
Appropriated from:	
Federal revenues:	
DED-OESE, class size reduction	$ 50,275,700
DED-OESE, goals 2000	6,000,000
DED-OESE, Eisenhower mathematics and science administration	12,940,000
DED-OESE, technology literacy challenge fund	6,000,000
DED-OESE, urgent school renovation	45,688,400
Special revenue funds:	
Certification fees	100,000
Driver fees	7,600,000
Motorcycle license fees	1,200,000
Safety education fund	294,300
Private foundations	94,800
State general fund/general purpose	$ 17,324,900

Early retirement and budgetary savings.

Sec. 116. EARLY RETIREMENT AND BUDGETARY SAVINGS

Early retirement savings	$ (721,900)
Budgetary savings	(301,200)
GROSS APPROPRIATION	$ (1,023,100)
Appropriated from:	
State general fund/general purpose	$ (1,023,100)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $42,215,900.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $16,436,800.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

GRANTS AND DISTRIBUTIONS	
STATE PROGRAMS:	
Driver education	$ 7,600,000
School readiness grants	1,626,900
Motorcycle safety education	890,000
Off-road vehicle safety training grant	45,000
School lunch and breakfast	6,274,900
TOTAL	$ 16,436,800

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this act:

(a) "DED-OESE" means the United States department of education office of elementary and secondary education.

(b) "Department" means the Michigan department of education.

(c) "District" means a local school district as defined in section 6 of the revised school code, 1976 PA 451, MCL 380.6, or a public school academy as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(d) "FTE" means full-time equated.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining a vacancy. The department shall transmit all required reports by electronic mail to the chairpersons of the senate and house appropriations subcommittees on education and the house and senate fiscal agencies, including the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exceptions.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $20,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $700,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $250,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $3,000,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this bill under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Reporting requirements; use of Internet.

Sec. 207. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. The department shall place reports on the Internet or Intranet site and shall transmit all required reports by electronic mail to the senate and house appropriations subcommittees on education, the house and senate fiscal agencies, and the state budget office.

Federal funds not requiring additional state matching funds.

Sec. 208. The department may carry into the succeeding fiscal year unexpended federal pass-through funds to local institutions and governments that do not require additional state matching funds. Federal pass-through funds to local institutions and governments that are received in amounts in addition to those included in part 1 and that do not require additional state matching funds are appropriated for the purposes intended.

State board of education agenda.

Sec. 209. The department shall provide the state budget director and the senate and house fiscal agencies with copies of the state board of education agenda and all supporting documents at the time the agenda and supporting documents are provided to state board of education members.

School loan exception fee fund.

Sec. 210. Money in the school loan exception fee fund that is unexpended at the end of the fiscal year shall not revert to the general fund but shall be carried over to the succeeding fiscal year.

Office for safe schools.

Sec. 211. (1) Upon receipt of the federal drug free grant, the department shall allocate $225,000.00 of the grant to the office for safe schools within the department. The office for safe schools shall work with local school boards, law enforcement agencies, community leaders, and the office of drug control policy for the prevention of school violence. The office for safe schools shall develop and implement, and serve as coordinator of, a statewide clearinghouse for information, program development, model programs and policies, and technical assistance on school violence prevention.

(2) To accomplish its functions under this section, the office for safe schools shall do all of the following:

(a) Evaluate the effectiveness of, and make recommendations to local school boards concerning public school violence prevention programs, including, but not limited to, programs aimed at reducing the possession of weapons and the incidence of other violent behaviors on school campuses, violence prevention curricula, conflict resolution and peer mediation training, interagency cooperative referral and treatment programs, parental involvement programs, and school safety planning.

(b) In consultation with appropriate organizations, develop and distribute to school districts and public school academies a model code of conduct for pupils.

(c) Coordinate with the office of drug control policy in the department of community health to ensure that there is a meaningful linkage between the efforts under this act to

provide safe schools and the initiatives undertaken through that office, including, but not limited to, school districts' safe and drug-free school plans, and to facilitate timely applications for and distribution of available grant money.

(d) Provide through the Internet the availability to and information regarding the state model policy on locker searches, the state model policy on firearm safety and awareness, and any other state or local safety policies that the office considers exemplary.

(e) From the funds appropriated in part 1 for safe schools operations, the department shall expend not more than $50,000.00 to advertise the toll-free antiviolence school hotline.

Sexual misconduct; record of disciplinary actions.

Sec. 212. The department shall require all public school districts to maintain complete records within the personnel file of a teacher or school employee of any disciplinary actions taken by the local school board against the teacher or employee for sexual misconduct. The records shall not be destroyed or removed from the teacher's or employee's personnel file except as required by a court order.

Special education auditors.

Sec. 213. From the general funds appropriated in part 1 for special education services, the department shall provide funding for 2.0 special education auditors to audit school districts.

Technology services and projects; user fees.

Sec. 214. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology related services and projects. Such user fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

Information technology as work project; carrying forward funds; availability for expenditure.

Sec. 215. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Receipt and retention of reports.

Sec. 216. The departments and state agencies receiving appropriations under this act shall receive and retain copies of all reports funded from appropriations in part 1. The departments and state agencies shall follow federal and state guidelines for short-term and long-term retention of these reports and records.

Privatization; project plan.

Sec. 217. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of

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Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Purchase of foreign goods or services.

Sec. 218. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available. Preference should be given to goods and services, or both, manufactured or provided by Michigan businesses if they are competitively priced and of comparable value.

Businesses in deprived and depressed communities; contracts to provide services or supplies.

Sec. 219. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Personal service contracts; report; listing of bid requests.

Sec. 220. (1) The department of management and budget and each principal executive department and agency shall provide to the senate and house of representatives standing committees on appropriations and the senate and house fiscal agencies a monthly report on all personal service contracts awarded without competitive bidding, pricing, or rate-setting. The notification shall include all of the following:

(a) The total dollar amount of the contract.

(b) The duration of the contract.

(c) The name of the vendor.

(d) The type of service to be provided.

(2) For personal service contracts of $100,000.00 or more, the department of management and budget shall provide a monthly report including all of the following:

(a) The total dollar amount of the contract.

(b) The duration of the contract.

(c) The name of the vendor.

(d) The type of service to be provided.

(3) The department of management and budget shall provide a monthly listing of all bid requests or requests for proposal that were issued.

(4) Each principal executive department and agency shall provide a monthly summary listing of information that identifies any authorization for personal service contracts that are provided to the department of civil service pursuant to delegated authority granted to each principal executive department and agency related to personal service contracts.

Sec. 221. From the funds appropriated in part 1, the department may establish a position of school health services consultant, to be filled by a certified school nurse or an individual with comparable education and experience.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Early retirement and budgetary savings; satisfaction of negative appropriation.

Sec. 222. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69. Any position funded with 100% of federal or restricted funds is exempt from the early retirement replacement policy.

(2) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the department director and approved by the state budget director.

(3) Appropriation authorization adjustments required due to negative appropriations for early retirement savings and budgetary savings shall be made only after the approval of transfers by the legislature under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

School readiness grants; condition.

Sec. 223. (1) Subject to subsection (2), in addition to the amounts appropriated under part 1, $1,200,000.00 is appropriated to school readiness grants from the state general fund.

(2) The appropriation in subsection (1) shall become effective only if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack of cigarettes on or before September 30, 2002.

STATE BOARD/OFFICE OF THE SUPERINTENDENT

Members of boards, committees, and commissions; per diem payments; report.

Sec. 301. (1) The appropriations in part 1 may be used for per diem payments to members of boards, committees, and commissions for each day's board, committee, or commission work at which a quorum is present; for attending a hearing as authorized by the respective board, committee, or commission; or for performing official business as authorized by the respective board, committee, or commission. The per diem payments shall be at a rate as follows:

(a) State board of education - president..... $ 110.00 per day

(b) State board of education - member other than president ..... $ 100.00 per day

(c) State tenure commission - member..... $ 50.00 per day

(2) A state board of education member shall not be paid a per diem for more than 30 days per year.

(3) The administrative secretary of the state board of education shall report to the public, the senate and house fiscal agencies, and the state budget director the previous quarter's expenses by fund source for members of the state board of education related to the performance of their responsibilities.

Travel expenditures.

Sec. 302. From the amount appropriated in part 1 to the state board of education, not more than $35,000.00 shall be expended for travel.

MICHIGAN SCHOOLS FOR THE DEAF AND BLIND

Michigan schools for the deaf and blind; annual employees.

Sec. 401. The employees at the Michigan schools for the deaf and blind who work on a school year basis shall be considered annual employees for purposes of service credits, retirement, and insurance benefits.

Student's instructional program; assessment of operating costs.

Sec. 402. For each student enrolled at the Michigan schools for the deaf and blind, the department shall assess the intermediate school district of residence 100% of the cost of operating the student's instructional program. The amount shall exclude room and board related costs and the cost of weekend transportation between the school and the student's home.

Michigan school for the blind's former site in Lansing; rent and leasing agreements.

Sec. 403. (1) The department may assess rent to any state agency for the use of any facility at the Michigan school for the blind's former site in Lansing. The rental rates and all leasing arrangements shall be subject to the approval of the department of management and budget.

(2) In addition to those funds appropriated in part 1, the department may receive and expend additional funds from lease agreements at the Michigan school for the blind's former site in Lansing that have been negotiated with the approval of the department of management and budget. These funds are appropriated to the department for operation, maintenance, and renovation expenses associated with the leased space.

(3) The department shall not rent, lease, or declare as surplus property the superintendent's house on the Michigan school for the blind's former site without prior consent from the house and senate appropriations subcommittees on education. Amounts received under section 107 for general services may be expended by the department for operation, maintenance, and renovation expenses associated with the superintendent's house.

(4) Security guards or other patrols at the Michigan school for the blind's former site shall not be funded through section 108 funds appropriated for the Michigan schools for the deaf and blind.

(5) If the department leases real property to a person or organization that is not a department of state government, the department shall not expend funds in excess of the lease revenue received to replace, renovate, or repair that real property. This section shall not apply to emergency repairs or costs associated with technological renovations.

(6) The department shall not lease real property for less than fair market value.

(7) The unexpended balances of appropriations and any surplus restricted revenue for the former school for the blind site in Lansing shall not lapse to the state general fund at the end of the fiscal year. Any unexpended and unencumbered funds remaining on September 30, 2003 shall be carried forward as a work project or as restricted revenue and expended for special maintenance and repairs of facilities at the former Michigan school for the blind site in Lansing. The work project shall be performed by state employees or by contract when necessary at an estimated cost of $100,000.00. The estimated completion date of the work project is September 30, 2004.

Michigan schools for the deaf and blind in Flint; rental and lease agreements.

Sec. 404. (1) The department may assess rent or lease excess property located on the campus of the Michigan schools for the deaf and blind in Flint to private or publicly funded organizations.

(2) In addition to those funds appropriated in part 1, the department may receive and expend additional funds from lease agreements at the Michigan schools for the deaf and blind Flint campus that have been negotiated with the approval of the department of management and budget. These funds are appropriated to the department for the operation, maintenance, and renovation expenses associated with the leased space.

(3) Proceeds from the sale of surplus property and facilities at the Michigan schools for the deaf and blind are appropriated for the purposes of repairs, renovations, and maintenance of the Flint campus.

(4) The unexpended balances of appropriations for the schools for the deaf and blind operations, and from proceeds of the sale of surplus property and facilities at the Michigan schools for the deaf and blind shall not lapse to the state general fund at the end of the fiscal year. Any unexpended and unencumbered funds remaining on September 30, 2003, shall be carried forward as a work project or as restricted revenue and expended for special maintenance and repairs of facilities at the campus of the Michigan schools for the deaf and blind in Flint. The work shall be carried out by state employees, or by contract as necessary, at an estimated cost of $250,000.00. The estimated completion date of the work is September 30, 2004.

(5) The department shall request the department of civil service to conduct a review of all positions within the Michigan schools for the deaf and blind and consider any appropriate reclassifications.

Medicaid program services; reimbursement.

Sec. 405. The department may assist the department of community health, other departments, and local school districts to secure reimbursement for eligible services provided in Michigan schools from the federal Medicaid program. The department may submit reports of direct expenses related to this effort to the department of community health for reimbursement.

Promotion of residential program; literature distribution.

Sec. 406. (1) The Michigan schools for the deaf and blind may promote its residential program as a possible appropriate option for children who are deaf or hard of hearing or who are blind or visually impaired. The Michigan schools for the deaf and blind shall distribute information detailing its services to all intermediate school districts in the state.

(2) Upon knowledge of or recognition by an intermediate school district that a child in the district is deaf or hard of hearing or blind or visually impaired, the intermediate school district shall provide to the parents of the child the literature distributed by the Michigan schools for the deaf and blind to intermediate school districts under subsection (1).

(3) It is the intent of the legislature that parents continue to have a choice regarding the educational placement of their deaf or hard of hearing children.

Mid-Michigan academy; capital improvements.

Sec. 407. In addition to those funds appropriated in part 1, the department may receive and expend funds from the mid-Michigan academy for capital improvements. The department shall report to the house and senate fiscal agencies on a quarterly basis any expenditures made under this section. These additional funds are appropriated specifically for capital improvements authorized by the department of management and budget and shall be negotiated as part of the lease agreement.

General services.

Sec. 408. The department shall report to the house and senate appropriations subcommittees on education detailed information on the expenditures made from the amount authorized in part 1 quarterly for general services for the Michigan school for the blind's former site.

Use of rental payments.

Sec. 409. The department shall ensure that rental payments made by each tenant for space at the Michigan school for the blind former site are used for operation, maintenance, and renovation expenses associated with the leased space designated in the tenant's lease agreement.

PROFESSIONAL PREPARATION SERVICES

Professional personnel register and certificate revocation/felony conviction files.

Sec. 501. From the funds appropriated in part 1 for professional preparation services, the department shall maintain the professional personnel register and certificate revocation/felony conviction files.

Alternative student teaching program; credit earned through substitute teaching.

Sec. 502. The department shall authorize teacher preparation institutions to provide an alternative program by which up to 1/2 of the required student internship or student teaching credits may be earned through substitute teaching. The department shall require that teacher preparation institutions collaborate with school districts to ensure that the quality of instruction provided to student teachers is comparable to that required in a traditional student teaching program.

Restricted fund balances, projected revenues, and expenditures; annual report.

Sec. 503. (1) By February 15, 2003, the department shall provide the state budget director, house and senate appropriations subcommittees on education, and the senate and house fiscal agencies with an annual report on restricted fund balances, projected revenues, and expenditures for the fiscal years ending September 30, 2002 and September 30, 2003.

(2) It is the intent of the legislature that the department annually review the teacher certification and the teacher testing fund balances and explore ways to minimize the costs to teachers and other educational professionals for services rendered by the department.

EDUCATION OPTIONS, CHARTERS, AND CHOICE

Charter school office.

Sec. 601. (1) From the amount appropriated in part 1 for education options, charters, and choice, there is allocated $350,000.00 and 3.5 FTE positions to operate a charter school office to administer charter school legislation and associated regulations, and to coordinate the activities of the department relating to charter schools.

(2) If an audit finds that a public school district has significantly misrepresented its enrollment membership or financial data to the department, its funding shall be withheld and the public school district shall be required to reimburse the state any appropriations made as a result of the misrepresentations.

GRANTS AND DISTRIBUTIONS

Fund disbursements; restriction; waiver.

Sec. 701. The department shall disburse the funds to a general fund grantee in accordance with the same standards of timing and amount that apply to disbursements made by the department to a federal fund grantee. The disbursement shall be restricted to the minimum amount needed for immediate disbursement by the grantee. The department may waive this section if extenuating circumstances warrant and are substantiated in the grantee's application or other appropriate documentation. A waiver granted pursuant to this section shall not be effective until 15 days after written notice of the proposed waiver is given to the state budget director and the chairpersons of the senate and house appropriations subcommittees having jurisdiction over the department budget.

School breakfast programs.

Sec. 702. The funds appropriated in part 1 for school breakfast programs shall be made available to all eligible applicant public school districts as follows:

(a) The public school district participates in the federal school breakfast program and meets all standards as prescribed by 7 C.F.R. parts 220 and 245.

(b) Payment is made for each breakfast served meeting standards prescribed in subdivision (a).

(c) The payment for a public school district is at a per meal rate equal to the lesser of the district's actual cost, or 100% of the cost of a breakfast served by an efficiently operated breakfast program as determined by the department, less federal reimbursement, participant payments, and other state reimbursement. Determination of efficient cost by the department shall be determined by using a statistical sampling of statewide and regional cost as reported in a manner approved by the department for the preceding school year.

(d) The payment determined under subdivision (c) is prorated if the appropriation in part 1 is not sufficient to fund all payments determined under this section.

School readiness programs.

Sec. 703. (1) The funds appropriated in part 1 for school readiness programs shall be made available through a competitive application process as follows:

(a) An applicant may be any public or private nonprofit legal entity or agency other than a local or intermediate school district except a local or intermediate school district acting as a fiscal agent for a child caring organization regulated under 1973 PA 116, MCL 722.111 to 722.128.

(b) Applications shall be submitted in a form and manner as required by the department.

(c) Applications shall be reviewed by a diverse interagency committee composed of representatives of the department, appropriate community, volunteer, and social service agencies and organizations, and parents.

(d) Priority in the recommendation for awarding of grants by the state board of education to applicants shall be based upon the following criteria:

(*i*) Compliance with standards for early childhood development consistent with programs for 4-year-olds, as approved by the state board of education.

(*ii*) Active and continuous involvement of the parents or guardians of the children participating in the program.

(*iii*) Employment of teachers possessing proper training in early childhood development, including an early childhood (ZA) endorsement or child development associate, and trained support staff.

(*iv*) Evidence of collaboration with the community of providers in early childhood development programs including documentation of the total number of children in the community who would meet the criteria established in subparagraph (*vi*), and who are being served by other providers, and the number of children who will remain unserved by other community early childhood programs if this program is funded.

(*v*) The extent to which these funds will supplement other federal, state, local, or private funds.

(*vi*) The extent to which these funds will be targeted to children who will be at least 4, but less than 5, years of age as of December 1 of the year in which the programs are offered and who show evidence of 2 or more "at-risk" factors as defined in the state board of education report entitled, "children at risk" that was adopted by the state board on April 5, 1988.

(e) Whether the application contains a comprehensive evaluation plan that includes implementation of all program components required and an assessment of the gains of children participating in an early childhood development program.

(f) Applications shall provide for the establishment of a school readiness advisory committee that shall be involved in the planning and evaluation of the program and provides for the involvement of parents and appropriate community, volunteer, and social service agencies and organizations. There shall be on the committee at least 1 parent or guardian of a program participant for every 18 children enrolled in the program, with a minimum of 2 parent or guardian representatives. The committee shall do all of the following:

(*i*) Review the mechanisms and criteria used to determine referrals for participation in the school readiness program.

(*ii*) Review the health screening program for all participants.

(*iii*) Review the nutritional services provided to all participants.

(*iv*) Review the mechanisms in place for the referral of families to community social service agencies, as appropriate.

(*v*) Review the collaboration with and the involvement of appropriate community, volunteer, and social service agencies and organizations in addressing all aspects of education disadvantage.

(*vi*) Review, evaluate, and make recommendations for changes in the school readiness program.

(g) More than 50% of the children participating in the program shall meet the income eligibility criteria for free or reduced price lunch, as determined under the national school lunch act, chapter 281, 60 Stat. 230, 42 U.S.C. 1751 to 1753, 1755 to 1761, 1762a, 1765 to 1766b, and 1769 to 1769h, or meet income and all other eligibility criteria for participation in the Michigan family independence agency unified child day care program.

(2) Grant awards by the superintendent of public instruction may be at whatever level the superintendent determines appropriate. A grant, when combined with other sources of state revenue for this program, shall not exceed $3,300.00 per child or the cost of the program, whichever is less.

(3) Except as otherwise provided, an applicant that receives a 2002-2003 grant under this section shall also receive priority for fiscal years 2003-2004 and 2004-2005 funding. However, after 3 fiscal years of continuous funding, an applicant will be required to compete openly with new programs and other programs completing their third year. All grant awards are contingent on the availability of funds and documented evidence of grantee compliance with standards for early childhood development consistent with programs for 4-year-olds, as approved by the state board of education, and with all operational, fiscal, administrative, and other program requirements. A program which offers supplementary day care and thereby offers full-day programs as part of its early childhood development program shall receive priority in the allocation of competitive funds.

National board certification; application fee.

Sec. 704. From the funds appropriated in part 1 for national board certification, the department shall pay 1/2 of the application fee for teachers who are deemed by the department to be qualified to apply to the national board for professional teaching standards for professional teaching certificates or licenses and to provide grants to recognize and reward teachers who receive certification or licensure.

Innovative program demonstration grants; reports.

Sec. 706. The innovative program demonstration (IPD) grants established under 2000 PA 263 awarded grants to programs in areas of school safety, parental involvement, and curriculum development. No later than September 30, 2002, a district that received funding under the IPD program shall report to the department results achieved by each program. No later than November 29, 2002, the department shall compile the information from each grant recipient and forward a comprehensive report to the house and senate standing committees on education, the house and senate fiscal agencies, the state budget director, and the state board of education. This report shall be compiled in accordance with the requirements of 2000 PA 263. The reports shall be posted on the department's website.

Community service grants; 21st century community learning centers; application; assurance.

Sec. 708. Before expending funds for DED-OESE, title IV, part A, community service grants and DED-OESE, title IV, part B, 21st century community learning centers, the department shall provide an assurance to the United States department of education that the application was developed in consultation and coordination with appropriate state officials, including the chief state school officer, and other state agencies administering before and after school programs, the heads of the state health and mental health agencies or their designees, and representatives of teachers, parents, students, the business community, and community-based organizations.

INFORMATION TECHNOLOGY

Comprehensive educational information system.

Sec. 901. The department shall work in collaboration with the center for educational performance and information to support the comprehensive educational information system and all data collection efforts of the department.

Implementation of § 388.1698.

Sec. 902. The department and the Michigan virtual university shall work collaboratively to implement section 98 of the state school aid act of 1979, 1979 PA 94, MCL 388.1698, in accordance with all applicable federal laws and regulations.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 523]

(HB 5647)

AN ACT to make appropriations for the department of history, arts, and libraries for the fiscal year ending September 30, 2003; to provide for the expenditure of those appropriations; to provide for the disposition of fees and other income received by the state agencies; to provide for the disbursement of certain grants; to provide for reports; and to prescribe powers and duties of certain state departments and certain state and local agencies and officers.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriation; department of history, arts, and libraries.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of history, arts, and libraries for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES

APPROPRIATION SUMMARY:		
Full-time equated unclassified positions	6.0	
Full-time equated classified positions	241.5	
GROSS APPROPRIATION	$	59,586,200
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	59,586,200
Federal revenues:		
Total federal revenues		8,111,300
Special revenue funds:		
Total local revenues		0
Total private revenues		577,400
Total other state restricted revenues		1,900,900
State general fund/general purpose	$	48,996,600

		For Fiscal Year Ending Sept. 30, 2003
Department operations.		
Sec. 102. DEPARTMENT OPERATIONS		
Full-time equated unclassified positions 6.0		
Full-time equated classified positions 26.0		
Unclassified salaries—6.0 FTE positions	$	219,400
Management services—25.0 FTE positions		2,103,600
Building occupancy charges and rent		2,739,300
Worker's compensation		34,000
Office of film and television services—1.0 FTE position		143,500
GROSS APPROPRIATION	$	5,239,800
Appropriated from:		
State general fund/general purpose	$	5,239,800
Information technology.		
Sec. 103. INFORMATION TECHNOLOGY		
Information technology services and projects	$	1,166,100
GROSS APPROPRIATION	$	1,166,100
Appropriated from:		
State general fund/general purpose	$	1,166,100
Michigan council for arts and cultural affairs.		
Sec. 104. MICHIGAN COUNCIL FOR ARTS AND CULTURAL AFFAIRS		
Full-time equated classified positions 10.0		
Administration—10.0 FTE positions	$	839,100
Arts and cultural grants		11,642,600
GROSS APPROPRIATION	$	12,481,700
Appropriated from:		
Federal revenues:		
NFAH-NEA, promotion of the arts, partnership agreements		700,000
State general fund/general purpose	$	11,781,700
Mackinac Island state park commission.		
Sec. 105. MACKINAC ISLAND STATE PARK COMMISSION		
Full-time equated classified positions 47.8		
Mackinac Island park operation—22.8 FTE positions	$	1,541,300
Historical facilities system—25.0 FTE positions		1,409,500
GROSS APPROPRIATION	$	2,950,800
Appropriated from:		
Special revenue funds:		
Airport and park operation fees		76,400
Mackinac Island state park fund		1,037,600
State general fund/general purpose	$	1,836,800
Michigan historical program.		
Sec. 106. MICHIGAN HISTORICAL PROGRAM		
Full-time equated classified positions 78.7		
Federal programs—14.9 FTE positions	$	1,853,900

	For Fiscal Year Ending Sept. 30, 2003
Heritage publications	$ 700,000
Historical administration and services—63.8 FTE positions	4,940,800
Private grants and gifts	502,400
Thunder Bay national marine sanctuary and underwater preserve	250,000
GROSS APPROPRIATION	$ 8,247,100
Appropriated from:	
Federal revenues:	
DOI-NPS, historic preservation grants-in-aid	1,348,000
Federal funds	505,900
Special revenue funds:	
Heritage publication fund	700,000
Private - grants and gifts	400,000
Private - Mann house trust fund	102,400
State general fund/general purpose	$ 5,190,800

Library of Michigan.

Sec. 107. LIBRARY OF MICHIGAN

Full-time equated classified positions	79.0
Book distribution centers	$ 308,400
Collected gifts and fees	161,900
Grand Rapids public library	199,200
Grant to the Detroit public library	2,877,100
Library of Michigan operations—79.0 FTE positions	7,577,900
Library services and technology act	4,557,400
Renaissance zone reimbursement	657,100
State aid to libraries	13,327,000
Subregional state aid	561,200
Wayne County library for the blind and physically handicapped	46,600
GROSS APPROPRIATION	$ 30,273,800
Appropriated from:	
Federal revenues:	
Federal section 903(d), SSA funds	1,000,000
Library services and technology act	4,557,400
Special revenue funds:	
Private - gifts and bequests revenues	75,000
User fees	86,900
State general fund/general purpose	$ 24,554,500

Early retirement and budgetary savings.

Sec. 108. EARLY RETIREMENT AND BUDGETARY SAVINGS

Early retirement savings	$ (146,300)
Budgetary savings	(626,800)
GROSS APPROPRIATION	$ (773,100)
Appropriated from:	
State general fund/general purpose	$ (773,100)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $50,897,500.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $24,168,200.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES		
Arts and cultural grants	$	7,500,000
State aid to libraries		13,327,000
Detroit public library		1,941,900
Grand Rapids public library		134,400
Subregional state aid		561,200
Wayne County library for the blind and physically handicapped		46,600
Renaissance zone reimbursement		657,100
Total department of history, arts, and libraries	$	24,168,200

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this appropriation act:

(a) "Department" means the department of history, arts, and libraries.

(b) "Director" means the director of the department of history, arts, and libraries.

(c) "DOI-NPS" means the United States department of interior, national park service.

(d) "Fiscal agencies" means the house fiscal agency and the senate fiscal agency.

(e) "FTE" means full-time equated.

(f) "NEA" means the national endowment for the arts.

(g) "NFAH" means the national foundation of the arts and the humanities.

(h) "Subcommittees" means all members of the appropriate subcommittees of the house and senate appropriations committees.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause a loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exception.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $1,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $1,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $750,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization; project plan.

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the subcommittees and the fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the fiscal agencies and to the subcommittees within 30 months.

Reporting requirements; use of Internet.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on the Internet or Intranet site. Quarterly, the department shall provide to the subcommittees, state budget office, and the fiscal agencies an electronic and paper copy listing of the reports submitted during the most recent 3-month period along with the Internet or Intranet site of each report, if any.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available.

Businesses in deprived and depressed communities; contracts to provide services or supplies.

Sec. 210. The director shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. The director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Affirmative action programs.

Sec. 211. The department shall establish and maintain affirmative action programs based on guidelines developed by the state equal opportunity workforce planning council which was created by Executive Order No. 1996-13 in order to receive general fund/general purpose dollars.

Contributions, gifts, bequests, devises, user fees, grants, and donations; acceptance; expenditures.

Sec. 212. In addition to the funds appropriated in part 1, the department may accept contributions, gifts, bequests, devises, user fees, grants, and donations. Funds accepted by the department are appropriated and allotted when received and may be expended immediately upon receipt or at any later time. Those funds that are not expended in the current fiscal year shall not lapse at the close of the fiscal year and may be carried over by the department for expenditure in the following fiscal years.

Technology related services and projects; user fees.

Sec. 213. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology related services and projects. These user fees are subject to provisions of an interagency agreement between the department and the department of information technology.

Information technology; designation of amounts as work projects; availability for expenditure.

Sec. 214. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Accounting structure; tracking expenditures and revenues within MAIN.

Sec. 215. The department shall maintain an accounting structure within MAIN to track expenditures and revenues of that portion of the library of Michigan-operations line item that are for the purposes of the line item included within 2001 PA 83 entitled "statewide database access".

Early retirement and budgetary savings; satisfaction of negative appropriation.

Sec. 261. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the department director and approved by the state budget director.

(3) Appropriation authorization adjustments required due to negative appropriations for early retirement savings and budgetary savings shall be made only after the approval of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Appropriation to arts and cultural grants; condition.

Sec. 262. (1) Subject to subsection (2), in addition to the amounts appropriated under part 1, for the fiscal year ending September 30, 2003, $11,900,000.00 is appropriated to the arts and cultural grants from the state general fund.

(2) The appropriations in subsection (1) shall become effective only if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack of cigarettes on or before September 30, 2002.

DEPARTMENT OPERATIONS

Members of commissions and boards; per diem payments.

Sec. 301. (1) The funds appropriated in part 1 may be used for per diem payments to the members of commissions, boards, or committees for a full day of commission, board, or committee work at which a quorum is present, for attending a hearing as authorized by the respective commission, board, or committee, or for performing official business as authorized by each respective commission, board, or committee.

(2) The per diem payments shall be $50.00 per day for all commissions and boards.

MICHIGAN COUNCIL FOR ARTS AND CULTURAL AFFAIRS

Arts and cultural grants.

Sec. 401. (1) The Michigan council for arts and cultural affairs in the department shall administer the arts and cultural grants appropriated in part 1. The council shall provide for fair and independent decisions on arts and cultural grant requests based upon published criteria to evaluate program quality. These criteria shall include a prohibition of art projects that include displays of human wastes on religious symbols, displays of sex acts, and depictions of flag desecration. The council shall seek to award grants on an equitable geographic basis to the extent possible given the quality of grant applications received. Priority shall be given to projects that serve multiple counties and that leverage significant additional public and private investment. Counties, cities, villages, townships, community foundations, and organizations, including science museums/centers, may apply for the following categories of grants:

(a) Anchor organization program for organizations that serve a statewide audience. Anchor organizations shall demonstrate a commitment to education, to mentoring smaller organizations, and to reaching underserved audiences.

(b) Arts projects program.

(c) Arts and learning program.

(d) Artists in schools program.

(e) Arts organization development program.

(f) Capital improvement projects.

(g) Local, regional, or statewide arts agencies services program.

(h) Regional regranting program.

(i) Partnership program.

(j) Discretionary grants program.

(k) Rural arts and cultural projects.

(2) Potential applicants, including anchor organizations, that are considered ineligible to apply for grants and applicants that are unsuccessful in obtaining a grant shall be provided by the council with the following:

(a) A written rationale as to why the potential applicant was considered ineligible or why the applicant's grant was not funded.

(b) A description of actions the potential applicant or applicant needs to take in order to become eligible or to receive funding in future years.

(3) The appropriation for arts and cultural grants in part 1 and disbursed under this section shall, at a minimum, be matched on an equal dollar-for-dollar basis from local and private contributions paid and received by each awardee receiving grants under this section. The dollar-for-dollar match may include the reasonable value of services, materials, and equipment as allowed under the federal internal revenue code for charitable contributions subject also to the preapproval of such a match by the Michigan council for arts and cultural affairs. The council shall receive proof of the entire amount of the matching funds, services, materials, or equipment by the end of the award period.

(4) Before any amount appropriated for arts and cultural grants in part 1 may be expended for a grant to eligible applicants for the purposes in this section, the department shall execute a grant agreement with each grantee. The grant agreement shall specify the criteria included in this section with which the application complies. The grant agreement shall include a list of the projects funded.

(5) Counties, cities, villages, townships, community foundations, and organizations receiving funds under this section shall provide the Michigan council for arts and cultural affairs with the following:

(a) A final report covering the grant period within 30 days after the end of the grant period indicating at least the following:

(*i*) Project revenues and expenditures indicating grant matching fund amounts.

(*ii*) Number of patrons attracted or benefiting during the grant period.

(*iii*) A narrative summary of each project and its outcome.

(b) Awardees receiving grants greater than $100,000.00 shall also submit a report as identified in subdivision (a) on an interim basis by April 7 of the grant year.

(6) Within 1 day following the final council vote, the department shall provide a list of grant awardees to the subcommittees and each legislator whose district is receiving a grant from arts and cultural grants funds appropriated in part 1.

(7) The applicants for arts and cultural grants funds shall be charged a nonrefundable application fee of $100.00 or 1% of the grant, whichever is less. The application fee may be used by the department to recover direct and indirect costs as appropriated in part 1.

(8) It is the intent of the legislature that the Michigan council for arts and cultural affairs continue to take appropriate steps to ensure that all organizations receiving state arts anchor organization grants have combined grant awards, as defined in subsection (10), of no more than 15.0% of operating revenue for the fiscal year ending September 30, 2005 and beyond. As used in this subsection, "operating revenue" is defined in the same manner as it was defined during the fiscal year 2000 state arts anchor organization application process.

(9) The council shall continue and expand its efforts to encourage and support nonprofit arts and cultural organizations transitioning from solely volunteer-based organizations to professional directed operations. This includes the provision of funds and services from the arts organization development, partnership, arts projects, anchor organization, and regional regranting programs as well as the rural arts and culture initiative to support professional development within these organizations. Criteria for support include the requirement of collaboration between these organizations and other community organizations.

(10) Any organizations receiving grants within the anchor organization program category in excess of 10.0% of their operating revenue, as defined in subsection (8), for the fiscal year ending September 30, 2002, shall not receive a combined grant award from all grant categories, except the partnership program, that is greater than the combined grant award from these categories that the organization received for the fiscal year ending September 30, 2002.

(11) The council shall provide for fair, equitable, and efficient distribution of funds granted through the regional regranting program. The council shall provide for an annual assessment of grant management and distribution of mini-grant awards by designated regional regranting agencies and review the methodology employed.

(12) The council shall make every effort to provide total grant awards in the anchor organization program at a level not to exceed 65% of the total amount appropriated for arts and cultural grants.

(13) The department shall submit 2 annual reports to the appropriations subcommittees, the state budget office, and the fiscal agencies as follows:

(a) The first report is due 30 days after the council makes the annual grant awards. The report shall contain the following:

(*i*) A listing of each applicant.

(*ii*) The county of residence of an applicant.

(*iii*) The amount awarded.

(*iv*) The amount requested.

(*v*) The grant category under which an applicant applied.

(*vi*) A summary of projects funded for each awardee.

(*vii*) The expected number of patrons for an applicant during the grant period.

(*viii*) The amount of matching funds proposed by an applicant.

(*ix*) The review score for each application.

(*x*) A listing containing the information in subparagraphs (*i*) to (*iii*) for any regranted funds in the preceding fiscal year.

(b) The second report is due when materials are first distributed by the council seeking grant applications for the subsequent fiscal year. The report shall contain the following:

(*i*) The guidelines by which the council awards grants.

(*ii*) A summary of any changes in the program guidelines from the previous fiscal year.

(*iii*) A summary of any initiatives the council is taking to improve public access to the arts and culture, including, but not limited to, the use of technology applications.

MICHIGAN HISTORICAL PROGRAM

Historic site preservation grants.

Sec. 501. The federal funds appropriated in part 1 for the historic site preservation grants are for work projects and shall not lapse at the end of the fiscal year but shall continue to be available for expenditure until the projects for which the funds were reserved have been completed or are terminated. The purpose of these work projects is the identification, designation, and preservation of historic resources. The method used will be to solicit applications from eligible recipients, score applications based upon established criteria, and award the contracts and subgrants. The total cost is $1,348,000.00 and the tentative completion date is September 30, 2003.

Collection of certain funds; purpose; lapse.

Sec. 502. Funds collected by the department under sections 3, 6, 7, and 7a of 1913 PA 271, MCL 399.3, 399.6, 399.7, and 399.7a, are appropriated to the department for the purpose for which they were received and shall not lapse to the general fund at the end of the fiscal year.

Museum store.

Sec. 503. For purposes of administering the museum store as provided in section 7a of 1913 PA 271, MCL 399.7a, the department is exempt from section 261 of the management and budget act, 1984 PA 431, MCL 18.1261.

Michigan lighthouses.

Sec. 504. (1) From the state funds appropriated in part 1, the department may award discretionary historical grants to preserve Michigan lighthouses. The department may award up to $152,700.00 in grants for this purpose and may use a portion of those funds to assist in the transfer of lighthouses from federal ownership. A portion of the funds may also be dedicated to program administration and project coordination.

(2) The department shall allocate grant funds under this section pursuant to eligibility and scoring requirements established by the department. The method used will be to solicit applications from eligible recipients, score applications based on the established criteria, and award grants through executed contracts.

(3) Grants under this section may be awarded for purposes of stabilization, rehabilitation, or other preservation work on a Michigan lighthouse, but shall not be awarded for operational purposes. The department shall not allocate a grant under this section that exceeds $40,000.00.

(4) The funds appropriated in part 1 and allocated by this section are for work projects. The funds shall not lapse to the general fund at the end of the fiscal year but shall remain available in subsequent fiscal years, until funds have been expended, the projects for which the funds were reserved have been completed, or the projects are terminated, whichever occurs first. The tentative date for completion is September 30, 2004.

Michigan freedom trail commission.

Sec. 505. From the funds appropriated in part 1 for historical administration and services, $71,200.00 shall be allocated to support the operations of the Michigan freedom trail commission as specified in section 4 of the Michigan freedom trail commission act, 1998 PA 409, MCL 399.84. These funds shall be used to reimburse commission members, to pay for necessary contractual services of the commission, and to hire not more than 1.0 FTE position in the department's Michigan historical center to support commission operations.

Designation of property as state historic site; application fee.

Sec. 506. (1) In addition to the funds appropriated in part 1, the department shall collect an application fee of $250.00 for each application submitted under section 1 of 1955 PA 10, MCL 399.151, for property designated as a state historic site.

(2) The department shall deposit the fees collected under subsection (1) in a separate revolving fund. Any revenue remaining in the fund at the end of the fiscal year shall not lapse to the general fund but shall remain available for future expenditures. The department may expend any revenues in the fund immediately upon receipt. Expenditures shall be made only for the purpose of correcting, repairing, or replacing numbered markers erected pursuant to section 2 of 1955 PA 10, MCL 399.152.

LIBRARY OF MICHIGAN

Subregional library services.

Sec. 651. The funds appropriated in part 1 to the library of Michigan for subregional state aid shall only be expended if the local unit of government agrees to maintain local support at the same level of local support expended for subregional library services in the local unit of government's immediately preceding fiscal year. A reduction in local expenditures that equally affects all agencies within a local unit of government shall not be interpreted as a replacement of local financial or in-kind support with state aid funds.

Library services to blind and persons with disabilities.

Sec. 652. The funds appropriated in part 1 for a subregional library shall not be released until a budget for that subregional library has been approved by the department for expenditures for library services directly serving the blind and persons with disabilities. Subregional state aid shall be used only for providing services to the blind and to persons with disabilities.

Databases; availability.

Sec. 653. The funds appropriated in part 1 for statewide database access shall be used only for making computerized databases, searches of those databases, and the products of those searches available through the libraries of Michigan. Only those libraries that qualify under the federal library services and technology act, subtitle B of title II of the museum and library services act, title II of the arts, humanities, and cultural affairs act of 1976, Public Law 94-462, 110 Stat. 3009-295, are eligible to participate in this project.

Reimbursements to public libraries.

Sec. 654. From the state general fund/general purpose appropriation in part 1, there is allocated $657,100.00 to reimburse public libraries as provided by section 12 of the

Michigan renaissance zone act, 1996 PA 376, MCL 125.2692, for property taxes levied in 2002. Reimbursements shall be made in amounts to each eligible recipient not later than 60 days after the department of treasury certifies to the department that it has received all necessary information to properly determine the amounts due each eligible recipient under section 12(4) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2692. Any excess allocations shall lapse to the general fund.

Grand Rapids and Detroit public libraries; use of funds.

Sec. 655. The department shall submit a report on or before October 31, 2003, to the senate and house standing committees on appropriations that details the use of funds appropriated in part 1 within the Grand Rapids public library appropriation line and the grant to the Detroit public library appropriation line.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 524]

(SB 1102)

AN ACT to make appropriations for the department of corrections and certain state purposes related to corrections for the fiscal year ending September 30, 2003; to provide for the expenditure of the appropriations; to provide for reports; to provide for the creation of certain advisory committees and boards; to prescribe certain powers and duties of the department of corrections, certain other state officers and agencies, and certain advisory committees and boards; to provide for the collection of certain funds; and to provide for the disposition of fees and other income received by certain state agencies.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; department of corrections.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of corrections for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

DEPARTMENT OF CORRECTIONS

APPROPRIATION SUMMARY:		
Average population	51,551	
Full-time equated unclassified positions	16.0	
Full-time equated classified positions	18,827.9	
GROSS APPROPRIATION		$ 1,704,350,600
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		3,318,500
ADJUSTED GROSS APPROPRIATION		$ 1,701,032,100

		For Fiscal Year Ending Sept. 30, 2003
Federal revenues:		
Total federal revenues	$	26,403,400
Special revenue funds:		
Total local revenues		391,100
Total private revenues		0
Total other state restricted revenues		55,490,600
State general fund/general purpose	$	1,618,747,000

Executive.

Sec. 102. EXECUTIVE

Average population 480		
Full-time equated unclassified positions 16.0		
Full-time equated classified positions 91.5		
Unclassified positions—16.0 FTE positions	$	1,313,600
Executive direction—89.5 FTE positions		8,735,800
Michigan youth correctional facility - management services		11,400,700
Michigan youth correctional facility - administration—2.0 FTE positions		197,700
Average population 480		
Michigan youth correctional facility - lease payments		5,646,100
GROSS APPROPRIATION	$	27,293,900
Appropriated from:		
Federal revenues:		
Federal revenues and reimbursements		17,046,800
State general fund/general purpose	$	10,247,100

Administration and programs.

Sec. 103. ADMINISTRATION AND PROGRAMS

Full-time equated classified positions 345.1		
Planning, research, and records—23.0 FTE positions	$	1,046,900
Administrative services—66.6 FTE positions		5,770,700
Substance abuse testing and treatment		20,075,500
Inmate legal services		314,900
Training		12,468,600
Training administration—31.5 FTE positions		3,596,800
Prison industries operations—224.0 FTE positions		15,949,300
Rent		2,315,800
Equipment and special maintenance		2,054,000
Worker's compensation		21,303,000
Compensatory buyout and union leave bank		275,000
Prosecutorial and detainer expenses		4,051,000
GROSS APPROPRIATION	$	89,221,500
Appropriated from:		
Interdepartmental grant revenues:		
IDG-MDSP, Michigan justice training fund		638,600
Federal revenues:		
Federal revenues and reimbursements		2,912,500

		For Fiscal Year Ending Sept. 30, 2003
Special revenue funds:		
Correctional industries revolving fund	$	15,949,300
State general fund/general purpose	$	69,721,100

Field operations administration.

Sec. 104. FIELD OPERATIONS ADMINISTRATION

Average population		581
Full-time equated classified positions		2,261.2
Field operations—1,880.9 FTE positions	$	121,953,700
Parole board operations—28.0 FTE positions		2,130,400
Loans to parolees		294,400
Parole/probation services		2,455,300
Corrections centers—76.0 FTE positions		9,032,500
Electronic monitoring center—37.0 FTE positions		4,384,800
Technical rule violator program—104.3 FTE positions		9,638,800
Special alternative incarceration program—135.0 FTE positions		10,561,600
GROSS APPROPRIATION	$	160,451,500
Appropriated from:		
Special revenue funds:		
Local restricted revenues and reimbursements		391,100
State restricted revenues and reimbursements		16,356,500
State general fund/general purpose	$	143,703,900

Community corrections.

Sec. 105. COMMUNITY CORRECTIONS

Full-time equated classified positions		14.0
Community corrections administration—14.0 FTE positions	$	1,328,300
Probation residential centers		14,997,000
Community corrections comprehensive plans and services		13,033,000
Public education and training		50,000
Regional jail program		100
County jail reimbursement program		17,700,000
GROSS APPROPRIATION	$	47,108,400
Appropriated from:		
Special revenue funds:		
State restricted revenues and reimbursements		19,192,100
State general fund/general purpose	$	27,916,300

Consent decrees.

Sec. 106. CONSENT DECREES

Average population		400
Full-time equated classified positions		574.4
Hadix consent decree—157.0 FTE positions	$	11,109,300
DOJ consent decree—164.5 FTE positions		11,324,400
DOJ psychiatric plan - MDCH mental health services		68,231,400
DOJ psychiatric plan - MDOC staff and services—252.9 FTE positions		15,761,200
GROSS APPROPRIATION	$	106,426,300

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
State general fund/general purpose	$	106,426,300

Health care.

Sec. 107. HEALTH CARE

Full-time equated classified positions....1,027.1		
Health care administration—22.0 FTE positions	$	2,539,000
Hospital and specialty care services		52,729,100
Vaccination program		991,200
Northern region clinical complexes—243.4 FTE positions		24,432,600
Southeastern region clinical complexes—430.0 FTE positions		46,969,400
Southwestern region clinical complexes—331.7 FTE positions		29,938,800
GROSS APPROPRIATION	$	157,600,100
Appropriated from:		
Federal revenues:		
Federal revenues and reimbursements		85,800
Special revenue funds:		
State restricted revenues and reimbursements		101,200
State general fund/general purpose	$	157,413,100

Correctional facilities administration.

Sec. 108. CORRECTIONAL FACILITIES ADMINISTRATION

Average population....1,475		
Full-time equated classified positions....774.2		
Correctional facilities administration—43.0 FTE positions	$	3,992,600
Housing inmates in federal institutions		552,600
Education services and federal education grants—18.0 FTE positions		4,634,000
Federal school lunch program		712,800
Leased beds		100
Inmate housing fund—219.7 FTE positions		9,934,200
Average population....1,475		
Dental lab operations		102,300
Academic/vocational programs—493.5 FTE positions		37,134,900
GROSS APPROPRIATION	$	57,063,500
Appropriated from:		
Intradepartmental transfer revenues:		
IDT, dental lab user fees		102,300
Federal revenues:		
Federal revenues and reimbursements		5,498,800
State general fund/general purpose	$	51,462,400

Northern region correctional facilities.

Sec. 109. NORTHERN REGION CORRECTIONAL FACILITIES

Average population....14,430		
Full-time equated classified positions....4,371.2		
Alger maximum correctional facility - Munising—369.8 FTE positions	$	27,742,200

	For Fiscal Year Ending Sept. 30, 2003
Average population 844	
Baraga maximum correctional facility - Baraga—	
432.4 FTE positions	$ 31,458,000
Average population 1,084	
Chippewa correctional facility - Kincheloe—509.1 FTE positions	39,557,700
Average population 2,182	
Kinross correctional facility - Kincheloe—568.3 FTE positions	45,317,500
Average population 2,423	
Marquette branch prison - Marquette—420.4 FTE positions	33,174,500
Average population 1,129	
Newberry correctional facility - Newberry—356.4 FTE positions ...	26,368,600
Average population 1,144	
Oaks correctional facility - Eastlake—386.6 FTE positions	29,624,600
Average population 900	
Ojibway correctional facility - Marenisco—293.4 FTE positions	21,861,600
Average population 1,196	
Pugsley correctional facility - Kingsley—228.4 FTE positions	16,823,900
Average population 954	
Saginaw correctional facility - Freeland—379.8 FTE positions	26,499,500
Average population 1,468	
Standish maximum correctional facility - Standish—	
426.6 FTE positions	32,296,700
Average population 1,106	
GROSS APPROPRIATION	$ 330,724,800
Appropriated from:	
Special revenue funds:	
State restricted revenues and reimbursements	1,113,300
State general fund/general purpose	$ 329,611,500

Southeastern region correctional facilities.

Sec. 110. SOUTHEASTERN REGION CORRECTIONAL FACILITIES

Average population 16,716	
Full-time equated classified positions 4,922.0	
Cooper Street correctional facility - Jackson—	
278.2 FTE positions	$ 22,467,200
Average population 1,360	
G. Robert Cotton correctional facility - Jackson—	
425.5 FTE positions	32,467,500
Average population 1,692	
Charles Egeler reception center - Jackson—447.8 FTE positions	31,447,900
Average population 1,082	
Gus Harrison correctional facility - Adrian—535.6 FTE positions ...	40,336,900
Average population 2,200	
Huron Valley correctional facility - Ypsilanti—	
283.6 FTE positions	21,261,800
Average population 497	
Macomb correctional facility - New Haven—379.9 FTE positions....	25,707,000

	For Fiscal Year Ending Sept. 30, 2003
Average population 1,468	
Mound correctional facility - Detroit—345.2 FTE positions....	$ 25,146,200
Average population 1,044	
Parnall correctional facility - Jackson—271.0 FTE positions....	21,893,900
Average population 1,372	
Ryan correctional facility - Detroit—341.1 FTE positions....	25,636,100
Average population 1,044	
Robert Scott correctional facility - Plymouth—	
437.9 FTE positions....	32,353,800
Average population 1,247	
Southern Michigan correctional facility - Jackson—	
427.0 FTE positions....	29,869,600
Average population 1,481	
Thumb correctional facility - Lapeer—384.3 FTE positions....	29,539,200
Average population 1,454	
Western Wayne correctional facility - Plymouth—	
266.9 FTE positions....	21,330,300
Average population 775	
Jackson area support and services - Jackson—98.0 FTE positions..	16,029,700
GROSS APPROPRIATION....	$ 375,487,100
Appropriated from:	
Intradepartmental transfer revenues:	
IDT, production kitchen user fees....	2,577,600
Federal revenues:	
Federal revenues and reimbursements....	859,500
Special revenue funds:	
State restricted revenues and reimbursements....	1,364,700
State general fund/general purpose....	$ 370,685,300

Southwestern region correctional facilities.

Sec. 111. SOUTHWESTERN REGION CORRECTIONAL FACILITIES	
Average population 17,469	
Full-time equated classified positions....4,447.2	
Bellamy Creek correctional facility - Ionia—394.3 FTE positions....	$ 30,996,900
Average population 1,680	
Earnest C. Brooks correctional facility - Muskegon—	
507.7 FTE positions....	39,708,200
Average population 2,200	
Carson City correctional facility - Carson City—	
547.8 FTE positions....	41,760,200
Average population 2,200	
Florence Crane correctional facility - Coldwater—	
408.6 FTE positions....	30,976,100
Average population 1,510	
Deerfield correctional facility - Ionia—204.9 FTE positions....	16,571,600
Average population 960	

		For Fiscal Year Ending Sept. 30, 2003
Richard A. Handlon correctional facility - Ionia—		
266.0 FTE positions	$	21,437,200
Average population		1,315
Ionia maximum correctional facility - Ionia—363.6 FTE positions		26,618,400
Average population		636
Lakeland correctional facility - Coldwater—284.1 FTE positions		22,566,000
Average population		1,200
Muskegon correctional facility - Muskegon—304.4 FTE positions		24,675,300
Average population		1,310
Pine River correctional facility - St. Louis—224.6 FTE positions		17,362,100
Average population		960
Riverside correctional facility - Ionia—326.0 FTE positions		26,546,300
Average population		1,244
St. Louis correctional facility - St. Louis—615.2 FTE positions		45,203,900
Average population		2,254
GROSS APPROPRIATION	$	344,422,200
Appropriated from:		
Special revenue funds:		
State restricted revenues and reimbursements		1,404,500
State general fund/general purpose	$	343,017,700

Information technology.

Sec. 112. INFORMATION TECHNOLOGY

Information technology services and projects	$	16,143,100
GROSS APPROPRIATION	$	16,143,100
Appropriated from:		
Special revenue funds:		
Correctional industries revolving fund		9,000
State general fund/general purpose	$	16,134,100

Early retirement savings.

Sec. 113. EARLY RETIREMENT SAVINGS

Early retirement savings	$	(7,591,800)
GROSS APPROPRIATION	$	(7,591,800)
Appropriated from:		
State general fund/general purpose	$	(7,591,800)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $1,674,237,600.00

and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $78,221,300.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF CORRECTIONS		
Field operations - assumption of county probation staff	$	36,690,200
Prosecutorial and detainer expenses		4,051,000
Public service work projects		9,400,000
Community corrections comprehensive plans and services		13,033,000
Community corrections probation residential centers		14,997,000
Community corrections public education and training		50,000
Regional jail program		100
TOTAL	$	78,221,300

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this act:

(a) "Department" or "MDOC" means the Michigan department of corrections.

(b) "DOJ" means the United States department of justice.

(c) "FTE" means full-time equated.

(d) "IDG" means interdepartmental grant.

(e) "IDT" means intradepartmental transfer.

(f) "MDCH" means the Michigan department of community health.

(g) "MDSP" means the Michigan department of state police.

(h) "OCC" means community corrections.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exception.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $20,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $5,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $500,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $500,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization; project plan.

Sec. 207. At least 120 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Reporting requirements; use of Internet.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an Internet or Intranet site.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 should not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods and services, or both, are available. Preference should be given to goods and services, or both, manufactured or provided by Michigan businesses if they are competitively priced and of comparable value.

Businesses in deprived and depressed communities; contracts for services or supplies.

Sec. 210. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Controlled substance test; basis for denial of employment.

Sec. 211. (1) Pursuant to the provisions of civil service rules and regulations and applicable collective bargaining agreements, individuals seeking employment with the department shall submit to a controlled substance test. The test shall be administered by the department.

(2) Individuals seeking employment with the department who refuse to take a controlled substance test or who test positive for the illicit use of a controlled substance on such a test shall be denied employment.

Revenues and fees; limitation.

Sec. 212. The department may charge fees and collect revenues in excess of appropriations in part 1 not to exceed the cost of offender services and programming, employee meals, academic/vocational services, custody escorts, compassionate visits, union steward activities, public work programs, and emergency services provided to units of government. The revenues and fees collected shall be appropriated for all expenses associated with these services and activities.

Violent crime control and law enforcement act of 1994; state match requirements.

Sec. 213. Of the state general fund/general purpose revenue appropriated in part 1, $565,784,200.00 represents a state spending increase over the amount provided to the department for the fiscal year ending September 30, 1994, and may be used to meet state match requirements of programs contained in the violent crime control and law enforcement act of 1994, Public Law 103-322, 108 Stat. 1796, or successor grant programs, so that any additional federal funds received shall supplement funding provided to the department in part 1.

Michigan youth correctional facility; reports.

Sec. 215. The department shall provide quarterly reports on the Michigan youth correctional facility to the members of the senate and house appropriations subcommittees on corrections, the senate and house fiscal agencies, and the state budget director. The reports shall provide information relevant to an assessment of the safety and security of the institution, including, but not limited to, information on the number of critical incidents by type occurring at the facility, the number of custody staff at the facility, staff turnover rates, staff vacancy rates, overtime reports, prisoner grievances, and number and severity of assaults occurring at the facility. The reports also shall provide information on programming available at the facility and on program enrollments, including, but not limited to, academic/vocational programs, counseling programs, mental health treatment programs, substance abuse treatment programs, and cognitive restructuring programs.

Michigan youth correctional facility; duty of contract monitor to provide manual.

Sec. 216. The department shall require the contract monitor for the Michigan youth correctional facility to provide a manual to each prisoner at intake that details programs and services available at the facility, the processes by which prisoner complaints and grievances can be pursued, and the identity of staff available at the facility to answer questions regarding the information in the manual. The contract monitor shall obtain written verification of receipt from each prisoner receiving the manual. The contract monitor also shall answer prisoner questions regarding facility programs, services, and grievance procedures.

Management services; copy of invitation to bid, request for proposals, or similar document.

Sec. 217. As a condition of expending funds appropriated in part 1 for the Michigan youth correctional facility, the department shall provide a copy of any invitation to bid, request for proposals, or similar document pertaining to management services for the Michigan youth correctional facility to the chair and vice-chairs of the senate and house

appropriations subcommittees on corrections on the same day that the invitation to bid, request for proposals, or similar document is released to potential bidders and other members of the public.

Hepatitis C prevention; dissemination of information.

Sec. 218. The bureau of health care services shall develop information on hepatitis C prevention and the risks associated with exposure to hepatitis C, and the health care providers shall disseminate this information verbally and in writing to each prisoner at the health screening and full health appraisal conducted at admissions, at the annual health care screening 1 week before or after a prisoner's birthday, and prior to release to the community by parole, transfer to community residential placement, or discharge on the maximum.

Academic and vocational programs; report.

Sec. 222. By April 1, 2003, the department shall report to the senate and house appropriations subcommittees on corrections, the senate and house fiscal agencies, and the state budget director on academic/vocational programs. The report shall provide information relevant to an assessment of the department's academic and vocational programs, including, but not limited to, the following:

(a) The number of prisoners enrolled in each program, the number of prisoners completing each program, and the number of prisoners on waiting lists for each program.

(b) The steps the department has undertaken to improve programs and reduce waiting lists.

(c) An explanation of the value and purpose of each program, e.g., to improve employability, reduce recidivism, reduce prisoner idleness, or some combination of these and other factors.

(d) An identification of program outcomes for each academic and vocational program.

(e) An explanation of the department's plans for academic and vocational programs.

Restricted fund balances, projected revenues, and expenditures; annual report.

Sec. 224. By February 15, 2003, the department shall provide the house and senate appropriations subcommittees on corrections, the house and senate fiscal agencies, and the state budget director with an annual report on restricted fund balances, projected revenues, and expenditures for the fiscal years ending September 30, 2002 and September 30, 2003.

Technology related services and projects; user fees.

Sec. 259. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology related services and projects. Such user fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

Information technology; designation as work project.

Sec. 260. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Early retirement savings; satisfaction of negative appropriation; adjustments.

Sec. 261. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) Appropriation authorization adjustments required due to negative appropriations for early retirement savings shall be made only after the approval of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Additional amounts appropriated; condition; ALT test.

Sec. 262. (1) Subject to subsection (2), in addition to the amounts appropriated under part 1, the following amounts are appropriated for the fiscal year ending September 30, 2003:

(a) $800,000.00 appropriated to the county jail reimbursement program from the state general fund.

(b) $500,000.00 appropriated to the vaccination program from the state general fund.

(c) $170,000.00 appropriated to academic/vocational programs from the state general fund.

(d) $15,000.00 appropriated to Northern region clinical complexes from the state general fund.

(e) $20,000.00 appropriated to Southeastern region clinical complexes from the state general fund.

(f) $15,000.00 appropriated to Southwestern region clinical complexes from the state general fund.

(2) The appropriations in subsection (1) shall become effective only if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack of cigarettes on or before September 30, 2002.

(3) If the appropriations in subsection (1) become effective pursuant to subsection (2), the department, from the funds appropriated in part 1, shall offer an alanine aminotransferase (ALT) test to each prisoner who has received positive parole action. An explanation of results of the test shall be provided confidentially to the prisoner prior to release on parole, and if appropriate based on the test results, the prisoner shall also be provided a recommendation to seek follow-up medical attention in the community. The test shall be voluntary; if the prisoner refuses to be tested, that decision shall not affect parole release, conditions of parole, or parole supervision.

SUBSTANCE ABUSE TESTING AND TREATMENT

Alcohol and drug involvement; screening and assessment; treatment priority.

Sec. 301. (1) The department shall screen and assess each prisoner for alcohol and other drug involvement to determine the need for further treatment. The assessment

process shall be designed to identify the severity of alcohol and other drug addiction and determine the treatment plan, if appropriate.

(2) Subject to the availability of funding resources, the department shall provide substance abuse treatment to prisoners with priority given to those prisoners who are most in need of treatment and who can best benefit from program intervention based on the screening and assessment provided under subsection (1).

Residential substance abuse treatment services funds; report.

Sec. 302. (1) In expending residential substance abuse treatment services funds appropriated by this act, the department shall ensure to the maximum extent possible that residential substance abuse treatment services are available statewide.

(2) It is the intent of the legislature that the funds appropriated in part 1 for substance abuse testing and treatment be fully expended for that purpose.

(3) By July 1, 2003, the department shall report to the senate and house appropriations subcommittees on corrections and the senate and house fiscal agencies on the allocation, distribution, and expenditure of all funds appropriated by the substance abuse testing and treatment line item. The report shall include, but not be limited to, an explanation of an anticipated year-end balance, the number of participants in substance abuse programs, and the number of offenders on waiting lists for residential substance abuse programs. Information required by this subsection shall, where possible, be separated by MDOC administrative region and by offender type, including, but not limited to, a distinction between prisoners, parolees, and probationers.

EXECUTIVE

Prison population projection updates.

Sec. 401. The department shall submit 3-year and 5-year prison population projection updates by February 1, 2003 to the senate and house appropriations subcommittees on corrections, the senate and house fiscal agencies, and the state budget director.

Technical rule violator program, community residential program, electronic tether program, and special alternative to incarceration program; reports.

Sec. 402. The department shall prepare by April 1, 2003 individual reports for the technical rule violator program, the community residential program, the electronic tether program, and the special alternative to incarceration program. The reports shall be submitted to the house and senate appropriations subcommittees on corrections, the house and senate fiscal agencies, and the state budget director. The reports shall include the following:

(a) Monthly new participants.

(b) Monthly participant unsuccessful terminations, including cause.

(c) Number of successful terminations.

(d) End month population by facility/program.

(e) Average length of placement.

(f) Return to prison statistics.

(g) Description of program location(s), capacity, and staffing.

(h) Sentencing guideline scores and actual sentence statistics for participants, if applicable.

(i) Comparison with prior year statistics.

(j) Analysis of the impact on prison admissions and jail utilization and the cost effectiveness of the program.

County jail services staff.

Sec. 403. From the funds appropriated in part 1, the department shall continue to maintain county jail services staff sufficient to enable the department to continue to fulfill its functions of providing technical support, inspections of county jails, and maintenance of the jail reimbursement program.

Ratios; report.

Sec. 404. The department shall report to the senate and house appropriations subcommittees on corrections, the senate and house fiscal agencies, and the state budget director by April 1, 2003 on the ratio of correctional officers to prisoners for each correctional institution, the ratio of shift command staff to line custody staff, and the ratio of noncustody institutional staff to prisoners for each correctional institution.

Probation and parole technical violations; prison alternatives.

Sec. 405. (1) The department shall review and revise as necessary policy proposals that provide alternatives to prison for offenders being sentenced to prison as a result of technical probation violations and technical parole violations. To the extent the department has insufficient policies or resources to affect the continued increase in prison commitments among these offender populations, the department shall explore other policy options to allow for program alternatives, including department or OCC-funded programs, local level programs, and programs available through private agencies that may be used as prison alternatives for these offenders.

(2) To the extent policies or programs described in subsection (1) are used, developed, or contracted for, the department may request that funds appropriated in part 1 be transferred under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393, for their operation.

(3) The department shall continue to utilize parole violator processing guidelines that require parole agents to utilize all available appropriate community-based, nonincarcerative postrelease sanctions and services when appropriate. The department shall periodically evaluate such guidelines for modification, in response to emerging information from the pilot projects for substance abuse treatment provided under this act and applicable provisions of prior budget acts for the department.

(4) By March 1, 2003, the department shall report to the senate and house appropriations subcommittees on corrections, senate and house fiscal agencies, and state budget director on the effect that any recommended policy changes for technical violators of parole and technical violators of probation would have on admission to prison and jail and the impact on other program alternatives.

ADMINISTRATION AND PROGRAMS

Housing and custody of parole violators and offenders; reimbursement to counties.

Sec. 501. From the funds appropriated in part 1 for prosecutorial and detainer expenses, the department shall reimburse counties for housing and custody of parole violators and offenders being returned by the department from community placement who are available for return to institutional status and for prisoners who volunteer for placement in a county jail.

FIELD OPERATIONS ADMINISTRATION

Caseload audit of field agents.

Sec. 601. From the funds appropriated in part 1, the department shall conduct a statewide caseload audit of field agents. The audit shall address public protection issues and assess the ability of the field agents to complete their professional duties. The results of the audit shall be submitted to the senate and house appropriations subcommittees on corrections and the senate and house fiscal agencies, and the state budget office by September 30, 2003.

Community service work program.

Sec. 602. (1) Of the amount appropriated in part 1 for field operations, a sufficient amount shall be allocated for the community service work program and shall be used for salaries and wages and fringe benefit costs of community service coordinators employed by the department to supervise offenders participating in work crew assignments. Funds shall also be used to cover motor transport division rates on state vehicles used to transport offenders to community service work project sites.

(2) The community service work program shall provide offenders with community service work of tangible benefit to a community while fulfilling court-ordered community service work sanctions and other postconviction obligations.

(3) As used in this section, "community service work" means work performed by an offender in an unpaid position with a nonprofit or tax-supported or government agency for a specified number of hours of work or service within a given time period.

Electronic tether program.

Sec. 603. (1) All prisoners, probationers, and parolees involved with the electronic tether program shall reimburse the department for the equipment costs and telephone charges associated with their participation in the program. The department may require community service work reimbursement as a means of payment for those able-bodied individuals unable to pay for the cost of the equipment.

(2) Program participant contributions and local community tether program reimbursement for the electronic tether program appropriated in part 1 are related to program expenditures and may be used to offset expenditures for this purpose.

(3) Included in the appropriation in part 1 is adequate funding to implement the community tether program to be administered by the department. The community tether program is intended to provide sentencing judges and county sheriffs in coordination with local community corrections advisory boards access to the state's electronic tether program

to reduce prison admissions and improve local jail utilization. The department shall determine the appropriate distribution of the tether units throughout the state based upon locally developed comprehensive corrections plans pursuant to the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(4) For a fee determined by the department, the department will provide counties with the tether equipment, replacement parts, administrative oversight of the equipment's operation, notification of violators, and periodic reports regarding county program participants. Counties are responsible for tether equipment installation and service and apprehension of program violators. For an additional fee as determined by the department, the department will provide staff to install and service the equipment. Counties are responsible for the coordination and apprehension of program violators.

(5) Any county with tether charges outstanding over 60 days shall be considered in violation of the community tether program agreement and lose access to the program.

Community-placement prisoners and parolees; reimbursement for operational costs.

Sec. 604. Community-placement prisoners and parolees shall reimburse the department for the operational costs of the program. As an alternative method of payment, the department may develop a community service work schedule for those individuals unable to meet reimbursement requirements established by the department.

Uniform rate; establishment.

Sec. 605. The department shall establish a uniform rate to be paid by agencies that benefit from public work services provided by special alternative incarceration participants and prisoners.

COMMUNITY CORRECTIONS

Reintegration of offender into community; programs and services.

Sec. 701. The office of community corrections shall provide and coordinate the delivery and implementation of services in communities to facilitate successful offender reintegration into the community. Programs and services to be offered shall include, but are not limited to, technical assistance for comprehensive corrections plan development, new program start-up funding, program funding for those programs delivering services for eligible offenders in geographic areas identified by the office of community corrections as having a shortage of available services, technical assistance, referral services for education, employment services, and substance abuse and family counseling. As used in this act:

(a) "Alternative to incarceration in a state facility or jail" means a program that involves offenders who receive a sentencing disposition which appears to be in place of incarceration in a state correctional facility or jail based on historical local sentencing patterns or which amounts to a reduction in the length of sentence in a jail.

(b) "Goal" means the intended or projected result of a comprehensive corrections plan or community corrections program to reduce prison commitment rates, to reduce the length of stay in a jail, or to improve the utilization of a jail.

(c) "Jail" means a facility operated by a local unit of government for the physical detention and correction of persons charged with or convicted of criminal offenses.

(d) "Offender eligibility criteria" means particular criminal violations, state felony sentencing guidelines descriptors, and offender characteristics developed by advisory boards and approved by local units of government that identify the offenders suitable for community corrections programs funded through the office of community corrections.

(e) "Offender target population" means felons or misdemeanants who would likely be sentenced to imprisonment in a state correctional facility or jail, who would not increase the risk to the public safety, who have not demonstrated a pattern of violent behavior, and who do not have criminal records that indicate a pattern of violent offenses.

(f) "Offender who would likely be sentenced to imprisonment" means either of the following:

(*i*) A felon or misdemeanant who receives a sentencing disposition that appears to be in place of incarceration in a state correctional facility or jail, according to historical local sentencing patterns.

(*ii*) A currently incarcerated felon or misdemeanant who is granted early release from incarceration to a community corrections program or who is granted early release from incarceration as a result of a community corrections program.

Community corrections comprehensive plans funds.

Sec. 702. (1) The funds included in part 1 for community corrections comprehensive plans and services are to encourage the development through technical assistance grants, implementation, and operation of community corrections programs that serve as an alternative to incarceration in a state facility or jail. The comprehensive corrections plans shall include an explanation of how the public safety will be maintained, the goals for the local jurisdiction, offender target populations intended to be affected, offender eligibility criteria for purposes outlined in the plan, and how the plans will meet the following objectives, consistent with section 8(4) of the community corrections act, 1988 PA 511, MCL 791.408:

(a) Reduce admissions to prison of nonviolent offenders who would have otherwise received an active sentence, including probation violators.

(b) Improve the appropriate utilization of jail facilities, the first priority of which is to open jail beds intended to house otherwise prison-bound felons, and the second priority being to appropriately utilize jail beds so that jail crowding does not occur.

(c) Open jail beds through the increase of pretrial release options.

(d) Reduce the readmission to prison of parole violators.

(e) Reduce the admission or readmission to prison of offenders, including probation violators and parole violators, for substance abuse violations.

(2) The award of community corrections comprehensive plans funds shall be based on criteria that include, but are not limited to, the prison commitment rate by category of offenders, trends in prison commitment rates and jail utilization, historical trends in community corrections program capacity and program utilization, and the projected impact and outcome of annual policies and procedures of programs on prison commitment rates and jail utilization.

(3) Funds awarded for probation residential centers in part 1 shall provide for a per diem reimbursement of not more than $43.00.

Comprehensive corrections plans; contents.

Sec. 703. The comprehensive corrections plans shall also include, where appropriate, descriptive information on the full range of sanctions and services which are available and utilized within the local jurisdiction and an explanation of how jail beds, probation residential services, the special alternative incarceration program (boot camp), probation detention centers, the electronic monitoring program for probationers, and treatment and rehabilitative services will be utilized to support the objectives and priorities of the comprehensive corrections plan and the purposes and priorities of section 8(4) of the community corrections act, 1988 PA 511, MCL 791.408. The plans shall also include, where appropriate, provisions that detail how the local communities plan to respond to sentencing guidelines found in chapter XVII of the code of criminal procedure, 1927 PA 175, MCL 777.1 to 777.69, and the use of the county jail reimbursement program pursuant to section 706 of this act. The state community corrections board shall encourage local community corrections boards to include in their comprehensive corrections plans strategies to collaborate with local alcohol and drug treatment agencies of the department of community health for the provision of alcohol and drug screening, assessment, case management planning, and delivery of treatment to alcohol- and drug-involved offenders, including, but not limited to, probation and parole violators who are at risk of revocation.

Prison admissions and jail utilization; impact of community corrections act.

Sec. 704. (1) As part of the March biannual report specified under section 12(2) of the community corrections act, 1988 PA 511, MCL 791.412, which requires an analysis of the impact of that act on prison admissions and jail utilization, the department shall submit to the senate and house appropriations subcommittees on corrections, the senate and house fiscal agencies, and the state budget director the following information for each county and counties consolidated for comprehensive corrections plans:

(a) Approved technical assistance grants and comprehensive corrections plans including each program and level of funding, the utilization level of each program, and profile information of enrolled offenders.

(b) If federal funds are made available, the number of participants funded, the number served, the number successfully completing the program, and a summary of the program activity.

(c) Status of the community corrections information system and the jail population information system.

(d) Data on probation residential centers, including participant data, participant sentencing guideline scores, program expenditures, average length of stay, and bed utilization data.

(e) Offender disposition data by sentencing guideline range, by disposition type, number and percent statewide and by county, current year, and comparisons to prior 3 years.

(2) The report required under subsection (1) shall include the total funding allocated, program expenditures, required program data, and year-to-date totals.

Basic jail data; identification and coordination of information.

Sec. 705. (1) The department shall identify and coordinate information regarding the availability of and the demand for community corrections programs, jail-based community corrections programs, and basic state-required jail data.

(2) The department shall be responsible for the collection, analysis, and reporting of state-required jail data.

(3) As a prerequisite to participation in the programs and services offered through the department, counties shall provide basic jail data to the department.

Housing and custody of convicted felons; county jail reimbursement program.

Sec. 706. (1) The department shall administer a county jail reimbursement program from the funds appropriated in part 1 for the purpose of reimbursing counties for housing in jails felons who otherwise would have been sentenced to prison.

(2) The county jail reimbursement program shall reimburse counties for housing and custody of convicted felons if the conviction was for a crime committed before January 1, 1999 and 1 of the following applies:

(a) The felon would otherwise have been sentenced to a state prison term with a minimum sentencing guidelines range minimum of 12 months or more.

(b) The felon was convicted of operating a motor vehicle under the influence of intoxicating liquor or a controlled substance, or a combination of both, third or subsequent offense, under section 625(8)(c) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or its predecessor statute, punishable as a felony.

(c) The felon was sentenced under section 11 or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.11 and 769.12.

(3) The county jail reimbursement program shall reimburse counties for housing and custody of convicted felons if the conviction was for a crime committed on or after January 1, 1999 and 1 of the following applies:

(a) The felon was convicted of operating a motor vehicle under the influence of intoxicating liquor or a controlled substance, or a combination of both, third or subsequent offense, under section 625(8)(c) of the Michigan vehicle code, 1949 PA 300, MCL 257.625, or its predecessor statute, punishable as a felony.

(b) The felon's sentencing guidelines recommended range upper limit is more than 18 months, the felon's sentencing guidelines recommended range lower limit is 12 months or less, the felon's prior record variable score is 35 or more points, and the felon's sentence is not for commission of a crime in crime class G or crime class H under chapter XVII of the code of criminal procedure, 1927 PA 175, MCL 777.1 to 777.69.

(c) The felon's minimum sentencing guidelines range minimum is more than 12 months.

(4) State reimbursement under this section for prisoner housing and custody expenses per diverted offender shall be $42.00 per diem for up to a 1-year total. However, if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack of cigarettes on or before September 30, 2002, state reimbursement for prisoner housing and custody expenses per diverted offender under the county jail reimbursement program under this section shall be $43.50 per diem for up to a 1-year total.

(5) From the funds appropriated in part 1 for the county jail reimbursement program, the department shall contract for an ongoing study to determine the impact of the new legislative sentencing guidelines. The study shall analyze sentencing patterns of jurisdictions as well as future patterns in order to determine and quantify the population impact on prisons and jails of the new guidelines as well as to identify and define felon or crime characteristics or sentencing guidelines scores that indicate a felon is a prison diversion. The department shall contract for a local and statewide study for this purpose

and provide periodic reports regarding the status and findings of the study to the house and senate appropriations subcommittees on corrections, the house and senate fiscal agencies, and the state budget director.

(6) The department, the Michigan association of counties, and the Michigan sheriffs' association shall review the periodic findings of the study required in subsection (5) and, if appropriate, recommend modification of the criteria for reimbursement contained in subsection (3)(b) and (c). Any recommended modification shall be forwarded to the house and senate appropriations subcommittees on corrections and the state budget office.

(7) The department shall reimburse counties for offenders in jail based upon the reimbursement eligibility criteria in place on the date the offender was originally sentenced for the reimbursable offense.

(8) County jail reimbursement program expenditures shall not exceed the amount appropriated in part 1 for this purpose. Payments to counties under the county jail reimbursement program shall be made in the order in which properly documented requests for reimbursements are received. A request shall be considered to be properly documented if it meets MDOC requirements for documentation. The department shall by October 15, 2002 distribute the documentation requirements to all counties.

Probation detention program.

Sec. 708. (1) From the funds appropriated in part 1 for probation residential centers, funds are allocated for the operation of a probation detention program in a county that has adopted a charter pursuant to 1966 PA 293, MCL 45.501 to 45.521. The probation detention program shall have a capacity of 100 beds. The department shall provide the program administrator monthly with 90-day projections of the numbers of beds expected to be needed for probationers and parolees in Phase II residential placement under section 4(2) of the special alternative incarceration act, 1988 PA 287, MCL 798.14, and the program administrator shall make beds available as necessary to house probationers and parolees entering Phase II residential placement.

(2) Funds awarded for probation residential centers in part 1 shall provide for a per diem reimbursement of not more than $43.00.

(3) Payments under this section for operation of the probation detention program shall be made at the same rates applicable to disbursement of other funds awarded under the probation residential centers line item, not to exceed a total expenditure of $1,569,500.00.

(4) The purpose of the probation detention program is to reduce the admission to prison of probation violators by providing a community punishment program within a secure environment with 24-hour supervision and programming with an emphasis on structured daily activities. Programming shall include, but need not be limited to, the following components that may be provided directly or by referral:

(a) Orientation and assessment.

(b) Substance abuse counseling.

(c) Life skills counseling.

(d) Education.

(e) Employment preparation.

(f) Vocational training.

(g) Employment.

(h) Community service.

(i) Physical training.

(j) Cognitive skill training.

(5) The probation detention program shall reduce the admission to prison of probation violators directly or indirectly by providing a program for direct sentencing of felony probation violators who likely would be prison-bound based on historical local sentencing practices or by removing probation violators from jail with a resulting increase in the number of jail beds available and used for felons who otherwise would be likely to be sentenced to prison based on historical local sentencing practices.

(6) The operation of the probation detention program shall be included in an approved community corrections comprehensive plan for the county described in subsection (1) pursuant to the community corrections act, 1988 PA 511, MCL 791.401 to 791.414, and shall be consistent with sections 701, 702, and 703.

(7) The comprehensive plan shall specify the programs, eligibility criteria, referral, and enrollment process, the assessment and client-specific planning case management process, a program design that includes a variable length of stay based on assessed need, and the evaluation methodology to show the impact of the program on prison admissions and recidivism.

(8) The length of stay for a probationer or parolee in Phase II residential placement shall be at the department's discretion based on the offender assessment and client-specific planning case management process and the offender's progress at meeting the case management objectives, but shall not exceed 120 days.

(9) The department shall require the program administrator to report not later than March 1, 2003 to the state budget director, the senate and house fiscal agencies, and the senate and house appropriations subcommittees on corrections concerning the program's impact on prison admissions and recidivism including, but not limited to, the numbers of offenders released from the probation detention program who are arrested for a felony offense within 1 year of their termination from the program.

Comprehensive corrections plan; request for funds; noncompliance.

Sec. 711. (1) As a condition of receipt of the funds appropriated in section 105 for community corrections plans and services and probation residential centers, the department shall only award those funds requested under a properly prepared and approved comprehensive corrections plan submitted under section 8 of the community corrections act, 1988 PA 511, MCL 791.408, or directly applied for under section 10 of the community corrections act, 1988 PA 511, MCL 791.410.

(2) The department shall only halt funding for an entity funded under section 8 of the community corrections act, 1988 PA 511, MCL 791.408, in instances of substantial noncompliance during the period covered by the plan.

CONSENT DECREES

Consent decree costs and expenditures; creation of separate control accounts.

Sec. 801. Funding appropriated in part 1 for consent decree line items is appropriated into separate control accounts created for each line item. Funding in each control account shall be distributed as necessary into separate accounts created for the purpose of separately identifying costs and expenditures associated with each consent decree.

HEALTH CARE

Prisoner sex change; expenditure of funds prohibited; exception.

Sec. 901. The department shall not expend funds appropriated under part 1 for any surgery, procedure, or treatment to provide or maintain a prisoner's sex change unless it is determined medically necessary by a physician.

Prisoner health care services; payment status from contractors to vendors.

Sec. 902. (1) As a condition of expenditure of the funds appropriated in part 1, the department shall report to the senate and house appropriations subcommittees on corrections on January 1, 2003 and July 1, 2003 the status of payments from contractors to vendors for health care services provided to prisoners, as well as the status of the contracts, and an assessment of prisoner health care quality.

(2) It is the intent of the legislature that, in the interest of providing the most efficient and cost-effective delivery of health care, local health care providers shall be considered and given the opportunity to competitively bid as vendors under future managed care contracts.

Nurses; hiring or retaining.

Sec. 903. There are sufficient funds and FTEs appropriated in part 1 to provide a full complement of nurses for clinical complexes working regular pay hours and it is the intent of the legislature that sufficient nurses be hired or retained to limit the use of overtime other-than-holiday pay.

Privatization of pharmacy services; cost/benefit analysis; report.

Sec. 904. From the funds allocated in part 1 for health care services, the department shall conduct a 1-year cost/benefit analysis of privatizing pharmacy services and shall report the findings of this 1-year cost/benefit analysis to the senate and house appropriations subcommittees on corrections and the senate and house fiscal agencies not less than 120 days before any effort to privatize pharmacy services unless a report is completed prior to October 1, 2002.

Hospital and specialty care; invitation to bid, requests for proposals, or simular documents.

Sec. 905. As a condition of expending funds appropriated in part 1 for hospital and specialty care or other correctional managed care health care services, the department shall provide a copy of any invitation to bid, request for proposals, or similar document pertaining to hospital and specialty care or other correctional managed care health care services to the chair and vice-chairs of the senate and house appropriations subcommittees on corrections on the same day that the invitation to bid, request for proposals, or similar document is released to potential bidders and other members of the public.

Ambulance services; reimbursement.

Sec. 906. It is the intent of the legislature that, with the funds appropriated in part 1 for hospital and specialty care services, the department shall ensure that local providers

of ambulance services to prisoners be reimbursed within 60 days of the filing of any uncontested claim for service.

INSTITUTIONAL OPERATIONS

Smoking areas; designation.

Sec. 1001. As a condition of expenditure of the funds appropriated in part 1, the department shall ensure that smoking areas are designated for use by prisoners and staff at each facility. At a minimum, all outdoor areas within each facility's perimeter shall be designated for smoking, except that smoking may be forbidden within 20 feet of any building designated as nonsmoking or smoke-free.

Children's visitation; pilot program.

Sec. 1002. From the funds appropriated in part 1, the department shall allocate sufficient funds to develop a pilot children's visitation program. The pilot program shall teach parenting skills and arrange for day visitation at these facilities for parents and their children, except for the families of prisoners convicted of a crime involving criminal sexual conduct in which the victim was less than 18 years of age or involving child abuse.

Internet; access prohibited.

Sec. 1003. The department shall prohibit prisoners access to or use of the Internet or any similar system.

Exposure of employee to hepatitis B virus; vaccination.

Sec. 1004. Any department employee who, in the course of his or her job, is determined by a physician to have had a potential exposure to the hepatitis B virus, shall receive a hepatitis B vaccination upon request.

Inmate housing fund.

Sec. 1006. (1) The inmate housing fund shall be used for the custody, treatment, clinical, and administrative costs associated with the housing of prisoners other than those specifically budgeted for elsewhere in this act. Funding in the inmate housing fund is appropriated into a separate control account. Funding in the control account shall be distributed as necessary into separate accounts created to separately identify costs for specific purposes.

(2) Quarterly reports on all expenditures from the inmate housing fund shall be submitted by the department to the state budget director, the senate and house appropriations subcommittees on corrections, and the senate and house fiscal agencies.

Cognitive restructuring programs.

Sec. 1008. It is the intent of the legislature that from the funds appropriated in part 1 for prison operations the department maintain on a voluntary basis 1 or more cognitive restructuring programs such as Project CHANGE for high-security-level prisoners.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 525]

(SB 1106)

AN ACT to make appropriations for the department of natural resources for the fiscal years ending September 30, 2002 and September 30, 2003; to provide for the expenditure of those appropriations; to create funds and accounts; to require reports; to prescribe certain powers and duties of certain state agencies and officials; to authorize certain transfers by certain state agencies; and to provide for the disposition of fees and other income received by the various state agencies.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS FOR FISCAL YEAR 2002-03

Appropriations; department of natural resources.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of natural resources for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

DEPARTMENT OF NATURAL RESOURCES		
Full-time equated unclassified positions	6.0	
Full-time equated classified positions	2,075.5	
GROSS APPROPRIATION	$	257,719,600
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers	$	3,437,900
ADJUSTED GROSS APPROPRIATION	$	254,281,700
Federal revenues:		
Total federal revenues		30,427,300
Special revenue funds:		
Total local revenues		0
Total private revenues		1,793,700
Total other state restricted revenues		178,236,400
State general fund/general purpose	$	43,824,300
FUND SOURCE SUMMARY		
GROSS APPROPRIATION	$	257,719,600
Interdepartmental grant revenues:		
IDG, engineering services to work orders	$	1,286,700
IDG, MacMullan conference center revenue		1,300,600
IDG, land acquisition services to work orders		664,500
IDT, interdivisional charges		186,100
Total interdepartmental grants and intradepartmental transfers		3,437,900
ADJUSTED GROSS APPROPRIATION	$	254,281,700
Federal revenues:		
DAG, federal		2,681,800
DOC, federal		45,900
DOD, federal		31,000

		For Fiscal Year Ending Sept. 30, 2003
DOE, federal	$	1,000
DOI, federal		20,165,700
DOI-MMS, federal oil and gas royalty revenue		150,000
DOI-MMS, federal timber revenue		3,300,000
DOT, federal		3,801,200
EPA, federal		248,700
Federal, corporation for national and community service		1,000
Federal, homeland defense		1,000
Total federal revenues		30,427,300
Special revenue funds:		
Private funds		1,271,400
Private - gift revenues		500,000
Private, IGLFC		22,300
Total private revenues		1,793,700
Aircraft fees		219,900
Air photo - geographic information system		135,000
Automated license system revenue		429,300
Clean Michigan initiative fund		277,800
Commercial fishing fee revenue		200
Delinquent property tax administration fund		1,065,900
Environmental protection fund		1,897,600
Forest recreation fund		1,120,700
Forest resource revenue		24,341,500
Game and fish protection fund		60,079,300
Game and fish protection fund - deer habitat reserve		2,262,100
Game and fish protection fund - turkey permit fees		1,457,000
Game and fish protection fund - waterfowl fees		90,500
Game and fish - wildlife resource protection fund		1,344,100
Harbor development fund		245,900
Land exchange facilitation fund		5,503,100
Land sale revenue		2,639,300
Marine safety fund		5,011,400
Michigan civilian conservation corps endowment fund		1,311,000
Michigan state waterways fund		14,834,500
Michigan natural resources trust fund		3,847,600
Michigan state parks endowment fund		5,248,500
Nongame wildlife fund		592,500
Off-road vehicle trail improvement fund		2,759,200
Park improvement fund		30,859,800
Publications revenue		58,700
Recreation improvement fund		1,414,400
Shop fees		56,300
Snowmobile registration fee revenue		1,779,600
Snowmobile trail improvement fund		7,353,700
Total other state restricted revenues		178,236,400
State general fund/general purpose	$	43,824,300

		For Fiscal Year Ending Sept. 30, 2003
Executive.		
Sec. 102. EXECUTIVE		
Full-time equated unclassified positions 6.0		
Full-time equated classified positions 10.0		
Commission (including travel expense—per diem)	$	90,000
Unclassified salaries—6.0 FTE positions		438,600
Executive direction—10.0 FTE positions		1,757,400
GROSS APPROPRIATION	$	2,286,000
Appropriated from:		
Interdepartmental grant revenues:		
IDG-MacMullan conference center revenue		15,800
Special revenue funds:		
Air photo - geographic information system		1,000
Delinquent property tax administration fund		5,400
Forest resource revenue		223,800
Game and fish protection fund		669,000
Harbor development fund		600
Land exchange facilitation fund		10,600
Land sale revenue		40,300
Marine safety fund		23,600
Michigan civilian conservation corps endowment fund		500
Michigan natural resources trust fund		2,300
Michigan state parks endowment fund		1,900
Michigan state waterways fund		242,100
Nongame wildlife fund		900
Off-road vehicle trail improvement fund		2,700
Park improvement fund		421,700
Recreation improvement fund		1,700
Snowmobile registration fee revenue		2,700
Snowmobile trail improvement fund		5,100
State general fund/general purpose	$	614,300
Administrative services.		
Sec. 103. ADMINISTRATIVE SERVICES		
Full-time equated classified positions 243.2		
Finance and operations services—126.7 FTE positions	$	7,275,200
Internal audit—12.0 FTE positions		744,900
Office of information and education—15.0 FTE positions		2,810,800
Human resources—22.0 FTE positions		1,975,100
Office of property management—67.5 FTE positions		12,270,500
GROSS APPROPRIATION	$	25,076,500
Appropriated from:		
Interdepartmental grant revenues:		
IDT, interdivisional charges		186,100
IDG, engineering to work orders		1,286,700
IDG, land acquisition services to work orders		664,500
IDG, MacMullan conference center revenue		18,600

		For Fiscal Year Ending Sept. 30, 2003
Federal revenues:		
DOI, federal	$	120,300
Special revenue funds:		
Aircraft fees		113,400
Air photo - geographic information system		10,200
Automated license system revenue		3,000
Clean Michigan initiative fund		277,800
Delinquent property tax administration		1,024,400
Forest resource revenue		1,704,100
Game and fish protection fund		4,704,800
Land exchange facilitation fund		5,450,900
Land sale revenue		1,839,300
Marine safety fund		386,300
Michigan civilian conservation corps endowment fund		5,900
Michigan natural resources trust fund		761,800
Michigan state parks endowment fund		72,900
Michigan state waterways fund		943,200
Nongame wildlife fund		7,600
Off-road vehicle trail improvement fund		6,700
Park improvement fund		1,730,500
Publications revenue		58,700
Recreation improvement fund		8,800
Snowmobile registration fee revenue		67,100
Snowmobile trail improvement fund		46,600
State general fund/general purpose	$	3,576,300

Departmental operation support.

Sec. 104. DEPARTMENTAL OPERATION SUPPORT

Building occupancy charges	$	2,139,100
Rent - privately owned property		335,700
Gifts and bequests		500,000
GROSS APPROPRIATION	$	2,974,800
Appropriated from:		
Special revenue funds:		
Private - gift revenues		500,000
Forest resource revenue		139,400
Game and fish protection fund		613,300
Land sale revenue		50,500
Marine safety fund		43,900
Michigan state waterways fund		201,300
Michigan natural resources trust fund		12,500
Park improvement fund		57,100
Snowmobile trail improvement fund		20,400
State general fund/general purpose	$	1,336,400

Wildlife management.

Sec. 105. WILDLIFE MANAGEMENT

Full-time equated classified positions	183.0	
Wildlife administration—14.5 FTE positions	$	1,448,200

		For Fiscal Year Ending Sept. 30, 2003
Wildlife management—159.5 FTE positions	$	20,509,300
Natural resources heritage—9.0 FTE positions		1,541,300
State game and wildlife area maintenance		200,000
GROSS APPROPRIATION	$	23,698,800
Appropriated from:		
Federal revenues:		
DOD, federal		31,000
DOI, federal		8,162,100
EPA, federal		1,000
Special revenue funds:		
Private funds		100,000
Game and fish protection fund		8,881,200
Game and fish protection fund - deer habitat reserve		2,019,100
Game and fish protection fund - turkey permit fees		1,457,000
Game and fish protection fund - waterfowl fees		90,500
Nongame wildlife fund		563,600
State general fund/general purpose	$	2,393,300

Fisheries management.

Sec. 106. FISHERIES MANAGEMENT

Full-time equated classified positions	225.0	
Fisheries administration—8.5 FTE positions	$	954,400
Commercial fisheries—2.7 FTE positions		202,500
Recreational fisheries—14.0 FTE positions		1,703,900
Fish production—57.4 FTE positions		6,872,400
Fisheries resource management—142.4 FTE positions		13,166,200
Treaty waters management fund work project		138,200
Stream habitat improvement		1,284,800
GROSS APPROPRIATION	$	24,322,400
Appropriated from:		
Federal revenues:		
DOE, federal		1,000
DOC, federal		45,900
DOI, federal		6,510,400
EPA, federal		142,100
Special revenue funds:		
Private, IGLFC		22,300
Commercial fishing fee revenue		200
Game and fish protection fund		17,396,500
State general fund/general purpose	$	204,000

Parks and recreation.

Sec. 107. PARKS AND RECREATION

Full-time equated classified positions	830.8	
State parks—600.8 FTE positions	$	39,635,300
MacMullan conference center—7.0 FTE positions		1,266,200
Recreational boating—201.5 FTE positions		12,306,700
Michigan civilian conservation corps—3.0 FTE positions		1,306,600
State parks improvement revenue bonds - debt service		1,200,000

		For Fiscal Year Ending Sept. 30, 2003
Trails—18.5 FTE positions	$	2,392,600
GROSS APPROPRIATION	$	58,107,400
Appropriated from:		
Interdepartmental grant revenues:		
IDG, MacMullan conference center revenue		1,266,200
Federal revenues:		
EPA, federal		104,600
Federal, corporation for national and community service		1,000
Federal, homeland defense		1,000
Special revenue funds:		
Private funds		316,600
Harbor development fund		245,300
Michigan civilian conservation corps endowment fund		1,304,600
Michigan state parks endowment fund		4,661,700
Michigan state waterways fund		12,061,400
Off-road vehicle trail improvement fund		575,400
Park improvement fund		26,497,500
Recreation improvement fund		284,900
Snowmobile trail improvement fund		1,744,000
State general fund/general purpose	$	9,043,200

Forest, mineral, and fire management.

Sec. 108. FOREST, MINERAL, AND FIRE MANAGEMENT

Full-time equated classified positions	311.0	
Timber harvest—86.0 FTE positions	$	6,781,800
Forest cultivation and reforestation—23.0 FTE positions		3,996,900
Forest resource planning and land use—15.0 FTE positions		4,727,700
Private forest development—10.5 FTE positions		879,600
Forest finance authority—9.0 FTE positions		1,680,400
Adopt-a-forest program		50,000
Forest fire protection—137.5 FTE positions		10,219,000
Forest recreation—14.5 FTE positions		2,025,700
Forest management initiative		126,400
Minerals management—15.3 FTE positions		1,813,700
Resource mapping and aerial photography—0.2 FTE positions		307,600
National forest management		1,000
Forest fire equipment		1,700,000
Cooperative resource programs		1,650,000
GROSS APPROPRIATION	$	35,959,800
Appropriated from:		
Federal revenues:		
DAG, federal		1,556,800
DOI, federal		2,000
EPA, federal		1,000
Special revenue funds:		
Private funds		804,800
Aircraft fees		106,500
Air photo - geographic information system		103,000

		For Fiscal Year Ending Sept. 30, 2003
Forest recreation fund	$	1,120,700
Forest resource revenue		20,738,100
Game and fish protection fund		1,741,600
Michigan natural resources trust fund		1,081,400
Michigan state parks endowment fund		471,800
Michigan state waterways fund		340,500
Shop fees		56,300
State general fund/general purpose	$	7,835,300

Law enforcement.

Sec. 109. LAW ENFORCEMENT

Full-time equated classified positions	272.5	
Wildlife resource protection—10.0 FTE positions	$	1,332,500
General law enforcement—262.5 FTE positions		25,437,800
GROSS APPROPRIATION	$	26,770,300
Appropriated from:		
Federal revenues:		
DOI, federal		1,061,900
DOT, federal		2,001,200
Special revenue funds:		
Game and fish - wildlife resource protection fund		1,332,500
Game and fish protection fund		15,606,200
Marine safety fund		1,303,700
Off-road vehicle trail improvement fund		743,400
Snowmobile registration fee revenue		564,100
State general fund/general purpose	$	4,157,300

Payments in lieu of taxes.

Sec. 110. PAYMENTS IN LIEU OF TAXES

Swamp and tax reverted lands		7,071,500
Purchased lands taxes		11,614,800
Commercial forest reserve		2,691,700
GROSS APPROPRIATION	$	21,378,000
Appropriated from:		
Special revenue funds:		
Environmental protection fund		1,897,600
Game and fish protection fund		4,455,800
Michigan natural resources trust fund		1,002,700
Michigan state waterways fund		283,700
State general fund/general purpose	$	13,738,200

Grants.

Sec. 111. GRANTS

Grant to counties—marine safety	$	3,230,000
Federal - land and water conservation fund payments		4,134,000
Federal - forest stewardship grants		625,000
Federal - urban forestry grants		400,000
Federal - clean vessel act grants		175,000

		For Fiscal Year Ending Sept. 30, 2003
Federal - rural community fire protection	$	100,000
Grants to communities - federal oil, gas, and timber payments		3,450,000
Recreation improvement fund grants		1,100,000
Snowmobile local grants program		5,480,000
Snowmobile law enforcement grants		1,142,000
Off-road vehicle trail improvement grants		1,374,500
National recreational trails		1,850,000
Game and nongame wildlife fund grants		10,000
Inland fisheries resources grants		200,000
GROSS APPROPRIATION	$	23,270,500
Appropriated from:		
Federal revenues:		
DAG, federal		1,125,000
DOI, federal		4,309,000
DOI, oil and gas royalty revenue		150,000
DOI-MMS, federal timber revenue		3,300,000
DOT, federal		1,800,000
Special revenue funds:		
Private funds		50,000
Game and fish protection fund		200,000
Marine safety fund		3,230,000
Nongame wildlife fund		10,000
Off-road vehicle trail improvement fund		1,374,500
Recreation improvement fund		1,100,000
Snowmobile registration fees		1,142,000
Snowmobile trail improvement fund		5,480,000
State general fund/general purpose	$	0

Information technology.

Sec. 112. INFORMATION TECHNOLOGY

Information technology services and projects	$	15,599,900
GROSS APPROPRIATION	$	15,599,900
Appropriated from:		
Special revenue funds:		
Air photo - geographic information system		20,800
Automated license system revenue		426,300
Delinquent property tax administration fund		36,100
Forest resource revenue		1,536,100
Game and fish protection fund		5,810,900
Game and fish protection fund - deer habitat reserve		243,000
Game and fish - wildlife resource protection fund		11,600
Land exchange facilitation fund		41,600
Land sale revenue		709,200
Marine safety fund		23,900
Michigan natural resources trust fund		986,900
Michigan state parks endowment fund		40,200
Michigan state waterways fund		762,300
Nongame wildlife fund		10,400
Off-road vehicle trail improvement fund		56,500

		For Fiscal Year Ending Sept. 30, 2003
Park improvement fund	$	2,153,000
Recreation improvement fund		19,000
Snowmobile registration fees		3,700
Snowmobile trail improvement fund		57,600
State general fund/general purpose	$	2,650,800

Early retirement and budgetary savings.

Sec. 113. EARLY RETIREMENT AND BUDGETARY SAVINGS

Early retirement savings	$	(1,269,300)
Budgetary savings		(455,500)
GROSS APPROPRIATION	$	(1,724,800)
Appropriated from:		
State general fund/general purpose	$	(1,724,800)

PART 1A

LINE-ITEM APPROPRIATIONS FOR FISCAL YEAR 2001-02

Appropriations for fiscal year ending September 30, 2002; department of natural resources.

Sec. 151. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of natural resources for the fiscal year ending September 30, 2002, from the funds indicated in this part. The following is a summary of the appropriations in this part:

DEPARTMENT OF NATURAL RESOURCES

APPROPRIATION SUMMARY:		
GROSS APPROPRIATION	$	836,000
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	836,000
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		836,000
State general fund/general purpose	$	0

Payments in lieu of taxes.

Sec. 152. PAYMENTS IN LIEU OF TAXES

Purchased lands taxes	$	801,000
GROSS APPROPRIATION	$	801,000
Appropriated from:		
Special revenue funds:		
Environmental protection fund		598,700

		For Fiscal Year Ending Sept. 30, 2003
Game and fish protection fund	$	30,000
Michigan natural resources trust fund		148,000
Michigan state waterways fund		24,300
State general fund/general purpose	$	0

Grants.

Sec. 153. GRANTS

Grant to counties—marine safety	$	35,000
GROSS APPROPRIATION	$	35,000
Appropriated from:		
Special revenue funds:		
Marine safety fund		35,000
State general fund/general purpose	$	0

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $222,060,700.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $25,750,000.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF NATURAL RESOURCES		
PAYMENTS IN LIEU OF TAXES		
Swamp and tax reverted lands	$	7,071,500
Purchased lands taxes		11,614,800
Commercial forest reserve		2,691,700
GRANTS		
Grants to counties - marine safety	$	3,230,000
Snowmobile law enforcement		1,142,000
TOTAL	$	25,750,000

Authorizations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this act:

(a) "Commission" means the commission of natural resources.

(b) "DAG" means the United States department of agriculture.

(c) "Department" means the department of natural resources.

(d) "DOC" means the United States department of commerce.

(e) "DOD" means the United States department of defense.

(f) "DOE" means the United States department of energy.

(g) "DOI" means the United States department of interior.

(h) "DOI-MMS" means DOI minerals management service.

(i) "DOT" means the United States department of transportation.

(j) "EPA" means the United States environmental protection agency.

(k) "FTE" means full-time equated.

(*l*) "IDG" means interdepartmental grant.

(m) "IDT" means intradepartmental transfer.

(n) "IGLFC" means the international Great Lakes fish commission.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) Beginning October 1, a hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exception.

(3) It is the intent of the legislature that vacancies resulting from an early retirement program offered to the state civil service after January 1, 2002 are exempt from the hiring freeze imposed by subsection (1). Early retirement vacancies shall be filled at a rate necessary to ensure that the department's mission of conservation, protection, management, use, and enjoyment of the state's natural resources for current and future generations is not impaired.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $3,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $5,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $500,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization; project plan.

Sec. 207. At least 120 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Reporting requirements; use of Internet.

Sec. 208. Unless otherwise specified in this act, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an Internet or Intranet site.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 should not be used for the purchase of foreign goods or services, or both, if competitively priced American goods or services, or both, of comparable quality are available. Preference should be given to goods or services, or both, manufactured or provided by Michigan businesses if they are competitively priced and of comparable value.

Grant and loan programs; reports.

Sec. 210. (1) From funds appropriated under part 1, the department shall prepare a report that lists all of the following regarding grant, loan, or grant and loan programs administered by the department for the fiscal year ending on September 30, 2003:

(a) The name of each program.

(b) The goals, criteria, filing fees, nominating procedures, eligibility requirements, processes, and deadlines for each program.

(c) The maximum and minimum grant and loan available and whether there is a match requirement for each program.

(d) The amount of any required match, and whether in-kind contributions may be used as part or all of a required match.

(e) Information pertaining to the application process, timeline for each program, and the contact people within the department.

(f) The source of funds for each program, including the citation of pertinent authorizing acts.

(g) Information regarding plans for the next fiscal year for the phaseout, expansion, or changes for each program.

(h) A listing of all recipients of grants or loans awarded by the department by type and amount of grant or loan during the fiscal year ending September 30, 2002.

(2) The reports required under this section shall be submitted to the state budget director, the senate and house appropriations committees and the senate and house fiscal agencies by January 1, 2003.

Restricted game and fish protection funds; amounts.

Sec. 211. Appropriations of state restricted game and fish protection funds have been made to the following departments and agencies in their respective appropriation bills. The amounts appropriated to these departments and agencies are limited to the amounts listed below:

Department of civil service	$	293,200
Legislative auditor general		21,400
Attorney general		640,800
Department of management and budget		233,200
Department of treasury		4,200

Restricted fund balances, projected revenues; and expenditures; report.

Sec. 212. By February 15, 2003, the department shall provide the state budget director, the senate and house appropriations subcommittees on natural resources, and the senate and house fiscal agencies with an annual report on estimated restricted fund balances, projected revenues, and expenditures for the fiscal years ending September 30, 2002 and September 30, 2003.

Receipt and retention of reports.

Sec. 213. The departments and state agencies receiving appropriations under this act shall receive and retain copies of all reports funded from appropriations in part 1. These departments and state agencies shall follow federal and state guidelines for short-term and long-term retention of these reports. The requirements of this section are satisfied if the reports funded from appropriations in part 1 are retained in electronic format.

Michigan state waterways commission; operations report; list of projects; priority.

Sec. 214. (1) Before January 16, 2003, the department, in cooperation with the Michigan state waterways commission, shall report to the executive budget office, the senate and house fiscal agencies, and the senate and house of representatives appropriations subcommittees on natural resources detailing operations of the Michigan state waterways commission for the preceding 1-year period.

(2) The department, in cooperation with the Michigan state waterways commission, shall determine which projects should be acquired or developed with money from the state waterways fund or harbor development fund and shall submit to the executive budget office, the senate and house fiscal agencies, and the senate and house of representatives appropriations subcommittees on natural resources in January 2003 a list of those projects, compiled in order of priority. The list shall be accompanied by estimates of total costs for the proposed projects.

(3) The department, in cooperation with the Michigan state waterways commission, shall supply with each list under subsection (2) a statement of the guidelines used in listing and assigning the priority of these projects.

Allocation of restricted funds; plan.

Sec. 215. The department shall develop a plan for allocating restricted funds among department administrative support and regulatory activities. This plan shall be submitted

to the house and senate appropriations subcommittees on natural resources by January 30, 2003. This plan shall include a cost allocation plan for financial services support, office space rent and building occupancy charges, support division service for information systems and technology, and a methodology to use information generated through activity reports that identifies the percentage of employee time spent on restricted fund activities.

Game and fish protection trust fund; appropriation to game and fish protection fund.

Sec. 219. Pursuant to section 43703(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43703, there is appropriated from the game and fish protection trust fund to the game and fish protection fund, $6,000,000.00 for the fiscal year ending September 30, 2003.

EXECUTIVE

Per diem payments to commission members.

Sec. 301. The appropriations in part 1 for the commission may be used for per diem payments to the members of the commission or of committees of the commission for a full day of commission or committee work at which a quorum is present, for attending a hearing as authorized by the commission or committee, or for performing official business as authorized by the commission or committee. The per diem payment for members of the commission shall be $75.00.

Habitat improvement and treatment projects.

Sec. 302. On June 15, 2003, the department shall submit to the house and senate appropriations subcommittees on natural resources and the house and senate fiscal agencies a report on fish, game, and nongame habitat improvement and treatment projects completed or planned during the fiscal year ending September 30, 2002 and the fiscal year ending September 30, 2003. This report shall include a list of all habitat treatment and improvement projects by management unit. This list shall be accompanied by all of the following information:

(a) The target species of wildlife or fish to benefit from unit projects.

(b) The number of acres or, for an inland lake, river, or stream, the number of feet treated or improved, the county in which the project is located, and the methods of treatment or improvement.

(c) The division with lead responsibility for the projects and all organizations involved in the projects, including, but not limited to, department personnel, contractors, or subcontractors.

(d) The total cost per acre and the funding sources supporting management unit projects. The report shall identify the program line item supporting project expenditures.

(e) A separate summary, by fund or subfund, of all projects completed in the fiscal year ending September 30, 2002 or the fiscal year ending September 30, 2003.

ADMINISTRATIVE SERVICES

Engineering services.

Sec. 401. The department may charge the appropriations contained in part 1, including all special maintenance and capital projects appropriated for the fiscal year ending

September 30, 2003, for engineering services provided, a standard percentage fee to recover actual costs. The department may use the revenue derived to support the engineering services charges provided for in part 1.

Fishing guide; contents.

Sec. 402. The department shall prominently display in a prominent place in the fishing guide provided to each licensed fisher, the website for the department of community health. In addition, the fishing guide shall include information on alternative sources where interested parties without Internet access may find information on fish advisories issued by the department of community health.

Land acquisition projects; cost recovery fee.

Sec. 403. The department may charge land acquisition projects appropriated for the fiscal year ending September 30, 2003, and for prior fiscal years, a standard percentage fee to recover actual costs, and may use the revenue derived to support the land acquisition service charges provided for in part 1.

Land sale fund.

Sec. 404. The land sale fund is created. An amount equal to the cost of personal services, printing, postage, advertising, contractual services, and facility rental associated with tax reverted lands shall be deducted from the sales and credited to the land sale fund.

WILDLIFE MANAGEMENT

Livestock losses; indemnification payments to department of agriculture.

Sec. 601. Of the funds appropriated in section 105, the department shall reimburse the department of agriculture for costs incurred for indemnification payments for livestock losses caused by wolves under the animal industry act of 1987, 1988 PA 466, MCL 287.701 to 287.745.

Bovine tuberculosis control efforts; report.

Sec. 602. By April 1, 2003 and September 30, 2003, the department shall report to the state budget director, the senate and house appropriations subcommittees on natural resources, and the senate and house fiscal agencies on spending from the amounts appropriated in part 1 for bovine tuberculosis control efforts. The report shall include, but not be limited to, information on activities at the animal diagnostic laboratory at Michigan State University that are funded with appropriations in part 1.

Chronic wasting disease; treatment and mitigation plan.

Sec. 604. Of the amount appropriated in section 105 for wildlife management, $10,000.00 is appropriated to study available options and develop a strategic plan for the treatment and mitigation of chronic wasting disease in Michigan wildlife populations. This plan shall be provided to the house and senate appropriations subcommittees on natural resources and environmental quality and the house and senate fiscal agencies not later than September 30, 2003.

FISHERIES MANAGEMENT

Water control structures; certification.

Sec. 701. The department shall not impede the certification process for water control structures on Michigan waterways. The department shall fund from funds appropriated in part 1 all non-water-quality studies or requirements that the department requests of either of the following:

(a) The department of environmental quality as a condition for issuance of a certification under section 401 of the federal water pollution control act, title IV of chapter 758, 86 Stat. 877, 33 U.S.C. 1341.

(b) The federal energy regulatory commission as a condition of licensing under the federal power act, chapter 285, 41 Stat. 1063, 16 U.S.C. 791a to 793, 796 to 797, 798 to 818, 820 to 824a, and 824b to 825r.

Stream habitat improvement; grants.

Sec. 702. (1) From the appropriation in section 106 for stream habitat improvement, not more than $758,000.00 shall be allocated for grants to watershed councils, resource development councils, soil conservation districts, local governmental units, and other nonprofit organizations for stream habitat stabilization and soil erosion control.

(2) The fisheries division of the department shall develop priority and cost estimates for all recommended projects.

PARKS AND RECREATION

Appropriation to Michigan state parks endowment fund.

Sec. 801. Pursuant to section 1902(2) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1902, there is appropriated from the Michigan natural resources trust fund to the Michigan state parks endowment fund an amount not to exceed $10,000,000.00 for the fiscal year ending September 30, 2003.

Michigan civilian conservation corps; use of federal funds.

Sec. 802. Federal corporation for national and community service (AmeriCorps) or office of homeland security funding that is available to the state may be provided to increase appropriations for the Michigan civilian conservation corps, pursuant to section 206.

State park reports; construction involving camp closures; occupancy rates.

Sec. 803. (1) The department shall prepare detailed reports for construction projects in state parks that will involve campsite or campground closures. These reports shall include expected costs, impacts on recreation opportunities, impacts on state park revenues, and the expected impact on state park users. The department shall also prepare reports on average monthly campground occupancy rates for every state park during the 2002 summer season. The department shall provide reports described in this subsection to the house and senate appropriations subcommittees on natural resources and environmental quality and the house and senate fiscal agencies not later than April 1, 2003.

(2) The department shall notify the house and senate appropriations subcommittees on natural resources and environmental quality and the house and senate fiscal agencies if it intends to reduce operations or reduce recreation opportunities at any state park or recreation area.

FOREST, MINERAL, AND FIRE MANAGEMENT

Timber harvesting; impact report.

Sec. 901. Of the funds appropriated in part 1, the department shall prescribe appropriate treatment on 63,000 acres, plus or minus 10%, at the current average rate of 12.5 to 13 cords per acre provided that the department shall take into consideration the impact of timber harvesting on wildlife habitat and recreation uses. In addition, the department shall take into consideration silvicultural analysis and report annually to the legislature on plans and efforts to address factors limiting management of timber.

Old growth forest stewardship strategy.

Sec. 902. The department is encouraged to continue workgroup efforts to develop an old growth forest stewardship strategy. It is the intent of the legislature that "old growth" means forest stands that are of pre-1880 origin.

Marking timber; employment of additional foresters.

Sec. 903. The department shall spend amounts appropriated in part 1 for forest-related activities to employ or contract for additional foresters to mark timber, pursuant to section 901.

Timber management responsibilities; delegation by U.S. department of agriculture.

Sec. 904. The appropriation in part 1 for federal forest management is contingent upon the delegation of timber management responsibilities by the U.S. department of agriculture. Additional funding may be provided for this purpose, pursuant to section 206.

Waste material disposal.

Sec. 905. The appropriation for the adopt-a-forest program in part 1 shall be used to cover the cost of disposing of waste material collected from state forest lands.

Forest camping fees.

Sec. 906. Forest camping fees shall not be assessed for dispersed camping in Michigan state forests.

Collapse of abandoned mine shaft; emergency costs.

Sec. 907. In addition to the funds appropriated in section 108, $350,000.00 is appropriated to cover costs related to any declared emergency involving the collapse of any abandoned mine shaft located on state land. This appropriation shall not be expended unless the state budget director recommends the expenditure and the department notifies the house and senate committees on appropriations.

LAW ENFORCEMENT

Enforcement of snowmobile trails; grants.

Sec. 1001. The appropriation in section 113 for snowmobile law enforcement grants shall be used to provide grants to county law enforcement agencies in counties with state snowmobile trails to enforce part 821 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101 to 324.82160, including rules promulgated under that part and ordinances enacted pursuant to that part. The department shall consider the number of enforcement hours and the number of miles of trails in each county

in allocating these grants. Any funds not distributed to counties revert back to the local law enforcement fund. Counties shall provide semiannual and annual reports to the department.

PAYMENTS IN LIEU OF TAXES

Sec. 1051. Of the amounts appropriated in part 1 for purchased land taxes, $1,897,600.00 is appropriated from the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a.

GRANTS

Local fire protection departments; grants.

Sec. 1101. The amount appropriated in part 1 for federal-rural community fire protection shall be awarded as grants to local fire protection departments. To be eligible, local fire protection departments shall be located in governmental units or fire protection districts with permanent populations of less than 10,000 and with publicly owned forested land.

Additional federal funds not requiring state matching funds.

Sec. 1102. Federal pass-through funds to local institutions and governments that are received in amounts in addition to those included in part 1 for grants to communities - federal oil, gas, and timber payments and that do not require additional state matching funds are appropriated for the purposes intended. The department shall report to the senate and house appropriations subcommittees on natural resources, the senate and house fiscal agencies, and the state budget office on all amounts appropriated under this section.

Disposition of federal funding from land and water conservation fund.

Sec. 1103. (1) The use of federal funding received by the state from the land and water conservation fund and appropriated in part 1 shall be coordinated with state grants to local units of government from the Michigan natural resources trust fund. The coordination of the two funding sources shall be conducted in a manner that minimizes the total matching funds required from local units of government for local land acquisition or recreational development projects.

(2) The board of the Michigan natural resources trust fund shall report on the final disposition of federal funding from the land and water conservation fund in the board's annual report to the legislature.

Off-road vehicle area.

Sec. 1104. Of the amount appropriated in section 113 for off-road vehicle trail improvement grants, not less than $25,000.00 shall be available for a county that contains a state park off-road vehicle area and applies for law enforcement assistance to regulate off-road vehicle use.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

INFORMATION TECHNOLOGY

Schedule of rates, user fees, and charges or assessments.

Sec. 1201. The department of information technology shall establish a schedule of rates, user fees, and charges or assessments for standard services and information system support requirements to be made to departments for technology related services and projects. This schedule, as well as copies of related interagency agreements, shall be provided to the state budget office and the house and senate committees on appropriations before October 1, 2002.

Designation of amounts as work projects; availability.

Sec. 1202. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

EARLY RETIREMENT AND BUDGETARY SAVINGS

Early retirement and budgetary savings; satisfaction of negative appropriation; adjustments.

Sec. 1301. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the department director and approved by the state budget director.

(3) Appropriation authorization adjustments required due to negative appropriations for early retirement savings and budgetary savings shall be made only after the approval of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

PART 2A

PROVISIONS CONCERNING APPROPRIATIONS FOR FISCAL YEAR 2001-02

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 1401. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1a for fiscal year 2001-02 is $836,000.00, and state spending from state resources to be paid to local units of government for fiscal year 2001-02 is $801,000.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF NATURAL RESOURCES		
PAYMENTS IN LIEU OF TAXES		
Purchased lands taxes	$	801,000
TOTAL	$	801,000

PAYMENTS IN LIEU OF TAXES

Sec. 1451. Of the amounts appropriated in part 1A for purchased lands taxes, $598,700.00 is appropriated from the environmental protection fund created in section 503a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.503a.

GRANTS

Watercraft engines; sound levels.

Sec. 1501. The money appropriated in section 153 shall be used by Michigan State University to develop equipment and procedures that will accurately measure and record distance to and sound levels of watercraft engines if matching funds are provided by lake property associations.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 526]

(HB 5650)

AN ACT to make appropriations for the department of state police and certain other state purposes for the fiscal year ending September 30, 2003; to provide for the expenditure of those appropriations; to provide for certain reports and the consideration of those reports; to provide for the disposition of other income received by the various state agencies; to provide for the testing of certain persons; to provide for certain emergency powers; and to provide for the powers and duties of certain committees, certain state agencies, and certain employees.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; department of state police.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the department of state police for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

DEPARTMENT OF STATE POLICE

APPROPRIATION SUMMARY:		
Full-time equated unclassified positions	3.0	
Full-time equated classified positions	3,445.5	
GROSS APPROPRIATION		$ 415,678,200

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers	$	19,282,800
ADJUSTED GROSS APPROPRIATION	$	396,395,400
Federal revenues:		
Total federal revenues		45,570,500
Special revenue funds:		
Total local revenues		3,913,700
Total private revenues		0
Total other state restricted revenues		59,862,900
State general fund/general purpose	$	287,048,300

Executive direction.

Sec. 102. EXECUTIVE DIRECTION

Full-time equated unclassified positions	3.0	
Full-time equated classified positions	36.0	
Unclassified positions	$	265,600
Executive direction—29.0 FTE positions		3,414,500
Auto theft prevention program—7.0 FTE positions		7,065,000
GROSS APPROPRIATION	$	10,745,100
Appropriated from:		
Special revenue funds:		
Auto theft prevention fund		7,065,000
State general fund/general purpose	$	3,680,100

Departmentwide appropriations.

Sec. 103. DEPARTMENTWIDE APPROPRIATIONS

Special maintenance and utilities	$	479,400
Rent and building occupancy charges		8,556,000
Worker's compensation		2,864,000
Fleet leasing		14,637,900
In-service training		850,000
Narcotics investigation funds		265,000
GROSS APPROPRIATION	$	27,652,300
Appropriated from:		
Interdepartmental grant revenues:		
IDT, Michigan justice training fund		850,000
Federal revenues:		
Federal narcotics investigation revenues		95,000
Special revenue funds:		
Narcotics investigation revenues		170,000
State general fund/general purpose	$	26,537,300

Support services.

Sec. 104. SUPPORT SERVICES

Full-time equated classified positions	158.5	
Human resources—35.5 FTE positions	$	2,645,000
Management services—60.0 FTE positions		4,019,600
Training administration—44.0 FTE positions		4,871,900

		For Fiscal Year Ending Sept. 30, 2003
Communications—19.0 FTE positions	$	6,487,700
GROSS APPROPRIATION	$	18,024,200
Appropriated from:		
Interdepartmental grant revenues:		
IDT, auto theft funds		21,000
IDG, training academy charges		2,726,400
Special revenue funds:		
Local - LEIN fees		31,900
Precision driving track fees		264,100
Narcotics investigation revenues		40,600
Motor carrier fees		125,500
State general fund/general purpose	$	14,814,700

Highway safety planning.

Sec. 105. HIGHWAY SAFETY PLANNING

Full-time equated classified positions	25.0	
State program planning and administration—13.0 FTE positions	$	1,147,000
Grants to local governments and nonprofit organizations		4,500,000
Secondary road patrol program—1.0 FTE position		12,506,600
Truck safety program—2.0 FTE positions		2,983,800
Field coordination and analysis—8.0 FTE positions		1,975,900
Highway traffic safety—1.0 FTE position		3,973,800
GROSS APPROPRIATION	$	27,087,100
Appropriated from:		
Federal revenues:		
DOT		10,492,000
DOJ		560,000
Special revenue funds:		
Truck driver safety fund		2,983,800
Secondary road patrol and training fund		12,506,600
State general fund/general purpose	$	544,700

Criminal justice information center.

Sec. 106. CRIMINAL JUSTICE INFORMATION CENTER

Full-time equated classified positions	96.5	
Criminal justice information center division—78.0 FTE positions	$	7,566,700
Criminal records improvement—1.0 FTE position		4,726,200
Traffic safety—17.5 FTE positions		1,518,900
GROSS APPROPRIATION	$	13,811,800
Appropriated from:		
Interdepartmental grant revenues:		
IDG-MDOS		313,600
IDG-MDOT, state trunkline fund		336,900
Federal revenues:		
DOJ		4,726,200
DOT		388,500
Special revenue funds:		
Criminal justice information center service fees		5,954,300
State general fund/general purpose	$	2,092,300

		For Fiscal Year Ending Sept. 30, 2003
Forensic sciences.		
Sec. 107. FORENSIC SCIENCES		
Full-time equated classified positions....215.0		
Laboratory operations—191.0 FTE positions	$	16,775,300
DNA analysis program—24.0 FTE positions		4,336,800
GROSS APPROPRIATION	$	21,112,100
Appropriated from:		
Federal revenues:		
DOJ		442,900
Special revenue funds:		
Forensic science reimbursement fees		1,626,400
State forensic laboratory fund		1,100,000
State general fund/general purpose	$	17,942,800
Michigan commission on law enforcement standards.		
Sec. 108. MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS		
Full-time equated classified positions....28.0		
Standards and training—22.0 FTE positions	$	2,280,000
Training only to local units—2.0 FTE positions		690,000
Concealed weapons enforcement training		140,000
Officer's survivor tuition program		50,000
Justice training grants—4.0 FTE positions		9,032,000
GROSS APPROPRIATION	$	12,192,000
Appropriated from:		
Federal revenues:		
DOJ		360,000
Special revenue funds:		
Secondary road patrol and training fund		690,000
Concealed weapons enforcement fee		140,000
Michigan justice training fund		9,032,000
Licensing fees		50,000
State general fund/general purpose	$	1,920,000
Fire marshal.		
Sec. 109. FIRE MARSHAL		
Full-time equated classified positions....55.0		
Fire marshal programs—44.0 FTE positions	$	3,929,400
Fire investigation training to locals		51,500
Fire fighters training council—11.0 FTE positions		1,728,400
GROSS APPROPRIATION	$	5,709,300
Appropriated from:		
Federal revenues:		
FEMA	$	150,000
DOT		85,000
State general fund/general purpose	$	5,474,300

		For Fiscal Year Ending Sept. 30, 2003
Emergency management.		
Sec. 110. EMERGENCY MANAGEMENT		
Full-time equated classified positions.....49.0		
Emergency management planning and administration—		
32.0 FTE positions	$	2,930,000
Grants to local government		2,182,100
FEMA program assistance—3.0 FTE positions		962,300
Nuclear power plant emergency planning—6.0 FTE positions		1,209,200
Hazardous materials transportation—1.0 FTE position		579,200
Hazardous materials programs—7.0 FTE positions		6,586,500
GROSS APPROPRIATION	$	14,449,300
Appropriated from:		
Federal revenues:		
FEMA		4,664,100
DOT		579,200
DOJ		5,000,000
Special revenue funds:		
Nuclear power plant emergency planning reimbursement		1,209,200
Hazardous materials training center fees		1,253,800
State general fund/general purpose	$	1,743,000
Uniform services.		
Sec. 111. UNIFORM SERVICES		
Full-time equated classified positions.....2,049.5		
Uniform services—610.0 FTE positions	$	51,259,500
Security guards—29.0 FTE positions		1,039,900
Reimbursed services		1,598,000
At-post troopers—1,410.5 FTE positions		113,222,300
GROSS APPROPRIATION	$	167,119,700
Appropriated from:		
Interdepartmental grant revenues:		
IDG-MDMB, building occupancy charges		610,100
Federal revenues:		
DOJ		1,500,000
Special revenue funds:		
Highway safety fund		8,448,200
State police service fees		1,598,000
State general fund/general purpose	$	154,963,400
Special operations.		
Sec. 112. SPECIAL OPERATIONS		
Full-time equated classified positions.....61.5		
Operational support—40.0 FTE positions	$	2,921,800
Traffic services—13.5 FTE positions		2,671,100
Aviation program—8.0 FTE positions		1,739,700
GROSS APPROPRIATION	$	7,332,600

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Interdepartmental grant revenues:		
IDG-MDOC, contract	$	77,200
Federal revenues:		
DOT		1,378,200
Special revenue funds:		
Rental of department aircraft		180,300
Drunk driving prevention and training fund		969,700
State general fund/general purpose	$	4,727,200

Criminal investigations.

Sec. 113. CRIMINAL INVESTIGATIONS

Full-time equated classified positions....449.5		
Criminal investigations—335.5 FTE positions	$	32,499,500
Federal antidrug initiatives—72.0 FTE positions		10,124,200
Reimbursed services, materials, and equipment		2,332,900
Auto theft prevention—10.0 FTE positions		1,372,100
Casino gaming oversight—32.0 FTE positions		3,513,000
GROSS APPROPRIATION	$	49,841,700
Appropriated from:		
Interdepartmental grant revenues:		
IDT, auto theft funds		1,104,000
IDG-MDTR, casino gaming fees		3,513,000
IDG-MDCH, tobacco tax		610,000
Federal revenues:		
Federal investigations - reimbursed services		519,700
DOJ		7,506,700
Federal narcotics investigation revenues		380,800
Special revenue funds:		
Local - reimbursed services		1,813,200
Narcotics investigation revenues		543,000
Forfeiture funds		269,500
State general fund/general purpose	$	33,581,800

Motor carrier enforcement.

Sec. 114. MOTOR CARRIER ENFORCEMENT

Full-time equated classified positions....222.0		
Motor carrier enforcement—140.0 FTE positions	$	10,125,900
Truck safety enforcement team operations—15.0 FTE positions		1,060,000
Safety inspections—46.0 FTE positions		6,928,500
School bus inspections—16.0 FTE positions		1,475,300
Safety projects—5.0 FTE positions		1,242,200
GROSS APPROPRIATION	$	20,831,900
Appropriated from:		
Interdepartmental grant revenues:		
IDT, truck safety fund		1,132,100
IDG-MDOT, state trunkline fund		7,883,200

		For Fiscal Year Ending Sept. 30, 2003
Federal revenues:		
DOT	$	6,712,600
Special revenue funds:		
Motor carrier fees		3,628,700
State general fund/general purpose	$	1,475,300

Information technology.

Sec. 115. INFORMATION TECHNOLOGY

Information technology services and projects	$	22,668,600
GROSS APPROPRIATION	$	22,668,600
Appropriated from:		
Interdepartmental grant revenues:		
IDT-MDTR, casino gaming fees		72,100
IDG-MDOT, state trunkline fund		33,200
Federal revenues:		
DOT		29,600
Special revenue funds:		
Local - LEIN fees		2,035,600
Local - AFIS fees		33,000
Motor carrier fees		14,200
State general fund/general purpose	$	20,450,900

Budgetary savings.

Sec. 116. BUDGETARY SAVINGS

Budgetary savings	$	(2,899,500)
GROSS APPROPRIATION	$	(2,899,500)
Appropriated from:		
State general fund/general purpose	$	(2,899,500)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $346,911,200.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $19,968,100.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF STATE POLICE
OFFICE OF HIGHWAY SAFETY PLANNING

Secondary road patrol program	$	12,381,500

COMMISSION ON LAW ENFORCEMENT STANDARDS		
Training only to local units	$	624,900
Justice training grants		6,471,200
FIRE MARSHAL		
Fire fighters training council	$	439,000
Fire investigation training for locals		51,500
Total	$	19,968,100

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this act:

(a) "AFIS" means the automated fingerprint identification system.

(b) "Department" means the department of state police.

(c) "DNA" means deoxyribonucleic acid.

(d) "DOJ" means the United States department of justice.

(e) "DOT" means the United States department of transportation.

(f) "FEMA" means the federal emergency management agency.

(g) "FTE" means full-time equated.

(h) "IDG" means interdepartmental grant.

(i) "IDT" means intradepartmental transfer.

(j) "LEIN" means law enforcement information network.

(k) "MCOLES" means the Michigan commission on law enforcement standards.

(*l*) "MDCH" means the Michigan department of community health.

(m) "MDMB" means the Michigan department of management and budget.

(n) "MDOC" means the Michigan department of corrections.

(o) "MDOS" means the Michigan department of state.

(p) "MDOT" means the Michigan department of transportation.

(q) "MDTR" means the Michigan department of treasury.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) Beginning October 1, a hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report by the last business day of each month to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous month and the justification for the exception.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $10,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $3,500,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $1,000,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $200,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization; project plan.

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Reporting requirements; use of Internet.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on an Internet or Intranet site.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available.

Businesses in deprived and depressed communities; contracts to provide services or supplies.

Sec. 210. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete

for and perform contracts to provide services or supplies, or both, for the department. The director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services or supplies, or both.

Employee expenses; reimbursement.

Sec. 211. It is the intent of the legislature that personnel of the department who request and are eligible for reimbursement of expenses related to the operation of the department be reimbursed from the appropriations provided in this act within 30 days after submitting a request, or the eligible personnel shall be paid an additional amount equal to 0.75% of the payment due. The department shall pay an additional amount equal to 0.75% of the payment due for the first month and each succeeding month or portion of a month the payment remains past due.

Spending increase; use as state match.

Sec. 212. Of the state general fund/general purpose revenue appropriated in this act, $74,843,500.00 represents a state spending increase over the amount provided to the department of state police for the fiscal year ending September 30, 1994, and may be used to meet state match requirements of programs contained in the violent crime control and law enforcement act of 1994, Public Law 103-322, 108 Stat. 1796, or successor grant programs, so that any additional federal money received supplements funding provided to the department of state police in this act.

Contractual services provided by department.

Sec. 216. (1) It is the intent of the legislature that the department shall not provide any subsidy for contractual services it provides.

(2) When the department provides contractual services to a local unit of government, the department shall be reimbursed for all costs incurred in providing the services, including, but not limited to, retirement and overtime costs.

(3) Contractual services provided to an entity other than a local unit of government may be provided by department personnel, but only on an overtime basis outside the normal work schedule of the personnel.

(4) This section does not apply to state agencies.

Creation and retention of reports.

Sec. 218. The department shall create and retain copies of reports for all money appropriated under part 1.

Casino gaming oversight; report.

Sec. 219. Not later than March 15, 2003 and September 30, 2003, the department shall report to the state police appropriations subcommittees of the house and senate and the house and senate fiscal agencies. The report shall contain the following information regarding the department's activities related to casino gaming oversight:

(a) The amount of money received and expended.

(b) The nature and structure of the casino gaming oversight unit.

(c) The positions and classifications of employees assigned.

(d) The number of full-time and part-time employees and the aggregate number of FTEs.

(e) The number of enlisted and civilian positions.

(f) The duties and responsibilities of the assigned employees.

(g) The immediate past position of the enlisted employees assigned.

Entry of VIN into state accident records; availability to public.

Sec. 220. The department shall collect and computerize the vehicle identification number (VIN) of all vehicles that are entered into the state accident data collection system and make this and other vehicle information available to the public at cost. For bulk access to the accident records in which the VIN has been collected and computerized, the department shall make those records available to the public at cost, provided that the name and address have been excluded.

Reports of school violence or juvenile criminal conduct; toll-free hotline.

Sec. 221. From the funds appropriated in part 1, the department shall maintain a toll-free hotline in collaboration with the department of education. The toll-free hotline shall be operated 24 hours per day, 7 days per week, and shall provide students, school officials, and other individuals an opportunity to report specific threats of imminent school violence or other suspicious or criminal conduct by juveniles to the appropriate local law enforcement entities for investigation. The department may expend funds for the promotion of the hotline.

At-post troopers.

Sec. 222. (1) Funds appropriated in part 1 for at-post troopers shall only be expended for trooper salaries, wages, benefits, retirement, equipment, supplies, and other expenses directly related to state troopers assigned to general law enforcement duties at a department post, detachment, satellite office, or a resident trooper function.

(2) From the funds appropriated in part 1 for at-post troopers, 1 or more trooper recruit schools shall be conducted during fiscal year 2002-2003 with the goal of graduating at least 110 new troopers to state service to replace existing troopers projected to separate from the rank of trooper through attrition.

(3) The department shall submit a written report to the senate and house appropriations subcommittees on state police and military affairs no later than November 15, 2002, detailing the status of the department's plan for accomplishing the goal of subsection (2). If the department determines that insufficient funding exists under part 1 for at-post troopers or any other budget line to accomplish the goal of subsection (2), the department shall submit a plan outlining the additional funding necessary to accomplish the goal of subsection (2).

State police posts; closure or consolidation.

Sec. 224. The department of state police shall notify the house and senate appropriations subcommittees on state police and military and veterans affairs and the house and senate fiscal agencies not less than 180 days before recommending to close or consolidate any state police posts.

Negative appropriation for budgetary savings; satisfaction by hiring freeze.

Sec. 261. (1) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the department director and approved by the state budget director.

(2) Appropriation authorization adjustments required due to the negative appropriation for budgetary savings shall be made only after the approval of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Sec. 262. (1) It is the intent of the legislature that the department take steps to engage in cooperative efforts with county, city, township, and village law enforcement agencies in the coordination of law enforcement services and facilities.

(2) From the funds appropriated in part 1, the department shall produce a study concerning the feasibility of the Jackson state police post, the Jackson County sheriff's department, and the city of Jackson police department sharing a common facility. The study shall also examine other ways these law enforcement agencies could work together to maximize the efficient delivery of law enforcement services. The study shall be delivered to the senate and house appropriations subcommittees on state police and military affairs not later than February 15, 2003.

Law enforcement assistance to city of Highland Park.

Sec. 263. The department of state police, in keeping with its role as the general law enforcement agency of the state and as the law enforcement agency of last resort for communities that are either without local law enforcement resources or are seriously underserved by local law enforcement resources, shall provide general law enforcement assistance to the city of Highland Park until adequate law enforcement services can be provided to the city of Highland Park by other means.

Marshall state police post; rental costs.

Sec. 264. Of the funds appropriated in part 1 for rent and building occupancy charges, funds shall be used for the necessary rental costs for a state police post in Marshall.

INFORMATION TECHNOLOGY

Michigan public safety communications system; report on collection and disposition of revenue.

Sec. 301. (1) Money appropriated under part 1 for the Michigan public safety communications system shall be expended upon approval of an expenditure plan by the state budget director.

(2) The department of state police shall assess all subscribers of the Michigan public safety communications system reasonable access and maintenance fees.

(3) All money received by the department of state police under this section shall be deposited to the state general fund pursuant to section 443 of the management and budget act, 1984 PA 431, MCL 18.1443.

(4) The department of state police shall provide a report to the house and senate appropriations committees, house and senate fiscal agencies, and the state budget director on April 15, 2003 and on October 15, 2003, indicating the amount of revenue collected under this section and deposited to the state general fund for the immediately preceding 6-month period.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

LEIN user fees; payment of service and contract maintenance costs.

Sec. 302. The money appropriated in part 1 for computer services shall be funded by LEIN user fees sufficient to pay 1/3 of the service and contract maintenance costs of the LEIN mainframe computer system.

Technology-related services and projects; payment of user fees.

Sec. 303. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology-related services and projects. User fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

Designation of information technology as work projects.

Sec. 304. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

LEIN system; access to and use of information; report.

Sec. 305. A portion of the funds appropriated in part 1 shall be used by the department to produce a written report detailing departmental policies regarding access to and use of information from the LEIN system. The report shall include a description of departmental measures to protect the security of information in the LEIN system including safeguards that would prevent unauthorized persons from obtaining information from the LEIN system. The department shall submit a copy of this report to the senate and house appropriations committees not later than April 1, 2003.

Unauthorized access or misuse of LEIN system information.

Sec. 306. The criminal justice information systems policy council shall encourage members of the law enforcement agencies in the state to be sensitive to, and note when necessary, activities or circumstances that may suggest the unauthorized access or misuse of information from the LEIN system. The criminal justice information systems policy council shall advise LEIN auditors, as a part of their audit of law enforcement agencies, to investigate in depth all suspected incidents of improper access or improper use of information from the LEIN system and determine whether or not those incidents were illegal. In those incidents that may be determined to be illegal, the executive secretary for the council shall determine whether those incidents were of a negligent or criminal nature. If an incident is determined to be an illegal act, the council shall inform the chairs of both the senate and house appropriations committees.

LEIN system; implementation of procedures for placement of information.

Sec. 307. (1) The department of state police, working with the criminal justice information system policy council, shall implement procedures by which all probation information is placed on the LEIN system. The LEIN system shall include information on each probationer, including any probation conditions placed on a probationer and the name of the probation officer assigned to a probationer. The LEIN system shall also include any nonstandard probation terms.

(2) If the department determines that amendments to the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, are required to include all probation information on the LEIN system, the department shall deliver to members of the senate and house appropriations subcommittees on state police and military affairs amendments to the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, that, in the department's view, are necessary to accomplish this goal. These proposed amendments shall be delivered to subcommittee members not later than December 1, 2002.

HIGHWAY SAFETY PLANNING

Secondary road patrol grant program; status report on assessments collected and authorized.

Sec. 401. On a quarterly basis, the department shall report to the senate and house appropriations subcommittees on state police and military affairs on the status of assessments collected and authorized under section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, for the purposes of supporting the secondary road patrol grant program. Each quarterly report shall contain updated information on collection levels, revised projected grant allotments to counties for the year, a comparison of projected collections and grant distribution levels with the funds appropriated in part 1 for the secondary road patrol program, and the extent collection levels have exceeded or failed to meet appropriated levels for the current fiscal year or expenditure levels from the previous fiscal year.

FORENSIC SCIENCES

Sec. 701. (1) Subject to subsection (4), in addition to the funds appropriated under part 1, the following amounts are appropriated for the fiscal year ending September 30, 2003:

(a) $431,400.00 is appropriated to the Detroit police department crime laboratory from the state general fund.

(b) $289,700.00 is appropriated to the Detroit police department special events account from the state general fund.

(2) From the funds appropriated for the Detroit police department crime laboratory, it is the intent of the legislature that the city of Detroit take effective measures so that within 3 years of the start of the 2002-2003 fiscal year the Detroit police laboratory will have earned accreditation from the American society of crime laboratory director's laboratory accreditation board and established the necessary standards within its DNA operations so that it will qualify to input data into the combined DNA identification system (CODIS).

(3) The city of Detroit shall provide a written report to the department which shall include details regarding the expenditures made from the funds appropriated under subsection (1) and a progress report detailing the status toward meeting the objectives under subsection (2). This report shall be forwarded by the department to the house and senate appropriations subcommittees on state police and military affairs, the house and senate fiscal agencies, and the state budget director by January 15, 2003.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

(4) The appropriations in subsection (1) shall become effective only if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack of cigarettes on or before September 30, 2002.

DNA protocol; distribution of copies; changes.

Sec. 702. (1) The department shall distribute a copy of the department's protocol for retaining and purging DNA analysis samples and records to each police agency in this state.

(2) The department shall report to the house and senate appropriations subcommittees on state police and military affairs and the house and senate fiscal agencies when any changes to the department's DNA protocol are made.

Collection of evidence; inclusion of "standard recommended procedures for the emergency treatment of sexual assault victims."

Sec. 703. The department shall work with the department of community health, the Michigan hospital association, the Michigan state medical society, and the Michigan nurses association to ensure that the recommendations included in the "Standard Recommended Procedures for the Emergency Treatment of Sexual Assault Victims" are followed in the collection of evidence.

MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS

Maintenance and delivery of training to locals.

Sec. 801. The money appropriated to the MCOLES for maintenance and delivery of training to locals is provided in accordance with a state reimbursement policy in which 100% of the determined state reimbursement rate shall be distributed upon certification by the MCOLES.

Federal firearms laws; curricula on content and application.

Sec. 803. From the appropriations in part 1 for the training of new state troopers and other new police officers in the state and for the continuing education of all law enforcement officers in the state, sufficient funds shall be used to include curricula on the content and application of federal firearms laws, including the procedures necessary for law enforcement to turn appropriate cases over to the federal bureau of alcohol, tobacco, and firearms or any other applicable federal criminal justice agency.

FIRE MARSHAL

Performance of fire marshal division; report.

Sec. 901. (1) The department shall prepare a detailed report and deliver it to the senate and house subcommittees on the state police not later than May 15, 2003.

(2) The report shall contain input from a delegate appointed from and by the following organizations:

(a) Michigan fire chiefs association.

(b) Michigan state fireman's association.

(c) Michigan firefighter's union.

(d) Michigan fire service instructors association.

(e) Michigan fire inspectors society.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

(f) Michigan chapter of the international association of arson investigators.

(3) The report shall contain information about the quality and adequacy of service from the state fire investigation, education, and training under the reorganization of the fire marshal division responsibilities. The report shall be based on the performance of the fire marshal division in the performance of its fire safety duties during fiscal year 2002-2003.

EMERGENCY MANAGEMENT

State of emergency or state of disaster; expenditures.

Sec. 1001. (1) The state director of emergency management may expend money appropriated under this act to call upon any agency or department of the state or any resource of the state to protect life or property or to provide for the health or safety of the population in any area of the state in which the governor proclaims a state of emergency or state of disaster under 1945 PA 302, MCL 10.31 to 10.33, or under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421. The state director of emergency management may expend the amounts the director considers necessary to accomplish these purposes. The director shall submit to the state budget director as soon as possible a complete report of all actions taken under the authority of this section. The report shall contain, as a separate item, a statement of all money expended that is not reimbursable from federal money. The state budget director shall review the expenditures and submit recommendations to the legislature in regard to any possible need for a supplemental appropriation.

(2) In addition to the money appropriated in this act, the department may receive and expend money from local, private, federal, or state sources for the purpose of providing emergency management training to local or private interests and for the purpose of supporting emergency preparedness, response, recovery, and mitigation activity. If funds are expended beyond the appropriations enacted for these purposes in part 1, the department shall notify the house and senate appropriations subcommittees on state police and military and veterans affairs and the house and senate fiscal agencies within 30 days concerning the additional expenditures.

UNIFORM SERVICES

Traffic enforcement personnel; response to crimes or emergencies.

Sec. 1103. State police enlisted personnel who are employed to enforce traffic laws as provided in section 629e of the Michigan vehicle code, 1949 PA 300, MCL 257.629e, shall not be prohibited from responding to crimes in progress or other emergency situations, and are responsible for protecting every citizen of this state from harm.

SPECIAL OPERATIONS

Sale of aircraft; application of proceeds.

Sec. 1201. In addition to the appropriations in section 112 to the department of state police for the aviation program, the department is authorized to sell its aircraft and the proceeds from the sale are appropriated and may be applied to the renovation cost of replacement aircraft. If funds are expended beyond the appropriation enacted in part 1 for the aviation program, the department shall notify the house and senate subcommittees on state police and military and veterans affairs and the house and senate fiscal agencies within 30 days concerning the additional expenditures.

Sec. 1202. From the funds appropriated in part 1 for special operations, the department shall fund 1/3 of the cost of an aeronautics safety officer position within the department of transportation to coordinate safety functions between the department, the state transportation department, and the department of natural resources. It is the intent of the legislature that the safety officer position shall be equally funded by the 3 departments.

Recovery boat; station within Upper Peninsula.

Sec. 1203. From the funds appropriated in part 1 for special operations, the department shall station at least 1 recovery boat within the Upper Peninsula from its fleet of recovery boats.

CRIMINAL INVESTIGATIONS

Services in vicinity of state prison.

Sec. 1301. (1) There is sufficient money appropriated in section 113 to criminal investigations to ensure that the citizens in a service area of any state police post in the vicinity of a state prison do not experience a downgrading of state police services in their area. Criminal investigations shall be available by temporary or permanent assignment of a detective when either a temporary or permanent prison facility is opened.

(2) If the department is unable to comply with subsection (1) and there is a prison scheduled to open, the department shall provide troopers to serve as investigators on an interim basis.

MOTOR CARRIER ENFORCEMENT

School bus inspection.

Sec. 1401. (1) The department shall report to the house and senate appropriations subcommittees on state police and the house and senate fiscal agencies by March 1, 2003 regarding the inspection of school buses and other motor vehicles under section 715a of the Michigan vehicle code, 1949 PA 300, MCL 257.715a, and section 39 of the pupil transportation act, 1990 PA 187, MCL 257.1839. The report shall include the following information regarding inspections conducted in calendar year 2002:

(a) The number of buses and vehicles inspected by the department.

(b) The number of buses and vehicles passing and failing inspection.

(c) The estimated number of buses and vehicles not inspected.

(2) If each school bus within a school system receives a 100% successful state inspection on its first inspection in a given year, the department shall award a certificate to that school system.

Enforcement of motor carrier laws and regulations.

Sec. 1402. (1) It is the intent of the legislature that funds appropriated for the motor carrier enforcement division be used to the maximum extent possible for the enforcement of motor carrier laws and regulations, particularly for the acquisition of equipment, modern technology, and personnel to do the job.

(2) The department shall submit a written report to the senate and house appropriations subcommittees on state police by November 15, 2002, detailing the department's allocation plan for funds appropriated for motor carrier enforcement for fiscal year 2002-2003. Included in the report shall be the allocation plan for any funds and FTEs appropriated by the legislature which were of a greater amount than contained in the governor's recommendation for fiscal year 2002-2003.

This act is ordered to take immediate effect.

Approved July 25, 2002.

Filed with Secretary of State July 25, 2002.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

[No. 527]

(HB 5644)

AN ACT to make appropriations for the department of consumer and industry services and certain other state purposes for the fiscal year ending September 30, 2003; to provide for the expenditure of those appropriations; to provide for the imposition of certain fees; to provide for the disposition of fees and other income received by the state agencies; to provide for reports to certain persons; and to prescribe powers and duties of certain state departments and certain state and local agencies and officers.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; department of consumer and industry services.

Sec. 101. The amounts listed in this part are appropriated for the department of consumer and industry services, subject to the conditions set forth in this act, for the fiscal year ending September 30, 2003, from the funds identified in this part. The following is a summary of the appropriations in this part:

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES		
APPROPRIATION SUMMARY:		
Full-time equated unclassified positions....63.5		
Full-time equated classified positions....3,948.9		
GROSS APPROPRIATION	$	555,001,500
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers	$	111,100
ADJUSTED GROSS APPROPRIATION	$	554,890,400
Federal revenues:		
Total federal revenues		242,311,500
Special revenue funds:		
Total local revenues		0
Total private revenues		770,000
Total other state restricted revenues		275,832,600
State general fund/general purpose	$	35,976,300

Executive direction.

Sec. 102. EXECUTIVE DIRECTION		
Full-time equated unclassified positions....63.5		
Full-time equated classified positions....90.0		
Unclassified salaries	$	5,615,700
Energy office—10.0 FTE positions		2,655,600
Executive director programs—11.0 FTE positions		1,766,900
Policy development—13.0 FTE positions		1,649,800
Utility consumer representation		550,000
Regulatory efficiency improvements/backlog reduction initiative		750,000
MES board of review program—21.0 FTE positions		1,773,900
Bureau of hearings—35.0 FTE positions		3,556,200
GROSS APPROPRIATION	$	18,318,100

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Federal revenues:		
DOE-OEERE, multiple grants	$	2,179,100
DOL-ETA, unemployment insurance		2,325,300
DOL, multiple grants for safety and health		160,300
Special revenue funds:		
Private-oil overcharge		30,000
Bank fees		139,500
Boiler fee revenue		33,500
Construction code fund		442,000
Consumer finance fees		49,700
Corporation fees		1,902,000
Credit union fees		96,600
Elevator fees		37,400
Fees and collections/asbestos		11,100
Health professions regulatory fund		1,297,800
Health systems fees and collections		69,300
Insurance regulatory fees		559,300
Licensing and regulation fees		682,800
Liquor license fees		100,000
Liquor purchase revolving fund		1,526,700
Manufactured housing commission fees		144,300
Michigan state housing development authority fees and charges		428,000
Motor carrier fees		37,000
Public utility assessments		1,212,000
Safety education and training fund		241,200
Second injury fund		80,900
Securities fees		1,768,400
Self-insurers security fund		20,400
Silicosis and dust disease fund		30,000
Tax tribunal fees		1,100
Utility consumer representation fund		550,000
Worker's compensation administrative revolving fund		89,400
State general fund/general purpose	$	2,073,000

Fire safety.

Sec. 103. FIRE SAFETY

Full-time equated classified positions	60.0	
Office of fire safety—60.0 FTE positions	$	4,808,300
GROSS APPROPRIATION	$	4,808,300
Appropriated from:		
Interdepartmental grant revenues:		
IDG from department of community health, inspection contract		111,100
Federal revenues:		
Federal funds		872,300
Special revenue funds:		
Fire alarm regulation fees		91,600

		For Fiscal Year Ending Sept. 30, 2003
Fire service fees	$	2,134,800
State general fund/general purpose	$	1,598,500

Management services.

Sec. 104. MANAGEMENT SERVICES

Full-time equated classified positions....84.0		
Administrative services—84.0 FTE positions	$	5,907,100
Building occupancy charges - property development services		9,117,300
Rent		7,061,400
Workers' compensation		1,148,000
Special project advances		740,000
GROSS APPROPRIATION	$	23,973,800
Appropriated from:		
Federal revenues:		
DOL-ETA, unemployment insurance		387,600
DOL, multiple grants for safety and health		640,400
Federal funds		469,700
HHS, federal funds		57,000
Special revenue funds:		
Private-special project advances		740,000
Bank fees		450,000
Boiler fee revenue		198,200
Construction code fund		1,031,800
Consumer finance fees		166,300
Corporation fees		2,253,600
Credit union fees		332,100
Elevator fees		209,100
Fees and collections/asbestos		61,500
Fire service fees		62,000
Health professions regulatory fund		985,200
Health systems fees and collections		356,700
Insurance regulatory fees		786,900
Licensing and regulation fees		663,600
Licensing fees		7,700
Liquor purchase revolving fund		4,085,900
Manufactured housing commission fees		264,700
Michigan state housing development authority fees and charges		3,536,500
Motor carrier fees		174,300
Public utility assessments		1,400,200
Safety education and training fund		475,500
Second injury fund		185,900
Securities fees		1,470,600
Self-insurers security fund		50,800
Silicosis and dust disease fund		75,000
Tax tribunal fees		33,800
Worker's compensation administrative revolving fund		710,600
State general fund/general purpose	$	1,650,600

		For Fiscal Year Ending Sept. 30, 2003
Office of financial and insurance services.		
Sec. 105. OFFICE OF FINANCIAL AND INSURANCE SERVICES		
Full-time equated classified positions....279.0		
Administration—14.0 FTE positions	$	2,583,300
Financial evaluation—145.0 FTE positions		16,892,100
Policy conduct and consumer assistance—120.0 FTE positions		12,158,900
GROSS APPROPRIATION	$	31,634,300
Appropriated from:		
Federal revenues:		
Federal regulatory project revenue		50,400
Special revenue funds:		
Bank fees		6,151,000
Consumer finance fees		3,102,000
Credit union fees		4,303,100
Insurance continuing education fees		700,900
Insurance licensing and regulation fees		3,112,000
Insurance regulatory fees		11,523,100
Multiple employer welfare arrangement		65,700
Securities fees		2,626,100
State general fund/general purpose	$	0
Public service commission.		
Sec. 106. PUBLIC SERVICE COMMISSION		
Full-time equated classified positions....148.0		
Administration, planning and regulation—148.0 FTE positions	$	16,691,900
Low-income/energy efficiency assistance fund		60,000,000
GROSS APPROPRIATION	$	76,691,900
Appropriated from:		
Federal revenues:		
DOE-OEERE, multiple grants		149,000
DOT-RSPA, gas pipeline safety		287,000
Special revenue funds:		
Low-income and energy efficiency assistance fund		60,000,000
Motor carrier fees		1,856,600
Public utility assessments		14,399,300
State general fund/general purpose	$	0
Liquor control commission.		
Sec. 107. LIQUOR CONTROL COMMISSION		
Full-time equated classified positions....179.0		
Management support services—39.0 FTE positions	$	2,709,300
Liquor licensing and enforcement—140.0 FTE positions		10,985,700
Liquor law enforcement grants		6,000,000
Grant to department of agriculture for wine industry council		457,200
GROSS APPROPRIATION	$	20,152,200

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Special revenue funds:		
Liquor license revenue	$	11,086,200
Liquor purchase revolving fund		8,608,800
Nonretail liquor license revenue		457,200
State general fund/general purpose	$	0

Michigan state housing development authority.

Sec. 108. MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY

Full-time equated classified positions....226.0		
Payments on behalf of tenants	$	78,000,000
Housing and rental assistance program—226.0 FTE positions		23,345,900
Homeless program		5,290,800
GROSS APPROPRIATION	$	106,636,700
Appropriated from:		
Federal revenues:		
HUD, lower income housing assistance program		92,574,900
Special revenue funds:		
Michigan state housing development authority fees and charges		14,061,800
State general fund/general purpose	$	0

Tax tribunal.

Sec. 109. TAX TRIBUNAL

Full-time equated classified positions....13.0		
Operations—13.0 FTE positions	$	1,353,200
GROSS APPROPRIATION	$	1,353,200
Appropriated from:		
Special revenue funds:		
Tax tribunal fees		641,600
State general fund/general purpose	$	711,600

Grants.

Sec. 110. GRANTS

Fire protection grants	$	3,721,000
GROSS APPROPRIATION	$	3,721,000
Appropriated from:		
Special revenue funds:		
Liquor purchase revolving fund		3,721,000
State general fund/general purpose	$	0

Health regulatory systems.

Sec. 111. HEALTH REGULATORY SYSTEMS

Full-time equated classified positions....342.0		
Health systems administration—179.0 FTE positions	$	17,253,300

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Emergency medical services program state staff—7.0 FTE positions	$	904,700
Radiological health administration and projects—24.0 FTE positions		2,025,800
Substance abuse program administration—4.0 FTE positions		409,600
Emergency medical services grants and contracts		1,062,100
Health services—128.0 FTE positions	$	14,245,200
GROSS APPROPRIATION	$	35,900,700
Appropriated from:		
Federal revenues:		
Federal funds		13,001,100
Special revenue funds:		
Pain management education and controlled substances, electronic monitoring and antidiversion fund		1,362,300
Health professions regulatory fund		11,189,000
Health systems fees and collections		3,870,100
Nurse professional fund		823,100
State general fund/general purpose	$	5,655,100

Regulatory services.

Sec. 112. REGULATORY SERVICES

Full-time equated classified positions	306.0	
AFC, children's welfare and day care licensure—306.0 FTE positions	$	26,034,700
GROSS APPROPRIATION	$	26,034,700
Appropriated from:		
Federal revenues:		
HHS, federal funds		10,664,800
Special revenue funds:		
Health systems fees and collections		94,200
Licensing fees		490,500
State general fund/general purpose	$	14,785,200

Occupational regulation.

Sec. 113. OCCUPATIONAL REGULATION

Full-time equated classified positions	345.0	
Commissions and boards	$	49,700
Code enforcement—98.0 FTE positions		7,902,000
Code enforcement flexibility		1,141,900
Boiler inspection program—24.0 FTE positions		2,201,800
Elevator inspection program—26.0 FTE positions		2,287,000
Commercial services—159.0 FTE positions		13,994,800
Local manufactured housing communities inspections		250,000
Manufactured housing and land resources program—26.0 FTE positions		2,635,000
Property development group—12.0 FTE positions		1,338,700
Remonumentation grants		6,000,000
GROSS APPROPRIATION	$	37,800,900

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Special revenue funds:		
Boiler fee revenue	$	2,350,600
Construction code fund		9,433,500
Corporation fees		4,837,100
Elevator fees		2,396,400
Homeowner construction lien recovery fund		1,532,800
Licensing and regulation fees		7,844,500
Limited liability partnership revenue		10,000
Manufactured housing commission fees		2,276,900
Property development fees		241,300
Remonumentation fees		6,605,300
Real estate appraiser continuing education fund		45,000
Real estate education fund		217,500
State general fund/general purpose	$	10,000

Employment relations.

Sec. 114. EMPLOYMENT RELATIONS

Full-time equated classified positions	28.0	
Fact finding and arbitration	$	144,300
Employment and labor relations—28.0 FTE positions		2,944,000
GROSS APPROPRIATION	$	3,088,300
Appropriated from:		
Federal revenues:		
EEOC, federal funds		10,000
Special revenue funds:		
State general fund/general purpose	$	3,078,300

Safety and regulation.

Sec. 115. SAFETY AND REGULATION

Full-time equated classified positions	240.0	
Commissions and boards	$	21,400
Subgrantees		1,226,900
Occupational safety and health—240.0 FTE positions		21,357,500
GROSS APPROPRIATION	$	22,605,800
Appropriated from:		
Federal revenues:		
DOL, multiple grants for safety and health		10,377,200
Special revenue funds:		
Fees and collections/asbestos		704,300
Safety education and training fund		6,690,900
State general fund/general purpose	$	4,833,400

Bureau of workers' and unemployment compensation.

Sec. 116. BUREAU OF WORKERS' AND UNEMPLOYMENT COMPENSATION

Full-time equated classified positions	1,608.9	

		For Fiscal Year Ending Sept. 30, 2003
Administration—118.0 FTE positions	$	8,530,100
Appellate commission administration—11.4 FTE positions		889,900
Board of magistrates administration—8.0 FTE positions		1,916,900
Employment standards enforcement—38.0 FTE positions		2,621,900
Insurance funds administration—32.0 FTE positions		5,500,800
Supplemental benefit fund		1,300,000
Grant to department of career development, hire the handicapped program		50,000
Unemployment program—1,324.2 FTE positions		78,421,300
Workers' compensation		589,000
Building occupancy charges - property development service		4,245,500
Rent		5,915,100
Advocacy assistance program—8.0 FTE positions		1,500,000
Expanded fraud control program—33.2 FTE positions		2,566,200
Special audit and collections program—34.0 FTE positions		2,245,900
Training program for agency staff—2.1 FTE positions		1,756,400
GROSS APPROPRIATION	$	118,049,000
Appropriated from:		
Federal revenues:		
DOL, employment and training administration		529,200
DOL-ETA, unemployment insurance		92,887,900
Federal Reed act funds		4,233,500
Special revenue funds:		
Corporation fees		361,000
Contingent fund, penalty and interest account		9,388,400
Second injury fund		3,321,500
Securities fees		360,900
Self-insurers security fund		886,500
Silicosis and dust disease fund		1,342,800
Worker's compensation administrative revolving fund		2,115,400
State general fund/general purpose	$	2,621,900

Information technology.

Sec. 117. INFORMATION TECHNOLOGY

Information technology services and projects	$	26,244,200
GROSS APPROPRIATION	$	26,244,200
Appropriated from:		
Federal revenues:		
DOL-ETA, unemployment insurance		10,360,300
DOL, multiple grants for safety and health		38,000
Federal funds		56,500
Special revenue funds:		
Bank fees		223,800
Boiler fee revenue		94,300
Construction code fund		724,600
Consumer finance fees		85,800
Contingent fund, penalty and interest account		122,800

		For Fiscal Year Ending Sept. 30, 2003
Corporation fees	$	1,598,400
Credit union fees		157,900
Elevator fees		89,800
Fees and collections/asbestos		17,500
Health professions regulatory fund		484,800
Health systems fees and collections		244,500
Insurance regulatory fees		471,700
Licensing and regulation fees		979,700
Liquor purchase revolving fund		4,270,300
Manufactured housing commission fees		47,500
Michigan state housing development authority fees and charges		1,182,400
Motor carrier fees		164,700
Public utility assessments		1,092,200
Safety education and training fund		178,200
Second injury fund		215,300
Securities fees		1,337,200
Self-insurers security fund		76,800
Silicosis and dust disease fund		99,600
Worker's compensation administrative revolving fund		859,300
State general fund/general purpose	$	970,300

Early retirement and budgetary savings.

Sec. 118. EARLY RETIREMENT AND BUDGETARY SAVINGS

Early retirement savings	$	(1,631,700)
Budgetary savings		(379,900)
GROSS APPROPRIATION	$	(2,011,600)
Appropriated from:		
State general fund/general purpose	$	(2,011,600)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $311,808,900.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $16,221,000.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES		
Fire protection grants	$	3,721,000
Liquor law enforcement		6,000,000
Local manufactured housing inspections		250,000

Remonumentation grants		6,000,000
Subgrantees		250,000
Total department of consumer and industry services	$	16,221,000

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this appropriation act:

(a) "AFC" means adult foster care.

(b) "Department" means the department of consumer and industry services.

(c) "DOE" means the United States department of energy.

(d) "DOE-OEERE" means the DOE office of energy efficiency and renewable energy.

(e) "DOL" means the United States department of labor.

(f) "DOL-ETA" means the DOL employment and training administration.

(g) "DOT" means the United States department of transportation.

(h) "DOT-RSPA" means the DOT research and special programs administration.

(i) "EEOC" means equal employment opportunity commission.

(j) "Fiscal agencies" means Michigan house fiscal agency and Michigan senate fiscal agency.

(k) "FTE" means full-time equated.

(*l*) "HHS" means the United States department of health and human services.

(m) "HUD" means the United States department of housing and urban development.

(n) "IDG" means interdepartmental grant.

(o) "MES" means Michigan employment security.

(p) "Subcommittees" means all members of the subcommittees of the house and senate appropriations committees with jurisdiction over the budget for the department.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause a loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional

expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous month and the reasons to justify the exception.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $23,500,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $12,200,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $180,800.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $50,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization; project plan.

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the subcommittees and the fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the fiscal agencies and to the subcommittees within 30 months.

Reporting requirements; use of Internet.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on the Internet or Intranet site. Quarterly, the department shall provide to the subcommittees, state budget office, and the fiscal agencies an electronic and paper copy listing of the reports submitted during the most recent 3-month period along with the Internet or Intranet site of each report, if any.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available.

Businesses in deprived and depressed communities; contracts to provide services or supplies.

Sec. 210. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall

strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Affirmative action programs.

Sec. 211. The department shall establish and maintain affirmative action programs based on guidelines developed by the state equal opportunity workforce planning council which was created by Executive Order No. 1996-13 in order to receive general fund/general purpose dollars.

Receipt and retention of reports.

Sec. 212. The departments and state agencies receiving appropriations under this act shall receive and retain copies of all reports funded from appropriations in part 1. These departments and state agencies shall follow federal and state guidelines for short-term and long-term retention of these reports and records.

Technology-related services and projects; user fees.

Sec. 259. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology-related services and projects. Such user fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

Information technology; designation as work project.

Sec. 260. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Early retirement and budgetary savings; satisfaction of negative appropriation.

Sec. 261. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the department director and approved by the state budget director.

(3) Appropriation authorization adjustments required due to negative appropriations for early retirement savings and budgetary savings shall be made only after the approval of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Sec. 262. (1) Subject to subsection (2), in addition to the amounts appropriated under part 1, $3,700,000.00 is appropriated to fire protection grants from the state general fund for the fiscal year ending September 30, 2003.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

(2) The appropriations in subsection (1) shall become effective only if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack of cigarettes on or before September 30, 2002.

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

Fire protection grants; appropriation from liquor purchase revolving fund.

Sec. 301. The appropriation in part 1 for fire protection grants from the liquor purchase revolving fund shall be appropriated to cities, villages, and townships with state-owned facilities for fire services, instead of taxes, in accordance with 1977 PA 289, MCL 141.951 to 141.956.

Funds collected in connection with conservatorship pursuant to § 445.1682; expenses.

Sec. 302. The funds collected by the office of financial and insurance services in connection with a conservatorship pursuant to section 32 of the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1682, shall be appropriated for all expenses necessary to provide for the required services. Funds are available for expenditure when they are received by the department of treasury and shall not lapse to the general fund at the end of the fiscal year.

Funds collected from corporations being liquidated; expenses.

Sec. 303. The funds collected by the department from corporations being liquidated pursuant to the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, shall be appropriated for all expenses necessary to provide for the required services. Funds are available for expenditure when they are received by the department of treasury and shall not lapse to the general fund at the end of the fiscal year.

Customized listing of nonconfidential information; fee; use of revenue.

Sec. 304. The department may make available to interested entities otherwise unavailable customized listings of nonconfidential information in its possession, such as names and addresses of licensees, and charge for this information as follows: base fee for 1 to 1,000 records at the cost to the department; 1,001 to 10,000 records at 2.5 cents per record; and 10,001 or more records at .5 cents per record. The revenue received from this service may be used to offset expenses of programs as appropriated in part 1. The balance of this revenue collected and unexpended at the end of the fiscal year shall revert to the appropriate restricted revenue account or fund or, in absence of such an account or fund, to the general fund. The department shall submit an annual report on or before December 1 of each year to the state budget office and the subcommittees that states the amount of revenue received from the sale of information.

Members of commissions or boards; per diem payments.

Sec. 305. The appropriation in part 1 may be used for per diem payments to the members of commissions or boards for a full day of committee work at which a quorum is

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

present or for performing official business as authorized by each respective commission or board. The per diem payments shall be $50.00 per day.

Housing production goals.

Sec. 306. The Michigan state housing development authority shall annually present a report to the state budget office and the subcommittees on the status of the authority's housing production goals under all financing programs established or administered by the authority. The report shall give special attention to efforts to raise affordable multifamily housing production goals.

Child care organizations and adult foster care facilities; licensing and regulation fees.

Sec. 307. The department shall assess and collect fees in the licensing and regulation of child care organizations as defined in 1973 PA 116, MCL 722.111 to 722.128, and adult foster care facilities as defined in the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737. Fees collected by the department shall be used exclusively for the purpose of licensing and regulating child care organizations and adult foster care facilities.

Licenses, permits, and other elevator regulation fees.

Sec. 308. The funds collected by the department for licenses, permits, and other elevator regulation fees set forth in R 408.8151 of the Michigan administrative code and as determined under section 8 of 1976 PA 333, MCL 338.2158, and section 16 of 1967 PA 227, MCL 408.816, that are unexpended at the end of the fiscal year shall carry forward to the subsequent fiscal year. The department shall submit a report on an annual basis to the state budget office and the subcommittees on the amount of funds available under this section.

Occupational safety and health, health systems administration, or radiological health administration.

Sec. 309. If the revenue collected by the department for occupational safety and health, health systems administration, or radiological health administration and projects from fees and collections exceeds the amount appropriated in part 1, the revenue may be carried forward into the subsequent fiscal year. The revenue carried forward under this section shall be used as the first source of funds in the subsequent fiscal year.

Fire safety programs; inspection and plan review fees.

Sec. 310. Money appropriated under this act for fire safety programs shall not be expended unless, in accordance with section 2c of the fire prevention code, 1941 PA 207, MCL 29.2c, inspection and plan review fees will be charged according to the following schedule:

Operation and maintenance inspection fee

Facility type	Facility size	Fee
Hospitals	Any	$8.00 per bed

Plan review and construction inspection fees for hospitals and schools

Project cost range	Fee
$101,000.00 or less	minimum fee of $155.00
$101,001.00 to $1,500,000.00	$1.60 per $1,000.00
$1,500,001.00 to $10,000,000.00	$1.30 per $1,000.00
$10,000,001.00 or more	$1.10 per $1,000.00 or a maximum fee of $60,000.00.

Juvenile residential facilities; evaluation reports.

Sec. 311. The department shall furnish the clerk of the house, the secretary of the senate, the state budget office, and all members of the house and senate appropriations committees with a summary of any evaluation reports and subsequent approvals or disapprovals of juvenile residential facilities operated by the family independence agency, as required by section 6 of 1973 PA 116, MCL 722.116. If no evaluations are conducted during the fiscal year, the department shall notify the fiscal agencies and all members of the appropriate subcommittees of the house and senate appropriations committees.

Nursing homes, county medical care facilities, and hospital long-term care; inspectors.

Sec. 312. (1) From the amount appropriated in part 1 to health systems administration, the department shall provide funding for not less than 113 inspectors to annually survey and investigate the care and services delivered in nursing homes, county medical care facilities, and hospital long-term care units in accordance with provisions in the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, and federal Medicare and Medicaid certification standards.

(2) The department, in keeping with the severity of the allegations, shall investigate complaints alleging poor care and services occurring on nights or weekends in nursing homes, county medical care facilities, and hospital long-term care units by conducting on-site investigations on nights or weekends.

Licensing and regulation fees; carrying forward excess revenue.

Sec. 313. If the revenue collected by the department from licensing and regulation fees exceeds the amount appropriated in part 1, the revenue may be carried forward into the subsequent fiscal year. The revenue carried forward under this section shall be used as the first source of funds in the subsequent fiscal year.

Michigan unemployment agency; expenditures for staffing and program expenses.

Sec. 314. Funds earned or authorized by the United States department of labor in excess of the gross appropriation in part 1 for the Michigan unemployment agency from the United States department of labor are appropriated and may be expended for staffing and related expenses incurred in the operation of its programs. These funds may be spent after the department notifies the state budget office and the subcommittees of the purpose and amount of each grant award.

Sale of documents.

Sec. 315. The department shall sell documents at a price not to exceed the cost of production and distribution. Money received from the sale of these documents shall revert to the department. The funds are available for expenditure when they are received by the department of treasury and may only be used for costs directly related to the continued updating and distribution of the documents pursuant to this section. This section applies only for the following documents:

(a) Corporation and securities division documents, reports, and papers required or permitted by law pursuant to section 1060(5) of the business corporation act, 1972 PA 284, MCL 450.2060.

(b) The subdivision control manual, the state boundary commission operations manual, and other local government assistance manuals.

(c) The Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303.

(d) The mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349; the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098; the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192; and the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

(e) Labor law books.

(f) Worker's compensation health care services rules.

(g) Minimum design standards for health care facilities.

(h) Construction code manuals.

(i) Copies of transcripts from administrative law hearings.

Nursing homes; survey reports.

Sec. 316. The department shall report to the state budget office, the fiscal agencies, and the subcommittees on April 30, 2003 and October 31, 2003 on the initial and follow-up surveys conducted on all nursing homes in this state. The report shall include all of the following information:

(a) The number of surveys conducted.

(b) The number requiring follow-up surveys.

(c) The number referred to the Michigan public health institute for remediation.

(d) The number of citations per home.

(e) The number of night and weekend complaints filed.

(f) The number of night and weekend responses to complaints conducted by the department.

(g) The average length of time for the department to respond to a complaint filed against a nursing home.

(h) The number and percentage of citations appealed.

(i) The number and percentage of citations overturned and/or modified.

Bureau of safety and regulation; report on number of individuals killed and injured.

Sec. 317. The department, bureau of safety and regulation, shall provide an annual report by February 1 of each year to the state budget office, the fiscal agencies, and the subcommittees on the number of individuals killed and the number of individuals injured on the job within industries regulated by the bureau during the preceding calendar year.

Nursing home complaint investigation backlog; status report.

Sec. 318. The department shall report by November 1, 2002 to the state budget office, the legislature, and the fiscal agencies the status of the nursing home complaint investigation backlog.

Health systems administration; duty of department to investigate complaints.

Sec. 319. As a condition for receiving the general fund/general purpose appropriations in part 1 for health systems administration, the department shall provide assistance to any person making an oral request for a nursing home investigation in putting his or her request into writing, shall initiate investigations on all written nursing home complaints

filed with the department within 15 days of receipt of the complaint, and shall provide a written response to the complainant within 30 days of receipt of the written complaint.

Unemployment agency offices; operation within Upper Peninsula.

Sec. 320. The unemployment agency, during its transition to the remote initial claims system, may operate a sufficient number of unemployment agency offices, including itinerant or satellite offices, within Michigan's Upper Peninsula to ensure that the citizens of the Upper Peninsula can access these offices without excessive travel or, in cases where unemployment claims are filed or renewed by phone, without excessive long-distance toll charges.

Emergency medical services personnel serving in rural areas; grants and contracts.

Sec. 321. The department shall continue to work with grantees supported through the appropriation in part 1 for emergency medical services grants and contracts to ensure that a sufficient number of qualified emergency medical services personnel exist to serve rural areas of the state.

Utility consumer representation; public service announcements.

Sec. 322. From the funds appropriated in part 1 for utility consumer representation, the department shall produce and facilitate the airing of public service announcements that inform utility customers of the availability and purpose of these funds. The utility consumer participation board shall report to the subcommittees, fiscal agencies, and state budget office by September 30, 2003 on its efforts in this area, including the amount of expenditures made for this purpose.

Nursing home regulation; clarification of terms; training.

Sec. 323. (1) The department in consultation with nursing home provider groups, the department of community health, the state long-term care ombudsman, and the federal health care finance administration shall continue to work to clarify the following terms as those terms are used in title XVIII and title XIX and applied by the department to provide more consistent regulation of nursing homes in Michigan:

(a) Immediate jeopardy.

(b) Harm.

(c) Potential harm.

(d) Avoidable.

(e) Unavoidable.

(2) The department shall semiannually provide for joint training with nursing home surveyors and providers on at least 1 of the 10 most frequently issued federal citations in this state during the past calendar year. The department shall provide a mechanism to measure the effect of the training and shall report to the legislature and the state budget office on the effect of the training by January 15, 2003.

Unemployment agency 1-stop center.

Sec. 324. The unemployment agency shall work collaboratively with the department of career development to ensure each 1-stop center has the ability to assist individuals or respond to inquiries regarding unemployment benefits and the remote initial claims system.

Nursing home inspection; posting summary.

Sec. 325. (1) The department shall post on the Internet the executive summary of the latest inspection for each licensed nursing home.

(2) The department shall work toward posting inspection summaries for licensed day care centers on the Internet.

General industry inspectors, construction industry inspectors, and hygienists; staffing levels.

Sec. 326. From the appropriations in part 1 for occupational safety and health, the department shall provide funding for at least 76 general industry safety inspectors, construction industry safety inspectors, and industrial hygienists. The department shall submit a report to the subcommittees, fiscal agencies, and state budget office by February 15, 2003 on the staffing levels for these categories. No budgetary savings shall be taken from the funding for inspection staffing.

Nursing home inspectors; long-term care experience.

Sec. 327. When hiring any new nursing home inspectors funded through appropriations in part 1, the department shall make every effort to hire individuals with past experience in the long-term care industry.

Board of psychology license renewal; continuing education requirements.

Sec. 328. It is the intent of this legislature that beginning January 1, 2004, the board of psychology shall require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 2 years before application for renewal the licensee has attended continuing education courses or programs approved by the board totaling not less than 36 credits. The applicant shall be responsible for maintaining records of continuing education attendance. The board is authorized to request verification of continuing education records at the time of renewal of application. Verification may be conducted periodically by sample or by means other than reviewing every application.

Nursing scholarship program; recruitment.

Sec. 329. The department shall work to promote the nursing scholarship program funded from appropriations in part 1 to health services. The department shall focus its promotional efforts on recruiting undergraduate students into the nursing field in order to address the current nursing shortage. The department shall also make every effort to utilize scholarship funds in a manner which encourages undergraduate students to enter the nursing field.

RICCS; option to speak with unemployment agency employee.

Sec. 330. (1) The unemployment agency shall include in the remote initial claims center (RICCS) automated phone system a choice to speak with an employee of the unemployment agency as an option. This option should be provided in the system as early as possible as deemed appropriate in the system design. The department shall monitor the system to ensure compliance with these guidelines.

(2) The unemployment agency should continue to provide training opportunities to employees affected with the implementation of the RICCS.

Total patient care hours and percentage of pool staff used; report.

Sec. 331. Nursing facilities shall report in the quarterly staff report to the department, the total patient care hours provided each month, by state licensure and certification classification, and the percentage of pool staff, by state licensure and certification classifica-

tion, used each month during the preceding quarter. The department shall make available to the public, the quarterly staff report compiled for all facilities including the total patient care hours and the percentage of pool staff used, by classification.

Administrative law hearings.

Sec. 332. It is the intent of the legislature that the department make every effort to hold administrative law hearings on actions initiated by the department against regulated businesses or against individuals in regulated occupations in locations that are within 150 miles of the regulated business or of the office of the individual in a regulated occupation. In addition, it is the intent of the legislature that the department make every effort to hold administrative law hearings on actions initiated by an individual outside the department in locations within 150 miles of the home of the individual bringing the action if that individual wishes to testify at the hearing.

Displaced state workers; training and employment opportunities.

Sec. 333. The department shall work cooperatively with the department of civil service to identify state employees who will lose their jobs as a result of an agency program being reorganized, modified, or eliminated and shall develop training programs and provide training to these individuals that will provide them with the opportunity and skills necessary to secure new employment within the state government or the private sector. It shall be a priority of the department to provide training and employment opportunities to these displaced state employees through Michigan's employment service locations.

Day care facility to inspector ratio.

Sec. 334. From the funds appropriated in part 1 for adult foster care, children's welfare, and day care licensure, the department shall make every effort to maintain a day care facility to day care inspector ratio of no more than 210 to 1.

Low-income/energy efficiency assistance.

Sec. 335. (1) The public service commission shall report by June 1 of each year to the subcommittees, the state budget office, and the fiscal agencies on the distribution of funds appropriated in part 1 for the low-income/energy efficiency assistance program.

(2) Of the funds appropriated in part 1 for low-income/energy efficiency assistance, $3,000,000.00 shall be allocated to community action agencies across the state to support shut-off protection programs for low-income individuals. Funds shall be distributed to the community action agencies no later than November 1 of each year. The community action agencies shall abide by any reporting and monitoring requirements imposed by the public service commission on other grant recipients receiving funding through this program.

Office of financial and insurance services; expenditures report.

Sec. 336. The department shall provide the subcommittees, fiscal agencies, and state budget director with a report on or before December 1, 2002 outlining actual expenditures for the last completed fiscal year for each division within the office of financial and insurance services.

Licensing and contract review team pilot.

Sec. 337. The department shall work cooperatively with the family independence agency and with representatives from the Michigan federation of private child and family agencies to form a licensing and contract compliance review team pilot to coordinate and conduct joint reviews of 1 child placing agency and 1 child caring institution between October 1, 2002 and February 1, 2003. The Michigan federation of private child and family

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agencies will survey team participants and involved agencies regarding the process and provide feedback to the department. The department shall report during the annual budget presentation to the subcommittees regarding pilot outcomes.

Nursing shortage issues; research.

Sec. 338. Of the funds appropriated in part 1 for health services, $125,000.00 shall be allocated to the center for nursing to conduct research that will address nurse workforce planning, the supply of and demand for nurses, and nurse recruitment and retention issues. The center for nursing shall recommend ways to address the shortage of nurses.

Sec. 339. From the amount appropriated in part 1 for administration of the bureau of worker's and unemployment compensation, the department shall provide funding for 6 worker's compensation mediators positions annually.

Filings of health maintenance organizations.

Sec. 340. The office of financial and insurance services shall provide copies of the quarterly and annual financial filings of health maintenance organizations to the senate and house fiscal agencies on a timely basis.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 528]

(HB 5646)

AN ACT to make, supplement, and adjust appropriations for the departments of attorney general, civil rights, civil service, information technology, management and budget, state, and treasury, the executive office, and the legislative branch for the fiscal year ending September 30, 2003; to provide for the expenditure of these appropriations; to provide for the funding of certain work projects; to provide for the imposition of certain fees; to establish or continue certain funds, programs, and categories; to transfer certain funds; to prescribe certain requirements for bidding on state contracts; to provide for disposition of year-end balances for the fiscal year ending September 30, 2003; to prescribe the powers and duties of certain principal executive departments and state agencies, officials, and employees; and to provide for the disposition of fees and other income received by the various principal executive departments and state agencies.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; departments of attorney general, civil rights, civil service, information technology, management and budget, state, treasury, executive office, and legislative branch.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the departments of attorney general, civil rights, civil service,

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information technology, management and budget, state, and treasury, the executive office, the legislative branch, and certain other state purposes, for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

TOTAL GENERAL GOVERNMENT		
APPROPRIATION SUMMARY:		
Full-time equated unclassified positions	48.0	
Full-time equated classified positions	7,334.9	
GROSS APPROPRIATION	$	2,993,198,000
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		666,338,700
ADJUSTED GROSS APPROPRIATION	$	2,326,859,300
Federal revenues:		
Total federal revenues		59,360,000
Special revenue funds:		
Total local revenues		2,610,800
Total private revenues		1,733,100
Total other state restricted revenues		1,897,849,400
State general fund/general purpose	$	365,306,000

Department of attorney general.

Sec. 102. DEPARTMENT OF ATTORNEY GENERAL

(1) APPROPRIATION SUMMARY

Full-time equated unclassified positions	6.0	
Full-time equated classified positions	586.5	
GROSS APPROPRIATION	$	61,757,600
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		9,917,900
ADJUSTED GROSS APPROPRIATION	$	51,839,700
Federal revenues:		
Total federal revenues		7,672,700
Special revenue funds:		
Total local revenues		0
Total private revenues		1,183,000
Total other state restricted revenues		9,216,400
State general fund/general purpose	$	33,767,600

(2) ATTORNEY GENERAL OPERATIONS

Full-time equated unclassified positions	6.0	
Full-time equated classified positions	586.5	
Attorney general	$	132,900
Unclassified positions—5.0 FTE positions		476,300
Attorney general operations—568.0 FTE positions		59,804,700
Prosecuting attorneys coordinating council—18.5 FTE positions		1,579,100
PACC, training project		325,000
GROSS APPROPRIATION	$	62,318,000
Appropriated from:		
Interdepartmental grant revenues:		
IDG from FIA		2,663,600
IDG from MDA, bovine research		308,600
IDG from MDCIS, financial and insurance services		104,500

		For Fiscal Year Ending Sept. 30, 2003
IDG from MDCIS, health services	$	1,170,400
IDG from MDCIS, public utility assessments		1,678,700
IDG from MDOT, comprehensive transportation fund		131,500
IDG from MDOT, state aeronautics fund		125,400
IDG from MDOT, state trunkline fund		2,566,200
IDG from MDSP, Michigan justice training fund		325,000
IDG from Michigan gaming control board		844,000
Federal revenues:		
DAG, state administrative match grant/food stamps		1,068,200
DED-OPSE, student loan, federal lender allowance		288,600
DOL-ETA, unemployment insurance		1,372,900
DOL-OSHA, occupational safety and health		269,900
EPA, multiple grants		242,600
Federal funds		729,200
HHS, medical assistance, medigrant		556,700
HHS-OS, state Medicaid fraud control units		3,144,600
Special revenue funds:		
Private - accident fund company revenue		1,183,000
Antitrust enforcement collections		558,300
Auto repair facilities fees		195,000
Collections revenue		590,900
Corporate fees and security fees		127,600
Environmental response fund		657,800
Franchise fees		244,400
Game and fish protection fund		640,800
Liquor purchase revolving fund		857,800
Manufactured housing fees		190,200
Michigan state housing development authority fees		487,700
Michigan underground storage tank financial assurance fund		161,300
Oil and gas privilege fee revenue		145,000
Prisoner reimbursement		301,700
Prosecuting attorneys training fees		236,800
Retirement funds		621,100
Second injury fund		927,200
Self-insurers security fund		155,900
Silicosis and dust disease fund		464,300
State building authority revenue		82,000
State hospital authority		319,200
State lottery fund		207,300
Tobacco settlement trust fund		351,800
Utility consumers fund		476,600
Waterways fund		83,600
Worker's compensation administrative revolving fund		132,100
State general fund/general purpose	$	34,328,000
(3) INFORMATION TECHNOLOGY		
Information technology services and projects	$	878,200
GROSS APPROPRIATION	$	878,200

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
State general fund/general purpose	$	878,200
(4) EARLY RETIREMENT AND BUDGETARY SAVINGS		
Early retirement savings	$	(1,081,100)
Budgetary savings		(357,500)
GROSS APPROPRIATION	$	(1,438,600)
Appropriated from:		
State general fund/general purpose	$	(1,438,600)

Department of civil rights.

Sec. 103. DEPARTMENT OF CIVIL RIGHTS

(1) APPROPRIATION SUMMARY		
Full-time equated unclassified positions	5.0	
Full-time equated classified positions	158.5	
GROSS APPROPRIATION	$	14,367,700
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	14,367,700
Federal revenues:		
Total federal revenues		934,000
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	13,433,700
(2) CIVIL RIGHTS OPERATIONS		
Full-time equated unclassified positions	5.0	
Full-time equated classified positions	158.5	
Commission (per diem $75.00)	$	16,200
Unclassified positions—5.0 FTE positions		254,100
Civil rights operations—158.5 FTE positions		13,996,600
GROSS APPROPRIATION	$	14,266,900
Appropriated from:		
Federal revenues:		
EEOC, state and local antidiscrimination agency contracts	$	600,000
HUD, grant		334,000
State general fund/general purpose	$	13,332,900
(3) INFORMATION TECHNOLOGY		
Information technology services and projects	$	1,082,000
GROSS APPROPRIATION	$	1,082,000
Appropriated from:		
State general fund/general purpose	$	1,082,000
(4) EARLY RETIREMENT AND BUDGETARY SAVINGS		
Early retirement savings	$	(837,100)
Budgetary savings		(144,100)
GROSS APPROPRIATION	$	(981,200)
Appropriated from:		
State general fund/general purpose	$	(981,200)

		For Fiscal Year Ending Sept. 30, 2003
Department of civil service.		
Sec. 104. DEPARTMENT OF CIVIL SERVICE		
(1) APPROPRIATION SUMMARY		
Full-time equated classified positions....201.5		
GROSS APPROPRIATION	$	31,585,200
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		5,300,000
ADJUSTED GROSS APPROPRIATION	$	26,285,200
Federal revenues:		
Total federal revenues		4,779,100
Special revenue funds:		
Total local revenues		1,700,000
Total private revenues		150,000
Total other state restricted revenues		9,639,200
State general fund/general purpose	$	10,016,900
(2) CIVIL SERVICE OPERATIONS		
Full-time equated classified positions....201.5		
Civil service operations—201.5 FTE positions	$	28,755,700
GROSS APPROPRIATION	$	28,755,700
Appropriated from:		
Interdepartmental grant revenues:		
IDG, training charges		4,000,000
IDG, 1% special funds		1,300,000
Federal revenues:		
Federal funds 1%		3,529,100
Special revenue funds:		
Local funds 1%		1,700,000
Private funds 1%		150,000
Freedom of information fees		1,100
State sponsored group insurance		2,650,000
State restricted funds 1%		6,216,500
State general fund/general purpose	$	9,209,000
(3) INFORMATION TECHNOLOGY		
Information technology services and projects	$	3,461,600
GROSS APPROPRIATION	$	3,461,600
Appropriated from:		
Federal revenues:		
Federal funds 1%		1,250,000
Special revenue funds:		
State restricted funds 1%		771,600
State general fund/general purpose	$	1,440,000
(4) EARLY RETIREMENT AND BUDGETARY SAVINGS		
Early retirement savings	$	(525,600)
Budgetary savings		(106,500)
GROSS APPROPRIATION	$	(632,100)
Appropriated from:		
State general fund/general purpose	$	(632,100)

		For Fiscal Year Ending Sept. 30, 2003
Executive office.		
Sec. 105. EXECUTIVE OFFICE		
(1) APPROPRIATION SUMMARY		
Full-time equated unclassified positions 10.0		
Full-time equated classified positions....74.2		
GROSS APPROPRIATION	$	5,399,500
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	5,399,500
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	5,399,500
(2) EXECUTIVE OFFICE OPERATIONS		
Full-time equated unclassified positions 10.0		
Full-time equated classified positions....74.2		
Governor	$	179,800
Lieutenant governor		125,900
Executive office—74.2 FTE positions		4,330,900
Unclassified positions—8.0 FTE positions		849,800
GROSS APPROPRIATION	$	5,486,400
Appropriated from:		
State general fund/general purpose	$	5,486,400
(3) EARLY RETIREMENT AND BUDGETARY SAVINGS		
Early retirement savings	$	(36,600)
Budgetary savings		(50,300)
GROSS APPROPRIATION	$	(86,900)
Appropriated from:		
State general fund/general purpose	$	(86,900)
Information technology.		
Sec. 106. INFORMATION TECHNOLOGY		
(1) APPROPRIATION SUMMARY		
Full-time equated unclassified positions 6.0		
Full-time equated classified positions....1,765.4		
GROSS APPROPRIATION	$	424,006,800
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		424,006,800
ADJUSTED GROSS APPROPRIATION	$	0
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0

		For Fiscal Year Ending Sept. 30, 2003
Total other state restricted revenues	$	0
State general fund/general purpose	$	0
(2) INFORMATION TECHNOLOGY SERVICES		
Full-time equated unclassified positions 6.0		
Full-time equated classified positions 1,765.4		
Unclassified positions—6.0 FTE positions	$	300,000
Enterprisewide services—79.0 FTE positions		29,341,300
Health and human services—600.4 FTE positions		228,769,000
Education services—97.7 FTE positions		10,689,200
Public protection—432.4 FTE positions		54,876,700
Resources services—178.1 FTE positions		24,303,300
Transportation services—107.0 FTE positions		26,377,500
General services—270.8 FTE positions		52,851,900
GROSS APPROPRIATION	$	427,508,900
Appropriated from:		
Interdepartmental grant revenues:		
IDG from user fees		427,508,900
State general fund/general purpose	$	0
(3) EARLY RETIREMENT AND BUDGETARY SAVINGS		
Early retirement savings	$	(3,502,100)
GROSS APPROPRIATION	$	(3,502,100)
Appropriated from:		
Interdepartmental grant revenues:		
IDG from user fees		(3,502,100)
State general fund/general purpose	$	0
Sec. 107. LEGISLATURE		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	126,360,200
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		1,627,600
ADJUSTED GROSS APPROPRIATION	$	124,732,600
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		400,000
Total other state restricted revenues		2,530,400
State general fund/general purpose	$	121,802,200
(2) LEGISLATURE		
Senate	$	29,216,900
Senate automated data processing		2,229,800
Senate fiscal agency		3,178,500
House of representatives		43,152,000
House automated data processing		1,694,500
House fiscal agency		2,993,500
Legislative auditor general		15,700,900
GROSS APPROPRIATION	$	98,166,100

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDCIS, liquor purchase revolving fund	$	63,300
IDG from MDCS		80,700
IDG from MDOT, comprehensive transportation fund		48,200
IDG from MDOT, Michigan transportation fund		138,000
IDG from MDOT, state aeronautics fund		17,100
IDG from MDOT, state trunkline fund		404,200
IDG, single audit act		876,100
Special revenue funds:		
Construction lien fund		12,400
Contract audit administration fees		44,400
Correctional industries revolving fund		33,700
Game and fish protection fund		21,400
Marine safety fund		1,900
Michigan economic development corporation		46,200
Michigan state fair revolving fund		30,000
Michigan state housing development authority fees		56,800
Michigan strategic fund		20,600
Michigan veterans trust fund		22,600
Motor transport revolving fund		40,600
Office services revolving fund		29,300
State services fee fund		1,055,100
Waterways fund		5,600
State general fund/general purpose	$	95,117,900
(3) LEGISLATIVE COUNCIL		
Legislative council	$	11,210,800
Legislative service bureau automated data processing		1,486,600
e-Law, legislative council technology enhancement project		200,000
Legislative corrections ombudsman		546,300
Worker's compensation		150,500
National association dues		381,600
GROSS APPROPRIATION	$	13,975,800
Appropriated from:		
Special revenue funds:		
Private - gifts and bequests revenues	$	400,000
State general fund/general purpose	$	13,575,800
(4) LEGISLATIVE RETIREMENT SYSTEM		
General nonretirement expenses	$	4,194,200
GROSS APPROPRIATION	$	4,194,200
Appropriated from:		
Special revenue funds:		
Court fees		1,109,800
State general fund/general purpose	$	3,084,400
(5) PROPERTY MANAGEMENT		
Capitol building	$	2,215,400
Cora Anderson building		7,118,300

		For Fiscal Year Ending Sept. 30, 2003
Farnum building and other properties	$	690,400
GROSS APPROPRIATION	$	10,024,100
Appropriated from:		
State general fund/general purpose	$	10,024,100

Department of management and budget.

Sec. 108. DEPARTMENT OF MANAGEMENT AND BUDGET

(1) APPROPRIATION SUMMARY

Full-time equated unclassified positions	6.0	
Full-time equated classified positions	848.5	
GROSS APPROPRIATION	$	188,098,300
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		109,548,100
ADJUSTED GROSS APPROPRIATION	$	78,550,200
Federal revenues:		
Total federal revenues		358,600
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		35,355,300
State general fund/general purpose	$	42,836,300

(2) MANAGEMENT AND BUDGET SERVICES

Full-time equated unclassified positions	6.0	
Full-time equated classified positions	669.0	
Unclassified positions—6.0 FTE positions	$	570,800
Departmentwide services—57.5 FTE positions		11,424,300
Statewide administrative services—292.0 FTE positions		27,110,700
Statewide support services—319.5 FTE positions		101,621,200
GROSS APPROPRIATION	$	140,727,000
Appropriated from:		
Interdepartmental grant revenues:		
IDG from building occupancy and parking charges		100,548,600
IDG from department of career development		100,000
IDG from MDCH		235,000
IDG from MDOT, comprehensive transportation fund		46,800
IDG from MDOT, state aeronautics fund		26,300
IDG from MDOT, state trunkline fund		1,065,600
IDG from user fees		4,605,300
Federal revenues:		
Federal - MESA, administration fund		300,000
Special revenue funds:		
Game and fish protection fund		220,100
Health management funds		1,269,400
Marine safety fund		19,700
MAIN user charges		627,500
Special revenue, internal service, and pension trust funds		4,904,500
State building authority revenue		517,900

		For Fiscal Year Ending Sept. 30, 2003
State lottery fund	$	137,300
State sponsored group insurance, flexible spending accounts and COBRA		4,778,300
Waterways fund		47,000
State general fund/general purpose	$	21,277,700
(3) STATEWIDE APPROPRIATIONS		
Professional development fund - AFSCME	$	400,000
Professional development fund - MPES		105,000
Professional development fund - UAW		900,000
Severance pay fund - AFSCME		500,000
Severance pay fund - UAW		100,000
GROSS APPROPRIATION	$	2,005,000
Appropriated from:		
Interdepartmental grant revenues:		
IDG from employer contributions		2,005,000
State general fund/general purpose	$	0
(4) SPECIAL PROGRAMS		
Full-time equated classified positions....179.5		
Building occupancy charges - property management services for executive/legislative building occupancy	$	1,930,300
Retirement services—165.5 FTE positions		15,333,800
Office of children's ombudsman—14.0 FTE positions		1,204,300
GROSS APPROPRIATION	$	18,468,400
Appropriated from:		
Special revenue funds:		
Deferred compensation		1,380,800
Pension trust funds		13,953,000
State general fund/general purpose	$	3,134,600
(5) INFORMATION TECHNOLOGY		
Information technology services and projects	$	27,434,300
GROSS APPROPRIATION	$	27,434,300
Appropriated from:		
Interdepartmental grant revenues:		
IDG from building occupancy and parking charges		655,700
IDG from MDOT, comprehensive transportation fund		3,100
IDG from MDOT, state aeronautics fund		1,600
IDG from MDOT, state trunkline fund		68,300
IDG from user fees		186,800
Federal revenues:		
Federal - MESA, administration fund		58,600
Special revenue funds:		
Deferred compensation		2,600
Game and fish protection fund		13,100
Health management funds		40,100
Marine safety fund		1,400
MAIN user charges		4,069,500
Pension trust funds		762,300
Special revenue, internal service, and pension trust funds		2,445,500

		For Fiscal Year Ending Sept. 30, 2003
State building authority revenue	$	9,700
State lottery fund		13,400
State sponsored group insurance, flexible spending accounts and COBRA		139,500
Waterways fund		2,700
State general fund/general purpose	$	18,960,400
(6) EARLY RETIREMENT AND BUDGETARY SAVINGS		
Early retirement savings	$	(102,700)
Budgetary savings		(433,700)
GROSS APPROPRIATION	$	(536,400)
Appropriated from:		
State general fund/general purpose	$	(536,400)

Department of state.

Sec. 109. DEPARTMENT OF STATE

(1) APPROPRIATION SUMMARY		
Full-time equated unclassified positions	6.0	
Full-time equated classified positions	1,847.8	
GROSS APPROPRIATION	$	180,055,800
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		96,493,000
ADJUSTED GROSS APPROPRIATION	$	83,562,800
Federal revenues:		
Total federal revenues		1,319,500
Special revenue funds:		
Total local revenues		0
Total private revenues		100
Total other state restricted revenues		65,274,200
State general fund/general purpose	$	16,969,000
(2) EXECUTIVE DIRECTION		
Full-time equated unclassified positions	6.0	
Full-time equated classified positions	27.2	
Secretary of state	$	132,900
Unclassified positions—5.0 FTE positions		476,300
Operations—27.2 FTE positions	$	1,874,200
GROSS APPROPRIATION	$	2,483,400
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDOT, Michigan transportation fund		924,700
Special revenue funds:		
Auto repair facilities fees		50,700
Driver fees		85,200
Expedient service fees		43,400
Look-up fees		391,600
Parking ticket court fines		6,900
Personal identification card fees		10,200
Reinstatement fees - operator licenses		90,400

		For Fiscal Year Ending Sept. 30, 2003
Vehicle theft prevention fees	$	29,800
State general fund/general purpose	$	850,500
(3) DEPARTMENT SERVICES		
Full-time equated classified positions....170.3		
Operations—163.8 FTE positions	$	20,087,500
Assigned claims assessments—6.5 FTE positions		644,200
GROSS APPROPRIATION	$	20,731,700
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDOT, Michigan transportation fund		11,349,500
Federal revenues:		
Federal funds		50,300
Special revenue funds:		
Assigned claims assessments		644,200
Auto repair facilities fees		375,100
Child support clearance fees		31,000
Driver fees		472,800
Expedient service fees		224,300
Look-up fees		6,523,100
Marine safety fund		67,400
Off-road vehicle title fees		6,900
Parking ticket court fines		47,500
Personal identification card fees		75,000
Reinstatement fees - operator licenses		450,000
Scrap tire fund		61,900
Snowmobile registration fee revenue		15,900
Vehicle theft prevention fees		219,900
State general fund/general purpose	$	116,900
(4) REGULATORY SERVICES		
Full-time equated classified positions....254.1		
Operations—152.4 FTE positions	$	12,406,200
Auto regulations—101.7 FTE positions		7,346,100
GROSS APPROPRIATION	$	19,752,300
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDOT, Michigan transportation fund		7,637,600
Federal revenues:		
Federal funds		85,900
Special revenue funds:		
Auto repair facilities fees		3,892,700
Commercial driver training school fees		59,100
Driver fees		988,700
Expedient service fees		27,900
Look-up fees		3,907,700
Motorcycle safety fund		99,400
Parking ticket court fines		7,600
Personal identification card fees		39,900
Reinstatement fees - operator licenses		1,483,300

		For Fiscal Year Ending Sept. 30, 2003
Vehicle theft prevention fees	$	1,324,900
State general fund/general purpose	$	197,600
(5) CUSTOMER DELIVERY SERVICES		
Full-time equated classified positions....1,367.7		
Branch operations—969.4 FTE positions	$	66,280,400
Central records—372.6 FTE positions		27,930,200
Record administration—9.5 FTE positions		806,000
Commemorative license plates—16.2 FTE positions		2,147,300
Specialty license plates		3,915,000
Olympic center plate		75,700
Organ donor program		104,100
GROSS APPROPRIATION	$	101,258,700
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDOT, Michigan transportation fund		57,323,800
Federal revenues:		
Federal funds		1,183,300
Special revenue funds:		
Private funds		100
Auto repair facilities fees		79,400
Child support clearance fees		340,300
Driver fees		11,273,300
Expedient service fees		2,500,300
Look-up fees		14,715,400
Marine safety fund		980,800
Michigan state police auto theft fund		100,000
Mobile home commission fees		407,100
Motorcycle safety fund		30,100
Off-road vehicle title fees		104,900
Olympic center training fund		75,700
Parking ticket court fines		1,393,100
Personal identification card fees		1,312,700
Reinstatement fees - operator licenses		996,000
Snowmobile registration fee revenue		287,300
State services fee fund		1,000,000
Vehicle theft prevention fees		180,600
State general fund/general purpose	$	6,974,500
(6) ELECTION REGULATION		
Full-time equated classified positions....28.5		
Election administration and services—25.5 FTE positions	$	2,849,500
Fees to local units		69,800
Qualified voter file—3.0 FTE positions		1,372,400
GROSS APPROPRIATION	$	4,291,700
Appropriated from:		
State general fund/general purpose	$	4,291,700
(7) DEPARTMENTWIDE APPROPRIATIONS		
Building occupancy charges/rent	$	10,531,100

		For Fiscal Year Ending Sept. 30, 2003
Worker's compensation	$	740,000
GROSS APPROPRIATION	$	11,271,100
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDOT, Michigan transportation fund		4,784,200
Special revenue funds:		
Auto repair facilities fees		158,500
Driver fees		487,400
Expedient service fees		16,100
Look-up fees		1,973,400
Parking ticket court fines		525,500
State general fund/general purpose	$	3,326,000
(8) INFORMATION TECHNOLOGY		
Information technology services and projects	$	21,044,700
GROSS APPROPRIATION	$	21,044,700
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDOT, Michigan transportation fund		14,473,200
Special revenue funds:		
Administrative order processing fee		10,500
Auto repair facilities fees		170,500
Child support clearance fees		15,400
Driver fees		629,900
Expedient service fees		462,800
Look-up fees		2,583,100
Parking ticket court fines		78,700
Personal identification card fees		26,100
Reinstatement fees - operator licenses		442,400
Vehicle theft prevention fees		162,500
State general fund/general purpose	$	1,989,600
(9) EARLY RETIREMENT AND BUDGETARY SAVINGS		
Early retirement savings	$	(594,900)
Budgetary savings		(182,900)
GROSS APPROPRIATION	$	(777,800)
Appropriated from:		
State general fund/general purpose	$	(777,800)

Department of treasury.

Sec. 110. DEPARTMENT OF TREASURY

(1) APPROPRIATION SUMMARY		
Full-time equated unclassified positions	9.0	
Full-time equated classified positions	1,852.5	
GROSS APPROPRIATION	$	1,961,566,900
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		19,445,300
ADJUSTED GROSS APPROPRIATION	$	1,942,121,600
Federal revenues:		
Total federal revenues		44,296,100

		For Fiscal Year Ending Sept. 30, 2003
Special revenue funds:		
Total local revenues	$	910,800
Total private revenues		0
Total other state restricted revenues		1,775,833,900
State general fund/general purpose	$	121,080,800
(2) EXECUTIVE DIRECTION		
Full-time equated unclassified positions 9.0		
Full-time equated classified positions 4.0		
Unclassified positions—9.0 FTE positions	$	800,900
Office of the director—4.0 FTE positions		543,400
GROSS APPROPRIATION	$	1,344,300
Appropriated from:		
Special revenue funds:		
State lottery fund		139,500
State services fee fund		150,800
State general fund/general purpose	$	1,054,000
(3) DEPARTMENTWIDE APPROPRIATIONS		
Travel	$	1,815,900
Rent and building occupancy charges - property management services		6,464,100
Worker's compensation insurance premium		485,000
GROSS APPROPRIATION	$	8,765,000
Appropriated from:		
Interdepartmental grant revenues:		
IDG from MDOT, state aeronautics fund		2,700
IDG, state agency collection fees		17,900
Special revenue funds:		
Delinquent tax collection revenue		3,926,700
Municipal finance fees		11,200
Treasury fees		18,900
Waterways fund		2,300
State general fund/general purpose	$	4,785,300
(4) LOCAL GOVERNMENT PROGRAMS		
Full-time equated classified positions 99.0		
Supervision of the general property tax law—66.5 FTE positions	$	9,460,600
Property tax assessor training—4.0 FTE positions		360,600
Local finance—28.5 FTE positions		1,688,500
State compliance audits		60,000
Pari-mutuel audits		240,000
GROSS APPROPRIATION	$	11,809,700
Appropriated from:		
Special revenue funds:		
Local - assessor training fees		360,600
Local - audit charges		457,200
Local - equalization study charge-backs		40,000
Local - revenue from local government		50,000
Land reutilization fund		3,985,700
Municipal finance fees		236,500

		For Fiscal Year Ending Sept. 30, 2003
State services fee fund	$	240,000
State general fund/general purpose	$	6,439,700
(5) TAX PROGRAMS		
Full-time equated classified positions....836.5		
Revenue—828.5 FTE positions	$	56,189,800
Home heating assistance		1,600,000
Michigan underground storage tank assurance fund—4.0 FTE positions		224,400
Joint federal/state motor fuel compliance project		100,000
Bottle bill implementation		250,000
New hire reporting		1,545,000
Tobacco tax collection—4.0 FTE positions		210,600
GROSS APPROPRIATION	$	60,119,800
Appropriated from:		
Interdepartmental grant revenues:		
IDG, data/collection services fees		250,900
IDG from FIA		1,545,000
IDG from MDCH		210,600
IDG from MDOT, Michigan transportation fund		8,225,000
IDG from MDOT, state aeronautics fund		43,100
Federal revenues:		
DOT-FHA, intermodal surface transportation efficiency act		100,000
HHS-SSA, low-income energy assistance		1,600,000
Special revenue funds:		
Bottle deposit fund		250,000
Children's trust fund		6,500
Delinquent tax collection revenue		38,132,400
Michigan underground storage tank financial assurance revenue		224,400
Tobacco tax revenue		328,500
Waterways fund		56,200
State general fund/general purpose	$	9,147,200
(6) BANKING AND MANAGEMENT SERVICES		
Full-time equated classified positions....354.5		
Administrative services—122.5 FTE positions	$	13,131,100
Financial services—232.0 FTE positions		16,078,500
GROSS APPROPRIATION	$	29,209,600
Appropriated from:		
Interdepartmental grant revenues:		
IDG from FIA, title IV-D		501,100
IDG from MDOT, state aeronautics fund		16,900
IDG, levy/warrant cost assessment fees		1,810,800
IDG, receipt, warrant and cash processing fees		3,722,300
IDG, state agency collection fees		450,100
Special revenue funds:		
Delinquent tax collection revenue		10,089,100
Escheats revenue		2,972,500
Garnishment fees		419,800
Treasury fees		162,100

		For Fiscal Year Ending Sept. 30, 2003
Waterways fund	$	18,100
State general fund/general purpose	$	9,046,800
(7) FINANCIAL PROGRAMS		
Full-time equated classified positions 298.5		
Retirement investments—86.5 FTE positions	$	11,671,700
Michigan merit award board/MEAP administration—21.0 FTE positions		28,827,300
Michigan education savings program		1,000,000
Common cash investments and debt management—13.5 FTE positions		1,018,600
Student financial assistance programs—177.5 FTE positions		33,431,700
GROSS APPROPRIATION	$	75,949,300
Appropriated from:		
Interdepartmental grant revenues:		
IDG, fiscal agent service fees		147,400
Federal revenues:		
DED-OPSE, federal lenders allowance		9,509,700
DED-OESE, grants for federal assessments		10,698,800
DED-OPSE, higher education act of 1965, insured loans		21,887,600
Special revenue funds:		
College work-study		46,300
Michigan merit award trust fund		19,497,600
Retirement funds		11,671,700
School bond fees		401,600
Treasury fees		230,900
State general fund/general purpose	$	1,857,700
(8) DEBT SERVICE		
Water pollution control bond and interest redemption	$	2,750,400
Quality of life bond		40,900,000
Clean Michigan initiative		15,936,000
GROSS APPROPRIATION	$	59,586,400
Appropriated from:		
Special revenue funds:		
State general fund/general purpose	$	59,586,400
(9) GRANTS		
Grants to counties in lieu of taxes	$	10,000
Convention facility development distribution		48,000,000
Senior citizen cooperative housing tax exemption program		14,350,600
Commercial mobile radio service payments		24,000,000
Health and safety fund grants		23,500,000
Tax increment finance authority payments		500,100
City of Benton Harbor - enterprise zone		85,400
GROSS APPROPRIATION	$	110,446,100
Appropriated from:		
Special revenue funds:		
Commercial mobile radio service fees		24,000,000
Convention facility development fund		48,000,000

		For Fiscal Year Ending Sept. 30, 2003
Health and safety fund	$	23,500,000
State general fund/general purpose	$	14,946,100
(10) STATE LOTTERY		
Full-time equated classified positions....164.0		
Lottery operations—164.0 FTE positions	$	15,325,600
Promotion and advertising		18,372,000
GROSS APPROPRIATION	$	33,697,600
Appropriated from:		
Special revenue funds:		
State lottery fund		33,697,600
State general fund/general purpose	$	0
(11) CASINO GAMING		
Full-time equated classified positions....96.0		
Michigan gaming control board	$	500,000
Casino gaming control administration—96.0 FTE positions		16,130,200
GROSS APPROPRIATION	$	16,630,200
Appropriated from:		
Special revenue funds:		
Casino gambling agreements		383,500
State services fee fund		16,246,700
State general fund/general purpose	$	0
(12) REVENUE SHARING		
Constitutional state general revenue sharing grants	$	679,430,000
Statutory state general revenue sharing grants		844,170,000
Grants to local governmental units		9,900,000
GROSS APPROPRIATION	$	1,533,500,000
Appropriated from:		
Special revenue funds:		
Sales tax		1,523,600,000
State general fund/general purpose	$	9,900,000
(13) INFORMATION TECHNOLOGY		
Information technology services and projects	$	23,208,300
GROSS APPROPRIATION	$	23,208,300
Appropriated from:		
Interdepartmental grant revenues:		
IDG, receipt, warrant and cash processing fees		14,000
IDG, user services		487,500
IDG from MDOT, Michigan transportation fund		2,000,000
Federal revenues:		
DED-OPSE, higher education act of 1965, insured loans		500,000
Special revenue funds:		
Local - assessor training fees		3,000
Delinquent tax collection revenue		8,165,900
Land reutilization fund		20,000

Compiler's note: The Governor vetoed the shaded line items on July 25, 2002. On August 13, 2002, two-thirds of the members of the Senate and House of Representatives voted to pass the vetoed line items, the objections of the Governor to the contrary notwithstanding.

		For Fiscal Year Ending Sept. 30, 2003
Michigan merit award trust fund	$	393,000
Retirement funds		616,000
State lottery fund		3,229,300
State services fee fund		762,600
State general fund/general purpose	$	7,017,000
(14) EARLY RETIREMENT AND BUDGETARY SAVINGS		
Early retirement savings	$	(2,156,500)
Budgetary savings		(542,900)
GROSS APPROPRIATION	$	(2,699,400)
Appropriated from:		
State general fund/general purpose	$	(2,699,400)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. (1) Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $2,263,155,400.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $1,631,549,900.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF STATE		
Fees to local units	$	69,800
Subtotal	$	69,800
DEPARTMENT OF TREASURY		
Senior citizen cooperative housing tax exemption	$	14,350,600
Grants to counties in lieu of taxes		10,000
Health and safety fund grants		23,500,000
City of Benton Harbor enterprise zone		85,400
Constitutional state general revenue sharing grants	$	679,430,000
Statutory state general revenue sharing grants		844,170,000
Grants to local units of government		9,900,000
Convention facility development fund distribution		48,000,000
Tax increment finance authority payments		500,100
Commercial mobile radio service payments		11,534,000
Subtotal	$	1,631,480,100
TOTAL GENERAL GOVERNMENT	$	1,631,549,900

(2) Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state sources for fiscal year 2002-2003 is estimated at $26,549,985,085.00 in the 2002-2003 appropriations acts and total state spending from state sources paid to local units of government for fiscal year 2002-2003 is estimated at $16,191,287,780.00. The state-local proportion is estimated at 61.0% of total state spending from state resources.

(3) If payments to local units of government and state spending from state sources for fiscal year 2002-2003 are different than the amounts estimated in subsection (2), the state budget director shall report the payments to local units of government and state spending from state sources that were made for fiscal year 2002-2003 to the senate and house of representatives standing committees on appropriations within 30 days after the final bookclosing for fiscal year 2002-2003.

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this act:

(a) "AFSCME" means American federation of state, county, and municipal employees.

(b) "COBRA" means the consolidated omnibus budget reconciliation act of 1985, Public Law 99-272, 100 Stat. 82.

(c) "CPI" means consumer price index.

(d) "DAG" means the United States department of agriculture.

(e) "DED-OESE" means the United States department of education, office of elementary and secondary education.

(f) "DED-OPSE" means the United States department of education, office of post-secondary education.

(g) "DOI-NPS" means the United States department of the interior, national park service.

(h) "DOJ" means the United States department of justice.

(i) "DOL-ETA" means the United States department of labor, employment and training administration.

(j) "DOL-OSHA" means the United States department of labor, occupational safety and health administration.

(k) "DOT-FHA" means the United States department of transportation, federal highway administration.

(*l*) "EEOC" means the United States equal employment opportunity commission.

(m) "EPA" means the United States environmental protection agency.

(n) "FIA" means the Michigan family independence agency.

(o) "FTE" means full-time equated.

(p) "GF/GP" means general fund/general purpose.

(q) "HHS" means the United States department of health and human services.

(r) "HHS-OS" means the HHS office of the secretary.

(s) "HHS-SSA" means the HHS social security administration.

(t) "HUD" means the United States department of housing and urban development.

(u) "IDG" means interdepartmental grant.

(v) "MAIN" means the Michigan administrative information network.

(w) "MCL" means the Michigan Compiled Laws.

(x) "MDA" means the Michigan department of agriculture.

(y) "MDCH" means the Michigan department of community health.

(z) "MDCIS" means the Michigan department of consumer and industry services.

(aa) "MDCS" means the Michigan department of civil service.

(bb) "MDOT" means the Michigan department of transportation.

(cc) "MDSP" means the Michigan department of state police.

(dd) "MEAP" means the Michigan educational assessment program.

(ee) "MESA" means the Michigan employment security agency.

(ff) "MPES" means the Michigan professional employees society.

(gg) "MSC" means managerial, supervisory, and confidential.

(hh) "MUSTFA" means Michigan underground storage tank financial assurance.

(ii) "PA" means public act.

(jj) "PACC" means the prosecuting attorneys coordinating council.

(kk) "UAW" means the united auto workers.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exception.

Privatization; project plan.

Sec. 207. At least 60 days before beginning any effort to privatize, the departments and agencies receiving appropriations in part 1 shall submit a complete project plan to the senate and house of representatives standing committees on appropriations subcommittees on general government and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the senate and house of representatives standing committees on appropriations subcommittees on general government and the senate and house fiscal agencies within 30 months.

Reporting requirements; use of Internet.

Sec. 208. Unless otherwise specified, departments and agencies receiving appropriations in part 1 shall use the Internet to fulfill the reporting requirements of this act. This requirement may include transmission of reports via electronic mail to the recipients identified for each reporting requirement, or it may include placement of reports on an Internet or Intranet site.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available.

Businesses in deprived and depressed communities; contracts for services and supplies.

Sec. 210. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Appropriation to countercyclical budget and economic stabilization fund.

Sec. 211. Pursuant to section 352 of the management and budget act, 1984 PA 431, MCL 18.1352, that provides for a transfer of state general funds into the countercyclical budget and economic stabilization fund, there is appropriated into the countercyclical budget and economic stabilization fund the sum of $0.00. The calculation required by section 352 of the management and budget act, 1984 PA 431, MCL 18.1352, is determined as follows:

	2001	2002
Michigan personal income (millions)	$295,108	$303,666
less: transfer payments	40,958	44,256
Subtotal	254,150	259,411
Divided by: Detroit CPI for 12 months Ending June 30 (1982=1.00)	1.729	1.762
Equals: real adjusted Michigan personal income	$146,992	$147,238
Percentage change		0.2%
Percentage change under 0%		0.2%
Multiplied by: estimated GF/GP revenue in FY 2001-2002 (millions)		8,406.0
Equals: countercyclical budget and economic stabilization fund calculation for the fiscal year ending September 30, 2003		$0.00

Receipt and retention of reports.

Sec. 212. The departments and agencies receiving appropriations in part 1 shall receive and retain copies of all reports funded from appropriations in part 1. Federal and state guidelines for short-term and long-term retention of records shall be followed.

Purchase or ownership interest in casino or gambling operation; use of funds prohibited.

Sec. 213. Funds appropriated in part 1 shall not be used by this state, a department, an agency, or an authority of this state to purchase an ownership interest in a casino enterprise or a gambling operation as those terms are defined in the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

Technology-related services and projects; user fees.

Sec. 214. From the funds appropriated in part 1 for information technology, departments and agencies shall pay user fees to the department of information technology for technology-related services and projects. Such user fees shall be subject to provisions of an interagency agreement between the departments and agencies and the department of information technology.

Employee communication with legislature; disciplinary action prohibited.

Sec. 215. A department or state agency shall not take disciplinary action against an employee for communicating with a member of the legislature or their staff.

Early retirement and budgetary savings; satisfaction of negative appropriations.

Sec. 216. (1) The negative appropriations for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) The negative appropriations for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the department directors and approved by the state budget director.

(3) Appropriation authorization adjustments required due to negative appropriations for early retirement savings and budgetary savings shall be made only after the approval of transfers by the legislature under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

DEPARTMENT OF ATTORNEY GENERAL

Contingency funds; availability for expenditure.

Sec. 300. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $1,500,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $1,500,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for local contingency funds. These funds are not available for

expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Attorney general; legal services.

Sec. 301. (1) The attorney general shall perform all legal services, including representation before courts and administrative agencies rendering legal opinions and providing legal advice to a principal executive department or state agency. A principal executive department or state agency shall not employ or enter into a contract with any other person for services described in this section.

(2) The attorney general shall defend judges of all state courts if a claim is made or a civil action is commenced for injuries to persons or property caused by the judge through the performance of the judge's duties while acting within the scope of his or her authority as a judge.

(3) The attorney general shall perform the duties specified in 1846 RS 12, MCL 14.28 to 14.35, and 1919 PA 232, MCL 14.101 to 14.102, and as otherwise provided by law.

Attorney general; sale of biennial report.

Sec. 302. The attorney general may sell copies of the biennial report in excess of the 500 copies that the attorney general may distribute on a gratis basis. The attorney general shall sell copies of the report at not less than the actual cost of the report and shall deposit the money received into the general fund.

Department of attorney general; legal representation of cases handled by accident fund.

Sec. 303. The department of attorney general has retained the responsibility for legal representation for state of Michigan state employee worker's disability compensation cases handled by the accident fund company. The accident fund company revenue appropriation in part 1 is to be satisfied by billings from the department of attorney general to the accident fund company for the actual costs of legal representation, including salaries and support costs.

Costs associated with food stamp fraud cases; reimbursement.

Sec. 304. In addition to the funds appropriated in part 1, up to $400,000.00 shall be reimbursed per fiscal year for food stamp fraud cases heard by the third circuit court of Wayne County that were initiated by the department of attorney general pursuant to the existing contract between the family independence agency, the prosecuting attorneys association of Michigan, and the department of attorney general. The source of this funding is money earned by the department of attorney general under the agreement after the allowance for reimbursement to the department of attorney general for costs associated with the prosecution of food stamp fraud cases. It is recognized that the federal funds are earned by the department of attorney general for its documented progress on the prosecution of food stamp fraud cases according to the United States department of agriculture regulations and that once earned by this state, the funds become state funds.

Proceeds from tobacco settlement agreement.

Sec. 305. Any proceeds from a lawsuit initiated by or settlement agreement entered into on behalf of this state against a manufacturer of tobacco products by the attorney general are state funds and are subject to appropriation as provided by law.

Unobligated antitrust enforcement revenue; carrying forward excess funds.

Sec. 306. Any unobligated antitrust enforcement revenue in excess of the funds appropriated in part 1, not to exceed $250,000.00, is carried forward and available for appropriation in the succeeding fiscal year.

Payment of attorney fees.

Sec. 307. In addition to the funds appropriated in part 1, there is appropriated up to $500,000.00 from litigation expense reimbursements awarded to the state. The funds may be expended for the payment of attorney fees assessed against the governor or the attorney general when acting in an official capacity as the named party in litigation against the state. The funds may also be expended for the payment of state costs incurred under section 16 of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.16. Unexpended funds at the end of the fiscal year are carried forward for expenditure in the following year, up to a maximum authorization of $500,000.00.

Attorney general; annual salary.

Sec. 308. Effective January 1, 2003, the annual salary for the attorney general shall be $135,500.00, unless an amendment to the state constitution gives the state officers compensation commission the authority to determine the salary of the attorney general.

DEPARTMENT OF CIVIL RIGHTS

Contingency funds; availability for expenditure.

Sec. 400. In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $500,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Department of civil rights; receipt and expenditure of funds; report.

Sec. 401. (1) In addition to the appropriations contained in part 1, the department of civil rights may receive and expend funds from local or private sources for all of the following purposes:

(a) Developing and presenting training for employers on equal employment opportunity law and procedures.

(b) The publication and sale of civil rights related informational material.

(c) The provision of copy material made available under freedom of information requests.

(d) Other copy fees, subpoena fees, and witness fees.

(e) Developing, presenting, and participating in mediation processes for certain civil rights cases.

(f) Workshops, seminars, and recognition or award programs consistent with the programmatic mission of the individual unit sponsoring or coordinating the programs.

(2) The department of civil rights shall annually report to the state budget director, the senate and house of representatives standing committees on appropriations, and the senate and house fiscal agencies the amount of funds received and expended for purposes authorized under this section.

Review of equal employment opportunity compliance; contracts with local governments.

Sec. 402. The department of civil rights may contract with local units of government to review equal employment opportunity compliance of potential contractors and may charge for and expend amounts received from local units of government for the purpose of developing and providing these contractual services.

DEPARTMENT OF CIVIL SERVICE

Contingency funds; availability for expenditure.

Sec. 500. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $2,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $5,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Restricted funds; assessment.

Sec. 501. (1) All restricted funds shall be assessed a sum not less than 1% of the total aggregate payroll paid from those funds for financing the department of civil service on the basis of actual 1% restricted sources total aggregate payroll of the classified service for fiscal year 2002 in accordance with section 5 of article XI of the state constitution of 1963. This includes, but is not limited to, restricted funds appropriated in part 1 of any appropriations bill. Unexpended 1% appropriated funds shall be returned to each 1% fund source at the end of the fiscal year.

(2) The 1% financing from restricted sources shall be credited to the department of civil service by the end of the second fiscal quarter.

Restricted sources; carryforward authority.

Sec. 502. Except where specifically appropriated for this purpose, 1% of the financing from restricted sources shall be credited to the department of civil service. For restricted sources of funding within the general fund that have the legislative authority for carryover, if current spending authorization or revenues are insufficient to accept the charge, the shortage shall be taken from carryforward balances of that funding source. Restricted revenue sources that do not have carryforward authority shall be utilized to satisfy departmental operating deducts first and civil service obligations second. General fund dollars are appropriated for any shortfall, pursuant to approval by the state budget director.

EXECUTIVE OFFICE

Publication and distribution costs.

Sec. 550. Funds collected by the executive office under sections 55, 57, 58, and 59 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.255, 24.257, 24.258, and 24.259, and section 203 of the legislative council act, 1986 PA 268, MCL 4.1203, are appropriated for all expenses necessary to provide for the costs of publication and distribution. The funds appropriated under this section are allotted for expenditure when they are received by the department of treasury and shall not lapse to the general fund at the end of the fiscal year.

INFORMATION TECHNOLOGY

Interdepartmental grant contingency funds.

Sec. 570. In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $40,000,000.00 for interdepartmental grant contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Department of information technology; user fees.

Sec. 571. The appropriation in part 1 for the department of information technology shall be funded by user fees assessed against other principal executive departments and agencies. Such user fees shall be based upon services provided by the department of information technology.

The e-Michigan office.

Sec. 572. (1) The e-Michigan office may sell and accept paid advertising for placement on any state website under its jurisdiction. The office shall review and approve the content of each advertisement. The office may refuse to accept advertising from any person or organization or require modification to advertisements based upon criteria determined by the office. Revenue received under this subsection will be used for operating costs of the office and for future technology enhancements to state of Michigan e-government initiatives. Funds received under this subsection shall be limited to $250,000.00. Any funds in excess of $250,000.00 shall be deposited in the state general fund.

(2) The e-Michigan office may accept gifts, donations, contributions, bequests, and grants of money from any public or private source to assist with the underwriting or sponsorship of state web pages or services offered on those web pages. A private or public funding source may receive recognition in the web page. The office may reject a gift, donation, contribution, bequest, or grant.

(3) The e-Michigan office may enter into agreements to supply services to other principal executive departments and agencies. The e-Michigan office may receive and expend funds in addition to those authorized in 2000 PA 291 for providing those services. The e-Michigan office may expend amounts received for salaries, supplies, services, and equipment necessary to provide e-Michigan services.

(4) Funds accepted by the e-Michigan office under subsections (1), (2), and (3) are appropriated and allotted when received and may be expended upon receipt.

(5) Any unexpended revenue received under this section shall not lapse to the general fund and shall be available for future appropriations.

(6) The e-Michigan office shall develop a search function of all state departments and agencies. This search function shall be easily accessible to visitors on the front page of the state's website.

(7) The privacy policy adopted by the e-Michigan office shall include the following provisions:

(a) Instruction on how visitors can set their browsers to be warned before each cookie is written to a visitor's computer.

(b) The e-Michigan office will also include instructions for visitors to inform them how to view and remove cookies on their personal computers.

(8) By April 1, the e-Michigan office shall report to the senate and house of representatives standing committees on appropriations and the senate and house fiscal agencies all of the following information:

(a) The amount of gifts, donations, contributions, bequests, and grants of money received by the office under this section for the immediately preceding fiscal year.

(b) A listing of the expenditures made from the amounts received by the office as reported in subdivision (a).

(c) A listing of any gift, donation, contribution, bequest, or grant of property other than funding received by the office under this section for the immediately preceding year.

(d) The total revenue received from the sale of paid advertising accepted under this section and a statement of the total number of advertising transactions.

Information and technical services; agreements.

Sec. 573. The department of information technology may enter into agreements to supply census information, spatial information, and technical services to other principal executive departments, state agencies, local units of government, and other organizations. The department of information technology may receive and expend funds in addition to those authorized in part 1 for providing information and technical services, publications, maps, and other census-related products. The department of information technology may expend amounts received for salaries, supplies, and equipment necessary to provide informational products and technical services.

Historical and current data stored within MAIN; access.

Sec. 574. The legislature shall have access to all historical and current data contained within MAIN pertaining to state departments. State departments shall have access to all historical and current data contained within MAIN.

Transfer of employees from state agencies to department of information technology.

Sec. 575. Recognizing that all records, personnel, property, equipment, grants, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to any entity for the activities, powers, duties, functions, and responsibilities are transferred to the department of information technology from other state departments and agencies, it is the intent of the legislature that the department of information technology will transfer their employees from the other state departments and agencies within a reasonable time frame.

Information technology services; scope.

Sec. 576. When used in this act, "information technology services" means services involving all aspects of managing and processing information including, but not limited to, all of the following:

(a) Application development and maintenance.

(b) Desktop computer support and management.

(c) Mainframe computer support and management.

(d) Server support and management.

(e) Local area network support and management.

(f) Information technology contract, project, and procurement management.

(g) Information technology planning and budget management.

(h) Telecommunication services, security, infrastructure, and support.

LEGISLATURE

Receipt, expenditure, and transfer of funds.

Sec. 600. The senate, the house of representatives, or an agency within the legislative branch may receive, expend, and transfer funds in addition to those authorized in part 1.

Expenditure or transfer of funds; approval of authorized agent.

Sec. 601. (1) Funds appropriated in part 1 to an entity within the legislative branch shall not be expended or transferred to another account without written approval of the authorized agent of the legislative entity. If the authorized agent of the legislative entity notifies the state budget director of its approval of an expenditure or transfer, the state budget director shall immediately make the expenditure or transfer. The authorized legislative entity agency shall be designated by the speaker of the house of representatives for house entities, the senate majority leader for senate entities, and the legislative council for legislative council entities.

(2) Funds appropriated within the legislative branch, to a legislative council component, shall not be expended by any agency or other subgroup included in that component without the approval of the legislative council.

Rent charges and utility assessments.

Sec. 602. The senate may charge rent and assess charges for utility costs. The amounts received for rent charges and utility assessments are appropriated to the senate for the renovation, operation, and maintenance of the Farnum building and other properties.

National association dues; distribution.

Sec. 603. The appropriation contained in part 1 for national association dues is to be distributed in the following manner by the legislative council:

National conference of state legislatures	$	173,900
Council of state governments		156,300
National conference of insurance legislators		9,400
National conference of commissioners on uniform state laws		42,000

Legislative parking facilities.

Sec. 604. (1) The appropriation in part 1 to the legislative council includes funds to operate the legislative parking facilities in the capitol area. The legislative council shall establish rules regarding the operation of the legislative parking facilities.

(2) The legislative council shall collect a fee from state employees and the general public using certain legislative parking facilities. The revenues received from the parking fees shall be allocated by the legislative council.

Michigan manual; publication as work project account.

Sec. 605. The appropriation in part 1 to the legislative council for publication of the Michigan manual is considered a work project account. The unexpended portion remaining on September 30 shall not lapse and shall be carried forward into the subsequent fiscal year for use in paying the associated biennial costs of publication of the Michigan manual.

Property management as work project.

Sec. 606. The appropriation in part 1 to the legislative branch, for property management, is considered a work project account. The unexpended portion remaining on September 30 shall not lapse and shall be carried forward into the subsequent fiscal year for the use for which it was intended.

Save the flags fund account.

Sec. 607. In addition to funds appropriated in part 1, the Michigan capitol committee publications save the flags fund account may accept contributions, gifts, bequests, devises, grants, and donations. Those funds that are not expended in the fiscal year ending September 30 shall not lapse at the close of the fiscal year and shall be carried forward for expenditure in the following fiscal years.

Legislative council e-Law project.

Sec. 608. Funds appropriated in part 1 for e-Law, the legislative council's technology enhancement project, shall be used to support technology improvements for legislative functions performed by the legislative council agencies and to provide greater access to the public regarding legislative information. These funds, along with funds previously appropriated for the legislative session integration system, are designated as a work project and shall not lapse at the end of the fiscal year, and shall continue to be available for expenditure until the project has been completed. The total cost is estimated at $3,992,750.00, and the tentative completion date is September 30, 2004.

Unmarried domestic partners; payment of health insurance benefits prohibited.

Sec. 609. The funds appropriated in part 1 shall not be used to pay for health insurance benefits for unmarried domestic partners of legislators or legislative employees.

Auditor general; state restricted contingency funds.

Sec. 610. In addition to the funds appropriated in part 1 for the legislative auditor general, there is appropriated an amount not to exceed $500,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Judicial branch; auditor general audit.

Sec. 611. Pursuant to section 53 of article IV of the state constitution of 1963, the auditor general shall conduct audits of the judicial branch. The audits may include the supreme court and its administrative units, the court of appeals, and trial courts.

Certified minority- and women-owned and operated accounting firms, and accounting firms owned and operated by persons with disabilities.

Sec. 612. (1) The auditor general shall take all reasonable steps to ensure that certified minority- and women-owned and operated accounting firms, and accounting firms owned and operated by persons with disabilities participate in the audits of the books, accounts, and financial affairs of each principal executive department, branch, institution, agency, and office of this state.

(2) The auditor general shall strongly encourage firms with which the auditor general contracts to perform audits of the principal executive departments and state agencies to subcontract with certified minority- and women-owned and operated accounting firms, and accounting firms owned and operated by persons with disabilities.

(3) The auditor general shall compile an annual report regarding the number of contracts entered into with certified minority- and women-owned and operated accounting firms, and accounting firms owned and operated by persons with disabilities. The auditor general shall deliver the report to the state budget director and the senate and house of representatives standing committees on appropriations subcommittees on general government by November 1 of each year.

Noncompliance with auditor general recommendations; report.

Sec. 614. The auditor general shall report to the state budget director, the senate and house of representatives standing committees on appropriations, and the senate and house fiscal agencies on all recommendations made by the auditor general, in all audit reports, that are not complied with by the audited agencies.

Auditor general; salary; unclassified positions.

Sec. 615. From the funds appropriated in part 1 to the legislative auditor general, the legislative auditor general's salary shall be $135,500.00. Funding for the remaining 2.0 FTE unclassified positions is limited to an aggregate amount of $147,200.00.

Legislative requests to auditor general; additional costs.

Sec. 618. Any audits, reviews, or investigations requested of the auditor general by the legislature or by legislative leadership, legislative committees, or individual legislators should include an estimate of the additional costs involved and, when such costs exceed

$50,000.00, should provide supplemental funding. The auditor general will determine whether to perform such activities in keeping with Audit Directive No. 29, which describes the office of auditor general policy on responding to legislative requests.

DEPARTMENT OF MANAGEMENT AND BUDGET

Contingency funds; availability for expenditure.

Sec. 700. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $2,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $3,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $50,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

State surplus, salvage, or scrap property; transfer or auction costs.

Sec. 701. Proceeds in excess of necessary costs incurred in the conduct of transfers or auctions of state surplus, salvage, or scrap property made pursuant to section 267 of the management and budget act, 1984 PA 431, MCL 18.1267, are appropriated to the department of management and budget to offset costs incurred in the acquisition and distribution of federal surplus property.

Training and orientation workshops and seminars.

Sec. 702. The department of management and budget may receive and expend funds in addition to those authorized in part 1 for conducting training and orientation workshops and seminars that are consistent with the programmatic mission of the individual unit sponsoring or coordinating the program.

Services provided by department of management and budget; receipt and expenditure of funds.

Sec. 703. (1) The department of management and budget may receive and expend funds in addition to those authorized by part 1 for maintenance and operation services provided specifically to other principal executive departments or state agencies, the legislative branch, or the judicial branch or provided in connection with facilities transferred to the operational jurisdiction of the department of management and budget.

(2) The department of management and budget may receive and expend funds in addition to those authorized by part 1 for real estate, architectural, design, and engineering services provided specifically to other principal executive departments or state agencies, the legislative branch, or the judicial branch.

(3) The department of management and budget may receive and expend funds in addition to those authorized in part 1 for mail pickup and delivery services provided specifically to other principal executive departments and state agencies, the legislative branch, or the judicial branch.

(4) The department of management and budget may receive and expend funds in addition to those authorized in part 1 for purchasing services provided specifically to other principal executive departments and state agencies, the legislative branch, or the judicial branch.

Census information.

Sec. 704. The department of management and budget may enter into agreements to supply census information, spatial information, and technical services to other principal executive departments, state agencies, local units of government, and other organizations. The department of management and budget may receive and expend funds in addition to those authorized in part 1 for providing information and technical services, publications, maps, and other census-related products. The department of management and budget may expend amounts received for salaries, supplies, and equipment necessary to provide informational products and technical services.

Child care information and referral services, severance pay funds, and professional development funds.

Sec. 705. (1) The appropriation in part 1 to the department of management and budget, for statewide appropriations from employer contributions, represents amounts included within the various appropriations for longevity and insurance, whether appropriated as a single line item or commingled with program line items, throughout state government for the current fiscal year for purposes of funding the child care information and referral services, severance pay funds, and professional development funds included within statewide appropriations. Deposits against the interdepartmental grant from employer contributions shall be made from assessments levied against the longevity and insurance appropriations during the current fiscal year in a manner prescribed by the department of management and budget. Any deposits made under this subsection and any unencumbered funds are restricted revenues, may be carried over into the succeeding fiscal years, and are appropriated.

(2) From the funds appropriated in part 1 to the department of management and budget for professional development funds and child care information and referral services, the department of management and budget may expend funds for staff support associated with administration of the professional development funds and child care information and referral services in amounts as may be specified in joint labor/management agreements or through the coordinated compensation hearings process.

(3) In addition to the funds appropriated in part 1 for severance pay funds, the department of management and budget may receive and expend funds from other state agencies for staff support associated with the administration of these funds.

(4) In addition to the funds appropriated in part 1 to the department of management and budget, for statewide appropriations from employer contributions, the department of management and budget may receive and expend funds in such additional amounts as may be specified in joint labor/management agreements or through the coordinated compensation hearings process in the same manner and subject to the same conditions as prescribed in subsections (1), (2), and (3).

Special revenue internal service and pension trust funds.

Sec. 706. To the extent a specific appropriation is required for a detail source of financing included in part 1 for the department of management and budget appropriations financed from special revenue and internal service and pension trust funds, or MAIN user charges, the specific amounts are appropriated within the special revenue internal service and pension trust funds in portions not to exceed the aggregate amount appropriated in part 1.

Per diem amounts for certain retirement boards.

Sec. 707. The per diem amounts authorized for the following boards within the department of management and budget are as follows:

(a) Judges retirement board	$	50.00
(b) Public school employees retirement board		50.00
(c) State police retirement board		50.00
(d) State employees retirement board		50.00

Donated annual leave and administrative leave bank transfer.

Sec. 708. In addition to the funds appropriated in part 1 to the department of management and budget, the department may receive and expend funds from other principal executive departments and state agencies to implement donated annual leave and administrative leave bank transfer provisions as may be specified in joint labor/management agreements. The amounts may also be transferred to other principal executive departments and state agencies under the joint agreement and any amounts transferred under the joint agreement are authorized for receipt and expenditure by the receiving principal executive department or state agency. Any amounts received by the department of management and budget under this section and intended, under the joint labor/management agreements, to be available for use beyond the close of the fiscal year and any unencumbered funds may be carried over into the succeeding fiscal year.

Michigan administrative information network.

Sec. 709. The appropriation in part 1 for the Michigan administrative information network shall be funded by proportionate charges assessed against the respective state funds benefiting from this project in the amounts determined by the department.

Building occupancy and parking charges; carrying forward excess revenue.

Sec. 710. (1) Deposits against the interdepartmental grant from building occupancy and parking charges appropriated in part 1 shall be collected, in part, from state agencies, the legislative branch, and the judicial branch based on estimated costs associated with maintenance and operation of buildings managed by the department of management and budget. To the extent excess revenues are collected due to estimates of building occupancy charges exceeding actual costs, the excess revenues may be carried forward into succeeding fiscal years for the purpose of returning funds to state agencies.

(2) Appropriations in part 1 to the department of management and budget, for management and budget services from building occupancy charges and parking charges, may be increased to return excess revenue collected to state agencies.

Flexible spending account program.

Sec. 711. The appropriation in part 1 to the department of management and budget, for state-sponsored group insurance, flexible spending accounts, and COBRA, represents amounts, in part, included within the various appropriations throughout state government for the current fiscal year to fund the flexible spending account program included within management and budget services. Deposits against state-sponsored group insurance, flexible spending accounts, and COBRA for the flexible spending account program shall be made from assessments levied during the current fiscal year in a manner prescribed by

the department of management and budget. Unspent employee contributions to the flexible spending accounts may be used to offset administrative costs for the flexible spending account program, with any remaining balance of unspent employee contributions to be lapsed to the general fund.

Health insurance reserve fund of state employees' retirement act.

Sec. 712. In accordance with section 52 of the state employees' retirement act, 1943 PA 240, MCL 38.52, $0.00 is appropriated in part 1 to the health insurance reserve fund of the state employees' retirement system created by section 11(8) of the state employees' retirement act, 1943 PA 240, MCL 38.11, representing the estimated general fund/general purpose savings from implementing the defined contribution retirement plan for the period October 1, 2000 through September 30, 2001.

Computer software development, hardware acquisition, or quality assurance; contract revisions.

Sec. 713. The department of management and budget shall notify the chairpersons of the senate and house of representatives standing committees on appropriations and the chairpersons of the senate and house of representatives standing committees on appropriations subcommittees on general government on any revisions exceeding $500,000.00 to current contracts for computer software development, hardware acquisition, or quality assurance at least 14 days before the department of management and budget finalizes the revisions.

Invitations for bids and requests for proposals; maintenance of Internet website.

Sec. 715. The department of management and budget shall maintain an Internet website that contains notice of all invitations for bids and requests for proposals over $50,000.00 issued by the department or by any state agency operating under delegated authority. The department shall not accept an invitation for bid or request for proposal in less than 14 days after the notice is made available on the Internet website, except in situations where it would be in the best interest of the state and documented by the department. In addition to the requirements of this section, the department may advertise the invitations for bids and requests for proposals in any manner the department determines appropriate, in order to give the greatest number of individuals and businesses the opportunity to make bids or requests for proposals.

Vietnam veterans memorial monument fund.

Sec. 716. The department of management and budget may receive and expend funds from the Vietnam veterans memorial monument fund for maintenance of the Vietnam veterans memorial monument and the Vietnam memorial park, as provided in 1988 PA 234, MCL 35.1051 to 35.1057. Funds are appropriated and allocated when received and may be expended upon receipt.

Michigan veterans' memorial park commission.

Sec. 717. The Michigan veterans' memorial park commission may receive and expend money from any source, public or private, including, but not limited to, gifts, grants, donations of money, and government appropriations, for the purposes described in Executive Order No. 2001-10. Funds are appropriated and allocated when received and may be expended upon receipt. Any deposits made under this section and unencumbered funds are restricted revenues and may be carried over into succeeding fiscal years.

Form referencing city or village; print and font size.

Sec. 718. From the funds appropriated in part 1 to the department of management and budget, the department of management and budget shall not, after the forms that are presently in stock are depleted and new forms are to be ordered, print or authorize the printing of a form that references a city or village, unless that form also references a township in the same size print and same font as the city or village is referenced.

Gubernatorial transition process.

Sec. 719. An amount up to $1,200,000.00 shall be transferred from the general fund for costs associated with the gubernatorial transition process.

DEPARTMENT OF STATE

Contingency funds; availability for expenditure.

Sec. 800. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $1,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $7,500,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $50,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Expenditure of funds provided by §§ 500.3171 to 500.3177.

Sec. 801. All funds made available by section 3171 of the insurance code of 1956, 1956 PA 218, MCL 500.3171, are appropriated and made available to the department of state to be expended only for the uses and purposes for which the funds are received as provided by sections 3171 to 3177 of the insurance code of 1956, 1956 PA 218, MCL 500.3171 to 500.3177.

Sale of records; use of revenue.

Sec. 802. From the funds appropriated in part 1, the department of state shall sell copies of records including, but not limited to, records of motor vehicles, off-road vehicles, snowmobiles, watercraft, mobile homes, personal identification cardholders, drivers, and boat operators and shall charge $6.55 per record sold only as authorized in section 208b of the Michigan vehicle code, 1949 PA 300, MCL 257.208b, section 7 of 1972 PA 222, MCL 28.297, and sections 80130, 80315, 81114, and 82156 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80130, 324.80315, 324.81114, and 324.82156. The department shall use the revenue received from the sale of records for necessary expenses as appropriated in part 1. The balance of the fee revenue remaining on September 30 shall revert to the general fund.

Manufacture of vehicle registration plates; agreement with department of corrections.

Sec. 803. From the funds appropriated in part 1, the secretary of state may enter into agreements with the department of corrections for the manufacture of vehicle registration plates 15 months before the registration year in which the registration plates will be used.

Publications; funding sources.

Sec. 804. (1) The department of state may accept gifts, donations, contributions, and grants of money and other property from any private or public source to underwrite, in whole or in part, the cost of a departmental publication that is prepared and disseminated under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. A private or public funding source may receive written recognition in the publication and may furnish a traffic safety message, subject to departmental approval, for inclusion in the publication. The department may reject a gift, donation, contribution, or grant. The department may furnish copies of a publication underwritten, in whole or in part, by a private source to the underwriter at no charge.

(2) The department of state may sell and accept paid advertising for placement in a departmental publication that is prepared and disseminated under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. The department may charge and receive a fee for any advertisement appearing in a departmental publication and shall review and approve the content of each advertisement. The department may refuse to accept advertising from any person or organization. The department may furnish a reasonable number of copies of a publication to an advertiser at no charge.

(3) Pending expenditure, the funds received under this section shall be deposited in the Michigan department of state publications fund created by section 211 of the Michigan vehicle code, 1949 PA 300, MCL 257.211. Funds given, donated, or contributed to the department from a private source are appropriated and allocated for the purpose for which the revenue is furnished. Funds granted to the department from a public source are allocated and may be expended upon receipt. The department shall not accept a gift, donation, contribution, or grant if receipt is conditioned upon a commitment of state funding at a future date. Revenue received from the sale of advertising is appropriated and may be expended upon receipt.

(4) Any unexpended revenues received under this section shall be carried over into subsequent fiscal years and shall be available for appropriation for the purposes described in this section.

(5) On March 1 of each year, the department of state shall file a report with the senate and house of representatives standing committees on appropriations, the senate and house fiscal agencies, and the state budget director. The report shall include all of the following information:

(a) The amount of gifts, contributions, donations, and grants of money received by the department under this section for the prior fiscal year.

(b) A listing of the expenditures made from the amounts received by the department as reported in subdivision (a).

(c) A listing of any gift, donation, contribution, or grant of property other than funding received by the department under this section for the prior year.

(d) The total revenue received from the sale of paid advertising accepted under this section and a statement of the total number of advertising transactions.

(6) In addition to copies delivered without charge as the secretary of state considers necessary, the department of state may sell copies of manuals and other publications regarding the sale, ownership, or operation or regulation of motor vehicles, with amendments, at prices to be established by the secretary of state. As used in this subsection, the term "manuals and other publications" means videos and proprietary electronic publications. All funds received from sales of these manuals and other publications shall be credited to the Michigan department of state publications fund.

Publication costs; funds collected under § 257.211.

Sec. 805. Funds collected by the department of state under section 211 of the Michigan vehicle code, 1949 PA 300, MCL 257.211, are appropriated for all expenses necessary to provide for the costs of the publication. Funds are allotted for expenditure when they are received by the department of treasury and shall not lapse to the general fund at the end of the fiscal year.

Traffic accident records program; payment for services.

Sec. 806. From the funds appropriated in part 1, the department of state shall use available balances at the end of the state fiscal year to provide payment to the department of state police in the amount of $307,900.00 for the services provided by the traffic accident records program as first appropriated in 1990 PA 196 and 1990 PA 208.

Branch office operations; coverage of cash shortages.

Sec. 807. From the funds appropriated in part 1, the department of state may restrict funds from miscellaneous revenue to cover cash shortages created from normal branch office operations. This amount shall not exceed $50,000.00 of the total funds available in miscellaneous revenue.

Commemorative and specialty license plate fee.

Sec. 808. (1) Commemorative and specialty license plate fee revenue collected by the department of state and deposited into the Michigan transportation fund is authorized for expenditure up to the amount of revenue collected but not to exceed the amount appropriated to the department of state in part 1 to administer commemorative and specialty license plate programs.

(2) Commemorative and specialty license plate fee revenue collected by the department of state and deposited in the Michigan transportation fund in addition to the amount appropriated in part 1 to the department of state shall be available for other Michigan transportation fund-supported programs.

Olympic education training center.

Sec. 809. Funds or revenues in the Olympic education training center fund, after deducting manufacturing and administrative costs, are appropriated for distribution to the Olympic education training center at Northern Michigan University. Distributions shall occur on a quarterly basis. Any undistributed revenue remaining at the end of the fiscal year shall be carried over into the next fiscal year.

Automotive repair facilities; training video.

Sec. 810. The department of state may produce and sell copies of a training video designed to inform registered automotive repair facilities of their obligations under Michigan law. The price shall not exceed the cost of production and distribution. The money received from the sale of training videos shall revert to the department of state and be placed in the auto repair facility account.

Michigan organ donor program.

Sec. 811. (1) The department of state, in collaboration with the gift of life transplantation society or its successor federally designated organ procurement organization, may develop and administer a public information campaign concerning the Michigan organ donor program.

(2) The department may solicit funds from any private or public source to underwrite, in whole or in part, the public information campaign authorized by this section. The department may accept gifts, donations, contributions, and grants of money and other property from private and public sources for this purpose. A private or public funding source underwriting the public information campaign, in whole or in substantial part, shall receive sponsorship credit for its financial backing.

(3) Funds received under this section, including grants from state and federal agencies, shall not lapse to the general fund at the end of the fiscal year but shall remain available in fiscal year 2004 for expenditure for the purposes described in this section.

Collector plate and fund-raising registration plate.

Sec. 812. Collector plate and fund-raising registration plate revenues collected by the department of state are appropriated and allotted for distribution to the recipient university or public or private agency overseeing a state-sponsored goal when received. Distributions shall occur on a quarterly basis or as otherwise authorized by law. Any revenues remaining at the end of the fiscal year shall not lapse to the general fund but shall remain available for distribution to the university or agency in the next fiscal year.

Organ donation program; pamphlet.

Sec. 813. (1) Funding appropriated in part 1 for the organ donor program shall be used for producing a pamphlet to be distributed with driver licenses and personal identification cards regarding organ donations. The funds shall be used to update and print a pamphlet that will explain the organ donor program and encourage people to become donors by marking a checkoff on driver license and personal identification card applications.

(2) The pamphlet shall include a return reply form addressed to the gift of life organization. Funding appropriated in part 1 for the organ donor program shall be used to pay for return postage costs.

Qualified voter file systems; reimbursement to municipalities.

Sec. 814. The department shall reimburse municipalities with voting populations over 5,000 in any calendar year for qualified voter file systems, subject to the appropriations of funds to the department by the legislature for this purpose.

Secretary of state branch offices; closing or consolidating.

Sec. 816. The department shall consult with the senate and house of representatives standing committees on appropriations subcommittees on general government regarding the projected closing or consolidation of any secretary of state branch offices.

Secretary of state; salary.

Sec. 817. Effective January 1, 2003, the annual salary for the secretary of state shall be $135,500.00, unless an amendment to the state constitution gives the state officers compensation commission the authority to determine the salary of the secretary of state.

Sec. 818. The appropriation in part 1 for branch operations includes $1,000,000.00 from the state services fee fund for the development and implementation of a vertical driver license and personal identification card program for persons under the age of 21.

Compiler's note: The shaded section was vetoed by the Governor on July 25, 2002. On August 13, 2002, two-thirds of the members of the Senate and House of Representatives voted to pass the vetoed section, the objections of the Governor to the contrary notwithstanding.

DEPARTMENT OF TREASURY
OPERATIONS

Contingency funds; availability for expenditure.

Sec. 900. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $1,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $10,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $200,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $50,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Debt service.

Sec. 901. (1) Amounts needed to pay for interest, fees, principal, arbitrage rebates as required by federal law, and costs associated with the payment, registration, trustee services, credit enhancements, and issuing costs in excess of the amount appropriated to the department of treasury in part 1 for debt service on notes and bonds that are issued by the state under sections 14, 15, and 16 of article IX of the state constitution of 1963 as implemented by 1967 PA 266, MCL 17.451 to 17.455, are appropriated.

(2) In addition to the amount appropriated to the department of treasury for debt service in part 1, there is appropriated an amount for fiscal year cash-flow borrowing costs to pay for interest on interfund borrowing made under 1967 PA 55, MCL 12.51 to 12.53.

Tax collection; contracts with private collection agencies and law firms; report.

Sec. 902. (1) From the funds appropriated in part 1, the department of treasury may contract with private collection agencies and law firms to collect taxes and other accounts due this state. In addition to the amounts appropriated in part 1 to the department of treasury, there are appropriated amounts necessary to fund collection costs and fees not to exceed 25% of the collections or 2.5% plus operating costs, whichever amount is prescribed by the contract. The appropriation to fund collection costs and fees for the collection of taxes or other accounts due this state are from the fund or account to which the revenues being collected are recorded or dedicated. However, if the taxes collected are constitutionally dedicated for a specific purpose, the appropriation of collection costs and fees are from the general purpose account of the general fund.

(2) The department of treasury shall submit a report for the immediately preceding fiscal year ending September 30 to the state budget director and the senate and house of representatives standing committees on appropriations not later than November 30 stating the agencies or law firms employed, the amount of collections for each, the costs of collection, and other pertinent information relating to determining whether this authority should be continued.

Investment service fee.

Sec. 903. (1) The department of treasury, through its bureau of investments, may charge an investment service fee against the applicable retirement funds. The fees may be expended for necessary salaries, wages, contractual services, supplies, materials, equipment, travel, worker's compensation insurance premiums, and grants to the civil service commission and state employees' retirement funds. Service fees shall not exceed the aggregate amount appropriated in part 1. The department of treasury shall maintain accounting records in sufficient detail to enable the retirement funds to be reimbursed periodically for fee revenue that is determined by the department of treasury to be surplus.

(2) In addition to the funds appropriated in part 1 from the retirement funds to the department of treasury, there is appropriated from retirement funds an amount sufficient to pay for the services of money managers, investment advisors, investment consultants, custodians and other outside professionals, the state treasurer considers necessary to prudently manage the retirement funds' investment portfolios. The state treasurer shall report annually to the senate and house of representatives standing committees on appropriations concerning the performance of each portfolio by investment advisor.

Local government assistance manuals.

Sec. 904. The department of treasury shall sell copies of the state tax manual, uniform accounting procedures manual, general property tax law manual, and other local government assistance manuals with amendments, at a price not to exceed the cost of printing. The revenue received from the sale of preparation and local government assistance manuals shall revert to the department of treasury and be placed in the local government assistance manual revolving fund.

State audits; charges; costs; scope; performance.

Sec. 905. (1) The department of treasury shall charge for audits as permitted by state or federal law or under contractual arrangements with local units of government, other principal executive departments, or state agencies. A report detailing audits performed and audit charges for the immediately preceding fiscal year shall be submitted to the state budget director and the senate and house fiscal agencies not later than November 30.

(2) The appropriation in part 1 to the department of treasury, for state compliance audits, shall be used to cover the cost of the state audits performed by independent certified public accountants or department of treasury auditors. The scope of the state audit shall be defined by the state treasurer. The state audits shall be performed by independent certified public accountants contracted with by the state treasurer or by department of treasury auditors, if the county has agreed to contract with and pay the department for their financial single audit.

(3) The state audits shall be performed for the most current county fiscal year in conjunction with the financial single audit. The state audit may be performed either by certified public accountants contracted by the state treasurer or department of treasury staff, independent of the financial single audit, if a state audit has not been performed within the last 3 years.

Assessor certification and training fund.

Sec. 906. A revolving fund known as the assessor certification and training fund is created in the department of treasury. The assessor certification and training fund shall be used to organize and operate a property assessor certification and training program. Each participant certified and trained shall pay to the department of treasury an examination fee of $25.00, an initial certification fee of $35.00, an annual renewal fee of

$50.00 for levels 1 and 2 and $95.00 for levels 3 and 4 to offset the cost of administering the certification and training program. Training courses shall be offered in assessment administration. Each participant shall pay a fee to cover the expenses incurred in offering the optional programs to certified assessing personnel and other individuals interested in an assessment career opportunity. The fees collected shall be credited to the assessor certification and training fund.

Administration of federal home heating credits and supplemental fuel cost payment program.

Sec. 907. The amount appropriated in part 1 to the department of treasury, home heating assistance program, is to cover the costs, including data processing, of administering the federal home heating credits to eligible claimants and to administer the supplemental fuel cost payment program for eligible tax credit and welfare recipients.

Airport parking tax revenue.

Sec. 908. Revenue from the airport parking tax act, 1987 PA 248, MCL 207.371 to 207.383, is appropriated and shall be distributed under section 7 of the airport parking tax act, 1987 PA 248, MCL 207.377.

Bottle deposit fund; disbursement to dealers.

Sec. 909. The disbursement by the department of treasury from the bottle deposit fund to dealers as required by section 3c(2) of the Initiated Law of 1976, MCL 445.573c, is appropriated.

Refundable income tax credits; recognition and payment.

Sec. 910. (1) There is appropriated an amount sufficient to recognize and pay refundable income tax credits as provided by the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

(2) The appropriations under subsection (1) shall be funded by restricting income tax revenue in an amount sufficient to record these expenditures.

Garnishment action; payment by plaintiff.

Sec. 911. A plaintiff in a garnishment action involving this state shall pay to the state treasurer 1 of the following:

(a) A fee of $6.00 at the time a writ of garnishment of periodic payments is served upon the state treasurer, as provided in section 4012 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4012.

(b) A fee of $6.00 at the time any other writ of garnishment is served upon the state treasurer, except that the fee shall be reduced to $5.00 for each writ of garnishment for individual income tax refunds or credits filed by magnetic media.

Assessments of senior citizen cooperative housing units; appraisal or appeal process; senior citizens' cooperative housing tax exemption program; audit.

Sec. 912. (1) The department of treasury may contract with private firms to appraise and, if necessary, appeal the assessments of senior citizen cooperative housing units. Payment for this service shall be from savings resulting from the appraisal or appeal process.

(2) Of the funds appropriated in part 1 to the department of treasury for the senior citizens' cooperative housing tax exemption program, a portion is to be utilized for a program audit of the program. The department of treasury shall forward copies of the

audit report to the senate and house of representatives standing committees on appropriations subcommittees on general government. The department of treasury may utilize up to 1% of the funds for program administration and auditing.

Loans to local governments.

Sec. 913. The state treasurer may make loans to local units of government from the state's common cash fund to implement local government infrastructure and private facility projects that will ultimately use long-term debt to finance the costs. These loans may be made at any time and shall be repaid, in full, not later than 12 months after the date of the loan. In addition to the full repayment of the loan principal, the borrowing unit shall pay interest at the average rate earned on common cash investments during the period of the loan. The total of all outstanding loans shall not exceed $50,000,000.00 in the aggregate and no single loan shall exceed $7,500,000.00.

Rosenthal prize.

Sec. 914. The department of treasury may provide a $200.00 annual prize from the Ehlers internship award account in the gifts, bequests, and deposit fund to the runner-up of the Rosenthal prize for interns. The Ehlers internship award account is interest bearing.

State campaign fund; amounts appropriated; reversion.

Sec. 915. Pursuant to section 61 of the Michigan campaign finance act, 1976 PA 388, MCL 169.261, there is appropriated from the general fund to the state campaign fund an amount equal to the amounts designated for tax year 2002. Except as otherwise provided in this section, the amount appropriated shall not revert to the general fund and shall remain in the state campaign fund. Any amounts remaining in the state campaign fund in excess of $10,000,000.00 on December 31, 2002 shall revert to the general fund.

Technology investment plan.

Sec. 916. The department of treasury may develop a technology investment plan to maintain and upgrade current tax management technology applications.

Sale of nonconfidential information; report.

Sec. 917. The department of treasury may make available to interested entities otherwise unavailable customized unclaimed property listings of nonconfidential information in its possession. The charge for this information is as follows: 1 to 100,000 records at 2.5 cents per record and 100,001 or more records at .5 cents per record. The revenue received from this service shall be deposited to the appropriate revenue account or fund. The department shall submit an annual report on or before June 1, 2003, to the state budget director and the senate and house of representatives standing committees on appropriations that states the amount of revenue received from the sale of information.

Write-offs and advances.

Sec. 918. (1) There is appropriated for write-offs and advances an amount equal to total write-offs and advances for departmental programs, but not to exceed current year authorizations that would otherwise lapse to the general fund.

(2) The department of treasury shall submit a report for the immediately preceding fiscal year to the state budget director and the senate and house fiscal agencies not later than November 30, stating the amounts appropriated for write-offs and advances under subsection (1).

Tax orientation workshops and orientations.

Sec. 919. In addition to funds appropriated in part 1, the department of treasury may receive and expend funds for conducting tax orientation workshops and seminars. Funds received may not exceed costs incurred in conducting the workshops and seminars.

Auditing and collecting unclaimed property; contract with private auditing firms; report.

Sec. 920. (1) From funds appropriated in part 1, the department of treasury may contract with private auditing firms to audit for and collect unclaimed property due this state in accordance with the Michigan uniform unclaimed property act. In addition to the amounts appropriated in part 1 to the department of treasury, there are appropriated amounts necessary to fund auditing and collection costs and fees not to exceed 12% of the collections, or a lesser amount as prescribed by the contract. The appropriation to fund collection costs and fees for the auditing and collection of unclaimed property due this state is from the fund or account to which the revenues being collected are recorded or dedicated.

(2) The department of treasury shall submit a report for the immediately preceding fiscal year ending September 30 to the state budget director and the senate and house standing committees on appropriations not later than November 30 stating the auditing firms employed, the amount of collections for each, the costs of collection, and other pertinent information relating to determining whether this authority should be continued.

Sleeping Bear Dunes national lakeshore; payment.

Sec. 921. Payments from the appropriation in part 1 to the department of treasury for grants to counties in lieu of taxes for lands transferred to the federal government include a payment for Sleeping Bear Dunes national lakeshore under 1974 PA 359, MCL 3.901 to 3.909.

Health and safety fund; distribution.

Sec. 922. All of the revenue collected under section 12(3)(a) of the tobacco products tax act, 1993 PA 327, MCL 205.432, is appropriated to the health and safety fund of this state for distribution as set forth in the health and safety fund act, 1987 PA 264, MCL 141.471 to 141.479.

Contract services with other departments and agencies.

Sec. 940. The department of treasury may provide receipt, warrant and cash processing, data, collection, investment, fiscal agent, levy and warrant cost assessment, writ of garnishment, and other user services on a contractual basis for other principal executive departments and state agencies. Funds for the services provided are appropriated and shall be expended for salaries and wages, fees, supplies, and equipment necessary to provide the services. Any unobligated balance of the funds received shall revert to the general fund of this state as of September 30.

Agreements to supply data or collection services.

Sec. 941. The department of treasury may enter into agreements to supply data or collection services to other executive principal departments or state agencies, the United States department of treasury, or local units of government within this state. The department of treasury shall charge for this tax data service and amounts received are appropriated and shall be expended for salaries and wages, fees, supplies, and equipment necessary to provide the service.

Accounts receivable collections.

Sec. 942. (1) The department of treasury shall provide accounts receivable collections services to other principal executive departments and state agencies under 1927 PA 375, MCL 14.131 to 14.134. The department of treasury shall deduct a fee equal to the cost of collections from all receipts except unrestricted general fund collections. Fees shall be credited to a restricted revenue account and appropriated to the department of treasury to pay for the cost of collections. The department of treasury shall maintain accounting records in sufficient detail to enable the respective accounts to be reimbursed periodically for fees deducted that are determined by the department of treasury to be surplus to the actual cost of collections.

(2) The department of treasury shall submit a report for the immediately preceding fiscal year to the state budget director and the senate and house fiscal agencies not later than November 30, stating the principal executive departments and state agencies served, funds collected, and costs of collection under subsection (1).

Fees assessed against restricted funds; ratio.

Sec. 943. The appropriation in part 1 to the department of treasury, for treasury fees, shall be assessed against all restricted funds that contribute to the total value of state managed investments in the ratio each restricted fund contributes to the total value of state managed investments. The department of treasury shall provide a report to the state budget director, the senate and house appropriations subcommittees on general government, and the fiscal agencies by November 30 of each year identifying the fees assessed against each restricted fund.

Revenue received under Michigan education trust act; expenditure.

Sec. 950. Revenue received under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1444, may be expended by the board of directors of the Michigan education trust for necessary salaries, wages, supplies, contractual services, equipment, worker's compensation insurance premiums, and grants to the civil service commission and state employees' retirement fund.

Nonpublic schools and home-schooled students; tests.

Sec. 951. (1) From the funds appropriated in part 1 for the Michigan merit award board/MEAP administration, the department shall provide tests to nonpublic schools and home-schooled students upon request. The department shall notify nonpublic schools that they are eligible to receive the tests.

(2) The department shall release test results at the same time to all private schools and public school districts taking the tests.

Michigan education savings program; state matching funds.

Sec. 952. (1) The $1,000,000.00 appropriated in part 1 for the Michigan education savings program is from the Michigan merit award trust fund to fund an incentive program for the Michigan education savings program created under the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486.

(2) The funds appropriated for the Michigan education savings program shall be used to provide a state match to dollars invested on behalf of each child named as a designated beneficiary in the Michigan education savings program who is 6 years of age or less, who is a Michigan resident, and whose family's income is $80,000.00 or less.

(3) During the current fiscal year, the state shall provide $1.00 of matching funds for each $3.00 of individual contributions to the educational savings accounts. The maximum state match for each designated beneficiary shall be $200.00.

(4) The state match shall be available only in the first year the child is enrolled in the Michigan education savings program.

Revenue received under hospital finance authority act; expenditure.

Sec. 960. The department of treasury may expend revenues received under the hospital finance authority act, 1969 PA 38, MCL 331.31 to 331.84, for necessary salaries, wages, supplies, contractual services, equipment, worker's compensation insurance premiums, and grants to the civil service commission and state employees' retirement fund. The department of treasury shall maintain accounting records in sufficient detail to enable the hospital clients to be reimbursed periodically for fees that are determined by the department of treasury to be surplus to needs.

Revenue received under shared credit rating act; expenditure.

Sec. 961. The department of treasury may expend revenue received under the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076, for necessary salaries, wages, supplies, contractual services, equipment, worker's compensation insurance premiums, and grants to the civil service commission and state employees' retirement fund.

Revenue received under higher education facilities authority act; expenditure.

Sec. 962. The department of treasury shall establish a separate account for the funds related to the Michigan higher education facilities authority. The department of treasury may expend revenue received under the higher education facilities authority act, 1969 PA 295, MCL 390.921 to 390.934, for necessary salaries, wages, supplies, contractual services, equipment, worker's compensation insurance premiums, and grants to the civil service commission and state employees' retirement fund. The department of treasury shall maintain accounting records in sufficient detail to enable the educational institution clients to be reimbursed periodically for fees that are determined by the department to be surplus to needs.

Revenue received under Michigan public educational facilities authority; expenditure.

Sec. 963. The department of treasury may expend revenues received under the Michigan public educational facilities authority, Executive Order No. 2002-3, for necessary salaries, wages, supplies, contractual services, equipment, worker's compensation insurance premiums, and grants to the civil service commission and state employees' retirement fund.

Revenue received under Michigan broadband development authority act; expenditure.

Sec. 964. The department of treasury may expend revenues received under the Michigan broadband development authority act, 2002 PA 49, for necessary salaries, wages, supplies, contractual services, equipment, worker's compensation insurance premiums, and grants to the civil service commission and state employees' retirement fund.

REVENUE SHARING

Revenue sharing; distributions.

Sec. 970. (1) Revenue collected in accordance with article IX, section 10 of the Michigan constitution of 1963 in excess of the amount appropriated in part 1 for constitutional revenue sharing is appropriated for distribution to townships, cities, and villages on a population basis as specified by law. The appropriation in part 1 for statutory state

general revenue sharing grants to townships, cities, and villages shall be reduced by an amount equal to any additional constitutional revenue sharing appropriations authorized in this section.

(2) The appropriation in part 1 for statutory state general revenue sharing grants shall be distributed according to the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. Undistributed funds shall lapse to the general fund.

Receipt of excess funds by county treasurer; compliance.

Sec. 971. County treasurers shall comply with section 151 of the state school aid act of 1979, 1979 PA 94, MCL 388.1751, to receive funds under part 1 for the statutory state general revenue sharing grant payments in excess of the constitutional state general revenue sharing grant payments. The payment of funds under part 1 for the statutory state general revenue sharing grant payments in excess of the constitutional state general revenue sharing grant payments shall not be withheld if a local unit of government or the department of treasury fails to provide a county treasurer with information necessary to comply with section 151 of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

Sec. 972. (1) The appropriation in part 1 for grants to local governmental units will be distributed to counties, cities, villages, and townships if total revenue sharing payments received by a county, city, village, or township in fiscal year 2002-2003 are less than the total revenue sharing payments received by that county, city, village, or township in fiscal year 2001-2002 under the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. The grant received by any city, village, or township whose 2000 census count is reduced due to a correction to the statewide federal census published by the United States department of commerce will be determined by the amount by which fiscal year 2002-2003 total revenue sharing payments are less than the fiscal year 2001-2002 revenue sharing payments calculated using the corrected population count. The department of treasury shall reduce grant payments proportionally if the amount appropriated in part 1 is insufficient to fully fund grant payments.

(2) If the appropriation for statutory state general revenue sharing grants to cities, villages, and townships is reduced under section 970, the appropriation to grants to local governmental units in part 1 shall be increased by an amount such that for each city, village, or township total revenue sharing payments and grants under this section will not be less than the total revenue sharing payment received by that city, village, or township in fiscal year 2001-2002 pursuant to the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. Any increase in the appropriation required under this section shall be distributed from the 21.3% of sales tax collections at a rate of 4% that is in excess of the appropriation for statutory state general revenue sharing grants appropriated in part 1.

LOTTERY

Implementing and operating lottery games; additional funds.

Sec. 980. In addition to the funds appropriated in part 1 to the bureau of state lottery, there is appropriated from lottery revenues the amount necessary for, and directly related to, implementing and operating lottery games. Appropriations under this section shall only be expended for contractually mandated payments for vendor commissions, contractually mandated payments for instant tickets intended for resale, the contractual

Compiler's note: The shaded section was vetoed by the Governor on July 25, 2002. On August 13, 2002, two-thirds of the members of the Senate and House of Representatives voted to pass the vetoed section, the objections of the Governor to the contrary notwithstanding.

costs of providing and maintaining the on-line system communications network, and incentive and bonus payments to lottery retailers.

Use of funds for certain promotional efforts prohibited.

Sec. 981. The funds appropriated in part 1 to the bureau of state lottery shall not be used for any promotional efforts directed towards individuals who are less than 18 years of age.

Sports figures associated with lottery; prohibition.

Sec. 982. The funds appropriated in part 1 to the bureau of state lottery shall not be used to directly or indirectly associate professional or amateur sports figures with the lottery or its products.

CASINO GAMING

Deposit of revenue in state school aid fund.

Sec. 990. Revenue collected by the Michigan gaming control board regarding the wagering tax imposed on adjusted gross receipts received by the licensee from gaming authorized under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, at the rate of 8.15% is appropriated and shall be deposited in the state school aid fund to provide additional funds for K-12 classroom education.

Deposit of revenue in compulsive gaming prevention fund.

Sec. 991. From the revenue collected by the Michigan gaming control board regarding the total annual assessment of each casino licensee, $2,000,000.00 is appropriated and shall be deposited in the compulsive gaming prevention fund as described in section 12a(5) of 1997 PA 69.

Casino gaming oversight.

Sec. 992. In addition to the funds appropriated in part 1, funds distributed by the Michigan gaming control board to the department of treasury for oversight of casino gaming are appropriated upon receipt. These funds may be used to pay for costs incurred for casino gaming oversight activities.

Local revenue sharing board.

Sec. 993. (1) Funds appropriated in part 1 for local government programs may be used to provide assistance to a local revenue sharing board referenced in an agreement authorized by the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467.

(2) A local revenue sharing board described in subsection (1) shall comply with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) A county treasurer is authorized to receive and administer funds received for and on behalf of a local revenue sharing board. Funds appropriated in part 1 for local government programs may be used to audit local revenue sharing board funds held by a county treasurer. This section does not limit the ability of local units of government to enter into agreements with federally recognized Indian tribes to provide financial assistance to local units of government or to jointly provide public services.

(4) The director of the department of state police and the executive director of the Michigan gaming control board are authorized to assist the local revenue sharing boards in determining allocations to be made to local public safety organizations.

(5) The department of treasury shall submit a report by September 30, 2003, to the senate and house of representatives standing committees on appropriations on the receipts and distribution of revenues by local revenue sharing boards.

Casino gaming regulation activities; funding.

Sec. 994. If revenues collected in the state services fee fund are less than the amounts appropriated from the fund, available revenues shall be used to fully fund the appropriation in part 1 of this act for casino gaming regulation activities before distributions are made to other state departments and agencies. If the remaining revenue in the fund is insufficient to fully fund appropriations to other state departments or agencies, the shortfall shall be distributed proportionally among those departments and agencies.

REVENUE STATEMENT

Fund balances and estimates; statement.

Sec. 1101. Pursuant to section 18 of article V of the state constitution of 1963, fund balances and estimates are presented in the following statement:

BUDGET RECOMMENDATIONS BY OPERATING FUNDS
(Amounts in millions)
Fiscal Year 2002-2003

	Fund #	Beginning Unreserved Fund Balance	Estimated Revenue	Ending Balance
OPERATING FUNDS				
General	0110	0.0	20,424.3	0.0
Special Revenue Funds:				
Countercyclical budget and economic stabilization	0111	471.2	15.4	224.9
Game and fish protection	0112	11.8	62.4	8.4
Michigan employment security act administration	0113	1.2	127.5	1.3
State aeronautics	0114	0.0	217.1	0.0
Michigan veterans' benefit trust	0115	0.0	3.0	0.0
State trunkline	0116	0.0	1,712.1	0.0
Michigan state waterways	0117	0.0	23.9	0.5
Blue Water Bridge	0118	0.0	12.1	0.0
Michigan transportation	0119	0.0	2,049.2	0.0
Comprehensive transportation	0120	7.6	288.7	7.6
School aid	0122	271.0	12,607.2	(19.4)
Marine safety	0123	1.9	5.1	0.7
Game and fish protection trust	0124	0.0	16.7	0.0
State park improvement	0125	5.4	30.9	3.4
Forest development	0126	4.3	23.0	0.1
Michigan civilian conservation corps endowment	0128	0.2	0.9	0.0

Michigan natural resources trust	0129	0.0	57.1	0.0
Michigan state parks endowment	0130	6.2	20.6	6.4
Safety education and training	0131	3.4	6.6	3.4
Uninsured employers' security	0135	0.0	0.0	0.0
Bottle deposit	0136	0.0	30.4	0.0
State construction code	0138	14.2	8.8	13.0
Children's trust	0139	0.5	2.4	0.7
State casino gaming	0140	12.4	28.2	19.2
Homeowner construction lien recovery	0141	2.0	0.5	1.4
Michigan nongame fish and wildlife	0143	0.1	0.6	0.0
Michigan merit award trust	0154	23.1	252.9	34.4
Tobacco settlement trust	0155	37.8	85.0	1.0
Michigan underground storage tank finance assurance	0160	0.0	63.3	0.0
TOTALS		$955.2	$38,176.4	$322.7

Conditional effective date.

Enacting section 1. This act does not take effect unless House Bill No. 5248 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

Compiler's note: House Bill No. 5248, referred to in enacting section 1, was filed with the Secretary of State July 18, 2002, and became P.A. 2002, No. 503, Imd. Eff. July 18, 2002.

[No. 529]

(HB 5645)

AN ACT to make appropriations for the family independence agency and certain state purposes related to public welfare services for the fiscal year ending September 30, 2003; to provide for the expenditure of the appropriations; to create funds; to provide for the imposition of fees; to provide for reports; to provide for the disposition of fees and other income received by the state agency; and to provide for the powers and duties of certain individuals, local governments, and state departments, agencies, and officers.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; family independence agency.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the family independence agency for the fiscal year ending September 30,

2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

FAMILY INDEPENDENCE AGENCY		
Full-time equated classified positions	12,495.1	
Full-time equated unclassified positions	6.0	
Total full-time equated positions	12,501.1	
GROSS APPROPRIATION		$ 4,071,412,900
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		978,800
ADJUSTED GROSS APPROPRIATION		$ 4,070,434,100
Federal revenues:		
Total federal revenues		2,754,816,050
Special revenue funds:		
Total private revenues		9,856,850
Total local revenues		67,150,000
Total other state restricted revenues		65,388,800
State general fund/general purpose		$ 1,173,222,400

Executive operations.

Sec. 102. EXECUTIVE OPERATIONS

Total full-time equated positions	589.8	
Full-time equated unclassified positions	6.0	
Full-time equated classified positions	583.8	
Unclassified salaries—6.0 FTE positions		$ 505,800
Salaries and wages—432.8 FTE positions		22,720,100
Contractual services, supplies, and materials		8,293,300
Demonstration projects—13.0 FTE positions		8,938,100
Child support distribution computer system—8.0 FTE positions		17,155,600
Supplemental security income advocates, salaries and wages—16.0 FTE positions		1,050,800
Commission on disability concerns—8.0 FTE positions		956,900
Commission for the blind—106.0 FTE positions		18,036,300
Youth low vision program		260,000
GROSS APPROPRIATION		$ 77,916,900
Appropriated from:		
Interdepartmental grant revenues:		
ADJUSTED GROSS APPROPRIATION		$ 77,916,900
Appropriated from:		
Federal revenues:		
Total federal revenues		51,097,800
Special revenue funds:		
Total private revenues		1,340,000
Total local revenues		275,000
Total other state restricted revenues		477,300
State general fund/general purpose		$ 24,726,800

Family independence services administration.

Sec. 103. FAMILY INDEPENDENCE SERVICES ADMINISTRATION

Full-time equated classified positions	437.5

		For Fiscal Year Ending Sept. 30, 2003
Salaries and wages—301.5 FTE positions	$	15,181,000
Contractual services, supplies, and materials		19,198,500
Child support incentive payments		32,409,600
Legal support contracts		135,896,400
Employment and training support services		14,851,700
Project Zero—84.0 FTE positions		12,132,500
Wage employment verification reporting—2.0 FTE positions		2,170,200
Urban and rural empowerment/enterprise zones		100
Training and staff development—50.0 FTE positions		9,881,200
Community services block grants		24,350,000
GROSS APPROPRIATION	$	266,071,200
Appropriated from:		
Interdepartmental grant revenues:		
ADJUSTED GROSS APPROPRIATION	$	266,071,200
Appropriated from:		
Federal revenues:		
Total federal revenues		244,534,200
Special revenue funds:		
Total local revenues		340,000
State general fund/general purpose	$	21,197,000

Child and family services.

Sec. 104. CHILD AND FAMILY SERVICES

Full-time equated classified positions	105.3	
Salaries and wages—45.3 FTE positions	$	2,836,800
Contractual services, supplies, and materials		1,657,500
Refugee assistance program—4.0 FTE positions		12,705,900
Foster care payments		151,378,900
Wayne County foster care payments		96,412,500
Adoption subsidies		204,952,800
Adoption support services—9.0 FTE positions		14,600,400
Youth in transition—10.0 FTE positions		13,353,500
Interstate compact		300,000
Children's benefit fund donations		21,000
Domestic violence prevention and treatment—6.0 FTE positions		13,149,000
Teenage parent counseling—4.0 FTE positions		4,426,700
Family preservation and prevention services—20.0 FTE positions		77,754,500
Black child and family institute		100,000
Rape prevention and services		2,600,000
Children's trust fund administration—7.0 FTE positions		495,000
Children's trust fund grants		3,615,000
Attorney general contract		2,481,000
Guardian contract		600,000
Prosecuting attorney contracts		1,061,700
GROSS APPROPRIATION	$	604,502,200
Appropriated from:		
Interdepartmental grant revenues:		
ADJUSTED GROSS APPROPRIATION	$	604,502,200

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Federal revenues:		
Total federal revenues	$	361,892,500
Special revenue funds:		
Private - children's benefit fund donations		21,000
Private - collections		5,054,600
Local funds - county payback		35,111,300
Children's trust fund		3,306,900
State general fund/general purpose	$	199,115,900

Juvenile justice services.

Sec. 105. JUVENILE JUSTICE SERVICES

Full-time equated classified positions....960.1		
Child care fund	$	139,500,000
Child care fund administration—7.5 FTE positions		884,000
Juvenile justice operations—932.6 FTE positions		82,215,700
Federally funded activities—12.0 FTE positions		1,865,200
W.J. Maxey memorial fund		45,000
Juvenile accountability incentive block grant—4.0 FTE positions		8,436,200
Juvenile boot camp program		1,600,000
Committee on juvenile justice administration—4.0 FTE positions		464,800
Committee on juvenile justice grants		5,000,000
GROSS APPROPRIATION	$	240,010,900
Appropriated from:		
Federal revenues:		
Total federal revenues		35,553,500
Special revenue funds:		
Total private revenues		645,000
Local funds - county payback		30,668,600
State general fund/general purpose	$	173,143,800

Local office staff and operations.

Sec. 106. LOCAL OFFICE STAFF AND OPERATIONS

Full-time equated classified positions....9,778.4		
Field staff, salaries and wages—9,627.9 FTE positions	$	401,875,600
Contractual services, supplies, and materials		27,936,400
Outstationed eligibility workers—60.0 FTE positions		5,392,500
Food stamp reinvestment		5,700,000
Wayne County gifts and bequests		100,000
Volunteer services and reimbursement—90.5 FTE positions	$	7,455,300
GROSS APPROPRIATION	$	448,459,800
Appropriated from:		
Federal revenues:		
Total federal revenues		283,245,050
Special revenue funds:		
Local funds - donated funds		193,100
Private funds - Wayne County gifts		100,000
Private funds - hospital contributions		2,696,250
State general fund/general purpose	$	162,225,400

		For Fiscal Year Ending Sept. 30, 2003
Disability determination services.		
Sec. 107. DISABILITY DETERMINATION SERVICES		
Full-time equated classified positions....620.0		
Disability determination operations—594.0 FTE positions	$	69,460,300
Medical consultation program—21.0 FTE positions		3,083,700
Retirement disability determination—5.0 FTE positions		828,800
GROSS APPROPRIATION	$	73,372,800
Appropriated from:		
Interdepartmental grant revenues:		
Department of management and budget - office of retirement systems		828,800
ADJUSTED GROSS APPROPRIATION	$	72,544,000
Federal revenues:		
Total federal revenues		69,466,000
State general fund/general purpose	$	3,078,000
Central support accounts.		
Sec. 108. CENTRAL SUPPORT ACCOUNTS		
Rent	$	45,802,900
Occupancy charge		11,399,300
Grand tower facility reimbursement		2,150,000
Travel		7,189,100
Equipment		1,087,400
Worker's compensation		5,391,600
Advisory commissions		17,900
Payroll taxes and fringe benefits		179,687,900
GROSS APPROPRIATION	$	252,726,100
Appropriated from:		
Federal revenues:		
Total federal revenues		161,702,800
Special revenue funds:		
Local funds - county payback		304,400
State general fund/general purpose	$	90,718,900
Public assistance.		
Sec. 109. PUBLIC ASSISTANCE		
Full-time equated classified positions....10.0		
Family independence program	$	376,339,600
Transitional work support		5,000,000
State disability assistance payments		22,139,900
Food assistance program benefits		833,011,200
State supplementation		59,038,000
State supplementation administration		2,624,300
Homestead property tax credit for low-income families		50,000,000
Low-income energy assistance program—10.0 FTE positions		86,003,600
State emergency relief		45,187,100
Weatherization assistance		10,900,000

		For Fiscal Year Ending Sept. 30, 2003
Day care services	$	466,910,000
GROSS APPROPRIATION	$	1,957,153,700
Appropriated from:		
Interdepartmental grant revenues:		
ADJUSTED GROSS APPROPRIATION	$	1,957,153,700
Appropriated from:		
Federal revenues:		
Total federal revenues		1,422,469,900
Special revenue funds:		
Child support collections		48,149,300
Supplemental security income recoveries		5,104,800
Public assistance recoupment revenue		2,300,000
State general fund/general purpose	$	479,129,700

Information technology.

Sec. 110. INFORMATION TECHNOLOGY

Information technology services and projects	$	60,494,400
Child support automation		90,571,000
Client services system		12,721,200
Data system enhancement		22,040,900
GROSS APPROPRIATION	$	185,827,500
Appropriated from:		
Interdepartmental grant revenues:		
IDG from ADP		150,000
ADJUSTED GROSS APPROPRIATION	$	185,677,500
Appropriated from:		
Federal revenues:		
Total federal revenues		124,854,300
Local funds		257,600
Total private revenues		0
Total other state restricted revenues		6,050,500
State general fund/general purpose	$	54,515,100

Early retirement and budgetary savings.

Sec. 111. EARLY RETIREMENT AND BUDGETARY SAVINGS

Early retirement savings	$	(21,301,700)
Budgetary savings		(8,726,500)
Administrative budgetary savings	$	(4,600,000)
GROSS APPROPRIATION	$	(34,628,200)
Appropriated from:		
Interdepartmental grant revenues:		
ADJUSTED GROSS APPROPRIATION	$	(34,628,200)
Appropriated from:		
Federal revenues:		
Total federal revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	(34,628,200)

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $1,238,611,200.00 and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $207,056,200.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

FAMILY INDEPENDENCE AGENCY		
CHILD AND FAMILY SERVICES		
Adoption subsidies	$	79,224,300
JUVENILE JUSTICE SERVICES		
Child care fund		123,700,000
County juvenile officers		2,973,200
PUBLIC ASSISTANCE		
State disability program		1,158,700
TOTAL	$	207,056,200

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this act:

(a) "ADP" means automated data processing.

(b) "Department" means the family independence agency.

(c) "DMB" means the department of management and budget.

(d) "FTE" means full-time equated.

(e) "IDG" means interdepartmental grant.

(f) "Temporary assistance for needy families" or "TANF" or "Title IV-A" means part A of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 601 to 604, 605 to 608, and 609 to 619.

(g) "Title IV-D" means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 660, and 663 to 669b.

(h) "Title IV-E" means part E of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 670 to 673, 673b to 679, and 679b.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from one position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, cause loss of revenue to the state, result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report quarterly to the chairpersons of the senate and house standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous quarter and the reasons to justify the exception.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $200,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $5,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $20,000,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $20,000,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act under section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization; project plan.

Sec. 207. At least 60 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months.

Reporting requirements; use of Internet.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may include placement of reports on the Internet or an Intranet site. On an annual basis, the department shall provide a cumulative listing of the reports to the house and senate appropriations subcommittees, house and senate fiscal agencies, and policy offices.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available.

Businesses in deprived and depressed communities; contracts to provide services or supplies.

Sec. 210. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Individual and family grant disaster assistance program.

Sec. 211. The department may receive and expend advances or reimbursements from the department of state police for the administration of the individual and family grant disaster assistance program. An account shall be established in the department for this purpose when a disaster is declared. The authorization and allotment for the account shall be in the amount advanced or reimbursed from the department of state police.

Write-offs and prior year obligations.

Sec. 212. In addition to funds appropriated in part 1 for all programs and services, there is appropriated for write-offs of accounts receivable, deferrals, and for prior year obligations in excess of applicable prior year appropriations, an amount equal to total write-offs and prior year obligations, but not to exceed amounts available in prior year revenues or current year revenues that are in excess of the authorized amount.

Food assistance overissuance collections; application against federal funds.

Sec. 213. (1) The department may retain all of the state's share of food assistance overissuance collections as an offset to general fund/general purpose costs. Retained collections shall be applied against federal funds deductions in all appropriation units where department costs related to the investigation and recoupment of food assistance overissuances are incurred. Retained collections in excess of such costs shall be applied against the federal funds deducted in the executive operations appropriation unit.

(2) The department shall report to the legislature during the senate and house budget hearings on the status of the food stamp error rate. The report shall include at least all of the following:

(a) An update on federal sanctions and federal requirements for reinvestment due to the food stamp error rate.

(b) Review of the status of training for employees who administer the food assistance program.

(c) An outline of the past year's monthly status of worker to food stamp cases and monthly status of worker to food stamp applications.

(d) Information detailing the effect and change in staffing due to the early retirement option.

(e) Corrective action through policy, rules, and programming being taken to reduce the food stamp error rate.

(f) Any other information regarding the food stamp error rate, including information pertaining to technology and computer applications used for the food assistance program.

Budget report.

Sec. 214. (1) The department shall submit a report to the chairpersons of the senate and house appropriations subcommittees on the family independence agency budget and to the senate and house fiscal agencies on the details of allocations within program budgeting line items and within the salaries and wages line items in the field services appropriation unit. The report shall include a listing, by account, dollar amount, and fund source, of salaries and wages; longevity and insurance; retirement; contractual services, supplies, and materials; equipment; travel; and grants within each program line item appropriated for the fiscal year ending September 30, 2003.

(2) On a bimonthly basis, the department shall report on the number of FTEs in pay status by type of staff.

Conflict with or violation of federal regulations; notification.

Sec. 215. If a legislative objective of this act or the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, cannot be implemented without loss of federal financial participation because implementation would conflict with or violate federal regulations, the department shall notify the state budget director, the house and senate appropriations committees, and the house and senate fiscal agencies of that fact. Upon receipt of the notification, a joint house and senate committee made up of the members of the house and senate appropriations subcommittees dealing with appropriations for the family independence agency may be appointed to meet with the director of the department to review the substantive, procedural, and legal ramifications of the legislative objective and to develop a plan to attain that legislative objective.

TANF funding; report; notice of proposed changes.

Sec. 218. (1) The department shall prepare a semiannual report on the temporary assistance for needy families (TANF) federal block grant. The report shall include projected expenditures for the current fiscal year, an accounting of any previous year funds carried forward, and a summary of all interdepartmental or interagency agreements relating to the use of TANF funds. The report shall be forwarded to the state budget director and the house and senate appropriations subcommittees on the family independence agency budget, the house and senate fiscal agencies, and policy offices on or before January 15, 2003 and May 15, 2003.

(2) The state budget director shall give prior written notice to the members of the house and senate appropriations subcommittees for the family independence agency and to the house and senate fiscal agencies of any proposed changes in utilization or distribution of TANF funding or the distribution of TANF maintenance of effort spending relative to the amounts reflected in the annual appropriations acts of all state agencies where TANF funding is appropriated.

Contracts with faith-based organizations; mentoring or supportive services.

Sec. 220. (1) In contracting with faith-based organizations for mentoring or supportive services, and in all contracts for services, the department shall ensure that no funds provided directly to institutions or organizations to provide services and administer programs shall be used or expended for any sectarian activity, including sectarian worship, instruction, or proselytization.

(2) If an individual requests the service and has an objection to the religious character of the institution or organization from which the individual receives or would receive services or assistance, the department shall provide the individual within a reasonable time after the date of the objection with assistance or services and which are substantially the same as the service the individual would have received from the organization.

(3) Notwithstanding subsections (1) and (2), the department shall cooperate with faith-based organizations so that they are able to compete on the same basis as any other private organization for contracts to provide services to recipients of department services, including, but not limited to, mentoring or supportive services. The department shall not discriminate against an organization that applies to become a contractor on the basis that the organization has a religious character.

(4) The department shall follow guidelines related to faith-based involvement established in section 104 of title I of the personal responsibility and work opportunity reconciliation act of 1996, Public Law 104-193, 42 U.S.C. 604a.

Carrying forward excess revenue.

Sec. 221. If the revenue collected by the department from private and local sources exceeds the amount appropriated in part 1, the revenue may be carried forward, with approval from the state budget director, into the subsequent fiscal year.

Medicaid eligiblity.

Sec. 223. (1) The department shall make a determination of Medicaid eligibility not later than 60 days after all information to make the determination is received from the applicant when disability is an eligibility factor. For all other Medicaid applicants, the department shall make a determination of Medicaid eligibility not later than 45 days after all information to make the determination is received from the applicant.

(2) The family independence agency shall analyze the efficacy of centralized monthly processing of Medicaid spend-down paperwork for clients whose monthly income amount is stable. The department shall present the findings of the analysis to the senate and house appropriations subcommittees on the family independence agency, during budget deliberations, and distribute the findings to the senate and house standing committees on human services matters, senate and house fiscal agencies, and policy offices.

Financing realignment.

Sec. 227. The family independence agency, with the approval of the state budget director, is authorized to realign sources of financing authorizations in order to maximize temporary assistance for needy families' maintenance of effort countable expenditures. This realignment of financing shall not be made until 15 days after notifying the chairs of the house and senate appropriations subcommittees on the family independence agency and house and senate fiscal agencies, and shall not produce an increase or decrease in any line-item expenditure authorization.

Technology-related services and projects; user fees; interagency agreement; report.

Sec. 259. (1) From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology-related services and projects. User fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

(2) By October 15, 2002, the family independence agency shall report on the interagency agreement with the department of information technology to the house and senate appropriations subcommittees for the family independence agency budget, house and senate fiscal agencies, and policy offices. The report shall include the base service priorities in the agreement including, but not limited to, the following:

(a) Name and description of base service.

(b) Detail goals and objectives related to each base service.

(c) Cost of each base service.

(d) Time frame for implementation or completion of base service.

(3) Individual projects within the interagency agreement with a cost of $500,000.00 or greater must be reported to the house and senate appropriations subcommittees for the family independence agency budget, house and senate fiscal agencies, and policy offices.

(4) As used in this section, "base services" means all services to be supplied by the department of information technology that are to be purchased by the family independence agency under the provisions of the interagency agreement.

Information technology; designation as work project.

Sec. 260. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

Restructuring local offices; plan.

Sec. 261. The department shall consult with the house and senate appropriations subcommittees on the family independence agency regarding the planned restructuring of local offices in response to 2002 PA 93. Issues to be covered shall include service delivery structure, facility needs, and administrative support. Any plan presented shall ensure that the department provides a presence and services in every county.

Replacement of early retirees.

Sec. 263. The department shall replace all foster care workers and child protection services workers who take an early retirement on a 1-to-1 ratio.

Employee communications with legislators and staff.

Sec. 264. Provided that an employee does not violate federal or state laws, breach confidentiality, violate civil service rules, or represent a formal department position without prior written authorization, the family independence agency shall ensure that all department employees, while on their personal time, are permitted to have appropriate communications with legislators and their staff.

Early retirement and budgetary savings; satisfaction of negative appropriation.

Sec. 265. (1) The negative appropriation for early retirement savings in part 1 shall be satisfied by savings realized from not filling all of the positions lost due to the early retirement plan for state employees enacted in 2002 PA 93 amendments to the state employees retirement act, 1943 PA 240, MCL 38.1 to 38.69.

(2) The negative appropriation for budgetary savings in part 1 shall be satisfied by savings from the hiring freeze imposed under section 205, efficiencies, and other savings identified by the department director and approved by the state budget director.

(3) Appropriation authorization adjustments required due to negative appropriations for early retirement savings and budgetary savings shall be made only after the approval of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Additional appropriations; condition.

Sec. 268. (1) Subject to subsection (2), in addition to the amounts appropriated under part 1, the following amounts are appropriated for the fiscal year ending September 30, 2003:

(a) $600,000.00 is appropriated to multicultural assimilation programs from the state general fund.

(b) $4,600,000.00 is appropriated to administrative budgetary savings from the state general fund.

(2) The appropriations in subsection (1) shall become effective only if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack of cigarettes on or before September 30, 2002.

(3) Appropriation authorization adjustments required due to negative appropriations for administrative budgetary savings shall be made only after the approval of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

EXECUTIVE OPERATIONS

Use of debit card to distribute assistance; school clothing allowance.

Sec. 301. (1) The department may distribute cash assistance to recipients electronically by using debit cards.

(2) The department shall appropriate up to $4,300,000.00 for the annual school clothing allowance. The allowance shall be granted to all eligible children 4 to 18 years of age. The department shall encourage all recipients of the annual school clothing allowance to consider using that allowance at consignment stores or other stores that provide discounts to program recipients.

Tuition payments for blind clients.

Sec. 302. The appropriation in part 1 for the Michigan commission for the blind includes funds for case services. These funds may be used for tuition payments for blind clients for the school year beginning September 2002.

Members of commissions or boards; per diem payments.

Sec. 303. The appropriation in part 1 for commissions and boards may be used for per diem payments to members of commissions or boards for a full day of committee work at which a quorum is present for performing official business as authorized by each respective commission or board. The per diem payment for the Michigan commission for the blind shall be at a rate of $50.00 per day.

FAMILY INDEPENDENCE SERVICES ADMINISTRATION

Legal support contracts and child support program expenses; retention of additional incentives.

Sec. 401. (1) From the federal money received for child support incentive payments, up to $10,415,700.00 shall be retained by the state and expended for legal support contracts and child support program expenses.

(2) In addition to the amount retained in subsection (1), additional incentives may be retained and used by the state for special, enhanced, or centralized initiatives or services that are reasonably calculated by the department, in consultation with the state court administrative office and the state budget office, to result in an equivalent or greater increase in child support collections or child support incentive payments received from the federal government. If payment from the federal government for collection performance incentives exceeds the amount received by the state for the fiscal year 2000, the amount in excess for the fiscal year 2000 payment shall be apportioned to the counties and the state in the same proportion as the base amount.

(3) At the end of the current fiscal year, the department may, when it is cost beneficial to the state and counties, withhold from submitting to the federal office of child support administrative expenses eligible for federal financial participation. The department may recoup earned but unclaimed federal funds from the resulting increased federal child support incentive. The recoupment by the department shall be made prior to distribution of the increased incentive to the counties. Any incentive funds retained by the state under this section shall be separate and apart from incentive funds retained in any other section of this act.

(4) A county shall not be penalized due to the failure to comply with federal child support enforcement system requirements if the department determines that all of the following conditions are met:

(a) The county, friend of the court, and the department have a written agreement that outlines the county's commitment to participate in the system.

(b) The county and the friend of the court are fully and timely cooperating with the work plan outlined in the child support enforcement memorandum of understanding between the department and the county.

(c) The county and the friend of the court are implementing the child support enforcement system required for federal certification.

(d) The friend of the court and county prosecuting attorney's office use the statewide system upon availability to monitor and process title IV-D cases.

(5) In addition to the amount specified in subsection (1), the family independence agency may retain any federal title IV-D incentive payment revenues withheld from counties pursuant to the imposition of financial penalties, and may use the federal revenues retained for any child support program purpose.

Community services block grant funds; public hearing.

Sec. 403. Not later than September 30 of each year, the department shall submit for public hearing to the chairpersons of the house and senate appropriations subcommittees dealing with appropriations for the family independence agency the proposed use and distribution plan for community services block grant funds appropriated in part 1 for the succeeding fiscal year.

Community services block grant funds; distribution plan; recommendations.

Sec. 404. The department shall develop a plan based on recommendations from the department of civil rights and from Native American organizations to assure that the community services block grant funds are equitably distributed. The plan must be developed by October 31, 2002, and the plan shall be delivered to the appropriations subcommittees on the family independence agency in the house and senate.

Sec. 407. From the funds appropriated in part 1 for family preservation and prevention services, the family independence agency shall contract with Created for Caring for $150,000.00 in TANF funds allowable services. The department is authorized to make allocations of TANF funds only to the agency if that agency reports necessary data to the department for the purpose of meeting TANF eligibility reporting requirements. The use of TANF funds under this section should not be considered an ongoing commitment of funding.

Child support collections; escheated amount counted as title IV-D program income.

Sec. 412. If title IV-D-related child support collections are escheated, the state budget director is authorized to adjust the sources of financing for the funds appropriated in part 1 for legal support contracts to reduce federal authorization by 66% of the escheated amount and increase general fund/general purpose authorization by the same amount. This budget adjustment is required to offset the loss of federal revenue due to the escheated amount being counted as title IV-D program income in accordance with federal regulations at 45 C.F.R. 304.50.

Additional appropriations.

Sec. 413. (1) In addition to the funds appropriated in part 1, there is hereby appropriated up to $28,785,700.00. This appropriation is contingent upon the receipt of a refund from the federal government related to penalties previously imposed for the child support enforcement system and upon certification from the state budget director that the funds are available for expenditure. Of this amount, up to: $2,700,000.00 may be used to continue before- or after-school programs; $8,785,700.00 may be used for the child support enforcement system; $4,300,000.00 may be used for the family independence program school clothing allowance; $650,000.00 may be used to supplement community services block grant funding for community action agencies; $500,000.00 may be used to support a fatherhood initiative; $4,300,000.00 may be used for family independence program caseload, state disability assistance, and child care fund costs; $250,000.00 may be used to fund the food bank council; $50,000.00 may be used to support the Michigan marriage and fatherhood commission; $3,000,000.00 may be used to fund the transitional work support program; $150,000.00 may be used for the northern Michigan Miracle Manor, an addiction treatment and rehabilitation services program for homeless women with dependent children; $250,000.00 may be used for establishment or enhancement of domestic violence supervised parenting time centers; $150,000.00 may be used for 3 emergency homeless shelter case management pilot programs; $100,000.00 may be used for a Medicaid spend down analysis; $600,000.00 may be used for multicultural assimilation programs; and $3,000,000.00 may be used for contracts, services, supplies, and materials.

(2) The funds appropriated in subsection (1) shall be considered 1-time authority.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Community action agencies; allocations of TANF funds.

Sec. 414. (1) Of the funds appropriated in part 1 for community services block grants, $2,350,000.00 represents TANF funding earmarked for community action agencies.

(2) From the funds appropriated in part 1 for community services block grants, the department is authorized to make allocations of TANF funds only to the community action agencies that report necessary data to the department for the purpose of meeting TANF eligibility reporting requirements. The use of TANF funds under this section should not be considered an ongoing commitment of funding.

Fatherhood initiative.

Sec. 415. (1) From the funds appropriated in part 1 for employment and training support services, the family independence agency shall expend up to $500,000.00 in TANF to fund a fatherhood initiative. The department may choose providers that will work with counties to help eligible fathers under TANF guidelines to acquire skills that will enable them to increase their responsible behavior toward their children and the mothers of their children. An increase of financial support for their children should be a very high priority as well as emotional support. Program components may include, but are not limited to, parental guidance, infant care, food preparation, effective communication, anger management, children's financial support, respect, drug-free lifestyle, and referrals to employment services.

(2) The providers will measure outcomes as agreed upon by the department and based on required TANF reporting guidelines.

(3) The department is authorized to make allocations of TANF funds, of not more than 20% per county, under this section only to agencies that report necessary data to the department for the purpose of meeting TANF eligibility reporting requirements. The use of TANF funds under this section should not be considered an ongoing commitment of funding.

Marriage initiative.

Sec. 416. (1) From the funds appropriated in part 1 for employment and training support services, the family independence agency may expend up to $250,000.00 in TANF to fund a marriage initiative. The department may choose providers to work with counties that will work to support and strengthen marriages of those eligible under the TANF guidelines. The areas of work may include, but are not limited to, marital counseling, domestic violence counseling, family counseling, effective communication, and anger management as well as parenting skills to improve the family structure.

(2) The providers will measure outcomes as agreed upon by the department and based on required TANF reporting guidelines.

(3) The department is authorized to make allocations of TANF funds, of not more than 20% per county, under this section only to agencies that report necessary data to the department for the purpose of meeting TANF eligibility reporting requirements. The use of TANF funds under this section should not be considered an ongoing commitment of funding.

(4) The department shall choose only providers who are licensed through the department of consumer and industry services and who meet the standards of the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

CHILD AND FAMILY SERVICES

Children in foster care; duration; restriction; priority.

Sec. 501. The following goal is established by state law. During the fiscal year ending September 30, 2003, not more than 3,000 children supervised by the department shall remain in foster care longer than 24 months. The department shall give priority to reducing the number of children under 1 year of age in foster care.

Children under jurisdiction of Indian tribal courts; foster care expenditures.

Sec. 502. From the funds appropriated in part 1 for foster care, the department shall provide 50% reimbursement to Indian tribal governments for foster care expenditures for children who are under the jurisdiction of Indian tribal courts and who are not otherwise eligible for federal foster care cost sharing.

Eighteenth birthday of adoptee; adoption payment subsidies.

Sec. 503. The department shall continue adoption subsidy payments to families after the eighteenth birthday of an adoptee who meets the following criteria:

(a) Has not yet graduated from high school or passed a high school equivalency examination.

(b) Is making progress toward completing high school.

(c) Has not yet reached his or her twenty-first birthday.

Current fiscal year collections and accruals; inclusion of excess revenues.

Sec. 504. The department's ability to satisfy appropriation deducts in part 1 for foster care private collections shall not be limited to collections and accruals pertaining to services provided only in the current fiscal year but shall include revenues collected during the fiscal year in excess of the amount specified in part 1.

Children's trust fund; joint project.

Sec. 508. (1) In addition to the amount appropriated in part 1 for children's trust fund grants, money granted or money received as gifts or donations to the children's trust fund created by 1982 PA 249, MCL 21.171 to 21.172, is appropriated for expenditure in an amount not to exceed $800,000.00.

(2) The state child abuse and neglect prevention board may initiate a joint project with another state agency to the extent that the project supports the programmatic goals of both the state child abuse and neglect prevention board and the state agency. The department may invoice the state agency for shared costs of a joint project in an amount authorized by the state agency, and the state child abuse and neglect prevention board may receive and expend funds for shared costs of a joint project in addition to those authorized by part 1.

(3) From the funds appropriated in part 1 for children's trust fund, the department may utilize interest and investment revenue from the current fiscal year only for programs, administration, services, or all sanctioned by the child abuse and neglect prevention board.

Preserving or reuniting family; expenditure of funds; restrictions.

Sec. 509. (1) From the funds appropriated in part 1, the department shall not expend funds to preserve or reunite a family, unless there is a court order requiring the

preservation or reuniting of the family or the court denies the petition, if either of the following would result:

(a) A child would be living in the same household with a parent or other adult who has been convicted of criminal sexual conduct against a child.

(b) A child would be living in the same household with a parent or other adult against whom there is a substantiated charge of sexual abuse against a child.

(2) Notwithstanding subsection (1), this section shall not prohibit counseling or other services provided by the department, if the service is not directed toward influencing the child to remain in an abusive environment, justifying the actions of the abuser, or reuniting the family.

Contract bids; existence of 1 provider.

Sec. 510. The department shall not be required to put up for bids contracts with service providers if currently only 1 provider in the service area exists.

Foster care pilot projects.

Sec. 512. From the funds appropriated in part 1 for foster care payments, the department may expend up to $1,500,000.00 for foster care pilot projects that include ways to increase foster parent recruitment, improve foster parent retention, and increase delivery of training and supportive services to foster parents.

Child placement in out-of-state facility; conditions.

Sec. 513. The department shall not expend funds appropriated in part 1 to pay for the placement of a child in an out-of-state facility unless all of the following conditions are met:

(a) There is no appropriate placement available in this state.

(b) The out-of-state facility meets all of the licensing standards of this state for a comparable facility.

(c) The out-of-state facility meets all of the applicable licensing standards of the state in which it is located.

(d) The department has done an on-site visit to the out-of-state facility, reviewed the facility records, and reviewed licensing records and reports on the facility and believes that the facility is an appropriate placement for the child.

Children's protective services; report to legislature.

Sec. 514. The department shall make a comprehensive report concerning children's protective services (CPS) to the legislature, including the senate and house policy offices, by January 1, 2003, that shall include all of the following:

(a) Statistical information including, at a minimum, all of the following:

(*i*) The total number of reports of abuse or neglect investigated under the child protection law, 1975 PA 238, MCL 722.621 to 722.638, and the number of cases classified under category I or category II and the number of cases classified under category III, category IV, or category V.

(*ii*) Characteristics of perpetrators of abuse or neglect and the child victims, such as age, relationship, socioeconomic status, race, and ethnicity.

(*iii*) The mandatory reporter category in which the individual who made the report fits, or other categorization if the individual is not within a group required to report under the child protection law, 1975 PA 238, MCL 722.621 to 722.638.

(b) New policies related to children's protective services including, but not limited to, major policy changes and court decisions affecting the children's protective services system during the immediately preceding 12-month period.

Child welfare waiver managed care demonstration project.

Sec. 515. From the funds appropriated in part 1 for foster care payments and related administrative costs, the department may implement the federally approved title IV-E child welfare waiver managed care demonstration project.

Family preservation and prevention services; activities and services; allocations.

Sec. 517. (1) From the funds appropriated in part 1 for family preservation and prevention services, the department is authorized to allocate funds to multipurpose collaborative bodies to address issues raised in the Binsfeld children's commission report issued in July 1996. Priority for activities and services will be given to at-risk children and families and cases classified by the department as category III or category IV under sections 8 and 8d of the child protection law, 1975 PA 238, MCL 722.628 and 722.628d.

(2) From the funds appropriated in part 1 for family preservation and prevention services, up to $4,000,000.00 may be used to fund community-based collaborative prevention services designed to do any of the following:

(a) Foster positive parenting skills especially for parents of children under 3 years of age.

(b) Improve parent/child interaction.

(c) Promote access to needed community services.

(d) Increase local capacity to serve families at risk.

(e) Improve school readiness.

(f) Support healthy family environments that discourage alcohol, tobacco, and other drug use.

(3) The appropriation provided for in subsection (2) is to fund secondary prevention programs as defined in the children's trust fund's pre-application materials for fiscal year 2002-2003 direct services grants.

(4) Projects funded through the appropriation provided for in subsection (2) shall meet all of the following criteria:

(a) Be awarded through a joint request for proposal process established by the department in conjunction with the children's trust fund and the state human services directors.

(b) Be secondary prevention initiatives. Funds are not intended to be expended in cases in which neglect or abuse has been substantiated.

(c) Demonstrate that the planned services are part of a community's integrated comprehensive family support strategy endorsed by the local multipurpose collaborative body.

(d) Provide a 25% local match of which not more than 10% is in-kind goods or services unless the maximum percentage is waived by the state human services directors.

(5) As used in this section, "state human services directors" means the director of the department of community health, the director of the department of education, and the director of the family independence agency.

Local multipurpose collaborative bodies.

Sec. 518. (1) The funds appropriated in part 1 for family preservation and prevention services in the 2002-2003 fiscal year reflect strong families/safe children allocations to local multipurpose collaborative bodies that are no less than the allocations in effect on April 1, 1997. The department shall work with the multipurpose collaborative bodies to address

high out-of-home placement rates and through collaboration arrange a reward plan, penalty plan, or both, to achieve less child out-of-home placements, including placements for adjudicated youth in residential treatment programs.

(2) In order to maintain this level of funding, the department may use up to $8,000,000.00 in TANF funds provided that the local multipurpose collaborative bodies submit data to the department that will enable the department to document potential federal claimable expenditures.

(3) No later than March 1, 2003, each local multipurpose collaborative body shall submit a report to the department that includes the number of people receiving strong families/safe children services, including services to adjudicated youth and their families, the local goals for this program, and a measure of the effectiveness in meeting these goals.

(4) The department shall provide during budget deliberation hearings the compilation of reports from the multipurpose collaborative bodies outlined in subsection (3).

Sec. 519. From the funds appropriated in part 1 for foster care payments, Wayne County foster care payments, and adoption support services, the department shall increase the rate of payments for child placing agencies and residential treatment facilities by 1% effective April 1, 2003. The rate increase may be used to support foster and adoptive parent resource centers.

Kinship care.

Sec. 520. It is the intent of the legislature that the funds appropriated in part 1 for kinship care in the fiscal year ending September 30, 2003, reflect the legislature's commitment to reduce the benefit discrepancy between kinship care and a similar family size within the family independence agency program (FIP). The legislature recognizes the commitment of relatives to provide family continuity, nurturance, and care for this special population of children who can no longer remain in their parents' care due to abuse, neglect, or other social problems.

Youth in transition, domestic violence prevention and treatment, and teenage parent counseling; allocation of TANF funds.

Sec. 523. (1) From the funds appropriated in part 1 for youth in transition, domestic violence prevention and treatment, and teenage parent counseling, the department is authorized to make allocations of TANF funds only to the agencies that report necessary data to the department for the purpose of meeting TANF eligibility reporting requirements. The use of TANF funds under this section should not be considered an ongoing commitment of funding.

(2) The agencies receiving teenage parent counseling TANF funds shall report to the family independence agency on both of the following:

(a) Whether program services have impacted the following issue areas:

(*i*) The number of teen participants having fewer repeat pregnancies.

(*ii*) The completion rate for high school diplomas or GEDs.

(*iii*) The teen participants' rate of self-sufficiency.

(b) How many teens participate in the programs and have access to any or all of the following services:

(*i*) Adult supervised, supportive living arrangements.

(*ii*) Pregnancy prevention services or referrals.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

(*iii*) Required completion of high school or receipt of GED, including child care to assist young mothers to focus on achievement.

(*iv*) Support services, including, but not limited to, health care, transportation, and counseling.

(*v*) Parenting and life-skills training.

(*vi*) Education, job training, and employment services.

(*vii*) Transition services in order to achieve self-sufficiency.

(*viii*) Instruction on self-protection.

Prevention services program; status report.

Sec. 524. The department shall submit to the senate and house appropriations subcommittees on the family independence agency, the senate and house standing committees having jurisdiction over human services matters, the senate and house fiscal agencies, and the senate and house policy offices an annual report, beginning April 2, 2002, detailing the status of the prevention services program.

Foster care recruitment and retention programs.

Sec. 530. Of funds available for foster care recruitment pilots, the department shall develop and implement foster parent recruitment and retention programs. The programs shall focus on diversity of foster parents, and recruitment of homes appropriate for teens and other high-risk placements. The programs should draw from models including, but not limited to, one church one child, foster home mentoring, neighborhood-based recruitment, and multimedia outreach.

Payments to local units of government; agreements.

Sec. 531. (1) From the funds appropriated in part 1, the family independence agency may make claims for and pay to local units of government a portion of federal title IV-E revenues earned as a result of eligible costs incurred by local units of government.

(2) The family independence agency shall make payments under subsection (1) only to local units of government which have entered into formal agreements with the family independence agency. Such agreement must include all of the following:

(a) Provide for the family independence agency to retain 50% of the federal revenues earned.

(b) Provide for agency review and approval of the local unit's plan for allocating costs to title IV-E.

(c) Provide for the local unit of government to submit bills at times, and in the format, specified by the family independence agency.

(d) Specify that the local unit of government is responsible for meeting all federal title IV-E regulation requirements, including reporting requirements, with regard to the activities and costs being billed to title IV-E.

(e) Provide for the local unit of government to pay the state for the amount of any federal revenues paid to the local unit which may subsequently be disallowed by the federal government.

(f) Be signed by the director of the department, the chief executive officer of the local government agency providing the title IV-E services, the chair of the county board of commissioners, and the chief executive officer of the county.

Child placing agencies and child caring institutions; review; report.

Sec. 532. The family independence agency, in collaboration with the department of consumer and industry services and representatives of the Michigan federation of private child and family agencies, shall review policies, practices, and procedures involving the annual licensing review conducted by the department of consumer and industry services and the annual contract compliance review conducted by the department regarding child placing agencies and child caring institutions. The review shall include efforts to identify duplication of staff activities and information sought from child placing agencies and child caring institutions in the annual review process. The department shall report on its findings, conclusions, and any actions taken to ensure the maximum feasible coordination and efficiency in conducting these reviews. The report shall be presented to the senate and house appropriations subcommittees on the family independence agency and the department of consumer and industry services, the senate and house fiscal agencies, and the senate and house policy offices by April 1, 2003.

Private nonprofit child placing facilities; payments.

Sec. 533. The family independence agency shall make payments to private nonprofit child placing facilities for title IV-E out-of-home care services within 30 days of receiving all necessary documentation from those agencies.

Teen pregnancy prevention programs; city of Pontiac.

Sec. 534. Funding not distributed from the teen pregnancy prevention pilot performance bonus may be used to support teen pregnancy prevention programs in the city of Pontiac.

Guardianship fee; increase.

Sec. 535. It is the intent of the legislature that the department shall review the merits of increasing the per month guardianship fee.

Foster care; geographically based assignment system; condition for implementation.

Sec. 536. The family independence agency shall not implement a geographically based assignment system for foster care unless determined to be in the best interests of the foster children.

Foster care services; placement by private nonprofit licensed agency.

Sec. 537. The department shall offer private nonprofit licensed agencies the first opportunity to provide foster care services for new foster children entering the system in a county when the department's direct care caseload for foster care is greater than 20 cases per foster care worker. This section shall only apply if the private nonprofit licensed agency has an available placement at the time the child needs to be placed and the placement is not contrary to the best interests of the child or the child's siblings.

Children adjudicated abused, neglected, or delinquent, and requiring residential treatment; placement.

Sec. 539. The family independence agency shall work in collaboration with representatives from private nonprofit child placing agencies to ensure appropriate placement for children who have been adjudicated abused, neglected, or delinquent and for whom residential treatment is required. The department and the representatives from the private nonprofit child placing agencies shall focus on statewide placement criteria to address the best interest of the child in need of services.

PUBLIC ASSISTANCE

Rent vendoring programs.

Sec. 601. (1) The department may terminate a vendor payment for shelter upon written notice from the appropriate local unit of government that a recipient's rental unit is not in compliance with applicable local housing codes or when the landlord is delinquent on property tax payments. A landlord shall be considered to be in compliance with local housing codes when the department receives from the landlord a signed statement stating that the rental unit is in compliance with local housing codes and that statement is not contradicted by the recipient and the local housing authority. The department shall terminate vendor payments if a taxing authority notifies the department that taxes are delinquent.

(2) Whenever a client agrees to the release of his or her name and address to the local housing authority, the department shall request from the local housing authority information regarding whether the housing unit for which vendoring has been requested meets applicable local housing codes. Vendoring shall be terminated for those units that the local authority indicates in writing do not meet local housing codes until such time as the local authority indicates in writing that local housing codes have been met.

(3) In order to participate in the rent vendoring programs of the department, a landlord shall cooperate in weatherization and conservation efforts directed by the department or by an energy provider participating in an agreement with the department when the landlord's property has been identified as needing services.

Agreements with energy providers.

Sec. 603. (1) The department, as it determines is appropriate, shall enter into agreements with energy providers by which cash assistance recipients and the energy providers agree to permit the department to make direct payments to the energy providers on behalf of the recipient. The payments may include heat and electric payment requirements from recipient grants and amounts in excess of the payment requirements.

(2) The department shall establish caps for natural gas, wood, electric heat service, deliverable fuel heat services, and for electric service based on available federal funds.

(3) The department shall negotiate with positive billing utility companies to develop extended payment plans. Such plans shall allow clients who terminate from positive billing due to increased income to make monthly payments in order to gradually liquidate utility arrears.

(4) It is the intent of the legislature that the department review and adjust the standard utility allowance for the state food assistance program to ensure that it reflects current energy costs in the state.

State disability assistance program; eligibility.

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

(a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.

(b) A person with a physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

(c) A resident of an adult foster care facility, a home for the aged, a county infirmary, or a substance abuse treatment center.

(d) A person receiving 30-day postresidential substance abuse treatment.

(e) A person diagnosed as having acquired immunodeficiency syndrome.

(f) A person receiving special education services through the local intermediate school district.

(g) A caretaker of a disabled person as defined in subdivision (a), (b), (e), or (f) above.

(2) Applicants for and recipients of the state disability assistance program shall be considered needy if they:

(a) Meet the same asset test as is applied to applicants for the family independence program.

(b) Have a monthly budgetable income that is less than the payment standards.

(3) Except for a person described in subsection (1)(c) or (d), a person is not disabled for purposes of this section if his or her drug addiction or alcoholism is a contributing factor material to the determination of disability. "Material to the determination of disability" means that, if the person stopped using drugs or alcohol, his or her remaining physical or mental limitations would not be disabling. If his or her remaining physical or mental limitations would be disabling, then the drug addiction or alcoholism is not material to the determination of disability and the person may receive state disability assistance. Such a person must actively participate in a substance abuse treatment program, and the assistance must be paid to a third party or through vendor payments. For purposes of this section, substance abuse treatment includes receipt of inpatient or outpatient services or participation in alcoholics anonymous or a similar program.

(4) A refugee or asylee who loses his or her eligibility for the federal supplemental security income program by virtue of exceeding the maximum time limit for eligibility as delineated in section 402 of title IV of the personal responsibility and work opportunity reconciliation act of 1996, Public Law 104-193, 8 U.S.C. 1612, and who otherwise meets the eligibility criteria under this section shall be eligible to receive benefits under the state disability assistance program.

State disability assistance recipients in licensed adult foster care facilities; reimbursement level.

Sec. 605. The level of reimbursement provided to state disability assistance recipients in licensed adult foster care facilities shall be the same as the prevailing supplemental security income rate under the personal care category.

Receipt of retroactive supplemental security benefits; repayment contract.

Sec. 606. County family independence agencies shall require each recipient of state disability assistance who has applied with the social security administration for supplemental security income to sign a contract to repay any assistance rendered through the state disability assistance program upon receipt of retroactive supplemental security income benefits.

Recoveries and accruals.

Sec. 607. The department's ability to satisfy appropriation deductions in part 1 for state disability assistance/ supplemental security income recoveries and public assistance recoupment revenues shall not be limited to recoveries and accruals pertaining to state disability assistance, or family independence assistance grant payments provided only in

the current fiscal year, but shall include all related net recoveries received during the current fiscal year.

Adult foster care facilities or homes for the aged; reimbursement.

Sec. 608. Adult foster care facilities providing domiciliary care or personal care to residents receiving supplemental security income or homes for the aged serving residents receiving supplemental security income shall not require those residents to reimburse the home or facility for care at rates in excess of those legislatively authorized. To the extent permitted by federal law, adult foster care facilities and homes for the aged serving residents receiving supplemental security income shall not be prohibited from accepting third-party payments in addition to supplemental security income provided that the payments are not for food, clothing, shelter, or result in a reduction in the recipient's supplemental security income payment.

State supplementation level; reduction prohibited.

Sec. 609. The state supplementation level under the supplemental security income program for the personal care/adult foster care and home for the aged categories shall not be reduced during the fiscal year beginning October 1, 2002 and ending September 30, 2003.

State emergency relief program; good cause criteria; exemptions.

Sec. 610. In developing good cause criteria for the state emergency relief program, the department shall grant exemptions if the emergency resulted from unexpected expenses related to maintaining or securing employment.

Indigent burials; payment.

Sec. 611. (1) The department shall not require providers of burial services to accept state payment for indigent burials as payments in full. Each provider shall be permitted to collect additional payment from relatives or other persons on behalf of the deceased. The total in additional payments shall not exceed $2,600.00.

(2) Any additional payment collected pursuant to subsection (1) shall not increase the maximum charge limit for state payment as established by law.

Housing affordability eligibility.

Sec. 612. For purposes of determining housing affordability eligibility for state emergency relief, a group is considered to have sufficient income to meet ongoing housing expenses if their total housing obligation does not exceed 75% of their total net income.

Indigent burials; maximum allowable charge limit; distribution; report.

Sec. 613. (1) From the funds appropriated in part 1 for state emergency relief, the maximum allowable charge limit for indigent burials shall be $1,114.00. The funds shall be distributed as follows: $710.00 for funeral directors; $234.00 for cemeteries or crematoriums; and $170.00 for the provider of the vault.

(2) On December 31, 2002, participating funeral home directors or cemeteries or crematoriums shall submit on a quarterly basis a report on a form made available by the department that includes all of the following information:

(a) The number of indigent burials performed.

(b) The cost of services rendered for each indigent burial performed.

(c) The total reimbursement received from the state for indigent burials.

(d) The amount the participating provider received from families toward indigent burials.

(e) All other sources of reimbursement received by the participating providers shall be documented individually for indigent burials.

(f) The percentage of total burials performed by the provider that represents indigent burials.

(3) The department shall report on an annual basis on the information received from participating providers under subsection (2). The department shall submit the report to the state budget director, the chairpersons of the senate and house appropriations committees, the chairpersons of the senate and house appropriations subcommittees on the family independence agency, the senate and house fiscal agencies, and the senate and house policy offices.

Burial services; availability of funds.

Sec. 614. The funds available in part 1 for burial services shall be available if the deceased was an eligible recipient and an application for emergency relief funds was made within 10 days of the burial or cremation of the deceased person. Each provider of burial services shall be paid directly by the department.

Illegal alien; public assistance prohibited.

Sec. 615. Except as required by federal law or regulations, funds appropriated in part 1 shall not be used to provide public assistance to a person who is an illegal alien. This section shall not prohibit the department from entering into contracts with food banks or emergency shelter providers who may, as a normal part of doing business, provide food or emergency shelter to individuals.

Weatherization program.

Sec. 616. (1) The appropriation in part 1 for the weatherization program shall be expended in such a manner that at least 25% of the households weatherized under the program shall be households of families receiving 1 or more of the following:

(a) Family independence assistance.

(b) State disability assistance.

(c) Food assistance.

(d) Supplemental security income.

(2) Any unencumbered balances of the weatherization program shall not lapse and may be carried forward to fiscal year 2004.

Adult supervised household; approval of living arrangement.

Sec. 617. In operating the family independence program with funds appropriated in part 1, the department shall not approve as a minor parent's adult supervised household a living arrangement in which the minor parent lives with his or her partner as the supervising adult.

Reducing, termination, or suspending assistance; notice.

Sec. 618. The department may only reduce, terminate, or suspend assistance provided under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, without prior notice in 1 or more of the following situations:

(a) The only eligible recipient has died.

(b) A recipient member of a program group or family independence assistance group has died.

(c) A recipient child is removed from his or her family home by court action.

(d) A recipient requests in writing that his or her assistance be reduced, terminated, or suspended.

(e) A recipient has been approved to receive assistance in another state.

(f) A change in either state or federal law that requires automatic grant adjustments for classes of recipients.

Denial of assistance and food assistance benefits; exemption.

Sec. 619. The department shall exempt from the denial of title IV-A assistance and food assistance benefits, contained in section 115 of title I of the personal responsibility and work opportunity reconciliation act of 1996, Public Law 104-193, 21 U.S.C. 862a, any individual who has been convicted of a felony that included the possession, use, or distribution of a controlled substance, after August 22, 1996, provided that the individual is not in violation of his or her probation or parole requirements. Benefits shall be provided to such individuals as follows:

(a) A third-party payee or vendor shall be required for any cash benefits provided.

(b) An authorized representative shall be required for food assistance receipt.

Multicultural assimilation and support services.

Sec. 621. Funds appropriated in part 1 may be used to support multicultural assimilation and support services. The department shall distribute all of the funds described in this section based on assessed community needs.

Temporary assistance for needy families-funded individual development accounts.

Sec. 624. The department shall maintain a plan to provide for the implementation of temporary assistance for needy families-funded individual development accounts.

Individual development accounts programs.

Sec. 625. The department in collaboration with the Michigan state university center for urban affairs and its partner organizations, the Michigan credit union league and the national federation of community development credit unions, shall further the work begun in fiscal year 1999-2000 that implemented the individual development accounts programs in the growing number of low-income designated credit unions, i.e., community development credit unions (CDCUs) located in this state's poorest communities. This further work will extend capacity-building and technical assistance services to existing and emerging CDCUs serving low-income populations and will include:

(a) Creation of a Michigan-based support system for the capacity-building of existing and emerging CDCUs serving low-income individuals and families, including development and testing of training, technical assistance, and professional development initiatives and related materials, and other capacity-building services to Michigan CDCUs.

(b) Other related support to assist existing and emerging CDCUs in becoming self-supporting institutions to assist impoverished Michigan residents in becoming economically independent.

(c) Training and technical assistance to CDCUs in the development of support services, such as economic literacy, credit counseling, budget counseling, and asset management programs for low-income individuals and families.

EQUIP funds.

Sec. 627. (1) From the funds appropriated in section 109 for day care services, the department shall contract to administer an amount not to exceed $1,350,000.00 for the "enhance quality improvement program" (EQUIP) grants. A priority for the expenditure of EQUIP funds shall be given to providers to expand access to child care, specifically 24-hour care and weekend care. A child care program shall not be eligible for an EQUIP grant unless 25% or more of its clients receive day care payments from the department.

(2) From the funds appropriated in part 1 for day care services, the department shall establish an additional fund of at least $350,000.00 for a grant pool for an "enhance quality improvement program" (EQUIP) specifically to establish new family and group home day care providers.

Policies and procedures.

Sec. 631. The department shall maintain policies and procedures to achieve all of the following:

(a) The identification of individuals on entry into the system who have a history of domestic violence, while maintaining the confidentiality of that information.

(b) Referral of persons so identified to counseling and supportive services.

(c) In accordance with a determination of good cause, the waiving of certain requirements of family independence programs where compliance with those requirements would make it more difficult for the individual to escape domestic violence or would unfairly penalize individuals who have been victims of domestic violence or who are at risk of further domestic violence.

Food assistance allotment; calculation; manner.

Sec. 632. The department shall calculate the food assistance allotment for applicants who are United States citizens and who live in a household with legal immigrants in a manner that maximizes the food assistance available to these United States citizens under federal law.

Child day care payments; provider listed on child abuse and neglect central registry.

Sec. 635. Within 6 business days of receiving all information necessary to process an application for payments for child day care, the family independence agency shall determine whether the child day care provider to whom the payments, if approved, would be made, is listed on the child abuse and neglect central registry. If the provider is listed on the central registry, the family independence agency shall immediately send written notice denying the applicant's request for child day care payments.

Infant and toddler incentive payments.

Sec. 640. (1) From the funds appropriated in part 1 for day care services, the family independence agency shall expend up to $8,000,000.00 to provide infant and toddler incentive payments to child day care providers serving children from 0 to 2-1/2 years of age who meet licensing or training requirements.

(2) The use of the funds under this section should not be considered an ongoing commitment of funding.

Homeless shelters; TANF funds.

Sec. 643. As a condition of receipt of federal TANF funds, homeless shelters shall collaborate with the family independence agency to obtain necessary TANF eligibility

information on families as soon as possible after admitting a family to the homeless shelter. From the funds appropriated in part 1 for homeless shelters within state emergency relief, the department is authorized to make allocations of TANF funds only to the agencies that report necessary data to the department for the purpose of meeting TANF eligibility reporting requirements. Homeless shelters that do not report necessary data to the department for the purpose of meeting TANF eligibility reporting requirements will not receive reimbursements which exceed the per diem amount they received in fiscal year 2000. The use of TANF funds under this section should not be considered an ongoing commitment of funding.

Escape from domestic violence considered as homeless.

Sec. 645. An individual or family is considered homeless, for purposes of eligibility for state emergency relief, if living temporarily with others in order to escape domestic violence. For purposes of this section, domestic violence is defined and verified in the same manner as in the family independence agency's policies on good cause for not cooperating with child support and paternity requirements.

Assistance payments; eligibility beyond time limit.

Sec. 648. From the funds appropriated in part 1 for assistance payments, the department shall continue to make assistance payments to recipients beyond the federal 5-year limit set under the personal responsibility and work opportunity reconciliation act of 1996, Public Law 104-193, 110 Stat. 2105, providing the recipient is complying with asset, income, and participation standards set as a condition of eligibility to receive assistance.

Victim of domestic abuse; exemption from food assistance time limit.

Sec. 653. From the funds appropriated in part 1 for food assistance, an individual who is the victim of domestic violence and does not qualify for any other exemption may be exempt from the 3-month in 36-month limit on receiving food assistance under section 6(o)(6) of the food stamp act of 1977, Public Law 88-525, 7 U.S.C. 2015. This exemption can be extended an additional 3 months upon demonstration of continuing need.

Before- or after-school programs.

Sec. 657. (1) The department shall continue to offer quality before- or after-school programs that provide youth with a safe, engaging environment to motivate and inspire learning outside the traditional classroom setting. Before-school programs are limited to elementary school-aged children. Effective before- or after-school programs combine academic, enrichment, and recreation activities to guide learning and inspire children and youth in various activities. The before- or after-school programs can meet the needs of the communities served by the programs.

(2) The department shall work in collaboration with independent contractors to put into practice a pilot program establishing quality before- or after-school programs for children in kindergarten to ninth grades. In order for an independent contractor to receive funds, a child served must be a member of a family with an income that does not exceed 200% of the federal poverty guidelines published by the United States department of health and human services.

(3) The department shall allocate through grants or contracts up to $10,000,000.00 for pilot programs. A county shall receive no more than 20% of the funds appropriated in part 1 for this program. From the funds appropriated in part 1 for before- or after-school pilot programs within day care services, the department is authorized to make allocations of funds only to the agencies that report necessary data to the department for the purpose

of meeting TANF and maintenance of effort eligibility reporting requirements. The use of funds under this section should not be considered an ongoing commitment of funding.

(4) The before- or after-school pilot programs shall include, at a minimum, at least 3 of the following topics:

(a) Abstinence-based pregnancy prevention.

(b) Chemical abuse and dependency including nonmedical services.

(c) Gang violence prevention.

(d) Academic assistance, including assistance with reading and writing.

(e) Preparation toward future self-sufficiency.

(f) Leadership development.

(g) Case management or mentoring.

(h) Parental involvement.

(i) Anger management.

(5) The department may enter into grants or contracts with independent contractors including, but not limited to, faith-based organizations, boys or girls clubs, schools, or nonprofit organizations. The department shall grant priority in funding independent contractors who secure at least 10% in matching funds. The matching funds may either be fulfilled through local, state, or federal funds, and/or through in-kind or other donations. An independent contractor who cannot fulfill the match described in this subsection shall not be excluded from applying for a before- or after-school program contract.

(6) A referral to a pilot program may be made by, but is not limited to, any of the following: a teacher, counselor, parent, police officer, judge, or social worker.

(7) By August 30, 2003, the department before- or after-school pilot program expenditures shall be audited and the department shall work in collaboration with independent contractors to provide a report on the before- or after-school pilot program to the senate and house standing committees dealing with human services, the senate and house appropriations subcommittees for the family independence agency budget, the senate and house fiscal agencies, and the senate and house policy offices. The report shall include the number of participants and the average cost per participant, as well as changes noted in program participants in any of the following categories:

(a) Juvenile crime.

(b) Aggressive behavior.

(c) Academic achievement.

(d) Development of new skills and interests.

(e) School attendance and dropout rates.

(f) Behavioral changes in school.

Food bank council activities; TANF funds.

Sec. 660. From the funds appropriated in part 1 for food bank council activities within state emergency relief, the department is authorized to make allocations of TANF funds only to the agencies that report necessary data to the department for the purpose of meeting TANF eligibility reporting requirements. The agencies that do not report necessary data to the department for the purpose of meeting TANF eligibility reporting requirements will not receive allocations in excess of those received in fiscal year 2000. The use of TANF funds under this section should not be considered an ongoing commitment of funding.

Transitional work support program.

Sec. 661. From the funds appropriated in part 1 for transitional work support, the department shall expend up to $5,000,000.00 in general fund/general purpose funds to develop and fund a transitional work support program. The department shall provide the house and senate appropriations subcommittees on the family independence agency, the house and senate fiscal agencies, the house and senate policy offices, and the state budget director with a report that includes all of the following:

(a) The number of participants served.

(b) The average cost per program participant.

(c) Any other information that the department considers relevant.

TANF-eligible individuals; public transportation needs.

Sec. 665. The department shall continue to partner with the department of transportation to use TANF and other sources of available funding to support public transportation needs of TANF-eligible individuals.

Federal earned income tax credit; eligibility.

Sec. 666. The department shall develop and implement a plan to increase the participation of eligible family independence program recipients in the federal earned income tax credit.

Child day care provider background checks.

Sec. 667. The department may expend funds necessary to perform child day care provider background checks from fees collected.

Sec. 668. In coordination with the Michigan alliance of boys and girls clubs, the department shall conduct a pilot program to develop a community-based child care program available to children ages 6 to 15. The pilot shall explore the ability to leverage child care funding by implementation of the SMART moves program, and with matching funds provided by the alliance. The pilot shall be funded through families selecting the program as their provider under the department's child day care programs, and through community-based matching funds.

JUVENILE JUSTICE SERVICES

Juvenile accountability incentive block grant.

Sec. 701. The department shall expend a portion of the federal juvenile accountability incentive block grant to support the boot camp program. The remainder of the state allocation of the juvenile accountability incentive block grant shall be used to provide funding to enable juvenile courts, juvenile probation offices, and community-based programs to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism, treating substance abuse problems, and developing community-based alternatives for female offenders and the following:

(a) To better address gang, drug, and youth violence.

(b) For training, equipment, and technology.

(c) For the establishment of programs that protect students and school personnel from drug, gang, and youth violence.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Juvenile justice services; facility expansion.

Sec. 702. Expansion of facilities funded under part 1 for juvenile justice services shall not be authorized by the joint capital outlay subcommittee of the appropriations committees until the department has held a public hearing in the community where the facility proposed to be expanded is located.

Placement of juvenile in maximum security program; leaving property prohibited; exception.

Sec. 703. A juvenile adjudicated and placed in a state-operated maximum security program funded under part 1 for juvenile justice services shall not be allowed to leave the property of the maximum security facility at which the program is located except when required to leave the property for medical treatment, court appearances, or other good cause approved by the facility director. For purposes of this section, "juvenile" means that term as defined in section 115n of the social welfare act, 1939 PA 280, MCL 400.115n.

Juvenile justice services; location of new facilities; restriction.

Sec. 704. New facilities funded under part 1 for juvenile justice services shall not be located within 1,500 feet of property in use for a K-12 educational program.

W.J. Maxey facility; report; treatment.

Sec. 705. (1) The department shall report on the W.J. Maxey facility to the house and senate appropriations subcommittees on the family independence agency budget as part of their annual budget presentation. The report shall include the following:

(a) Population reintegration goals for juvenile justice wards including, but not limited to, the categorization of positive outcomes and recidivism by age and incarceration type.

(b) Facility media policy to ensure reinforcement and consistency with treatment plans and desired ward outcomes.

(c) Staff and resident safety.

(d) Outcome based service and treatment program plan for wards who are sex offenders or substance abusers.

(e) Facility procedure following traumatic campus occurrences such as, but not limited to, violent and sexual assaults.

(f) Quality control process for resident service and release plans.

(2) The department shall ensure that all juveniles coming into care receive an assessment that includes a review of dysfunctional behavior in adolescents. In addition, the department shall ensure that all treatment addresses:

(a) Dysfunctional family practices, such as substance abuse and domestic violence.

(b) Sexual harassment and gender bias.

(c) Cultural and ethnic sensitivity.

Detention services programs.

Sec. 706. Counties shall be subject to 50% charge back for the use of alternative regional detention services, if those detention services do not fall under the basic provision of section 117e of the social welfare act, 1939 PA 280, MCL 400.117e, or if a county operates those detention services programs primarily with professional rather than volunteer staff.

Reimbursement for child care fund expenditures; reporting requirements.

Sec. 707. In order to be reimbursed for child care fund expenditures, counties are required to submit department developed reports to enable the department to document potential federally claimable expenditures. This requirement is in accordance with the reporting requirements specified in section 117a(7) of the social welfare act, 1939 PA 280, MCL 400.117a.

School aid funds for education services.

Sec. 708. It is the intent of the legislature that the department work with the department of education and all other state and local agencies necessary to ensure funding through the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, to educate pupils assigned by a court or the family independence agency to reside in a state-operated juvenile detention or treatment facility. Daily per diem rates for state-operated juvenile detention and treatment facilities shall reflect savings due to the use of school aid funds for education services.

Service spending plan.

Sec. 709. As a condition of receiving funds appropriated in part 1 for the child care fund, by February 15, 2003, counties shall have an approved service spending plan for the fiscal year ending September 30, 2003. Counties must submit the service spending plan to the department by December 15, 2002 for approval.

Sec. 710. From the funds appropriated in part 1 for juvenile justice services, the department shall continue contracts for county juvenile justice day treatment programs.

Auditor general report of noncompliance by department.

Sec. 712. Not more than 30 days after receiving a published report from the office of auditor general that states that the department has not complied with state or federal law, rule, or regulation, the department shall provide a report to the house and senate committees having jurisdiction over the family independence agency. The report shall state the reason for the noncompliance, a corrective action plan to bring the department into compliance, and the time frame for implementing and executing the plan.

Mental health and substance abuse treatment; cooperative work with other departments.

Sec. 713. (1) The department shall work cooperatively with judiciary and with the departments of community health and career development to coordinate and improve the delivery of mental health and substance abuse treatment and education and training services to individuals leaving the juvenile justice system, especially those aging out of the system identified as continuing to pose a serious risk to themselves or others.

(2) As required by section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, juveniles committed to an institution operated by the department shall receive medical, dental, surgical, or other health care as necessary. The Medicaid reimbursable rate scale shall be used as the standard for allowable charges for services rendered. The family independence agency shall reimburse providers for the actual charges less than or equal to the Medicaid reimbursable rate scale for each service provided.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Information networks.

Sec. 714. (1) The family independence agency shall provide technical assistance for counties to develop information networks including, but not limited to, serious habitual offenders comprehensive action program (SHOCAP), juvenile justice on-line technology (JJOLT), and juvenile violent reporting system (JVRS).

(2) The department shall assist counties in identifying funding sources for the networks, including, but not limited to, the child care fund and the juvenile accountability incentive block grant.

(3) The local units of government shall report to the department on expenditures of their juvenile justice information networks in concert with their requests for reimbursement from the child care fund.

(4) The department shall provide during budget deliberation hearings the compilation of reports from the local units of government.

Juvenile justice system; primary function; early intervention initiatives.

Sec. 715. (1) It is the intent of the legislature that the primary function of the juvenile justice system shall be to promote the protection of individuals and communities through the reduction of juvenile crime.

(2) Based on the recommendations of the 2001 joint house and senate task force on juvenile justice, the family independence agency shall present the early intervention initiatives demonstrating the principles at the annual balanced and restorative justice conference in May 2003. The early intervention shall include, but not be limited to, the following:

(a) Mentoring programs that focus on improving communication and collaboration, encourage quality mentoring programs, recruitment of mentors, and increasing public awareness of and participation in programs for at-risk youth.

(b) Discussion of programs relating to juvenile information networks as an Internet-based communication tool that assists with case management of juvenile offenders in the area.

(c) Discussion of the possibility of implementing a program modeled after the "Wisconsin citizenship initiative" to collaborate with the before- or after-school programs offered under the authority of this act.

(d) Exploration of the option of a summit conducted via the Internet to discuss measures relating to the prevention and intervention of at-risk youth.

(e) Discussion of California's "8% early intervention" program that focuses on aggressive early intervention and treatment of young, high at-risk juvenile offenders and their families.

(f) Multisystem therapy.

(g) Youth service projects.

(h) Community services projects.

(i) A report on the initiatives discussed at the balanced and restorative justice conference described in this section will be given to the senate and house appropriations subcommittees on the family independence agency budget, the senate and house standing committees dealing with human services, the senate and house fiscal agencies, and the policy offices no later than September 30, 2003.

DISABILITY DETERMINATION SERVICES

Medical disability retirement.

Sec. 801. The family independence agency disability determination services in agreement with the department of management and budget office of retirement systems will develop the medical information and determine eligibility of medical disability retirement for state employees, state police, judges, and school teachers.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 530]

(HB 4373)

AN ACT to make, supplement, and adjust appropriations for capital outlay and certain state departments and agencies for the fiscal year ending September 30, 2002 and fiscal year ending September 30, 2003; to implement the appropriations within the budgetary process; to authorize certain land transfers; to provide for the expenditure of appropriations; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS
FISCAL YEAR 2001-2002

Appropriation; fiscal year ending September 30, 2002; capital outlay.

Sec. 101. There is appropriated for capital outlay and for certain state departments and agencies for the fiscal year ending September 30, 2002, from the following funds:

APPROPRIATION SUMMARY:

Full-time equated positions	0.0	
GROSS APPROPRIATION	$	1,021,747,225
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		307,000
ADJUSTED GROSS APPROPRIATION	$	1,021,440,225
Federal revenues:		
Total federal revenues		676,509,800
Special revenue funds:		
Total local revenues		121,458,500
Total private revenues		230,000
Total other state restricted revenues		291,290,600
State general fund/general purpose	$	(68,048,675)

Department of agriculture.

Sec. 102. DEPARTMENT OF AGRICULTURE
(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	235,000

		For Fiscal Year Ending Sept. 30, 2002
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers	$	0
ADJUSTED GROSS APPROPRIATION	$	235,000
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	235,000
(2) ANIMAL INDUSTRY		
Indemnification payments	$	235,000
GROSS APPROPRIATION	$	235,000
Appropriated from:		
State general fund/general purpose	$	235,000

Capital outlay.

Sec. 103. CAPITAL OUTLAY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	96,773,300
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	96,773,300
Total federal revenues		70,235,000
Total local revenues		15,000,000
Total private revenues		230,000
Total state restricted revenues		20,525,000
State general fund/general purpose	$	(9,216,700)
(2) DEPARTMENT OF AGRICULTURE		
Farmland and open space development acquisition	$	2,000,000
GROSS APPROPRIATION	$	2,000,000
Appropriated from:		
Federal revenues:		
DAG, multiple grants		2,000,000
State general fund/general purpose	$	0
(3) STATE BUILDING AUTHORITY FINANCED CONSTRUCTION PROJECTS		
Department of corrections - 336 bed housing unit and replacement food service building at Camp Brighton, for design and construction (total authorized cost $10,750,000; state building authority share $3,675,000; federal share $7,075,000)	$	7,075,000
Kellogg Community College - career development center/science building renovations, for design and construction (total authorized cost $3,750,000; state building authority share $1,874,800; Kellogg Community College share $1,875,000; state general fund share $200)		100
Mid Michigan Community College - student assessment center, for design and construction (total authorized cost $3,165,000; state building authority share $1,582,300; Mid Michigan Community College share $1,582,500; state general fund share $200)		100

	For Fiscal Year Ending Sept. 30, 2002
Monroe County Community College - instructional center for business training and performing arts building, for design and construction (total authorized cost $12,000,000; state building authority share $5,999,800; Monroe County Community College share $6,000,000; state general fund share $200)	$ 100
Washtenaw Community College - plumbers and pipefitters building, for design and construction (total authorized cost $4,000,000; state building authority share $1,999,800; Washtenaw Community College share $2,000,000; state general fund share $200)	100
St. Clair Community College - general campus renovations project, authorized for planning in 2000 PA 291, for final design and construction (total authorized cost $13,000,000; state building authority share $6,499,800; St. Clair Community College share $6,500,000; state general fund share $200)	100
University of Michigan-Dearborn - Hubbard Drive professional training and education building acquisition/engineering and science building renovations; phase I, building acquisition (total authorized cost $32,800,000; state building authority share $24,599,800; University of Michigan-Dearborn share $8,200,000; state general fund share $200); phase II, engineering and science building renovations (total authorized cost $22,200,000; state building authority share $16,650,000; University of Michigan-Dearborn share $5,550,000; state general fund share $0)	100
GROSS APPROPRIATION	$ 7,075,600
Appropriated from:	
Federal revenues:	
DOJ, violent offender incarceration - truth-in-sentencing	7,075,000
State general fund/general purpose	$ 600
(4) DEPARTMENT OF MILITARY AFFAIRS	
Lump-sum projects:	
For department of military affairs remodeling and additions and special maintenance projects	$ 2,415,000
Jackson armory replacement (total project cost $10,000,000; federal share $7,500,000; state share $2,500,000)	10,000,000
Calumet armory replacement (total project cost $5,500,000; federal share $4,125,000; state share $1,375,000)	5,500,000
Grand Ledge armory airfleet support facility (total project cost $1,500,000; federal share $1,500,000)	1,500,000
Lansing combined maintenance shop - originally appropriated in PA 114 of 1997, to increase the total authorized cost (total authorized cost is increased from $18,500,000 to $24,500,000; federal share is increased from $18,100,000 to $23,950,000; state armory construction fund share is increased from $400,000 to $550,000)	6,000,000
GROSS APPROPRIATION	$ 25,415,000

		For Fiscal Year Ending Sept. 30, 2002
Appropriated from:		
Federal revenues:		
DOD, department of the army, national guard bureau	$	21,160,000
Private revenues:		
Northern Michigan law enforcement training group		230,000
Special revenue funds:		
Armory construction fund		4,025,000
State general fund/general purpose	$	0
(5) DEPARTMENT OF NATURAL RESOURCES		
(a) STATE PARKS		
State parks infrastructure - Sterling state park	$	15,500,000
GROSS APPROPRIATION	$	15,500,000
Appropriated from:		
Special revenue funds:		
State park improvement revenue bonds		15,500,000
State general fund/general purpose	$	0
(b) FISHERIES		
Fisheries research vessels		1,000,000
GROSS APPROPRIATION	$	1,000,000
Appropriated from:		
Special revenue funds:		
Game and fish protection fund		1,000,000
State general fund/general purpose	$	0
(6) DEPARTMENT OF TRANSPORTATION AERONAUTICS FUND: AIRPORT PROGRAMS		
Airport safety and protection plan	$	55,000,000
GROSS APPROPRIATION	$	55,000,000
Appropriated from:		
Federal revenues:		
DOT, federal aviation administration	$	40,000,000
Special revenue funds:		
Local aeronautics match		15,000,000
State general fund/general purpose	$	0
(7) STATE BUILDING AUTHORITY RENT		
State building authority rent - state agencies	$	(3,057,300)
State building authority rent - department of corrections		(2,056,100)
State building authority rent - universities		(4,417,000)
State building authority rent - community colleges		313,100
GROSS APPROPRIATION	$	(9,217,300)
Appropriated from:		
State general fund/general purpose	$	(9,217,300)

Department of career development.

Sec. 104. DEPARTMENT OF CAREER DEVELOPMENT		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	161,080,000

		For Fiscal Year Ending Sept. 30, 2002
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	161,080,000
Federal revenues:		
Total federal revenues		167,000,000
Special revenue funds:		
State general fund/general purpose	$	(5,920,000)
(2) DEPARTMENT GRANTS		
Focus:HOPE	$	0
Glen Oaks Community College outreach center		80,000
Job training programs subgrantees		16,800,000
Welfare-to-work programs		136,200,000
Michigan virtual university long-distance learning		1,000,000
GROSS APPROPRIATION	$	154,080,000
Appropriated from:		
Federal revenues:		
Federal section 903(d), SSA funds		206,000,000
HHS, temporary assistance for needy families		(46,000,000)
Special revenue funds:		
State general fund/general purpose	$	(5,920,000)
(3) EMPLOYMENT SERVICE AGENCY		
Employment services	$	7,000,000
GROSS APPROPRIATION	$	7,000,000
Appropriated from:		
Federal revenues:		
Federal section 903(d), SSA funds		7,000,000
Special revenue funds:		
State general fund/general purpose	$	0

Community colleges.

Sec. 105. COMMUNITY COLLEGES		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	66,000
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	66,000
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	66,000
(2) GRANTS		
Renaissance zone tax reimbursement funding	$	66,000
GROSS APPROPRIATION	$	66,000

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2002
Appropriated from:		
State general fund/general purpose	$	66,000

Department of community health.

Sec. 106. DEPARTMENT OF COMMUNITY HEALTH

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	544,209,600
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	544,209,600
Federal revenues:		
Total federal revenues		281,979,100
Special revenue funds:		
Total local revenues		106,458,500
Total private revenues	$	0
Total other state restricted revenues		218,214,000
State general fund/general purpose	$	(62,442,000)
(2) COMMUNITY MENTAL HEALTH/SUBSTANCE ABUSE SERVICES PROGRAMS		
Medicaid mental health services	$	15,731,500
GROSS APPROPRIATION	$	15,731,500
Appropriated from:		
Federal revenues:		
Total federal revenues		8,864,700
Special revenue funds:		
State general fund/general purpose	$	6,866,800
(3) EPIDEMIOLOGY		
Bioterrorism preparedness	$	31,200,000
GROSS APPROPRIATION	$	31,200,000
Appropriated from:		
Federal revenues:		
Total federal revenues	$	31,200,000
Special revenue funds:		
State general fund/general purpose	$	0
(4) COMMUNITY LIVING, CHILDREN, AND FAMILIES		
Local MCH	$	4,214,000
GROSS APPROPRIATION	$	4,214,000
Appropriated from:		
Special revenue funds:		
Total other state restricted revenues		4,214,000
State general fund/general purpose	$	0
(5) CHILDREN'S SPECIAL HEALTH CARE SERVICES		
Medical care and treatment	$	28,951,000
GROSS APPROPRIATION	$	28,951,000
Appropriated from:		
Federal revenues:		
Total federal revenues		14,186,000

		For Fiscal Year Ending Sept. 30, 2002
Special revenue funds:		
State general fund/general purpose	$	14,765,000
(6) MEDICAL SERVICES		
Hospital services and therapy	$	3,519,400
Physician services		29,384,000
Medicare premium payments		9,594,000
Pharmaceutical services		(31,970,300)
Home health services		(1,108,000)
Transportation		1,147,000
Auxiliary medical services		5,492,000
Long-term care services		78,445,600
Health plan services		186,563,000
Adult home help		8,089,200
Subtotal basic medical services program		289,155,900
State and local medical programs		8,498,700
Special adjustor payments		166,458,500
Subtotal special medical services payments		174,957,200
GROSS APPROPRIATION	$	464,113,100
Appropriated from:		
Federal revenues:		
Total federal revenues		227,728,400
Special revenue funds:		
Total local revenues		106,458,500
Total other state restricted revenues		214,000,000
State general fund/general purpose	$	(84,073,800)

Department of consumer and industry services.

Sec. 107. DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	65,000,000
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	65,000,000
Federal revenues:		
Total federal revenues		75,000,000
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		(10,000,000)
State general fund/general purpose	$	0
(2) BUREAU OF WORKER'S AND UNEMPLOYMENT COMPENSATION		
Unemployment programs	$	65,000,000
GROSS APPROPRIATION	$	65,000,000
Appropriated from:		
Federal revenues:		
Federal section 903(d), SSA funds		75,000,000

		For Fiscal Year Ending Sept. 30, 2002
Special revenue funds:		
Contingent fund, penalty and interest account	$	(10,000,000)
State general fund/general purpose	$	0

Department of corrections.

Sec. 108. DEPARTMENT OF CORRECTIONS

(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	4,500,000
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	4,500,000
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		4,500,000
State general fund/general purpose	$	0

(2) COMMUNITY CORRECTIONS

County jail reimbursement program	$	4,500,000
GROSS APPROPRIATION	$	4,500,000
Appropriated from:		
Special revenue funds:		
State restricted revenues and reimbursements		4,500,000
State general fund/general purpose	$	0

Department of education.

Sec. 109. DEPARTMENT OF EDUCATION

(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	24,377,000
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	24,377,000
Federal revenues:		
Total federal revenues		24,011,900
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	365,100

(2) FIELD SERVICES

Field services operations		53,000
GROSS APPROPRIATION	$	53,000
Appropriated from:		
Federal revenues:		
Total federal revenues		53,000
Special revenue funds:		
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2002
(3) OFFICE OF SCHOOL EXCELLENCE		
School excellence operations	$	597,000
GROSS APPROPRIATION	$	597,000
Appropriated from:		
Federal revenues:		
Total federal revenues		597,000
Special revenue funds:		
State general fund/general purpose	$	0
(4) GRANTS AND DISTRIBUTIONS		
FEDERAL PROGRAMS:		
Reading first state grants	$	5,700,000
Improving teacher quality grants		16,500,000
Language acquisition grants		1,161,900
STATE PROGRAMS:		
School breakfast programs	$	365,100
GROSS APPROPRIATION	$	23,727,000
Appropriated from:		
Federal revenues:		
Total federal revenues		23,361,900
Special revenue funds:		
State general fund/general purpose	$	365,100

Department of environmental quality.

Sec. 110. DEPARTMENT OF ENVIRONMENTAL QUALITY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	19,315,100
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	19,315,100
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		19,315,100
State general fund/general purpose	$	0
(2) DEPARTMENT SUPPORT SERVICES		
State sites cleanup	$	965,100
GROSS APPROPRIATION	$	965,100
Appropriated from:		
Special revenue funds:		
State site cleanup fund		965,100
State general fund/general purpose	$	0
(3) SURFACE WATER QUALITY		
Surface water surveillance program	$	3,350,000
GROSS APPROPRIATION	$	3,350,000
Appropriated from:		
Special revenue funds:		
Environmental response fund		3,350,000
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2002
(4) ENVIRONMENTAL RESPONSE		
Environmental cleanup and redevelopment program	$	11,049,800
Contaminated site investigations, cleanup, and revitalization		3,399,800
State cleanup (part 201 of 1994 PA 451)		550,400
GROSS APPROPRIATION	$	15,000,000
Appropriated from:		
Special revenue funds:		
Environmental protection fund		15,000,000
State general fund/general purpose	$	0

Family independence agency.

Sec. 111. FAMILY INDEPENDENCE AGENCY		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	41,050,500
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	41,050,500
Federal revenues:		
Total federal revenues		20,000,000
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		6,050,500
State general fund/general purpose	$	15,000,000
(2) EXECUTIVE OPERATIONS		
Child support automation	$	6,050,500
GROSS APPROPRIATION	$	6,050,500
Appropriated from:		
Special revenue funds:		
Total other state restricted revenue		6,050,500
State general fund/general purpose	$	0
(3) PUBLIC ASSISTANCE		
Family independence program	$	15,000,000
Homestead property tax credit for low-income families		20,000,000
GROSS APPROPRIATION	$	35,000,000
Appropriated from:		
Federal revenues:		
Total federal revenues		20,000,000
State general fund/general purpose	$	15,000,000

Higher education.

Sec. 112. HIGHER EDUCATION		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	9,200,000
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	9,200,000

		For Fiscal Year Ending Sept. 30, 2002
Federal revenues:		
Total federal revenues	$	0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		9,200,000
State general fund/general purpose	$	0
(2) GRANTS AND FINANCIAL AID		
Michigan merit award program	$	9,200,000
GROSS APPROPRIATION	$	9,200,000
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		9,200,000
State general fund/general purpose	$	0

History, arts, and libraries.

Sec. 113. HISTORY, ARTS, AND LIBRARIES

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	3,211,500
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	3,211,500
Federal revenues:		
Total federal revenues		3,000,000
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	211,500
(2) LIBRARY OF MICHIGAN		
Federal aid to libraries	$	2,000,000
Grant to Detroit public library		935,200
Grand Rapids public library		64,800
Renaissance zone reimbursement		211,500
GROSS APPROPRIATION	$	3,211,500
Appropriated from:		
Federal revenues:		
Federal section 903(d), SSA funds		3,000,000
State general fund/general purpose	$	211,500

Department of military and veterans affairs.

Sec. 115. DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	891,625
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	891,625

		For Fiscal Year Ending Sept. 30, 2002
Federal revenues:		
Total federal revenues	$	585,000
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	306,625
(2) GRAND RAPIDS VETERAN'S HOME		
Grand Rapids veteran's home	$	0
GROSS APPROPRIATION	$	0
Appropriated from:		
Federal revenues:		
HHS-CMS, title XIX, Medicaid		500,000
HHS-HCFA, Medicare, hospital insurance		85,000
Special revenue funds:		
State general fund/general purpose	$	(585,000)
(3) VETERANS SERVICE ORGANIZATIONS		
American legion	$	120,800
Disabled American veterans		99,800
Marine corps league		252,225
American veterans of World War II and Korea		63,400
Veterans of foreign wars		120,800
Michigan paralyzed veterans of America		22,600
Purple heart		118,425
Veterans of World War I		100
Polish legion of American veterans		30,900
Jewish veterans of America		30,900
State of Michigan council Vietnam veterans of America		21,700
Catholic war veterans		9,975
GROSS APPROPRIATION	$	891,625
Appropriated from:		
State general fund/general purpose	$	891,625

Department of natural resources.

Sec. 116. DEPARTMENT OF NATURAL RESOURCES

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	2,944,700
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	2,944,700
Federal revenues:		
Total federal revenues		(120,000)
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		3,064,700
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2002
(2) FOREST, MINERAL, AND FIRE MANAGEMENT		
Timber harvest	$	1,042,900
GROSS APPROPRIATION	$	1,042,900
Appropriated from:		
Special revenue funds:		
Forest resource revenue		1,042,900
State general fund/general purpose	$	0
(3) GRANTS		
National recreational trails	$	(120,000)
Grant to counties—marine safety		2,021,800
GROSS APPROPRIATION	$	1,901,800
Appropriated from:		
Federal revenues:		
DOT, federal		(120,000)
Special revenue funds:		
Marine safety fund		2,021,800
State general fund/general purpose	$	0

Department of state.

Sec. 117. DEPARTMENT OF STATE		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	95,800
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	95,800
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	95,800
(2) ELECTION REGULATION		
City of Flint mayoral election expenses	$	15,800
Election administration and services		80,000
GROSS APPROPRIATION	$	95,800
Appropriated from:		
Special revenue funds:		
State general fund/general purpose	$	95,800

Department of state police.

Sec. 118. DEPARTMENT OF STATE POLICE		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	7,844,700
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		307,000

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2002
ADJUSTED GROSS APPROPRIATION	$	7,537,700
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total state restricted revenues		6,287,700
State general fund/general purpose	$	1,250,000
(2) DEPARTMENTWIDE APPROPRIATIONS		
Court judgments	$	1,250,000
GROSS APPROPRIATION	$	1,250,000
Appropriated from:		
State general fund/general purpose	$	1,250,000
(3) HIGHWAY SAFETY PLANNING		
Secondary road patrol and traffic accident basic grants	$	4,500,000
GROSS APPROPRIATION	$	4,500,000
Appropriated from:		
Special revenue funds:		
Secondary road patrol and training fund		4,500,000
State general fund/general purpose	$	0
(4) FORENSIC SCIENCES		
Laboratory operations	$	585,000
DNA analysis program		400,000
GROSS APPROPRIATION	$	985,000
Appropriated from:		
Special revenue funds:		
Forensic science reimbursement fees		400,000
State forensic laboratory fund		585,000
State general fund/general purpose	$	0
(5) UNIFORM SERVICES		
Reimbursed services	$	770,000
GROSS APPROPRIATION	$	770,000
Appropriated from:		
Special revenue funds:		
State police service fees	$	770,000
State general fund/general purpose	$	0
(6) MOTOR CARRIER ENFORCEMENT		
Truck safety enforcement team operations	$	307,000
Safety projects		32,700
GROSS APPROPRIATION	$	339,700
Appropriated from:		
Interdepartmental grant revenues:		
IDT, truck safety fund		307,000
Special revenue funds:		
Motor carrier fees		32,700
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2002
State school aid appropriation.		
Sec. 119. STATE SCHOOL AID APPROPRIATION		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	3,500,000
ADJUSTED GROSS APPROPRIATION	$	3,500,000
Total federal revenues	$	0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		3,500,000
State general fund/general purpose	$	0
(2) DECLINING ENROLLMENT GRANTS		
Declining enrollment grants	$	3,500,000
GROSS APPROPRIATION	$	3,500,000
Appropriated from:		
Special revenue funds:		
State school aid fund		3,500,000
State general fund/general purpose	$	0
Department of transportation.		
Sec. 120. DEPARTMENT OF TRANSPORTATION		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	34,753,600
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	34,753,600
Federal revenues:		
Total federal revenues		24,120,000
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		10,633,600
State general fund/general purpose	$	0
(2) ROAD AND BRIDGE PROGRAMS		
State trunkline federal aid and road and bridge construction	$	6,000,000
Old 27 North - Whitemarsh project		120,000
Local federal aid and road and bridge construction		18,000,000
GROSS APPROPRIATION	$	24,120,000
Appropriated from:		
Federal revenues:		
DOT-FHWA, highway research, planning, and construction		24,000,000
DOT, federal		120,000
Special revenue funds:		
State general fund/general purpose	$	0

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2002
(3) BUS TRANSIT DIVISION: STATUTORY OPERATING		
Local bus operating	$	4,247,300
Bus capital		764,000
GROSS APPROPRIATION	$	5,011,300
Appropriated from:		
Special revenue funds:		
Comprehensive transportation fund		5,011,300
State general fund/general purpose	$	0
(4) INTERCITY PASSENGER AND FREIGHT		
Freight preservation and development	$	5,432,300
GROSS APPROPRIATION	$	5,432,300
Appropriated from:		
Special revenue funds:		
Comprehensive transportation fund		5,432,300
State general fund/general purpose	$	0
(5) PUBLIC TRANSPORTATION DEVELOPMENT		
Specialized services	$	190,000
GROSS APPROPRIATION	$	190,000
Appropriated from:		
Special revenue funds:		
Comprehensive transportation fund		190,000
State general fund/general purpose	$	0

Department of treasury.

Sec. 121. DEPARTMENT OF TREASURY		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	2,698,800
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	2,698,800
Federal revenues:		
Total federal revenues		10,698,800
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	(8,000,000)
(2) DEBT SERVICE		
School bond loan fund debt service payments	$	(9,000,000)
GROSS APPROPRIATION	$	(9,000,000)
Appropriated from:		
Special revenue funds:		
State general fund/general purpose	$	(9,000,000)
(3) FINANCIAL PROGRAMS		
Michigan merit award board/MEAP administration	$	10,698,800
GROSS APPROPRIATION	$	10,698,800

		For Fiscal Year Ending Sept. 30, 2002
Appropriated from:		
Federal revenues:		
DED-OESE, grants for federal assessments	$	10,698,800
State general fund/general purpose	$	0
(4) GRANTS		
Senior citizen cooperative housing tax exemption program	$	1,000,000
GROSS APPROPRIATION	$	1,000,000
Appropriated from:		
State general fund/general purpose	$	1,000,000

PART 1A

LINE-ITEM APPROPRIATIONS
FISCAL YEAR 2002-2003

Appropriation; fiscal year ending September 30, 2003; capital outlay.

Sec. 151. There is appropriated for capital outlay and for certain state departments and agencies for the fiscal year ending September 30, 2003, from the following funds:

APPROPRIATION SUMMARY:		
GROSS APPROPRIATION	$	(59,200,000)
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	(59,200,000)
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		(50,000,000)
State general fund/general purpose	$	(9,200,000)

Capital outlay.

Sec. 152. CAPITAL OUTLAY		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	(9,200,000)
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	(9,200,000)
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total state restricted revenues		0
State general fund/general purpose	$	(9,200,000)

		For Fiscal Year Ending Sept. 30, 2003
(2) DEPARTMENT OF MANAGEMENT AND BUDGET		
Major special maintenance and remodeling for department of community health	$	(500,000)
Major special maintenance and remodeling for department of corrections		(2,077,700)
Major special maintenance and remodeling for department of management and budget		(712,500)
Major special maintenance and remodeling for department of state police		(256,300)
Major special maintenance and remodeling for family independence agency		(550,000)
Major special maintenance and remodeling for department of management and budget - statewide emergency special maintenance		2,116,200
GROSS APPROPRIATION	$	(1,980,300)
Appropriated from:		
State general fund/general purpose	$	(1,980,300)
(3) DEPARTMENT OF MILITARY AND VETERANS AFFAIRS		
For department of military affairs remodeling and additions and special maintenance projects	$	(1,219,700)
GROSS APPROPRIATION	$	(1,219,700)
Appropriated from:		
State general fund/general purpose	$	(1,219,700)
(4) DEPARTMENT OF TRANSPORTATION		
Northwest airlines midfield terminal project	$	(6,000,000)
GROSS APPROPRIATION	$	(6,000,000)
Appropriated from:		
State general fund/general purpose	$	(6,000,000)

Higher education.

Sec. 153. HIGHER EDUCATION

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	(50,000,000)
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	(50,000,000)
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total state restricted revenues		(50,000,000)
State general fund/general purpose	$	0
(2) GRANTS AND FINANCIAL AID		
Michigan merit award program	$	(50,000,000)
GROSS APPROPRIATION	$	(50,000,000)
Appropriated from:		
Michigan merit award trust fund	$	(50,000,000)
State general fund/general purpose	$	0

PART 2

PROVISIONS CONCERNING APPROPRIATIONS
FISCAL YEAR 2001-2002

GENERAL SECTIONS

Total state spending; payment to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending in part 1 from state sources for fiscal year 2001-02 is estimated at $223,241,925.00 in this act and state spending from state sources paid to local units of government for fiscal year 2001-02 is as follows:

CAREER DEVELOPMENT		
Glen Oaks Community College outreach center	$	80,000
COMMUNITY COLLEGES		
Renaissance zone tax reimbursement program	$	66,000
EDUCATION		
School breakfast program	$	365,100
HISTORY, ARTS, AND LIBRARIES		
Renaissance zone tax reimbursement program	$	211,500
SCHOOL AID		
Declining enrollment grants	$	3,500,000
STATE		
City of Flint mayoral election expenses	$	15,800
STATE POLICE		
Secondary road patrol and traffic accident basic grants	$	4,500,000
TRANSPORTATION		
Comprehensive transportation fund: local bus operating	$	3,247,300
TREASURY		
Senior citizen cooperative housing tax exemption program	$	1,000,000
TOTAL	$	12,985,700

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Sec. 204. For the fiscal year ending September 30, 2002, all general fund/general purpose unreserved balances at the final close of the fiscal year, excluding the $79,500,000.00 received by the general fund pursuant to a transfer from the contingent fund under the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.1 to 421.75, on June 30,

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2002, are appropriated and shall be transferred to the countercyclical budget and economic stabilization fund pursuant to section 354(4) of the management and budget act, 1984 PA 431, MCL 18.1354.

ATTORNEY GENERAL

Litigation expense reimbursement awards; expenditure of funds.

Sec. 301. In addition to the funds appropriated in 2001 PA 83, there is appropriated up to $500,000.00 from litigation expense reimbursements awarded to the state. The funds may be expended for the payment of attorney fees assessed against the governor or the attorney general when acting in an official capacity as the named party in litigation against the state. The funds may also be expended for the payment of state costs incurred under section 16 of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.16. Unexpended funds at the end of the fiscal year are carried forward for expenditure in the following year, up to a maximum authorization of $500,000.00.

CAPITAL OUTLAY

Correctional facility projects.

Sec. 401. (1) The following project costs are adjusted as indicated for correctional facility projects authorized by 1998 PA 273:

(a) For Florence Crane correctional facility, the total project cost is decreased from $5,000,000.00 to $4,565,000.00. The state building authority share is reduced from $4,960,000.00 to $4,525,000.00; the state general fund share remains the same.

(b) For Macomb correctional facility, the total project cost is decreased from $9,600,000.00 to $9,550,000.00. The state building authority share is reduced from $9,527,000.00 to $9,477,000.00; the state general fund share remains the same.

(c) For Camp Pugsley, the total project cost is decreased from $22,100,000.00 to $20,600,000.00. The state building authority share is reduced from $21,820,000.00 to $20,320,000.00; the state general fund share remains the same.

(d) For Thumb correctional facility, the total project cost is decreased from $8,400,000.00 to $8,050,000.00. The state building authority share is reduced from $8,322,000.00 to $7,972,000.00; the state general fund share remains the same.

(e) For Cooper Street new housing unit, the total project cost is decreased from $4,287,000.00 to $3,700,000.00. The state building authority share is reduced from $4,287,000.00 to $3,700,000.00; the state general fund share remains the same.

(f) For Parnall new housing unit, the total project cost is decreased from $5,713,000.00 to $4,960,000.00. The state building authority share is reduced from $5,713,000.00 to $4,960,000.00; the state general fund share remains the same.

(2) From the reduced state building authority authorizations in subsection (1) totaling $3,675,000.00, that authorization is provided in part 1 for the design and construction of a 336-bed housing unit and replacement food service building at Camp Brighton.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Debt service reserve; establishment.

Sec. 402. The $15,500,000.00 appropriation for state park infrastructure includes bond proceeds in an amount not to exceed $1,500,000.00 to establish a debt service reserve for costs associated with bond issuance.

Department of natural resources - waterways boating program; project financing.

Sec. 403. Project financing is adjusted for the following department of natural resources - waterways boating program project authorized by 1998 PA 538: Ottawa County, Harbor Island launch: the total project cost remains $927,000.00, the Michigan state waterways fund share of this project is increased from $1,550.00 to $695,300.00, and the federal fund share is reduced from $693,750.00 to $0.00.

Oak Park armory sale; deposit of proceeds into armory construction fund.

Sec. 404. The appropriations in part 1 for the Jackson and Calumet armory replacement projects are contingent on the sale of the Oak Park armory. Proceeds from the Oak Park armory sale are to be deposited into the armory construction fund.

Game, fish, and fur laws; purchase of fishing research vessels for use in enforcement and administration.

Sec. 405. The department of natural resources may transfer $1,000,000.00 from the wildlife resource protection fund to the game and fish protection fund for the purchase of fishing research vessels to be used in the enforcement and administration of the game, fish, and fur laws of the state.

Disposal of certain department of corrections buildings.

Sec. 406. The department of management and budget may demolish, dismantle, or otherwise dispose of the following department of corrections buildings: building 27 at Muskegon correctional facility, Braver building at Ryan correctional facility, buildings 163, 164, and 165 at Cotton correctional facility, all facilities at Camp Waterloo, buildings 9, 10, 21, 22, and 41 at Crane-Lakeland correctional facility, building 22 at Cassidy Lake correctional facility, buildings 12, 13, 16, 29, 71, 72, 73, 76, 80, 82, and 90 at Michigan reformatory, buildings 20, 35, 47, 68, 83, 101, and 102 at Marquette branch prison, building 34 at Jackson maximum correctional facility, building 155 at Charles Egeler correctional facility, buildings 46 and 47 at Huron Valley men's correctional facility, building 8 at Camp Lehman, and buildings 16 and 17 at Michigan training unit.

Career development center/science building renovation project.

Sec. 407. The planning authorization for the Kellogg Community College - West Michigan center for manufacturing and research, authorized in 2000 PA 291, is changed to the career development center/science building renovation project.

Farmland and open space development acquisition; use of funds.

Sec. 408. Of the amounts appropriated in part 1 and 2001 PA 45 for farmland and open space development acquisition, the funds shall be used for the purchase of development rights and the awarding of grants by the agriculture preservation fund board, as provided in sections 36111 and 36202 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36111 and 324.36202.

University of Michigan - Dearborn building acquisition/engineering and science building renovations.

Sec. 410. (1) From the funds appropriated in part 1 for the University of Michigan-Dearborn - Hubbard Drive professional training and education building acquisition/engineering and science building renovations, the total authorized cost for the engineering and science building renovations (phase II), shall be increased from $22,200,000.00 to $35,000,000.00 (state building authority share increased from $16,650,000.00 to $26,249,900.00; University of Michigan-Dearborn share increased from $5,550,000.00 to $8,750,000.00; state general fund share remains $100.00) only if the building acquisition (phase I) does not occur.

(2) The University of Michigan-Dearborn shall notify the state budget director within 30 days if the university elects not to proceed with the building acquisition (phase I) as authorized in part 1.

(3) The program and schematic planning approval requirements for the building acquisition (phase I) are hereby waived. The project may proceed to acquisition, contingent upon the approval of the requirements of the state building authority.

(4) The engineering and science building renovations project (phase II) shall not move into final design and construction, until program and schematic planning documents are approved by the department and the joint capital outlay subcommittee.

Sec. 411. The total authorized cost in part 1 for the St. Clair County Community College general campus renovation project is $4,000,000.00 above that approved by the joint capital outlay subcommittee in order to include funds for the renovation of the North building.

Animal health diagnostic laboratory; operational cost analysis.

Sec. 412. By September 30, 2002, Michigan State University, in collaboration with the state departments of agriculture and natural resources, shall provide to the house and senate appropriations subcommittees on agriculture an operational cost analysis of the new animal health diagnostics laboratory.

CAREER DEVELOPMENT

Job training programs subgrantees as work project; carrying forward unencumbered or unallotted funds; compliance.

Sec. 420. The appropriation for job training programs subgrantees under section 903(d) of title IX of the social security act, chapter 531, 116 Stat. 31, 42 U.S.C. 1103, is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to support one-stop center operations and provide for facility and data system improvements in the one-stop centers.

(b) The work project will be accomplished through the use of grants.

(c) The total estimated completion cost of the work project is $23,800,000.00.

(d) The tentative completion date is September 30, 2004.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Welfare-to-work programs as work project; carrying forward unencumbered or unallotted funds; compliance.

Sec. 421. The appropriation for welfare-to-work programs under section 903(d) of title IX of the social security act, chapter 531, 116 Stat. 31, 42 U.S.C. 1103, is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to support job search and job readiness activities.

(b) The work project will be accomplished through the use of grants.

(c) The total estimated completion cost of the work project is $182,200,000.00.

(d) The tentative completion date is September 30, 2004.

Employment service agency as work project; carrying forward unencumbered or unallotted funds; compliance.

Sec. 422. The appropriation for employment service agency under section 903(d) of title IX of the social security act, chapter 531, 116 Stat. 31, 42 U.S.C. 1103, is a work project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to provide for a web-based career search portal, including business start-up assistance, and maintenance of job search databases and management information systems to improve customer service.

(b) The work project will be accomplished through the use of interagency agreements, state employees, and an agreement with Michigan virtual university.

(c) The total estimated completion cost of the work project is $7,000,000.00.

(d) The tentative completion date is September 30, 2004.

COMMUNITY HEALTH

Michigan public health preparedness and response to bioterrorism initiative; Michigan hospital preparedness plan; submission of reports.

Sec. 451. The department of community health shall provide to the chairpersons of the senate and house of representatives appropriations subcommittees on community health and to the senate and house fiscal agencies, as soon as possible, all of the following:

(a) Semiannual progress reports on the Michigan public health preparedness and response to bioterrorism initiative, including a detailed budget narrative.

(b) Copies of the needs assessment and implementation plan for the Michigan hospital preparedness plan upon completion by the department of community health, including a detailed budget narrative.

Medicaid mental health services; capitation rate increase.

Sec. 452. (1) The department of community health shall establish a separate contingency appropriations account, in an amount not to exceed $100,000,000.00. The sole purpose of this account shall be to provide funding for an increase in Medicaid capitation rates, payable to community mental health services programs, for Medicaid mental health services.

(2) In order to receive a capitation rate increase, a community mental health services program or an affiliation of community mental health services programs shall be required to provide, from internal resources, funds that can be used as a bona fide source for the state match required under the Medicaid program and be identifiable as local funds as reported in the June 2002 financial status report as the annual budget for Medicaid match. These funds shall not include either state funds received by a community mental health services program for services provided to non-Medicaid recipients or the state matching portion of the Medicaid capitation payments made to a community mental health services program.

(3) The distribution of the increase in the capitation payment rates described in subsections (1) and (2), if any, shall be based on a formula developed by a committee established within the department of community health, including representatives from community mental health services programs or affiliates of community mental health services programs and department staff.

(4) The Medicaid capitation rate increase distribution formula, developed by the committee specified in subsection (3), shall be based upon an analysis of recipient characteristics, comparative needs, actuarial trends, equitable adjustments between funding sources, and other relevant considerations. The committee may also recommend changes in community mental health non-Medicaid funding formula payments to community mental health services programs in conjunction with establishing the formula described in this section in order to maximize funding for all community mental health services programs. The committee shall report its findings to the senate and house appropriations subcommittees on community health.

(5) The enactment of this section shall not result in any increase in the local match or county match obligation above the level of funding for mental health services reported in the June 2002 financial status report as the annual budget for local match in fiscal year 2001-2002.

(6) This section shall not be implemented if it is found not to be in compliance with federal laws or regulations.

Increased hospital payments for medicaid services in certain geographic areas.

Sec. 454. The department may implement a program to make increased payments for Medicaid services to hospitals located in geographic areas where the nonfederal share of the Medicaid payment is obtained from local units of government. Any increase in payments specified in this section is contingent upon such payments not exceeding federal Medicaid upper payment limit requirements.

CONSUMER AND INDUSTRY SERVICES

Health maintenance organizations; copies of financial filings.

Sec. 501. The office of financial and insurance services shall provide copies of the quarterly and annual financial filings of health maintenance organizations to the senate and house fiscal agencies on a timely basis.

Unemployment programs as work project; carrying forward unencumbered or unallotted funds; compliance.

Sec. 502. The appropriation for unemployment programs under section 903(d) of title IX of the social security act, chapter 531, 116 Stat. 31, 42 U.S.C. 1103, is a work

project appropriation and any unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to provide for an Internet-based claim system, update computer software systems to improve customer service for unemployment claimants, and support for unemployment agency operations.

(b) The work project will be accomplished through the use of interagency agreements, state employees, and contracts.

(c) The total estimated completion cost of the work project is $75,000,000.00.

(d) The tentative completion date is September 30, 2004.

ENVIRONMENTAL QUALITY

State sites cleanup and surface water surveillance funds as work project; carrying forward unencumbered or unallotted funds; compliance.

Sec. 510. The unexpended portion of funds appropriated in part 1 for state sites cleanup and surface water surveillance is considered work project appropriations and any unencumbered or unallotted funds are carried forward into the succeeding fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the projects to be carried forward is to provide contaminated site cleanup.

(b) The projects will be accomplished by contract.

(c) The total estimated cost of all projects is identified in each line-item appropriation.

(d) The tentative completion date is September 30, 2006.

HISTORY, ARTS, AND LIBRARIES

Grants to certain libraries as work project; carrying forward unencumbered or unallotted funds; compliance.

Sec. 520. The appropriations for the grant to the Detroit public library, the Grand Rapids public library, and federal aid to libraries under section 903(d) of title IX of the social security act, chapter 531, 116 Stat. 31, 42 U.S.C. 1103, are work project appropriations and unencumbered or unallotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project is to provide libraries with computers and train library staff to assist claimants in accessing unemployment agency websites.

(b) The work project will be accomplished through the use of grants.

(c) The total estimated completion cost of the work project is $4,000,000.00.

(d) The tentative completion date is September 20, 2004.

MICHIGAN STRATEGIC FUND

Urban revitalization infrastructure program; economic development awards; Michigan core communities fund as work project.

Sec. 540. (1) The funding appropriated in part 1 of 2000 PA 291 for the Michigan core communities fund will be used to create an urban revitalization infrastructure program in the Michigan strategic fund for economic development awards to create new jobs or contribute to redevelopment and encourage private investment in core communities.

(2) Awards will be provided to qualified local governmental units as defined in the obsolete property rehabilitation act, 2000 PA 146, MCL 125.2781 to 125.2797, or certified technology parks, as defined in the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

(3) Awards may be used for land and property acquisition and assembly, demolition, site development, utility modifications and improvements, street and road improvements, telecommunication infrastructure, site location and relocation, infrastructure improvements, and any other costs related to the successful development and implementation of core community or certified technology park projects, at the discretion of the Michigan economic development corporation.

(4) Funding may be provided in the form of loans, grants, sales or cash flow participation agreements, guarantees, or any combination of these. A cash match of at least 10%, or local repayment guarantee with a dedicated funding source, is required. Priority shall be given to projects which are integrated with existing economic development programs, and to projects in proportion to the amount that local matching rates exceed 10%.

(5) The Michigan economic development corporation shall have all administrative responsibility for the Michigan core communities fund and shall establish application and application scoring criteria and approve awards. The Michigan economic development corporation may utilize up to 1/2 of 1% of the fund for administrative purposes.

(6) Funds shall be awarded through an open competitive process based on criteria including the following: project impact; project marketability; lack of adequate infrastructure or land assembly financing sources; local administrative capacity; and the level of local matching funds. Awardees shall agree to expedite the local development process, such as fast-track permitting procedures, streamlined regulatory requirements, standardized construction and building codes, and the use of competitive construction permitting fees.

(7) The appropriation of the Michigan core communities fund is a work project appropriation and any unencumbered or any allotted funds are carried forward into the following fiscal year. The following is in compliance with section 451a(1) of the management and budget act, 1984 PA 431, MCL 18.1451a:

(a) The purpose of the project to be carried out is to provide awards to qualified local governmental units and certified technology parks for local economic development projects as defined by this section.

(b) The project will be accomplished through contracts.

(c) The total estimated cost of all awards is identified in the line-item appropriation.

(d) The tentative completion date is September 30, 2005.

(8) Funds will be awarded as part of 4 separate application periods. Deadlines for submitting applications for each of the 4 periods will be no later than September 1, January 1, April 1, and July 1 of each year. Awards for each of the application periods will be made on a quarterly basis.

(9) No single applicant shall be awarded more than $10,000,000.00.

(10) Fifteen days prior to the award of the funds, notification shall be provided to the speaker of the house of representatives, the senate majority leader, the members of the house and senate appropriations committees, and the house and senate fiscal agencies.

(11) Funds shall not be awarded for any of the following purposes:

(a) Land sited for use as, or support for, a gaming facility.

(b) Land or other facilities owned or operated by a gaming facility.

(c) Publicly owned land or facilities which may directly or indirectly support a gaming facility.

(12) As used in this section, "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999, between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund. If the Michigan economic development corporation is unable for any reason to perform its duties under this act, the Michigan strategic fund may exercise those duties.

DEPARTMENT OF NATURAL RESOURCES

Grant to counties - marine safety; funding correction.

Sec. 545. Pursuant to generally accepted accounting principles and state accounting policies, the appropriation in section 116 to grant to counties—marine safety, is to provide 1-time funding to correct estimated accrued liabilities for grants earned by but not yet billed by or paid to local units of government.

SCHOOL AID

Sec. 551. (1) The funds appropriated under part 1 for declining enrollment grants shall be carried forward to 2002-2003 and shall be allocated to school districts that meet all of the following:

(a) Are located in the Upper Peninsula.

(b) Have a pupil membership for 2002-2003, as calculated under section 6(4) of the state school aid act of 1979, 1979 PA 94, MCL 388.1606, of less than 1,550 pupils.

(c) Have 4.5 or fewer pupils per square mile, as determined by the department of education. If a school district educates and counts in its membership pupils in grades 9 to 12 who reside in a contiguous school district that does not operate grades 9 to 12 and if 1 or both of the affected school districts request the department of education to use the determination allowed under this sentence, the department of education shall include the square mileage of both school districts in determining the number of pupils per square mile for each of the school districts for the purposes of this subdivision.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

(2) The amount paid to an eligible school district under this section shall be an amount equal to the amount the school district would have received if it were eligible for a pupil membership adjustment for 2002-2003 under section 6(4)(y) of the state school aid act of 1979, 1979 PA 94, MCL 388.1606.

STATE POLICE

Law enforcement assistance to city of Highland Park.

Sec. 552. The department of state police, in keeping with its role as the general law enforcement agency of the state and the law enforcement agency of last resort for communities that are either without or seriously underserved by local law enforcement resources, shall provide general law enforcement assistance to the city of Highland Park until such time that adequate law enforcement services can be provided to the city by other means.

TREASURY

Revenues received under Michigan public educational facilities authority; expenditures.

Sec. 601. The department of treasury may expend revenues received under the Michigan public educational facilities authority, Executive Order No. 2002-3, for necessary salaries, wages, supplies, contractual services, equipment, worker's compensation insurance premiums, and grants to the civil service commission and state employees' retirement fund.

Revenues received under Michigan broadband development authority act; expenditures.

Sec. 602. The department of treasury may expend revenues received under the Michigan broadband development authority act, 2002 PA 49, 484.3201 to 484.3225, for necessary salaries, wages, supplies, contractual services, equipment, worker's compensation insurance premiums, and grants to the civil service commission and state employees' retirement fund.

State services fee fund; transfer to general fund.

Sec. 603. At the close of the fiscal year ending September 30, 2002, any unreserved balance remaining in the state services fee fund is appropriated and shall be transferred to the state general fund.

REPEALER

Repeal of section 418 of 2001 PA 80.

Sec. 701. Section 418 of 2001 PA 80 is repealed.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Repeal of section 646 of 2001 PA 82.

Sec. 702. Section 646 of 2001 PA 82 is repealed.

PART 2A

PROVISIONS CONCERNING APPROPRIATIONS
FISCAL YEAR 2002-2003

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 1201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending in part 1a from state sources for fiscal year 2002-03 is estimated at $(59,200,000.00) in this act and state spending from state sources paid to local units of government for fiscal year 2002-03 is $0.00.

Emergency special maintenance account.

Sec. 1202. Subject to section 1205, the appropriation to the department of management and budget in part 1a for lump sum special maintenance is to establish an emergency special maintenance account. All agencies with state-owned facilities are eligible to receive funds from this account. The director shall allocate project expenditures in a manner that the director deems most appropriate, with priority given to those projects that address specific health and safety needs. The reporting requirements contained in section 601(3) of 2001 PA 45 also apply to these allocations.

Northwest airlines midfield terminal project.

Sec. 1203. Subject to section 1205, the department of transportation shall expend no more than $6,000,000.00 in fiscal year 2002-03 for the northwest airlines midfield terminal project. It is the intent of the legislature that all appropriations supporting contractual obligations entered into by the department of transportation for the midfield terminal project will be enacted and expended by September 30, 2004.

Transfer from Michigan merit awards trust fund to general fund; condition.

Sec. 1204. For the fiscal year ending September 30, 2003, there is transferred and appropriated from the Michigan merit awards trust fund to the general fund the amount of $150,000,000.00. The amount described in this section shall be reduced to $100,000,000.00 if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack on or before September 30, 2002.

Appropriations subject to tax increase on cigarettes.

Sec. 1205. Sections 1202 and 1203 and all appropriations under part 1a shall not take effect if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack on or before September 30, 2002.

Transfer from tobacco settlement trust fund to general fund; condition.

Sec. 1206. For the fiscal year ending September 30, 2003, there is transferred and appropriated from the tobacco settlement trust fund to the general fund the amount of $1,000,000.00. This amount shall be reduced to $0.00 if the tax on cigarettes under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, is increased by 30 cents or more per pack on or before September 30, 2002.

Negative appropriations for budgetary savings; authorization adjustments.

Sec. 1207. (1) A budgetary savings line item with a negative amount of $173,200.00 is created for the fiscal year 2002-03 capital outlay budget under the department of management and budget. The negative appropriation shall be satisfied through efficiencies and other savings identified by the department director and approved by the state budget director.

(2) Appropriation authorization adjustments required due to negative appropriations for budgetary savings shall be made only after the approval of transfers by the legislature pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Appropriations for certain environmental grants and programs; lapse to clean Michigan initiative fund.

Sec. 1208. The unexpended portion of funds appropriated in part 1 of 2000 PA 52 for environmental education curriculum, contaminated lake and river sediments cleanup, voluntary stormwater permit grants, failing on-site septic systems, protecting high quality waters, illicit storm sewer connection grants, remedial action plan and lakewide management plan implementation grants, brownfield grants and loans, waterfront redevelopment, abandoned well management grants, household hazardous waste collection, and regional pollution prevention grants are appropriated for the same purposes for fiscal year 2002-03. Any unexpended or unencumbered funds shall lapse to the clean Michigan initiative fund and shall be subject to reappropriation.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 531]

(SB 1322)

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," (MCL 208.1 to 208.145) by adding section 39e; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

208.39e Tax credit; certification as eligible taxpayer under Michigan next energy authority act; definitions.

Sec. 39e. (1) A taxpayer may claim a credit against the tax imposed by this act for 1 or more of the following as applicable:

(a) The credit allowed under subsection (2).

(b) The credit allowed under subsection (6).

(2) For tax years that begin after December 31, 2002, a taxpayer that is certified under the Michigan next energy authority act as an eligible taxpayer may claim a nonrefundable credit for the tax year equal to the amount by which the taxpayer's tax liability attributable to qualified business activity for the tax year exceeds the taxpayer's baseline tax liability attributable to qualified business activity.

(3) For any tax year in which the eligible taxpayer's tax liability attributable to qualified business activity for the tax year does not exceed the taxpayer's baseline tax liability attributable to qualified business activity, the eligible taxpayer shall not claim the credit allowed under subsection (2).

(4) An affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall not take the credit allowed under subsection (2) unless the qualified business activity of the group or entities is consolidated.

(5) A taxpayer that claims a credit under subsection (2) shall attach a copy of each of the following as issued pursuant to the Michigan next energy authority act to the annual return required under this act for each tax year in which the taxpayer claims the credit allowed under subsection (2):

(a) The proof of certification that the taxpayer is an eligible taxpayer for the tax year.

(b) The proof of certification of the taxpayer's tax liability attributable to qualified business activity for the tax year.

(c) The proof of certification of the taxpayer's baseline tax liability attributable to qualified business activity.

(6) For tax years that begin after December 31, 2002, a taxpayer that is a qualified alternative energy entity may claim a credit for the taxpayer's qualified payroll amount. A taxpayer shall claim the credit under this subsection after all allowable nonrefundable credits under this act.

(7) If the credit allowed under subsection (6) exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

(8) Notwithstanding any other provision of this act and for tax years that begin after December 31, 2002, a person whose apportioned or allocated gross receipts are less than $350,000.00 for the tax year need not file a return or pay the tax as provided under this act.

(9) As used in this section:

(a) "Alternative energy marine propulsion system", "alternative energy system", "alternative energy vehicle", and "alternative energy technology" mean those terms as defined in the Michigan next energy authority act.

(b) "Alternative energy zone" means a renaissance zone designated as an alternative energy zone by the board of the Michigan strategic fund under section 8a of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2688a.

(c) "Baseline tax liability attributable to qualified business activity" means the taxpayer's tax liability for the 2001 tax year multiplied by a fraction the numerator of which is the ratio of the value of the taxpayer's property used for qualified business activity and located in this state outside of a renaissance zone for the 2001 tax year to the value of all of the taxpayer's property located in this state for the 2001 tax year plus the ratio of the taxpayer's payroll for qualified business activity performed outside of a renaissance zone for the 2001 tax year to all of the taxpayer's payroll for the 2001 tax year in this state and the denominator of which is 2. A taxpayer with a 2001 tax year of less than 12 months shall annualize the amount calculated under this subdivision as necessary

to determine baseline tax liability attributable to qualified business activity that reflects a 12-month period.

(d) "Eligible taxpayer" means a taxpayer that has proof of certification of qualified business activity under the Michigan next energy authority act.

(e) "Payroll" means total salaries and wages before deducting any personal or dependency exemptions.

(f) "Qualified alternative energy entity" means a taxpayer located in an alternative energy zone.

(g) "Qualified business activity" means research, development, or manufacturing of an alternative energy marine propulsion system, an alternative energy system, an alternative energy vehicle, alternative energy technology, or renewable fuel.

(h) "Qualified employee" means an individual who is employed by a qualified alternative energy entity, whose job responsibilities are related to the research, development, or manufacturing activities of the qualified alternative energy entity, and whose regular place of employment is within an alternative energy zone.

(i) "Qualified payroll amount" means an amount equal to payroll of the qualified alternative energy entity attributable to all qualified employees in the tax year of the qualified alternative energy entity for which the credit under subsection (6) is being claimed, multiplied by the tax rate for that tax year.

(j) "Renaissance zone" means a renaissance zone designated under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(k) "Renewable fuel" means 1 or more of the following:

(*i*) Biodiesel or biodiesel blends containing at least 20% biodiesel. As used in this subparagraph, "biodiesel" means a diesel fuel substitute consisting of methyl or ethyl esters produced from the transesterification of animal or vegetable fats with methanol or ethanol.

(*ii*) Biomass. As used in this subparagraph, "biomass" means residues from the wood and paper products industries, residues from food production and processing, trees and grasses grown specifically to be used as energy crops, and gaseous fuels produced from solid biomass, animal wastes, municipal waste, or landfills.

(*l*) "Tax liability attributable to qualified business activity" means the taxpayer's tax liability multiplied by a fraction the numerator of which is the ratio of the value of the taxpayer's property used for qualified business activity and located in this state outside of a renaissance zone to the value of all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll for qualified business activity performed outside of a renaissance zone to all of the taxpayer's payroll in this state and the denominator of which is 2.

(m) "Tax rate" means the rate imposed under sections 51, 51d, and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51, 206.51d, and 206.51e, annualized as necessary, for the tax year in which the qualified alternative energy entity claims a credit under subsection (6).

Repeal of §§ 208.1 to 208.145 after December 31, 2009.

Enacting section 1. The single business tax act, 1975 PA 228, MCL 208.1 to 208.145, is repealed effective for tax years that begin after December 31, 2009.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 532]

(HB 5458)

AN ACT to amend 1976 PA 448, entitled "An act to prescribe the powers and duties of municipalities and governmental units to acquire, finance, maintain, and operate generating, transmission, and distribution facilities of electric power and energy, fuel and energy sources and reserves and all necessary related properties, equipment and facilities; to permit the exercise of those powers in joint venture or joint agency agreements; to provide for the issuance of bonds and notes; to prescribe the powers and duties of the municipal finance commission or its successor agency and of certain other state officers and agencies with respect to municipal electric utility financing; to create certain funds and prescribe their operation; to provide for tax exemptions and other exemptions; and to prescribe penalties and provide remedies," by amending section 44 (MCL 460.844).

The People of the State of Michigan enact:

460.844 Sale or exchange of excess capacity or output.

Sec. 44. (1) A joint agency may sell or exchange the excess capacity or output of a project not required by any of its members for consideration upon terms and conditions as determined by the parties. The sale or exchange of excess capacity or output shall not be made with a municipality not engaged in the generating, transmitting, or distributing of electricity as of January 13, 1977, unless no other power utility is willing to enter into a sale or exchange upon equally favorable terms and conditions.

(2) A joint agency may do either or both of the following:

(a) Transfer all or part of its interest in transmission facilities to a multistate regional transmission system organization approved by the federal government and operating in this state or to 1 or more of its transmission-owning members.

(b) Purchase, acquire, sell, or otherwise transfer stock, membership units, or any other interest in a multistate regional transmission system organization approved by the federal government and operating in this state or in 1 or more of its transmission-owning members.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 533]

(HB 5459)

AN ACT to amend 1976 PA 448, entitled "An act to prescribe the powers and duties of municipalities and governmental units to acquire, finance, maintain, and operate generating, transmission, and distribution facilities of electric power and energy, fuel and energy sources and reserves and all necessary related properties, equipment and facilities; to permit the exercise of those powers in joint venture or joint agency agreements; to provide for the issuance of bonds and notes; to prescribe the powers and duties of the municipal finance commission or its successor agency and of certain other state officers and agencies with respect to municipal electric utility financing; to create

certain funds and prescribe their operation; to provide for tax exemptions and other exemptions; and to prescribe penalties and provide remedies," by amending section 40 (MCL 460.840).

The People of the State of Michigan enact:

460.840 Determining future power requirements; considerations.

Sec. 40. Before undertaking a project for the construction or acquisition of facilities for the transmission or generation of electric power and energy, a joint agency shall, based upon engineering studies and reports meeting the standards required under section 38(d), determine that the project is required to provide for the projected needs for power and energy of its members from the date the project is estimated to be placed in normal and continuous operation and for a reasonable period of time thereafter. In determining the future power requirements of members of a joint agency, the joint agency shall consider all of the following:

(a) The economies and efficiencies to be achieved in constructing facilities for the generation and transmission of electric power and energy.

(b) The needs of the joint agency for reserve and peaking capacity, and to meet obligations under pooling and reserve sharing agreements reasonably related to its needs for power and energy to which the joint agency is or may become a party.

(c) The estimated useful life of the project.

(d) The estimated time necessary for the planning, development, acquisition, or construction of the project and the length of time required in advance to obtain, acquire, or construct additional power supply for members of the joint agency.

(e) The reliability and availability of existing alternative power supplies and the cost of those existing alternative power supplies.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 25, 2002.

[No. 534]

(SB 1232)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies;

to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 6, 7a, 212, 306, 307, 309, 312e, 312f, 319, 319b, 319c, 321, 321b, 323c, 667, 667a, 668, 669, 670, 732, 904, and 907 (MCL 257.6, 257.7a, 257.212, 257.306, 257.307, 257.309, 257.312e, 257.312f, 257.319, 257.319b, 257.319c, 257.321, 257.321b, 257.323c, 257.667, 257.667a, 257.668, 257.669, 257.670, 257.732, 257.904, and 257.907), section 6 as amended by 1992 PA 297, sections 7a and 323c as amended by 1991 PA 100, section 212 as amended by 1980 PA 398, section 306 as amended by 1999 PA 40, sections 307, 312f, and 319b as amended by 2002 PA 259, section 309 as amended by 2000 PA 456, section 312e as amended by 2000 PA 158, section 319 as amended by 2002 PA 422, section 319c as added by 1988 PA 346, section 667a as added by 2000 PA 367, section 668 as amended by 1980 PA 101, section 669 as amended by 1995 PA 248, section 732 as amended by 2002 PA 422, section 904 as amended by 2000 PA 77, and section 907 as amended by 2001 PA 214, and by adding sections 319g and 669a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

257.6 "Chauffeur" defined.

Sec. 6. (1) Except as otherwise provided in subsection (3), "chauffeur" means any of the following:

(a) A person who operates a motor vehicle as a motor common carrier of property or a motor contract carrier of property as defined in section 1(f) and (h) of the motor carrier act, 1933 PA 254, MCL 475.1, or a motor carrier of passengers as defined in section 3 of the motor bus transportation act, 1982 PA 432, MCL 474.103.

(b) A person who is employed for the principal purpose of operating a motor vehicle with a GVWR of 10,000 pounds or more.

(c) A person who operates a bus or school bus.

(d) A person who operates a taxi.

(e) A person who operates a limousine as defined by section 3 of the limousine transportation act, 1990 PA 271, MCL 257.1903.

(2) For purposes of subsection (1)(b), a person shall be considered to be employed for the principal purpose of operating a motor vehicle when the person's employment customarily involves the necessary use of a motor vehicle for hire or for transporting passengers for hire, or for transporting for gain or hire any merchandise for display, sale, or delivery.

(3) "Chauffeur" does not include any of the following:

(a) A farmer or an employee of a farmer operating a vehicle exclusively in connection with the farming operations of the farmer.

(b) A fire fighter or a member of a fire department operating an ambulance.

(c) Emergency medical services personnel operating an ambulance. As used in this subdivision, "emergency medical services personnel" means that term as defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(d) State transportation department employees whose work consists of operating vehicles with a gross vehicle weight rating of 10,000 pounds or more for the purpose of transporting highway and bridge maintenance materials and supplies for all aspects of state trunkline maintenance, including winter maintenance and facilities maintenance.

(e) County road commission employees and other employees of local units of government who do not drive their own vehicles and whose work consists of hauling road building materials and supplies for the road commission or for other municipal purposes.

(f) A person operating a motor vehicle for a volunteer program who only receives reimbursement for the costs of operating the motor vehicle.

(g) A person who operates a motor home for personal pleasure.

(h) A parent or parent's designee for the purpose of transporting pupils to or from school and school related events.

257.7a "Commercial motor vehicle" defined.

Sec. 7a. "Commercial motor vehicle" means a motor vehicle designed to transport 16 or more passengers, including the driver; a motor vehicle, having a gross vehicle weight rating of 26,001 or more pounds; a motor vehicle with a gross combination weight rating of 26,001 pounds or more including a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or a motor vehicle carrying hazardous material and on which is required to be posted a placard as defined and required under 49 C.F.R. parts 100 to 199. A commercial motor vehicle does not include a vehicle used exclusively to transport personal possessions or family members for nonbusiness purposes.

257.212 Methods of giving notice; proof.

Sec. 212. If the secretary of state is authorized or required to give notice under this act or other law regulating the operation of a vehicle, unless a different method of giving notice is otherwise expressly prescribed, notice shall be given either by personal delivery to the person to be notified or by first-class United States mail addressed to the person at the address shown by the record of the secretary of state. The giving of notice by mail is complete upon the expiration of 5 days after mailing the notice. Proof of the giving of notice in either manner may be made by the certificate of a person 18 years of age or older, naming the person to whom notice was given and specifying the time, place, and manner of the giving of notice.

257.306 Temporary instruction permit; operation of motor vehicle without operator's license or permit; temporary driver education certificate; motorcycle temporary instruction permit; temporary instruction permit to drive vehicle requiring vehicle group designation or vehicle group indorsement.

Sec. 306. (1) The secretary of state, upon receiving an application for a temporary instruction permit from a person who is 18 years of age or older, may issue that permit entitling the applicant, while carrying the permit, to drive a motor vehicle other than a motor vehicle requiring an indorsement under section 312a or a vehicle group designation under section 312e upon the highways for a period of 180 days when accompanied by a licensed adult operator or chauffeur who is actually occupying a seat beside the driver.

(2) The secretary of state may issue an original operator's license and designate level 1, 2, or 3 graduated licensing provisions to a person who is less than 18 years of age, has been licensed in another state or country, and has satisfied the applicable requirements of section 310e.

(3) A student enrolled in a driver education program or a motorcycle safety course approved by the department of education may operate a motor vehicle without holding an operator's license or permit while under the direct supervision of the program instructor.

(4) A student enrolled in an approved driver education program and who has successfully completed 10 hours of classroom instruction and the equivalent of 2 hours of behind-the-wheel training may be issued a temporary driver education certificate furnished by the department of education that authorizes a student to drive a motor vehicle, other than a motor vehicle requiring an indorsement pursuant to section 312a or a vehicle group designation pursuant to section 312e, when accompanied by a licensed parent or guardian, or when accompanied by a nonlicensed parent or guardian and a licensed adult for the purpose of receiving additional instruction until the end of the student's driver education course.

(5) The secretary of state, upon receiving proper application from a person 16 or 17 years of age who is enrolled in or has successfully completed an approved motorcycle safety course under section 811a, or a person who is 18 years of age or older and who holds a valid operator's or chauffeur's license, may issue a motorcycle temporary instruction permit entitling the applicant, while carrying the permit, to operate a motorcycle upon the public streets and highways for a period of 180 days, but only when under the constant visual supervision of a licensed motorcycle operator at least 18 years of age. The applicant shall not operate the motorcycle at night or with a passenger.

(6) The secretary of state, upon receiving proper application from a person who is 18 years of age or older, who holds a valid operator's or chauffeur's license, and who has passed the knowledge test for an original vehicle group designation or indorsement, may issue a temporary instruction permit entitling the person, while carrying the permit, to drive a vehicle requiring a vehicle group designation or vehicle group indorsement under section 312e upon the streets and highways for a period of 180 days, but only when accompanied by a licensed adult operator or chauffeur who is licensed with the appropriate vehicle group designation and indorsement for the vehicle group being driven and who is actually occupying a seat beside the driver, or behind the driver if the permittee is driving a bus or school bus. In addition, if a permittee is enrolled in a driver training program for drivers of motor vehicles requiring a vehicle group designation or vehicle group indorsement under section 312e, which program is conducted by a college, university, commercial driver training school licensed by the department under 1974 PA 369, MCL 256.601 to 256.609, or a local or intermediate school district, the permittee may drive a vehicle requiring a vehicle group designation or vehicle group indorsement on the streets and highways of this state for a period of 180 days when accompanied by an instructor licensed with the appropriate vehicle group designation and indorsement for the vehicle being driven who is either occupying the seat beside the driver or in direct visual and audio communication with the permittee. A person issued a temporary instruction permit under this section shall not operate a vehicle designed to carry 16 or more passengers that is transporting passengers except with an instructor licensed with the appropriate vehicle group designation and indorsement for the vehicle being driven or a driver skills test examiner.

257.307 Application for operator's or chauffeur's license; manner; contents; image; equipment; use of image and information; signature and certification; fee; refund; driving record from another jurisdiction; application for original, renewal, or upgrade of vehicle group designation or indorsement; issuing renewal license by mail or other methods; information manual; disclosure or display of social security number.

Sec. 307. (1) An applicant for an operator's or chauffeur's license shall supply a birth certificate attesting to his or her age or other sufficient documents or identification as the

secretary of state may require. An application for an operator's or chauffeur's license shall be made in a manner prescribed by the secretary of state and shall contain all of the following:

(a) The applicant's full name, date of birth, residence address, height, sex, eye color, signature, other information required or permitted on the license under this chapter, and, to the extent required to comply with federal law, the applicant's social security number. The applicant may provide a mailing address if the applicant receives mail at an address different from his or her residence address.

(b) The following notice shall be included to inform the applicant that under sections 509o and 509r of the Michigan election law, 1954 PA 116, MCL 168.509o and 168.509r, the secretary of state is required to use the residence address provided on this application as the applicant's residence address on the qualified voter file for voter registration and voting:

"NOTICE: Michigan law requires that the same address be used for voter registration and driver license purposes. Therefore, if the residence address you provide in this application differs from your voter registration address as it appears on the qualified voter file, the secretary of state will automatically change your voter registration to match the residence address on this application, after which your voter registration at your former address will no longer be valid for voting purposes. A new voter registration card, containing the information of your polling place, will be provided to you by the clerk of the jurisdiction where your residence address is located.".

(c) For an operator's or chauffeur's license with a vehicle group designation or indorsement, the following certifications by the applicant:

(*i*) The applicant meets the applicable federal driver qualification requirements under 49 C.F.R. part 391 if the applicant operates or intends to operate in interstate commerce or meets the applicable qualifications under the rules promulgated by the department of state police under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22, if the applicant operates or intends to operate in intrastate commerce.

(*ii*) The vehicle in which the applicant will take the driving skills tests is representative of the type of vehicle the applicant operates or intends to operate.

(*iii*) The applicant is not subject to disqualification, suspension, revocation, or cancellation for conviction of an offense described in section 312f or 319b.

(*iv*) The applicant does not have a driver's license from more than 1 state.

(d) An applicant for an operator's or chauffeur's license with a vehicle group designation and a hazardous material indorsement (H vehicle indorsement) shall provide his or her fingerprints which shall have been taken by a law enforcement official or a designated representative for investigation as required by the uniting and strengthening America by providing appropriate tools required to intercept and obstruct terrorism (USA PATRIOT ACT) Act of 2001, Public Law 107-56, 115 Stat. 272.

(2) Except as provided in this subsection, an applicant for an operator's or chauffeur's license may have his or her image captured or reproduced when the application for the license is made. An applicant required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card shall have his or her image and signature captured or reproduced when the application for the license is made. The secretary of state shall acquire by purchase or lease the equipment for capturing the images and signatures and may furnish the equipment to a local unit authorized by the secretary of state to license drivers. The secretary of state shall acquire equipment purchased or

leased pursuant to this section under standard purchasing procedures of the department of management and budget based on standards and specifications established by the secretary of state. The secretary of state shall not purchase or lease equipment until an appropriation for the equipment has been made by the legislature. An image and signature captured pursuant to this section shall appear on the applicant's operator's or chauffeur's license. Except as provided in this subsection, the secretary of state may retain and use a person's image described in this subsection only for programs administered by the secretary of state. Except as provided in this subsection, the secretary of state shall not use a person's image unless the person grants written permission for that purpose to the secretary of state or specific enabling legislation permitting the use is enacted into law. A law enforcement agency of this state has access to information retained by the secretary of state under this subsection. The information may be utilized for any law enforcement purpose unless otherwise prohibited by law. The department of state police shall provide to the secretary of state updated lists of persons required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732, and the secretary of state shall make the images of those persons available to the department of state police as provided in that act.

(3) An application shall contain a signature and certification by the applicant and shall be accompanied by the proper fee. The examiner shall collect the application fee and shall forward the fee to the secretary of state with the application. The secretary of state shall refund the application fee to the applicant if the license applied for is denied, but shall not refund the fee to an applicant who fails to complete the examination requirements of the secretary of state within 90 days after the date of application for a license. A service fee of $1.00 shall be added to each fee collected for an original, renewal, duplicate, or corrected operator's or chauffeur's license. The service fee received and collected under this subsection shall be deposited in the state treasury to the credit of the general fund. The service fee shall be used to defray the expenses of the secretary of state. Appropriations from the Michigan transportation fund shall not be used to compensate the secretary of state for costs incurred and services performed under this section.

(4) In conjunction with the issuance of an operator's or chauffeur's license, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(*i*) Written information explaining the applicant's right to make an anatomical gift in the event of death in accordance with section 310.

(*ii*) Written information describing the organ donation registry program maintained by Michigan's federally designated organ procurement organization or its successor organization. The written information required under this subparagraph shall include, in a type size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization, along with an advisory to call Michigan's federally designated organ procurement organization or its successor organization with questions about the organ donor registry program.

(*iii*) Written information giving the applicant the opportunity to be placed on the organ donation registry described in subparagraph (*ii*).

(b) Provide the applicant with the opportunity to specify on his or her operator's or chauffeur's license that he or she is willing to make an anatomical gift in the event of death in accordance with section 310.

(c) Inform the applicant in writing that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the organ donor registry

described in subdivision (a)(*ii*), the secretary of state will forward the applicant's name and address to the organ donation registry maintained by Michigan's federally designated organ procurement organization or its successor organization, as required by subsection (6).

(5) The secretary of state may fulfill the requirements of subsection (4) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for an operator's or chauffeur's license renewal or the issuance of an operator's or chauffeur's license.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for operator's and chauffeur's licenses processed by electronic means.

(6) If an applicant indicates a willingness under this section to have his or her name placed on the organ donor registry described in subsection (4)(a)(*ii*), the secretary of state shall within 10 days forward the applicant's name and address to the organ donor registry maintained by Michigan's federally designated organ procurement organization or its successor organization. The secretary of state may forward information under this subsection by mail or by electronic means. The secretary of state shall not maintain a record of the name or address of an individual who indicates a willingness to have his or her name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have his or her name placed on the organ donor registry that is obtained by the secretary of state under subsection (4) and forwarded under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

(7) If an application is received from a person previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record and other available information from the national driver register. When received, the driving record and other available information become a part of the driver's record in this state. If the application is for an original, renewal, or upgrade of a vehicle group designation or indorsement, the secretary of state shall check the applicant's driving record with the national driver register and the federal commercial driver license information system before issuing that group designation or indorsement.

(8) Except for a vehicle group designation or indorsement or as provided in this subsection, the secretary of state may issue a renewal operator's or chauffeur's license for 1 additional 4-year period by mail or by other methods prescribed by the secretary of state. The secretary of state shall issue a renewal license only in person if the person is a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card. If a license is renewed by mail or by other method, the secretary of state shall issue evidence of renewal to indicate the date the license expires in the future. The department of state police shall provide to the secretary of state updated lists of persons required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(9) Upon request, the secretary of state shall provide an information manual to an applicant explaining how to obtain a vehicle group designation or indorsement. The manual shall contain the information required under 49 C.F.R. part 383.

(10) The secretary of state shall not disclose a social security number obtained under subsection (1) to another person except for use for 1 or more of the following purposes:

(a) Compliance with chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317, and regulations and state law and rules related to this chapter.

(b) Through the law enforcement information network, to carry out the purposes of section 466(a) of part D of title IV of the social security act, 42 U.S.C. 666, in connection with matters relating to paternity, child support, or overdue child support.

(c) As otherwise required by law.

(11) The secretary of state shall not display a person's social security number on the person's operator's or chauffeur's license.

(12) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number or to an applicant who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The secretary of state shall inform the applicant of this possible exemption.

257.309 Examination of applicant for operator's or chauffeur's license; waiver; exception; certification of licensee applying for renewal of license by mail; examining officers; conducting examinations; report of findings and recommendations; rules; issuance of original operator's or chauffeur's license without vehicle group designation or indorsement; behind-the-wheel road test; waiver; prohibited conduct.

Sec. 309. (1) Before issuing a license, the secretary of state shall examine each applicant for an operator's or chauffeur's license who at the time of the application is not the holder of a valid, unrevoked operator's or chauffeur's license under a law of this state providing for the licensing of drivers. In all other cases, the secretary of state may waive the examination, except that an examination shall not be waived if it appears from the application, from the apparent physical or mental condition of the applicant, or from any other information which has come to the secretary of state from another source, that the applicant does not possess the physical, mental, or other qualifications necessary to operate a motor vehicle in a manner as not to jeopardize the safety of persons or property; or that the applicant is not entitled to a license under section 303. A licensee who applies for the renewal of his or her license by mail pursuant to section 307 shall certify to his or her physical capability to operate a motor vehicle.

(2) The secretary of state may appoint sheriffs, their deputies, the chiefs of police of cities and villages having organized police departments within this state, their duly authorized representatives, or employees of the secretary of state as examining officers for the purpose of examining applicants for operator's and chauffeur's licenses. An examining officer shall conduct examinations of applicants for operator's and chauffeur's licenses in accordance with this chapter and the rules promulgated by the secretary of state under subsection (3). After conducting an examination an examining officer shall make a written report of his or her findings and recommendations to the secretary of state.

(3) The secretary of state shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the examination of the applicant's physical and mental qualifications to operate a motor vehicle in a manner as not to jeopardize the safety of persons or property, and shall ascertain whether facts exist that would bar the issuance of a license under section 303. The secretary of state shall also ascertain whether the applicant has sufficient knowledge of the English language to

understand highway warnings or direction signs written in that language. The examination shall not include investigation of facts other than those facts directly pertaining to the ability of the applicant to operate a motor vehicle with safety or facts declared to be prerequisite to the issuance of a license under this act.

(4) The secretary of state shall not issue an original operator's or chauffeur's license without a vehicle group designation or indorsement without an examination that includes a driving skills test conducted by the secretary of state or by a designated examining officer under subsection (2) or section 310e. The secretary of state may enter into an agreement with another public or private person or agency to conduct a driving skills test conducted under this section. In an agreement with another person or agency to conduct a driving skills test, the secretary of state may prescribe the method and examination criteria to be followed by the person or agency when conducting the driving skills test and the form of the certification to be issued to a person who satisfactorily completes a driving skills test. An original vehicle group designation or indorsement shall not be issued by the secretary of state without a knowledge test conducted by the secretary of state. Except as provided in section 312f(1), an original vehicle group designation or passenger indorsement shall not be issued by the secretary of state without a driving skills test conducted by an examiner appointed or authorized by the secretary of state. While in the course of taking a driving skills test conducted by the examiner who shall occupy a seat beside the applicant, an applicant for an original vehicle group designation or passenger indorsement who has been issued a temporary instruction permit to operate a commercial motor vehicle is permitted to operate a vehicle requiring a vehicle group designation or passenger indorsement without a person licensed to operate a commercial motor vehicle occupying a seat beside him or her.

(5) Except as otherwise provided in this act, the secretary of state may waive the requirement of a driving skills test, knowledge test, or road sign test of an applicant for an original operator's or chauffeur's license without a vehicle group designation or indorsement who at the time of the application is the holder of a valid, unrevoked operator's or chauffeur's license issued by another state or country.

(6) A driving skills test conducted under this section shall include a behind-the-wheel road test. A behind-the-wheel road test for an original vehicle group designation or passenger indorsement shall not be conducted unless the applicant has been issued a temporary instruction permit.

(7) A person who corrupts or attempts to corrupt a designated examining officer appointed or designated by the secretary of state under this section or section 310e by giving, offering, or promising any gift or gratuity with the intent to influence the opinion or decision of the examining officer conducting the test is guilty of a felony.

(8) A designated examining officer appointed or designated by the secretary of state who conducts a driving skills test under an agreement entered into under this section or section 310e and who varies from, shortens, or in any other way changes the method or examination criteria prescribed in that agreement in conducting a driving skills test is guilty of a felony.

(9) A person who forges, counterfeits, or alters a satisfactorily completed driving skills test certification issued by a designated examining officer appointed or designated by the secretary of state under this section or section 310e is guilty of a felony.

257.312e Group commercial motor vehicle designation; tests; holder of unexpired operator's or chauffeur's license; qualifications and fees for vehicle group designation and indorsement; F vehicle indorsement; exceptions; former indorsements; expiration;

disposition of money received and collected under subsection (7); refund to county or municipality; compliance with §§ 257.303 and 257.319b.

Sec. 312e. (1) Except as otherwise provided in this section, a person, before operating a commercial motor vehicle, shall obtain the required vehicle group designation as follows:

(a) A person, before operating a combination of vehicles with a gross combination weight rating of 26,001 pounds or more including a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds, shall procure a group A vehicle designation on his or her operator's or chauffeur's license. Unless an indorsement or the removal of restrictions is required, a person licensed to operate a group A vehicle may operate a group B or C vehicle without taking another test.

(b) A person, before operating a single vehicle having a gross vehicle weight rating of 26,001 pounds or more, shall procure a group B vehicle designation on his or her operator's or chauffeur's license. Unless an indorsement or the removal of restrictions is required, a person licensed to operate a group B vehicle may operate a group C vehicle without taking another test.

(c) A person, before operating a single vehicle having a gross vehicle weight rating under 26,001 pounds or a combination of vehicles having a gross combination weight rating under 26,001 pounds if the vehicle being towed does not have a gross vehicle weight rating over 10,000 pounds and carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, or designed to transport 16 or more passengers including the driver, shall procure a group C vehicle designation and a hazardous material or passenger vehicle indorsement on his or her operator's or chauffeur's license.

(2) An applicant for a vehicle group designation shall take knowledge and driving skills tests that comply with minimum federal standards prescribed in 49 C.F.R. part 383 as required under this act.

(3) The license shall be issued, suspended, revoked, canceled, or renewed in accordance with this act.

(4) Except as provided in this subsection, all of the following apply:

(a) If a person operates a group B passenger vehicle while taking his or her driving skills test for a P indorsement, he or she is restricted to operating only group B or C passenger vehicles under that P indorsement.

(b) If a person operates a group C passenger vehicle while taking his or her driving skills test for a P indorsement, he or she is restricted to operating only group C passenger vehicles under that P indorsement.

(c) A person who fails the air brake portion of the written or driving skills test provided under section 312f or who takes the driving skills test provided under that section in a commercial motor vehicle that is not equipped with air brakes shall not operate a commercial motor vehicle equipped with air brakes.

(5) A person, before operating a commercial motor vehicle, shall obtain required vehicle indorsements as follows:

(a) A person, before operating a commercial motor vehicle pulling double trailers, shall procure the appropriate vehicle group designation and a T vehicle indorsement under this act.

(b) A person, before operating a commercial motor vehicle that is a tank vehicle, shall procure the appropriate vehicle group designation and an N vehicle indorsement under this act.

(c) A person, before operating a commercial motor vehicle carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, shall procure the appropriate vehicle group designation and an H vehicle indorsement under this act.

(d) A person, before operating a commercial motor vehicle that is a tank vehicle carrying hazardous material, shall procure the appropriate vehicle group designation and both an N and H vehicle indorsement, which shall be designated by the code letter X on the person's operator's or chauffeur's license.

(e) A person, before operating a vehicle designed to transport 16 or more passengers including the driver, shall procure the appropriate vehicle group designation and a P vehicle indorsement under this act. An applicant for a P vehicle indorsement shall take the driving skills test in a vehicle designed to transport 16 or more passengers including the driver.

(6) An applicant for an indorsement shall take the knowledge and driving skills tests described and required pursuant to 49 C.F.R. part 383.

(7) The holder of an unexpired operator's or chauffeur's license may be issued a vehicle group designation and indorsement valid for the remainder of the license upon meeting the qualifications of section 312f and payment of the original vehicle group designation fee of $20.00 and an indorsement fee of $5.00 per indorsement, and a corrected license fee of $6.00. A person required to procure an F vehicle indorsement pursuant to subsection (9) shall pay an indorsement fee of $5.00.

(8) Except as otherwise provided in subsections (9) and (10), this section does not apply to a driver or operator of a vehicle under all of the following conditions:

(a) The vehicle is controlled and operated by a farmer or an employee or family member of the farmer.

(b) The vehicle is used to transport agricultural products, farm machinery, farm supplies, or a combination of these items, to or from a farm.

(c) The vehicle is not used in the operation of a common or contract motor carrier.

(d) The vehicle is operated within 150 miles of the farm.

(9) A person, before driving or operating a combination of vehicles having a gross vehicle weight rating of 26,001 pounds or more on the power unit that is used as described in subsection (8)(a) to (d), shall obtain an F vehicle indorsement. The F vehicle indorsement shall be issued upon successful completion of a knowledge test only.

(10) A person, before driving or operating a single vehicle truck having a gross vehicle weight rating of 26,001 pounds or more or a combination of vehicles having a gross vehicle weight rating of 26,001 pounds or more on the power unit that is used as described in subsection (8)(a) to (d) for carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, shall successfully complete both a knowledge test and a driving skills test. Upon successful completion of the knowledge test and driving skills test, the person shall be issued the appropriate vehicle group designation and any vehicle indorsement necessary under this act.

(11) This section does not apply to a police officer operating an authorized emergency vehicle or to a firefighter operating an authorized emergency vehicle who has met the driver training standards of the Michigan fire fighters' training council.

(12) This section does not apply to a person operating a motor home or a vehicle used exclusively to transport personal possessions or family members for nonbusiness purposes.

(13) The money received and collected under subsection (7) for a vehicle group designation or indorsement shall be deposited in the state treasury to the credit of the

general fund. The secretary of state shall refund out of the fees collected to each county or municipality acting as an examining officer or examining bureau $3.00 for each applicant examined for a first designation or indorsement to an operator's or chauffeur's license and $1.50 for each renewal designation or indorsement to an operator's or chauffeur's license, whose application is not denied, on the condition that the money refunded shall be paid to the county or local treasurer and is appropriated to the county, municipality, or officer or bureau receiving that money for the purpose of carrying out this act.

(14) Notwithstanding any other provision of this section, a person operating a vehicle described in subsections (8) and (9) is subject to the provisions of sections 303 and 319b.

257.312f Vehicle group designation or indorsement on operator's or chauffeur's license; age; tests; waiver; conditions prohibiting issuance of vehicle group designation; determining applicability of subsection (5); definitions.

Sec. 312f. (1) Except as otherwise provided in this section, a person shall be at least 18 years of age before he or she is issued a vehicle group designation or indorsement, other than a motorcycle indorsement, on an operator's or chauffeur's license and, as provided in this section, the person shall pass knowledge and driving skills tests that comply with minimum federal standards prescribed in 49 C.F.R. part 383. A person operating a vehicle to be used for farming purposes only may obtain an A or B vehicle group designation or an F vehicle indorsement if he or she is at least 16 years of age. Each written examination given an applicant for a vehicle group designation or indorsement shall include subjects designed to cover the type or general class of vehicle to be operated. A person shall pass an examination that includes a driving skills test designed to test competency of the applicant for an original vehicle group designation and passenger indorsement on an operator's or chauffeur's license to drive that type or general class of vehicle upon the highways of this state with safety to persons and property. The secretary of state shall waive the driving skills test for a person operating a vehicle that is used under the conditions described in section 312e(8)(a) to (d) unless the vehicle has a gross vehicle weight rating of 26,001 pounds or more on the power unit and is to be used to carry hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199. The driving skills test may be waived if the applicant has a valid license with the appropriate vehicle group designation or passenger vehicle indorsement in another state issued in compliance with chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317.

(2) Except for a person who has held an operator's or chauffeur's license for less than 1 year, the secretary of state shall waive the knowledge test and the driving skills test and issue a 1-year seasonal restricted vehicle group designation to an otherwise qualified applicant to operate a group B or a group C vehicle for a farm related service industry if all of the following conditions are met:

(a) The applicant meets 1 of the following:

(*i*) An applicant who has between 1 and 2 years of driving experience shall possess a good driving record for his or her entire driving history.

(*ii*) An applicant who has more than 2 years of driving experience shall possess a good driving record for the 2 years immediately preceding application.

(b) The seasons for which the seasonal restricted vehicle group designation is issued shall be from April 2 to June 30 and from September 2 to November 30 only of a 12-month period or, at the option of the applicant, for not more than 180 days from the date of

issuance in a 12-month period. The good driving record shall be confirmed before each season and 180-day period.

(c) The commercial motor vehicle for which the seasonal restricted vehicle group designation is issued shall be operated only if all the following conditions are met:

(*i*) The commercial motor vehicle is operated only on routes within 150 miles from the place of business to the farm or farms being served.

(*ii*) The commercial motor vehicle does not transport a quantity of hazardous materials on which a placard is required except for the following:

(A) Diesel motor fuel in quantities of 1,000 gallons or less.

(B) Liquid fertilizers in quantities of 3,000 gallons or less.

(C) Solid fertilizers that are not transported with any organic substance.

(*iii*) The commercial motor vehicle does not require the H, N, P, T, or X vehicle indorsement.

(3) A seasonal restricted vehicle group designation under this subsection shall be issued, suspended, revoked, canceled, or renewed in accordance with this act.

(4) The secretary of state may enter into an agreement with another public or private person or agency to conduct a skills test required under this section, section 312e, or 49 C.F.R. part 383.

(5) The secretary of state shall not issue a vehicle group designation or a vehicle indorsement to an applicant for an original vehicle group designation or vehicle indorsement under section 312e to whom 1 or more of the following apply:

(a) The applicant has had his or her license suspended or revoked for a reason other than as provided in section 321a, 515, or 801c in the 36 months immediately preceding application, except that a vehicle group designation may be issued if the suspension or revocation was due to a temporary medical condition or failure to appear at a reexamination as provided in section 320.

(b) The applicant was convicted of or incurred a bond forfeiture in relation to a 6-point violation as provided in section 320a in the 24 months immediately preceding application, or a violation of section 625(3) or former section 625b, or a local ordinance substantially corresponding to section 625(3) or former section 625b in the 24 months immediately preceding application, if the violation occurred while the applicant was operating a commercial motor vehicle.

(c) The applicant is listed on the national driver register, the commercial driver license information system, or the driving records of the state in which the applicant was previously licensed as being disqualified from operating a commercial motor vehicle or as having a license or driving privilege suspended, revoked, canceled, or denied.

(d) The applicant is listed on the national driver register, the commercial driver license information system, or the driving records of the state in which the applicant was previously licensed as having had a license suspended, revoked, or canceled in the 36 months immediately preceding application if a suspension or revocation would have been imposed under this act had the applicant been licensed in this state in the original instance. This subdivision does not apply to a suspension or revocation that would have been imposed due to a temporary medical condition or pursuant to section 321a, 515, or 801c.

(e) The applicant is subject to a suspension or revocation under section 319b or would have been subject to a suspension or revocation under section 319b if the applicant had been issued a vehicle group designation or vehicle indorsement.

(f) The applicant has been disqualified from operating a commercial motor vehicle under chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317 or the applicant's license to operate a commercial motor vehicle has been suspended, revoked, denied, or canceled within 36 months immediately preceding the date of application.

(6) The secretary of state shall not issue a vehicle group designation to an applicant to renew or upgrade a vehicle group designation if the applicant is listed on the national driver register or the commercial driver license information system as being disqualified from operating a commercial motor vehicle or as having a driver license or driving privilege suspended, revoked, canceled, or denied.

(7) The secretary of state shall only consider bond forfeitures under subsection (5)(b) for violations that occurred on or after January 1, 1990 when determining the applicability of subsection (5).

(8) If an applicant for an original vehicle group designation was previously licensed in another jurisdiction, the secretary of state shall request a copy of the applicant's driving record from that jurisdiction. If 1 or more of the conditions described in subsection (5) exist in that jurisdiction when the secretary of state receives the copy, the secretary of state shall cancel all vehicle group designations on the person's operator's or chauffeur's license.

(9) The secretary of state shall cancel all vehicle group designations on a person's operator's or chauffeur's license upon receiving notice from the national driver register, the commercial driver license system, or another state or jurisdiction that 1 or more of the conditions described in subsection (5) existed at the time of the person's application in this state.

(10) The secretary of state shall cancel all vehicle group designations on the person's operator's or chauffeur's license upon receiving proper notice that the person no longer meets the federal driver qualification requirements under 49 C.F.R. part 391 to operate a commercial motor vehicle in interstate commerce, or the person no longer meets the driver qualification requirements to operate a commercial motor vehicle in intrastate commerce under the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.22.

(11) Subsection (5)(a), (b), (d), and (f) do not apply to an applicant for an original vehicle group designation who at the time of application has a valid license to operate a commercial motor vehicle issued by any state in compliance with chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317.

(12) As used in this section:

(a) "Farm related service industry" means custom harvesters, farm retail outlets and suppliers, agri-chemical business, or livestock feeders.

(b) "Good driving record" means the criteria required under regulations described at 49 C.F.R. 383.77 and 57 F.R. 75, P. 13650 (April 17, 1992).

257.319 Mandatory suspension of license; record of conviction for certain crimes; waiver; restricted license; prior convictions.

Sec. 319. (1) The secretary of state shall immediately suspend a person's license as provided in this section upon receiving a record of the person's conviction for a crime described in this section, whether the conviction is under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state.

(2) The secretary of state shall suspend the person's license for 1 year for any of the following crimes:

(a) Fraudulently altering or forging documents pertaining to motor vehicles in violation of section 257.

(b) A violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.

(c) A violation of section 1 of former 1931 PA 214, MCL 752.191, or section 626c.

(d) A felony in which a motor vehicle was used. As used in this section, "felony in which a motor vehicle was used" means a felony during the commission of which the person convicted operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

(*i*) The vehicle was used as an instrument of the felony.

(*ii*) The vehicle was used to transport a victim of the felony.

(*iii*) The vehicle was used to flee the scene of the felony.

(*iv*) The vehicle was necessary for the commission of the felony.

(e) A violation of section 602a(2) or (3) of this act or section 479a(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(3) The secretary of state shall suspend the person's license for 90 days for any of the following crimes:

(a) Failing to stop and disclose identity at the scene of an accident resulting in injury in violation of section 617a.

(b) A violation of section 601b(2), section 601c(1), section 626, or section 653a(3).

(c) Malicious destruction resulting from the operation of a vehicle under section 382(1)(b), (c), or (d) of the Michigan penal code, 1931 PA 328, MCL 750.382.

(d) A violation of section 703(2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(4) The secretary of state shall suspend the person's license for 30 days for malicious destruction resulting from the operation of a vehicle under section 382(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.382.

(5) For perjury or making a false certification to the secretary of state under any law requiring the registration of a motor vehicle or regulating the operation of a vehicle on a highway, or for conduct prohibited under section 324(1) or a local ordinance substantially corresponding to section 324(1), the secretary shall suspend the person's license as follows:

(a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 90 days.

(b) If the person has 1 or more prior convictions for an offense described in this subsection within 7 years, for 1 year.

(6) For a violation of section 414 of the Michigan penal code, 1931 PA 328, MCL 750.414, the secretary of state shall suspend the person's license as follows:

(a) If the person has no prior conviction for that offense within 7 years, for 90 days.

(b) If the person has 1 or more prior convictions for that offense within 7 years, for 1 year.

(7) For a violation of section 624a or 624b of this act or section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, the secretary of state shall suspend the person's license as follows:

(a) If the person has 1 prior conviction for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 90 days. The secretary of state may issue the person a restricted license after the first 30 days of suspension.

(b) If the person has 2 or more prior convictions for an offense described in this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, for 1 year. The secretary of state may issue the person a restricted license after the first 60 days of suspension.

(8) The secretary of state shall suspend the person's license for a violation of section 625 or 625m as follows:

(a) For 180 days for a violation of section 625(1) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension, except that the secretary of state shall not issue a restricted license during the first 30 days of suspension.

(b) For 90 days for a violation of section 625(3) if the person has no prior convictions within 7 years. However, if the person is convicted of a violation of section 625(3), for operating a vehicle when, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle was visibly impaired, the secretary of state shall suspend the person's license under this subdivision for 180 days. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(c) For 30 days for a violation of section 625(6) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(d) For 90 days for a violation of section 625(6) if the person has 1 or more prior convictions for that offense within 7 years.

(e) For 180 days for a violation of section 625(7) if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license after the first 90 days of suspension.

(f) For 90 days for a violation of section 625m if the person has no prior convictions within 7 years. The secretary of state may issue the person a restricted license during all or a specified portion of the suspension.

(9) For a violation of section 367c of the Michigan penal code, 1931 PA 328, MCL 750.367c, the secretary of state shall suspend the person's license as follows:

(a) If the person has no prior conviction for an offense described in this subsection within 7 years, for 6 months.

(b) If the person has 1 or more convictions for an offense described in this subsection within 7 years, for 1 year.

(10) For a violation of section 315(4), the secretary of state may suspend the person's license for 6 months.

(11) For a violation or attempted violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a, involving a school, the secretary of state shall suspend the license of a person 14 years of age or over but less than 21 years of age until 3 years after the date of the conviction or juvenile disposition for the violation. The secretary of state may issue the person a restricted license after the first 365 days of suspension.

(12) Except as provided in subsection (14), a suspension under this section shall be imposed notwithstanding a court order unless the court order complies with section 323.

(13) If the secretary of state receives records of more than 1 conviction of a person resulting from the same incident, a suspension shall be imposed only for the violation to which the longest period of suspension applies under this section.

(14) The secretary of state may waive a restriction, suspension, or revocation of a person's license imposed under this act if the person submits proof that a court in another state revoked, suspended, or restricted his or her license for a period equal to or greater than the period of a restriction, suspension, or revocation prescribed under this act for the violation and that the revocation, suspension, or restriction was served for the violation, or may grant a restricted license.

(15) The secretary of state shall not issue a restricted license to a person whose license is suspended under this section unless a restricted license is authorized under this section and the person is otherwise eligible for a license.

(16) The secretary of state shall not issue a restricted license to a person under subsection (8) that would permit the person to operate a commercial motor vehicle that transports hazardous material in amounts requiring a placard under the hazardous materials regulations, 49 C.F.R. parts 100 to 199.

(17) A restricted license issued under this section shall permit the person to whom it is issued to drive under 1 or more of the following circumstances:

(a) In the course of the person's employment or occupation.

(b) To and from any combination of the following:

(*i*) The person's residence.

(*ii*) The person's work location.

(*iii*) An alcohol or drug education or treatment program as ordered by the court.

(*iv*) The court probation department.

(*v*) A court-ordered community service program.

(*vi*) An educational institution at which the person is enrolled as a student.

(*vii*) A place of regularly occurring medical treatment for a serious condition for the person or a member of the person's household or immediate family.

(18) While driving with a restricted license, the person shall carry proof of his or her destination and the hours of any employment, class, or other reason for traveling and shall display that proof upon a peace officer's request.

(19) Subject to subsection (21), as used in subsection (8), "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

(a) Except as provided in subsection (20), a violation or attempted violation of section 625(1), (3), (4), (5), (6), or (7), section 625m, former section 625(1) or (2), or former section 625b.

(b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(20) Except for purposes of the suspensions described in subsection (8)(c) and (d), only 1 violation or attempted violation of section 625(6), a local ordinance substantially corresponding to section 625(6), or a law of another state substantially corresponding to section 625(6) may be used as a prior conviction.

(21) If 2 or more convictions described in subsection (19) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

257.319b Suspension or revocation of vehicle group designations on operator's or chauffeur's license; revocation for life of hazardous material indorsement; notice of conviction, bond forfeiture, civil infraction determination, violation of law, or refusal to submit to chemical test; period of suspension or revocation; definitions; applicability of conditions.

Sec. 319b. (1) The secretary of state shall immediately suspend or revoke, as applicable, all vehicle group designations on the operator's or chauffeur's license of a person upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or administrative tribunal has found the person responsible, for a violation described in this subsection of a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state, or notice that the person has refused to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, breath, or urine while the person was operating a commercial motor vehicle as required by a law or local ordinance of this or another state. The period of suspension or revocation is as follows:

(a) Suspension for 60 days if the licensee is convicted of or found responsible for 1 of the following while operating a commercial motor vehicle:

(*i*) Two serious traffic violations arising from separate incidents within 36 months.

(*ii*) A violation of section 667, 668, 669, or 669a.

(*iii*) A violation of motor carrier safety regulations 49 C.F.R. 392.10 or 392.11, as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

(*iv*) A violation of section 57 of the pupil transportation act, 1990 PA 187, MCL 257.1857.

(*v*) A violation of motor carrier safety regulations 49 C.F.R. 392.10 or 392.11, as adopted by section 31 of the motor bus transportation act, 1982 PA 432, MCL 474.131.

(*vi*) A violation of motor carrier safety regulations 49 C.F.R. 392.10 or 392.11 while operating a commercial motor vehicle other than a vehicle covered under subparagraph (*iii*), (*iv*), or (*v*).

(b) Suspension for 120 days if the licensee is convicted of or found responsible for 1 of the following arising from separate incidents within 36 months while operating a commercial motor vehicle:

(*i*) Three serious traffic violations.

(*ii*) Any combination of 2 violations described in subdivision (a)(*ii*).

(c) Suspension for 1 year if the licensee is convicted of or found responsible for 1 of the following:

(*i*) A violation of section 625(1), (3), (4), (5), (6), or (7), section 625m, or former section 625(1) or (2), or former section 625b, while operating a commercial motor vehicle.

(*ii*) Leaving the scene of an accident involving a commercial motor vehicle operated by the licensee.

(*iii*) A felony in which a commercial motor vehicle was used.

(*iv*) A refusal of a peace officer's request to submit to a chemical test of his or her blood, breath, or urine to determine the amount of alcohol or presence of a controlled

substance or both in his or her blood, breath, or urine while he or she was operating a commercial motor vehicle as required by a law or local ordinance of this state or another state.

(*v*) A 6-point violation as provided in section 320a while operating a commercial motor vehicle.

(*vi*) Any combination of 3 violations described in subdivision (a)(*ii*) arising from separate incidents within 36 months while operating a commercial motor vehicle.

(d) Suspension for 3 years if the licensee is convicted of or found responsible for an offense enumerated in subdivision (c)(*i*) to (*v*) in which a commercial motor vehicle was used if the vehicle was carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199.

(e) Revocation for not less than 10 years and until the person is approved for the issuance of a vehicle group designation if a licensee is convicted of or found responsible for 1 of the following:

(*i*) Any combination of 2 violations arising from 2 or more separate incidents under section 625(1), (3), (4), (5), (6), or (7), section 625m, or former section 625(1) or (2), or former section 625b, while driving a commercial motor vehicle.

(*ii*) Two violations of leaving the scene of an accident involving a commercial motor vehicle operated by the licensee.

(*iii*) Two violations of a felony in which a commercial motor vehicle was used.

(*iv*) Two refusals of a request of a police officer to submit to a chemical test of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood while he or she was operating a commercial motor vehicle in this state or another state, which refusals occurred in separate incidents.

(*v*) Two 6-point violations as provided in section 320a while operating a commercial motor vehicle.

(*vi*) Two violations, in any combination, of the offenses enumerated under subparagraph (*i*), (*ii*), (*iii*), (*iv*), or (*v*) arising from 2 or more separate incidents.

(f) Revocation for life if a licensee is convicted of or found responsible for any of the following:

(*i*) One violation of a felony in which a commercial motor vehicle was used and that involved the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance.

(*ii*) A conviction of any offense described in subdivision (c) or (d) after having been approved for the issuance of a vehicle group designation under subdivision (e).

(*iii*) A conviction of a violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(2) The secretary of state shall immediately revoke for life the hazardous material indorsement (H vehicle indorsement) on the operator's or chauffeur's license of a person with a vehicle group designation upon receiving notice from the U.S. department of transportation that the person poses a security risk warranting denial under the uniting and strengthening America by providing appropriate tools required to intercept and obstruct terrorism (USA PATRIOT ACT) act of 2001, Public Law 107-56, 115 Stat. 272.

(3) The secretary of state shall immediately suspend all vehicle group designations on the operator's or chauffeur's license of a person upon receiving notice of a conviction, bond forfeiture, or civil infraction determination of the person, or notice that a court or

administrative tribunal has found the person responsible, for a violation of section 319d(4) or 319f, a local ordinance substantially corresponding to section 319d(4) or 319f, or a law or local ordinance of another state, the United States, Canada, Mexico, or a local jurisdiction of either of these countries substantially corresponding to section 319d(4) or 319f, while operating a commercial motor vehicle. The period of suspension or revocation is as follows:

(a) Suspension for 90 days if the licensee is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle.

(b) Suspension for 180 days if the licensee is convicted of or found responsible for a violation of section 319d(4) or 319f while operating a commercial motor vehicle that is either carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199 or designed to carry 16 or more passengers, including the driver.

(c) Suspension for 1 year if the licensee is convicted of or found responsible for 2 violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 2 or more separate incidents during a 10-year period.

(d) Suspension for 3 years if the licensee is convicted of or found responsible for 3 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle arising from 3 or more separate incidents during a 10-year period.

(e) Suspension for 3 years if the licensee is convicted of or found responsible for 2 or more violations, in any combination, of section 319d(4) or 319f while operating a commercial motor vehicle carrying hazardous material required to have a placard pursuant to 49 C.F.R. parts 100 to 199, or designed to carry 16 or more passengers, including the driver, arising from 2 or more separate incidents during a 10-year period.

(4) As used in this section:

(a) "Felony in which a commercial motor vehicle was used" means a felony during the commission of which the person convicted operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

(*i*) The vehicle was used as an instrument of the felony.

(*ii*) The vehicle was used to transport a victim of the felony.

(*iii*) The vehicle was used to flee the scene of the felony.

(*iv*) The vehicle was necessary for the commission of the felony.

(b) "Serious traffic violation" means a traffic violation that occurs in connection with an accident in which a person died, careless driving, excessive speeding as defined in regulations promulgated under chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317, improper lane use, following too closely, or any other serious traffic violation as defined in 49 C.F.R. 383.5 or as prescribed under this act.

(5) For the purpose of this section only, a bond forfeiture or a determination by a court of original jurisdiction or an authorized administrative tribunal that a person has violated the law is considered a conviction.

(6) The secretary of state shall suspend or revoke a vehicle group designation under subsection (1) notwithstanding a suspension, restriction, revocation, or denial of an operator's or chauffeur's license or vehicle group designation under another section of this act or a court order issued under another section of this act or a local ordinance substantially corresponding to another section of this act.

(7) When determining the applicability of conditions listed in this section, the secretary of state shall only consider violations that occurred after January 1, 1990.

257.319c Providing United States department of transportation with information pertaining to operator's or chauffeur's license with vehicle group designation; notification of motor vehicle administrator or other appropriate officer.

Sec. 319c. (1) The secretary of state shall provide the United States department of transportation with the following information pertaining to an operator's or chauffeur's license with a vehicle group designation:

(a) A notice of the issuance of an operator's or chauffeur's license with a vehicle group designation within 10 days after the issuance of the license.

(b) A notice of a suspension, revocation, or denial of a license within 10 days after the suspension, revocation, or denial. If the licensee is a nonresident, a notice of the state that issued the suspension, revocation, or denial of the license shall also be provided.

(2) Within 10 days after receiving a record of conviction, civil infraction determination, or forfeiture of bail in this state of a nonresident driver of a commercial motor vehicle for a violation under the motor vehicle laws of this state, other than a parking violation, the secretary of state shall notify the motor vehicle administrator or other appropriate officer in the state in which the person is licensed.

257.319g Prohibitions; violations.

Sec. 319g. (1) An employer shall not knowingly allow, permit, authorize, or require a driver to operate a commercial motor vehicle in violation of any of the following:

(a) Section 667, 668, 669, or 669a.

(b) Motor carrier safety regulations 49 C.F.R. 392.10 or 392.11, as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

(c) Section 57 of the pupil transportation act, 1990 PA 187, MCL 257.1857.

(d) Motor carrier safety regulations 49 C.F.R. 392.10 or 392.11, as adopted by section 31 of the motor bus transportation act, 1982 PA 432, MCL 474.131.

(e) Motor carrier safety regulations 49 C.F.R. 392.10 or 392.11 while operating a commercial motor vehicle other than a vehicle covered under subdivision (b), (c), or (d).

(2) A person who violates this section is responsible for a civil infraction.

257.321 Surrender of license; replacement.

Sec. 321. Upon suspending or revoking a license, the department shall require that the license be surrendered to and be destroyed by the department. At the end of the suspension period, the licensee may obtain a replacement license.

257.321b Suspended or revoked license; destruction.

Sec. 321b. Any policeman, law enforcing agent, or judicial officer who is informed by an official communication from the secretary of state that the secretary of state has suspended or revoked an operator's, moped, or chauffeur's license under the provisions of this act, shall obtain and destroy the suspended or revoked license.

257.323c Restricted license; issuance by circuit court; limitations; exceptions; condition.

Sec. 323c. (1) A person denied a license to operate a motor vehicle or whose license for that purpose has been suspended by the secretary of state under section 625f has a right

to a review of the matter in circuit court as provided in sections 323 and 323a. Except as provided in this section, the court may order the secretary of state to issue to the person a restricted license permitting the person to drive only to and from the person's residence and work location; in the course of the person's employment or occupation; to and from an alcohol or drug education program or treatment program as ordered by a court; to and from the person's residence and the court probation department, or a court-ordered community service program, or both; to and from the person's residence and an educational institution at which the person is enrolled as a student; or pursuant to a combination of these restrictions. If the denial, suspension, or revocation of a person's license or vehicle group designation under section 625f occurred in connection with the operation of a commercial motor vehicle, the court shall not order the secretary of state to issue a restricted license that would permit the person to operate a commercial motor vehicle. The court shall not order the secretary of state to issue a restricted operator's or chauffeur's license that would permit a person to operate a commercial motor vehicle hauling hazardous material. The court shall not order the secretary of state to issue a restricted license unless the person states under oath and the court finds that the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education or treatment, or educational institution, and does not have a family member or other person able to provide transportation. The court order and license shall indicate the person's work location and the approved route or routes and permitted times of travel. For purposes of this section, "work location" includes, as applicable, either or both of the following:

(a) The specific place or places of employment.

(b) The territory or territories regularly visited by the person in pursuance of the person's occupation.

(2) If the person's license has been suspended pursuant to section 625f within the immediately preceding 7-year period, a restricted license shall not be issued.

(3) Notwithstanding any other provision of this section, the court shall not issue a restricted license to a person who has accumulated over 24 points, as provided in section 320a, within the 2-year period preceding the date of the suspension of his or her license.

257.667 Stopping at railroad grade crossing; driving through, around, or under crossing gate or barrier; violation as civil infraction.

Sec. 667. (1) When a person driving a vehicle approaches a railroad grade crossing under any of the following circumstances, the driver shall stop the vehicle not more than 50 feet but not less than 15 feet from the nearest rail of the railroad, and shall not proceed until the driver can do so safely:

(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.

(b) A crossing gate is lowered or a flagman gives or continues to give a signal of the approach or passage of a railroad train.

(c) A railroad train approaching within approximately 1,500 feet of the highway crossing gives a signal audible from that distance, and the train by reason of its speed or nearness to the crossing is an immediate hazard.

(d) An approaching railroad train is plainly visible and is in hazardous proximity to the crossing.

(2) A person shall not drive a vehicle through, around, or under a crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed or against the direction of a police officer.

(3) A person who violates this section is responsible for a civil infraction.

257.667a Installation and use of unmanned traffic monitoring devices at railroad grade crossing; civil infraction; evidence; diagnostic review required where fatality at railroad grade crossing.

Sec. 667a. (1) The department of state police or the state transportation department; the county board of commissioners, board of county road commissioners, or county sheriff; or other local authority having jurisdiction over a highway or street may authorize the installation and use of unmanned traffic monitoring devices at a railroad grade crossing with flashing signals and gates on a highway or street under their respective jurisdictions. Each device shall be sufficiently marked or identified or a sign shall be placed at the approach to the crossing indicating that the crossing is monitored by an unmanned traffic monitoring device.

(2) Beginning 31 days after the installation of an unmanned traffic monitoring device at a railroad grade crossing described in subsection (1), a person is responsible for a civil infraction as provided in section 667 if the person violates a provision of that section on the basis of evidence obtained from an unmanned traffic monitoring device. However, for the first 30 days after the installation of an unmanned traffic monitoring device, a person shall be issued a written warning only. It shall be an affirmative defense to a charge of violating section 667 that the mechanical warning devices at the crossing were malfunctioning.

(3) A sworn statement of a police officer from the state or local authority having jurisdiction over the highway or street upon which the railroad grade crossing described in subsection (1) is located, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by an unmanned traffic monitoring device, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images indicating such a violation shall be available for inspection in any proceeding to adjudicate the responsibility for a violation of section 667. Any photographs, videotape, or digital images evidencing such a violation shall be destroyed 90 days after final disposition of the citation.

(4) In a prosecution for a violation of section 667 established by an unmanned traffic monitoring device under this section, prima facie evidence that the vehicle described in the citation issued was operated in violation of section 667, together with proof that the defendant was at the time of the violation the registered owner of the vehicle, shall constitute in evidence a rebuttable presumption that the registered owner of the vehicle was the person who committed the violation. The presumption is rebutted if the registered owner of the vehicle files an affidavit by regular mail with the clerk of the court that he or she was not the operator of the vehicle at the time of the alleged violation or testifies in open court under oath that he or she was not the operator of the vehicle at the time of the alleged violation. The presumption also is rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as stolen before the time of the alleged violation of this section, is presented before the appearance date established on the citation. For purposes of this subsection, the owner of a leased or rental vehicle shall provide the name and address of the person to whom the vehicle was leased or rented at the time of the violation.

(5) Notwithstanding section 742, a citation for a violation of section 667 on the basis of evidence obtained from an unmanned traffic monitoring device may be executed by mailing by first-class mail a copy to the address of the owner of the vehicle as shown on

the records of the secretary of state. If the summoned person fails to appear on the date of return set out in the citation previously mailed by first-class mail pursuant to this subsection, a copy shall be sent by certified mail-return receipt requested. If the summoned person fails to appear on either of the dates of return set out in the copies of the citation mailed pursuant to this section, the citation shall be executed in the manner provided by law for personal service. The court may issue a warrant for the arrest of a person who fails to appear within the time limit established on the citation if a sworn complaint is filed with the court for that purpose.

(6) If there is a fatality at a railroad grade crossing in a city, village, or township with population of 60,000 or more, or in a county with population of 150,000 or more, the state transportation department shall undertake a diagnostic review, if there has not been a diagnostic review at the crossing in the last 2 years. The diagnostic review shall be scheduled within 120 days. If the diagnostic review confirms that warning devices such as flashing lights and gates are needed, the state transportation department shall order such improvements. The cost for the improvements shall be financed consistent with the financing of similar projects by the state transportation department according to its annual prioritization of grade crossing safety improvements.

257.668 Designating certain grade crossings as "stop" crossings or "yield" crossings; signs; duties of driver; cost of yield sign installations; action for negligence; failure to stop or yield as civil infraction.

Sec. 668. (1) The state transportation department with respect to highways under its jurisdiction, the county road commissions, and local authorities with reference to highways under their jurisdiction, may designate certain grade crossings of railways by highways as "stop" crossings, and erect signs at the crossings notifying drivers of vehicles upon the highway to come to a complete stop before crossing the railway tracks. When a crossing is so designated and signposted, the driver of a vehicle shall stop not more than 50 feet but not less than 15 feet from the railway tracks. The driver shall then traverse the crossing when it may be done in safety.

(2) The state transportation department with respect to highways under its jurisdiction, the county road commissions, and local authorities with reference to highways under their jurisdiction, may designate certain grade crossings of railways by highways as yield crossings, and erect signs at the crossings notifying drivers of vehicles upon the highway to yield. Yield signs may be mounted on the same post as is the crossbuck sign. Drivers of vehicles approaching a yield sign at the grade crossing of a railway shall maintain a reasonable speed based upon existing conditions and shall yield the right-of-way. The cost of yield sign installations shall be borne equally by the railroad and the governmental authority under whose jurisdiction the highway rests. The erection of or failure to erect, replace, or maintain a stop or yield sign or other railroad warning device, unless such devices or signs were ordered by public authority, shall not be a basis for an action of negligence against the state transportation department, county road commissions, the railroads, or local authorities.

(3) A person who fails to stop or yield as required by this section is responsible for a civil infraction.

257.669 Certain vehicles to stop at railroad track grade crossing; driver to listen and look in both directions; shifting gears prohibited; exceptions; violation as civil infraction.

Sec. 669. (1) Except as provided in subsections (2), (3), and (4), the driver of a motor vehicle transporting 16 or more passengers including the driver, a motor vehicle carrying

passengers for hire, or a motor vehicle that is required to be marked or placarded under 49 C.F.R. parts 100 to 180 before crossing a railroad track at grade, shall activate the vehicle hazard warning lights and stop the vehicle within 50 feet but not less than 15 feet from the nearest rail. While stopped, the driver shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely. After stopping as required in this subsection, and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in a gear of the vehicle that does not require changing gears while traversing the crossing. The driver shall not shift gears while crossing the track or tracks.

(2) A stop need not be made at a railroad track grade crossing where a police officer or a traffic-control signal directs traffic to proceed.

(3) A stop need not be made at an abandoned railroad track grade crossing. As used in this subsection, "abandoned railroad track" means a railroad track which meets all of the following requirements:

(*i*) The track has been abandoned pursuant to federal law.

(*ii*) The track has been covered or removed.

(*iii*) All signs, signals, and other warning devices are removed.

(4) A stop shall not be made at an industrial or spur line railroad grade crossing marked with a sign reading "exempt". Exempt signs may be erected only by or with the consent of the state transportation department after notice to and an opportunity to be heard by all railroads operating over that industrial or spur line.

(5) A person who violates this section is responsible for a civil infraction.

257.669a Federal motor carrier safety regulations; adoption; transportation of persons and property over railroad-highway grade crossings.

Sec. 669a. (1) This state adopts motor carrier safety regulations 49 C.F.R. 392.10 and 392.11 on file with the office of the secretary of state, to provide for the safe transportation of persons and property over railroad-highway grade crossings with the intent of following the policies and procedures of the United States department of transportation's federal motor carrier safety administration as they relate to title 49 of the code of federal regulations. For purposes of this subsection, "commercial motor vehicle" means that term as defined in section 7a.

(2) The driver of a commercial motor vehicle shall comply with a lawful order or direction of a police officer guiding, directing, controlling, or regulating traffic at a railroad-highway grade crossing.

(3) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle has sufficient undercarriage clearance.

(4) The driver of a commercial motor vehicle shall not cross a railroad-highway grade crossing unless the vehicle can be driven completely through the crossing without stopping.

(5) A person who violates this section is responsible for a civil infraction.

257.670 Operating or moving certain vehicles or equipment upon or across steam railroad tracks at grade level; notice of intended crossing; stopping, listening, and looking; warning; violation as civil infraction.

Sec. 670. (1) A person shall not operate or move a caterpillar tractor, shovel, derrick, roller, boiler, machinery, or other structure or object upon rollers, or other equipment or

structure, which, because of its limited power, or weight, character, or load, has a normal operating speed of 4 miles per hour or less, or which has a vertical load or body clearance of less than 9 inches above the level surface of the roadway, upon or across the tracks of a railroad at grade level without first complying with this section, except this section shall not apply to the movement of electrically propelled cars on fixed rails or to their loads.

(2) Notice of the intended crossing described in subsection (1) shall be given to the nearest agent or officer of the railroad in time to afford protection to its locomotives, trains, or cars at the crossing.

(3) Before making the crossing, the person operating or moving the vehicle or equipment shall first stop not less than 15 feet or more than 50 feet from the nearest rail of the track and while stopped shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

(4) A crossing shall not be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train or car.

(5) A person who violates this section is responsible for a civil infraction.

257.732 Record of cases; forwarding abstract of record or report to secretary of state; statement; abstracts forwarded; noncompliance as misconduct in office; location and public inspection of abstracts; entering abstracts on master driving record; exceptions; informing courts of violations; entering order of reversal in book or index; modifications; abstract as part of written notice to appear; expunction prohibited.

Sec. 732. (1) Each municipal judge and each clerk of a court of record shall keep a full record of every case in which a person is charged with or cited for a violation of this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways and with those offenses pertaining to the operation of ORVs or snowmobiles for which points are assessed under section 320a(1)(c) or (h). Except as provided in subsection (15), the municipal judge or clerk of the court of record shall prepare and forward to the secretary of state an abstract of the court record as follows:

(a) Within 14 days after a conviction, forfeiture of bail, or entry of a civil infraction determination or default judgment upon a charge of or citation for violating or attempting to violate this act or a local ordinance substantially corresponding to this act regulating the operation of vehicles on highways.

(b) Immediately for each case charging a violation of section 625(1), (3), (4), (5), (6), or (7) or section 625m or a local ordinance substantially corresponding to section 625(1), (3), or (6) or section 625m in which the charge is dismissed or the defendant is acquitted.

(c) Immediately for each case charging a violation of section 82127(1) or (3), 81134, or 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127, 324.81134, and 324.81135, or a local ordinance substantially corresponding to those sections.

(2) If a city or village department, bureau, or person is authorized to accept a payment of money as a settlement for a violation of a local ordinance substantially corresponding to this act, the city or village department, bureau, or person shall send a full report of each case in which a person pays any amount of money to the city or village department, bureau, or person to the secretary of state upon a form prescribed by the secretary of state.

(3) The abstract or report required under this section shall be made upon a form furnished by the secretary of state. An abstract shall be certified by signature, stamp, or facsimile signature of the person required to prepare the abstract as correct. An abstract or report shall include all of the following:

(a) The name, address, and date of birth of the person charged or cited.

(b) The number of the person's operator's or chauffeur's license, if any.

(c) The date and nature of the violation.

(d) The type of vehicle driven at the time of the violation and, if the vehicle is a commercial motor vehicle, that vehicle's group designation and indorsement classification.

(e) The date of the conviction, finding, forfeiture, judgment, or civil infraction determination.

(f) Whether bail was forfeited.

(g) Any license restriction, suspension, or denial ordered by the court as provided by law.

(h) The vehicle identification number and registration plate number of all vehicles that are ordered immobilized or forfeited.

(i) Other information considered necessary to the secretary of state.

(4) The clerk of the court also shall forward an abstract of the court record to the secretary of state upon a person's conviction involving any of the following:

(a) A violation of section 413, 414, or 479a of the Michigan penal code, 1931 PA 328, MCL 750.413, 750.414, and 750.479a.

(b) A violation of section 1 of former 1931 PA 214.

(c) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle.

(d) A violation of section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to that section.

(e) A violation of section 411a(2) of the Michigan penal code, 1931 PA 328, MCL 750.411a.

(f) A violation of motor carrier safety regulations, 49 C.F.R. 392.10 or 392.11, as adopted by section 1a of the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11a.

(g) A violation of section 57 of the pupil transportation act, 1990 PA 187, MCL 257.1857.

(h) A violation of motor carrier safety regulations, 49 C.F.R. 392.10 or 392.11, as adopted by section 31 of the motor bus transportation act, 1982 PA 432, MCL 474.131.

(i) An attempt to violate, a conspiracy to violate, or a violation of part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, or a local ordinance that prohibits conduct prohibited under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, unless the convicted person is sentenced to life imprisonment or a minimum term of imprisonment that exceeds 1 year for the offense.

(j) An attempt to commit an offense described in subdivisions (a) to (h).

(k) A violation of chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z.

(5) As used in subsections (6) to (8), "felony in which a motor vehicle was used" means a felony during the commission of which the person operated a motor vehicle and while operating the vehicle presented real or potential harm to persons or property and 1 or more of the following circumstances existed:

(a) The vehicle was used as an instrument of the felony.

(b) The vehicle was used to transport a victim of the felony.

(c) The vehicle was used to flee the scene of the felony.

(d) The vehicle was necessary for the commission of the felony.

(6) If a person is charged with a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

"You are charged with the commission of a felony in which a motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver's license shall be suspended by the secretary of state.".

(7) If a juvenile is accused of an act, the nature of which constitutes a felony in which a motor vehicle was used, other than a felony specified in subsection (4) or section 319, the prosecuting attorney or family division of circuit court shall include the following statement on the petition filed in the court:

"You are accused of an act the nature of which constitutes a felony in which a motor vehicle was used. If the accusation is found to be true and the judge or referee finds that the nature of the act constitutes a felony in which a motor vehicle was used, as defined in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319, your driver's license shall be suspended by the secretary of state.".

(8) If the court determines as part of the sentence or disposition that the felony for which the person was convicted or adjudicated and with respect to which notice was given under subsection (6) or (7) is a felony in which a motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(9) As used in subsections (10) and (11), "felony in which a commercial motor vehicle was used" means a felony during the commission of which the person operated a commercial motor vehicle and while the person was operating the vehicle 1 or more of the following circumstances existed:

(a) The vehicle was used as an instrument of the felony.

(b) The vehicle was used to transport a victim of the felony.

(c) The vehicle was used to flee the scene of the felony.

(d) The vehicle was necessary for the commission of the felony.

(10) If a person is charged with a felony in which a commercial motor vehicle was used and for which a vehicle group designation on a license is subject to suspension or revocation under section 319b(1)(c)(*iii*), 319b(1)(d), 319b(1)(e)(*iii*), or 319b(1)(f)(*i*), the prosecuting attorney shall include the following statement on the complaint and information filed in district or circuit court:

"You are charged with the commission of a felony in which a commercial motor vehicle was used. If you are convicted and the judge finds that the conviction is for a felony in which a commercial motor vehicle was used, as defined in section 319b of the Michigan vehicle code, 1949 PA 300, MCL 257.319b, all vehicle group designations on your driver's license shall be suspended or revoked by the secretary of state.".

(11) If the judge determines as part of the sentence that the felony for which the defendant was convicted and with respect to which notice was given under subsection (10) is a felony in which a commercial motor vehicle was used, the clerk of the court shall forward an abstract of the court record of that conviction to the secretary of state.

(12) Every person required to forward abstracts to the secretary of state under this section shall certify for the period from January 1 through June 30 and for the period from July 1 through December 31 that all abstracts required to be forwarded during the period have been forwarded. The certification shall be filed with the secretary of state not later than 28 days after the end of the period covered by the certification. The certification shall be made upon a form furnished by the secretary of state and shall include all of the following:

(a) The name and title of the person required to forward abstracts.

(b) The court for which the certification is filed.

(c) The time period covered by the certification.

(d) The following statement:

"I certify that all abstracts required by section 732 of the Michigan vehicle code, MCL 257.732; MSA 9.2432, for the period _____ through _____ have been forwarded to the secretary of state.".

(e) Other information the secretary of state considers necessary.

(f) The signature of the person required to forward abstracts.

(13) The failure, refusal, or neglect of a person to comply with this section constitutes misconduct in office and is grounds for removal from office.

(14) Except as provided in subsection (15), the secretary of state shall keep all abstracts received under this section at the secretary of state's main office and the abstracts shall be open for public inspection during the office's usual business hours. Each abstract shall be entered upon the master driving record of the person to whom it pertains.

(15) Except for controlled substance offenses described in subsection (4), the court shall not submit, and the secretary of state shall discard and not enter on the master driving record, an abstract for a conviction or civil infraction determination for any of the following violations:

(a) The parking or standing of a vehicle.

(b) A nonmoving violation that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.

(c) A violation of chapter II that is not the basis for the secretary of state's suspension, revocation, or denial of an operator's or chauffeur's license.

(d) A pedestrian, passenger, or bicycle violation, other than a violation of section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b or a local ordinance substantially corresponding to section 624a or 624b.

(e) A violation of section 710e or a local ordinance substantially corresponding to section 710e.

(16) The secretary of state shall discard and not enter on the master driving record an abstract for a bond forfeiture that occurred outside this state. However, the secretary of state shall retain and enter on the master driving record an abstract of an out-of-state bond forfeiture for an offense that occurred in connection with the operation of a commercial motor vehicle.

(17) The secretary of state shall inform the courts of this state of the nonmoving violations and violations of chapter II that are used by the secretary of state as the basis for the suspension, restriction, revocation, or denial of an operator's or chauffeur's license.

(18) If a conviction or civil infraction determination is reversed upon appeal, the person whose conviction or determination has been reversed may serve on the secretary of state a certified copy of the order of reversal. The secretary of state shall enter the order in the proper book or index in connection with the record of the conviction or civil infraction determination.

(19) The secretary of state may permit a city or village department, bureau, person, or court to modify the requirement as to the time and manner of reporting a conviction, civil infraction determination, or settlement to the secretary of state if the modification will increase the economy and efficiency of collecting and utilizing the records. If the permitted abstract of court record reporting a conviction, civil infraction determination, or settlement originates as a part of the written notice to appear, authorized in section 728(1) or 742(1), the form of the written notice and report shall be as prescribed by the secretary of state.

(20) Except as provided in this act and notwithstanding any other provision of law, a court shall not order expunction of any violation reportable to the secretary of state under this section.

257.904 Operating vehicle if license, registration certificate, or designation suspended, revoked, or denied; penalty; extending period of suspension or revocation; informing court of record and status; applicability.

Sec. 904. (1) A person whose operator's or chauffeur's license or registration certificate has been suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, whose application for license has been denied, or who has never applied for a license, shall not operate a motor vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this state.

(2) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this act.

(3) Except as otherwise provided in this section, a person who violates subsection (1) or (2) is guilty of a misdemeanor punishable as follows:

(a) For a first violation, by imprisonment for not more than 93 days or a fine of not more than $500.00, or both. Unless the vehicle was stolen or used with the permission of a person who did not knowingly permit an unlicensed driver to operate the vehicle, the registration plates of the vehicle shall be canceled by the secretary of state upon notification by a peace officer.

(b) For a violation that occurs after a prior conviction, by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both. Unless the vehicle was stolen, the registration plates of the vehicle shall be canceled by the secretary of state upon notification by a peace officer.

(4) A person who operates a motor vehicle in violation of subsection (1) and who, by operation of that motor vehicle, causes the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than $2,500.00 or more than $10,000.00, or both. This subsection does not apply to a person whose

operator's or chauffeur's license was suspended because that person failed to answer a citation or comply with an order or judgment pursuant to section 321a.

(5) A person who operates a motor vehicle in violation of subsection (1) and who, by operation of that motor vehicle, causes the serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than $1,000.00 or more than $5,000.00, or both. This subsection does not apply to a person whose operator's or chauffeur's license was suspended because that person failed to answer a citation or comply with an order or judgment pursuant to section 321a. As used in this subsection and subsection (7), "serious impairment of a body function" includes, but is not limited to, 1 or more of the following:

(a) Loss of a limb or loss of use of a limb.

(b) Loss of a foot, hand, finger, or thumb or loss of use of a foot, hand, finger, or thumb.

(c) Loss of an eye or ear or loss of use of an eye or ear.

(d) Loss or substantial impairment of a bodily function.

(e) Serious visible disfigurement.

(f) A comatose state that lasts for more than 3 days.

(g) Measurable brain or mental impairment.

(h) A skull fracture or other serious bone fracture.

(i) Subdural hemorrhage or subdural hematoma.

(6) In addition to being subject to any other penalty provided for in this act, if a person is convicted under subsection (4) or (5), the court may impose the sanction permitted under section 625n. If the vehicle is not ordered forfeited under section 625n, the court shall order vehicle immobilization under section 904d in the judgment of sentence.

(7) A person shall not knowingly permit a motor vehicle owned by the person to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state, by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never been licensed except as permitted by this act. If a person permitted to operate a motor vehicle in violation of this subsection causes the serious impairment of a body function of another person by operation of that motor vehicle, the person knowingly permitting the operation of that motor vehicle is guilty of a felony punishable by imprisonment for not more than 2 years, or a fine of not less than $1,000.00 or more than $5,000.00, or both. If a person permitted to operate a motor vehicle in violation of this subsection causes the death of another person by operation of that motor vehicle, the person knowingly permitting the operation of that motor vehicle is guilty of a felony punishable by imprisonment for not more than 5 years, or a fine of not less than $1,000.00 or more than $5,000.00, or both.

(8) If the prosecuting attorney intends to seek an enhanced sentence under this section based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information, or an amended complaint and information, filed in district court, circuit court, municipal court, or family division of circuit court, a statement listing the defendant's prior convictions.

(9) A prior conviction under this section shall be established at or before sentencing by 1 or more of the following:

(a) An abstract of conviction.

(b) A copy of the defendant's driving record.

(c) An admission by the defendant.

(10) Upon receiving a record of a person's conviction or civil infraction determination for the unlawful operation of a motor vehicle or a moving violation reportable under section 732 while the person's operator's or chauffeur's license is suspended or revoked, the secretary of state immediately shall impose an additional like period of suspension or revocation. This subsection applies only if the violation occurs during a suspension of definite length or if the violation occurs before the person is approved for a license following a revocation.

(11) Upon receiving a record of a person's conviction or civil infraction determination for the unlawful operation of a motor vehicle or a moving violation reportable under section 732 while the person's operator's or chauffeur's license is indefinitely suspended or whose application for a license has been denied, the secretary of state immediately shall impose a 30-day period of suspension or denial.

(12) Upon receiving a record of the conviction, bond forfeiture, or a civil infraction determination of a person for unlawful operation of a motor vehicle requiring a vehicle group designation while the designation is suspended or revoked pursuant to section 319b, or while the person is disqualified from operating a commercial motor vehicle under chapter 313 of title 49 of the United States Code, 49 U.S.C. 31301 to 31317, the secretary of state immediately shall impose an additional like period of suspension or revocation. This subsection applies only if the violation occurs during a suspension of definite length or if the violation occurs before the person is approved for a license following a revocation.

(13) If the secretary of state receives records of more than 1 conviction or civil infraction determination resulting from the same incident, all of the convictions or civil infraction determinations shall be treated as a single violation for purposes of imposing an additional period of suspension or revocation under subsection (10), (11), or (12).

(14) Before a person is arraigned before a district court magistrate or judge on a charge of violating this section, the arresting officer shall obtain the person's driving record from the secretary of state and shall furnish the record to the court. The driving record of the person may be obtained from the secretary of state's computer information network.

(15) This section does not apply to a person who operates a vehicle solely for the purpose of protecting human life or property if the life or property is endangered and summoning prompt aid is essential.

(16) A person whose vehicle group designation is suspended or revoked and who has been notified as provided in section 212 of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided in this act, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this state, except as permitted under this act, while any of those conditions exist is guilty of a misdemeanor punishable, except as otherwise provided in this section, by imprisonment for not less than 3 days or more than 93 days or a fine of not more than $100.00, or both.

(17) If a person has a second or subsequent suspension or revocation under this section within 7 years as indicated on the person's Michigan driving record, the court shall proceed as provided in section 904d.

(18) Any period of suspension or revocation required under subsection (10), (11), or (12) does not apply to a person who has only 1 currently effective suspension or denial on his or her Michigan driving record under section 321a and was convicted of or received a

civil infraction determination for a violation that occurred during that suspension or denial. This subsection may only be applied once during the person's lifetime.

(19) For purposes of this section, a person who never applied for a license includes a person who applied for a license, was denied, and never applied again.

257.907 Civil infraction not crime; payment of civil fine and costs; program of treatment, education, or rehabilitation; sanctions; schedule of civil fines and costs; recommended range of civil fines and costs; certification of repair of defective equipment; collection of civil fines or costs; noncompliance with order or judgment; additional assessment; waiver of fines and costs.

Sec. 907. (1) A violation of this act, or a local ordinance substantially corresponding to a provision of this act, which is designated a civil infraction shall not be considered a lesser included offense of a criminal offense.

(2) If a person is determined pursuant to sections 741 to 750 to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act, the judge, district court referee, or district court magistrate may order the person to pay a civil fine of not more than $100.00 and costs as provided in subsection (4). However, for a violation of section 674(1)(s) or a local ordinance substantially corresponding to section 674(1)(s), the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than $50.00 or more than $100.00. For a violation of section 328 or 710d, the civil fine ordered under this subsection shall not exceed $10.00. For a violation of section 710e, the civil fine and court costs ordered under this subsection shall be $25.00. For a violation of section 682 or a local ordinance substantially corresponding to section 682, the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than $100.00 or more than $500.00. Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments, but unless permission is included in the order or judgment, the civil fine and costs shall be payable immediately.

(3) Except as provided in this subsection, if a person is determined to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act while driving a commercial motor vehicle, he or she shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than $250.00. If a person is determined to be responsible or responsible "with explanation" for a civil infraction under section 319g or a local ordinance substantially corresponding to section 319g, that person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than $10,000.00.

(4) If a civil fine is ordered under subsection (2) or (3), the judge, district court referee, or district court magistrate shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions, and may include all expenses, direct and indirect, to which the plaintiff has been put in connection with the civil infraction, up to the entry of judgment. Except in a civil infraction for a parking violation, costs of not less than $5.00 shall be ordered. Costs shall not be ordered in excess of $100.00. A civil fine ordered under subsection (2) or (3) shall not be waived unless costs ordered under this subsection are waived. Except as otherwise provided by law, costs are payable to the general fund of the plaintiff.

(5) In addition to a civil fine and costs ordered under subsection (2) or (3) and subsection (4), the judge, district court referee, or district court magistrate may order the person to attend and complete a program of treatment, education, or rehabilitation.

(6) A district court referee or district court magistrate shall impose the sanctions permitted under subsections (2), (3), and (5) only to the extent expressly authorized by the chief judge or only judge of the district court district.

(7) Each district of the district court and each municipal court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the respective district or city. If a schedule is established, it shall be prominently posted and readily available for public inspection. A schedule need not include all violations which are designated by law or ordinance as civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of civil infractions or traffic offenses, or a combination of civil infractions and traffic offenses.

(8) The state court administrator shall annually publish and distribute to each district and court a recommended range of civil fines and costs for first-time civil infractions. This recommendation is not binding upon the courts having jurisdiction over civil infractions but is intended to act as a normative guide for judges, district court referees, and district court magistrates and a basis for public evaluation of disparities in the imposition of civil fines and costs throughout the state.

(9) If a person has received a civil infraction citation for defective safety equipment on a vehicle under section 683, the court shall waive a civil fine and costs, upon receipt of certification by a law enforcement agency that repair of the defective equipment was made before the appearance date on the citation.

(10) A default in the payment of a civil fine or costs ordered under subsection (2), (3), or (4) or an installment of the fine or costs may be collected by a means authorized for the enforcement of a judgment under chapter 40 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or under chapter 60 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

(11) If a person fails to comply with an order or judgment issued pursuant to this section, within the time prescribed by the court, the driver's license of that person shall be suspended pursuant to section 321a until full compliance with that order or judgment occurs. In addition to this suspension, the court may also proceed under section 908.

(12) The court shall waive any civil fine or cost against a person who received a civil infraction citation for a violation of section 710d if the person, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the requirements of section 710d.

(13) In addition to any fines and costs ordered to be paid under this section, the judge, district court referee, or district court magistrate shall levy an assessment of $5.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are $10.00 or less. Upon payment of the assessment, the clerk of the court shall transmit the assessment levied to the state treasury to be deposited into the Michigan justice training fund. An assessment levied under this subsection is not a civil fine for purposes of section 909.

(14) If a person has received a citation for a violation of section 223, the court shall waive any fine and costs, upon receipt of certification by a law enforcement agency that the person, before the appearance date on the citation, produced a valid registration certificate that was valid on the date the violation of section 223 occurred.

Repeal of §§ 257.57c and 257.319a.

Enacting section 1. Sections 57c and 319a of the Michigan vehicle code, 1949 PA 300, MCL 257.57c and 257.319a, are repealed.

Effective date.

Enacting section 2. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 535]

(SB 1094)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 720 (MCL 257.720), as amended by 1996 PA 136.

The People of the State of Michigan enact:

257.720 Construction or loading of vehicles to prevent contents from escaping; exception; closing tailgates, faucets, and taps; exemption; proof of violation; loading of vehicles not completely enclosed; prima facie liability; conditions for carrying logs or tubular products; exceptions; front end loading device; violation; penalty; definitions.

Sec. 720. (1) A person shall not drive or move a vehicle on a highway unless the vehicle is so constructed or loaded as to prevent its contents from dropping, sifting, leaking, blowing off, or otherwise escaping from the vehicle. This requirement does not apply to a vehicle transporting agricultural or horticultural products when hay, straw, silage, or residue from a product, but not including the product itself, or when materials such as water used to preserve and handle agricultural or horticultural products while in transportation, escape from the vehicle in an amount that does not interfere with other traffic on the highway. The tailgate, faucets, and taps on a vehicle shall be securely closed to prevent spillage during transportation whether the vehicle is loaded or empty, and the vehicle shall not have any holes or cracks through which material can escape. Any highway maintenance vehicle engaged in either ice or snow removal shall be exempt from this section.

(2) Actual spillage of material on the highway or proof of that spillage is not necessary to prove a violation of this section.

(3) A vehicle carrying a load, other than logs or tubular products, which is not completely enclosed shall meet either of the following requirements:

(a) Have the load covered with firmly secured canvas or a similar type of covering. A device used to comply with the requirement of this subdivision shall not exceed a width of 108 inches nor by design or use have the capability to carry cargo by itself.

(b) Have the load securely fastened to the body or the frame of the vehicle with binders of adequate number and of adequate breaking strength to prevent the dropping off or shifting of the load.

(4) A company or individual who loads or unloads a vehicle or causes it to be loaded or unloaded, with knowledge that it is to be driven on a public highway, in a manner so as to cause a violation of subsection (1) shall be prima facie liable for a violation of this section.

(5) A person shall not operate a motor vehicle carrying logs or tubular products on a highway unless the following conditions are met:

(a) If the logs or tubular products are loaded crosswise or at right angles to the side of the vehicle, the load of logs or tubular products shall be securely fastened to the body or frame of the vehicle with not less than 2 binders which are secured to the frame at each end of the load and pass over the load so that the frame and binders completely encircle the load.

(b) If the vehicle is a truck or trailer carrying logs which has a loading surface more than 33 feet in length and the logs are loaded crosswise or at right angles to the side of the vehicle, the vehicle shall be equipped with a center partition located approximately 1/2 the distance from the front to the rear of the loading surface of the truck or trailer. The center partition shall be either a center mounted hydraulic loader or a center set of stakes and shall be pinned, bolted, or otherwise securely fastened to the frame. The load shall be secured as required by subdivision (a) and, in addition, the 2 lengthwise tie downs shall be attached or threaded through the center partition at a level not less than 1 foot below the load height.

(c) If the logs or tubular products are loaded lengthwise of the vehicle, obliquely or parallel to the sides, with metal stakes and pockets, the load of logs or tubular products shall be secured as follows:

(*i*) With 2 tie downs from frame to frame for every tier.

(*ii*) So that not more than 1/2 the diameter of the top log or tubular product extends higher than the stake tops.

(*iii*) With 2 cross chains per tier if the load extends more than 5 feet above the loading surface.

(*iv*) So that every 10 linear feet has not less than 1 tie down from frame to frame.

(d) If the logs or tubular products are loaded lengthwise of the vehicle, obliquely or parallel to the sides, with permanent metal gusseted bunks, the load of logs or tubular products shall be secured as follows:

(*i*) With 2 tie downs from frame to frame for every tier.

(*ii*) So that not more than 1/2 the diameter of the top log extends higher than the stake tops.

(*iii*) So that every 10 linear feet has not less than 1 tie down from frame to frame.

(e) The tie downs, cross chains, stakes, and other materials used to secure loads of logs or tubular products as required under subdivisions (a) to (d) shall meet the following minimum requirements:

(*i*) Chain shall be of steel and shall be of a strength not less than 5/16 inch in diameter "transport", which is embossed with a grade stamp representative of grade 70, or not less than 3/8 inch in diameter "high test", which is embossed with a grade stamp representative of grade 40. Chain shall not be repaired by welding, wire, or cold shuts.

(*ii*) Wire rope shall be of improved plow steel and not less than 3/8 inch in diameter.

(*iii*) Webbing strap shall be not less than 3 inches in width and shall have a minimum breaking strength of 14,000 pounds.

(*iv*) Metal stakes shall be of sufficient strength to hold and contain the load.

(*v*) Connecting links and hooks shall be at least as strong as the tie down material used.

(6) Subsection (3) shall not apply to a person operating a vehicle to transport agricultural commodities or to a person operating a farm truck or implement of husbandry transporting sand, gravel, and dirt necessary in the normal operation of a farm. However, a person operating a vehicle to transport agricultural commodities or sand, gravel, and dirt in the normal operation of the farm who violates subsection (1) or (4) is guilty of a misdemeanor and is subject to the penalties prescribed in subsection (10).

(7) Subsection (3)(a) shall not apply to a motor vehicle transporting items of a load which because of their weight will not fall off the moving vehicle and which have their centers of gravity located at least 6 inches below the top of the enclosure nor to a motor vehicle carrying metal which because of its weight and density is so loaded as to prevent it from dropping or falling off the moving vehicle.

(8) Subsection (3)(a) shall not apply to motor vehicles and other equipment engaged in work upon the surface of a highway or street in a designated work area.

(9) A person shall not drive or move on a highway a vehicle equipped with a front end loading device with a tine protruding parallel to the highway beyond the front bumper of the vehicle unless the tine is carrying a load designed to be carried by the front end loading device. This subsection does not apply to a vehicle designed to be used or being used to transport agricultural commodities, to a vehicle en route to a repair facility, or to a vehicle engaged in construction activity. As used in this subsection, "agricultural commodities" means that term as defined in section 722.

(10) A person who violates this section is guilty of a misdemeanor punishable by a fine of not more than $500.00 or imprisonment for not more than 90 days, or both.

(11) As used in this section:

(a) "Cross chain" means a chain which extends through the load of logs or tubular products and is connected at each end to a side stake.

(b) "Logs" means sawlogs, pulpwood, or tree length poles.

(c) "Tie down" means a high strength material which is used to secure the load of logs or tubular products to the frame or the bed of the vehicle.

(d) "Tier" means a vertical pile or stack of logs or tubular products.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 536]

(SB 809)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 231 (MCL 750.231), as amended by 1998 PA 510.

The People of the State of Michigan enact:

750.231 Sections 750.224, 750.224a, 750.224b, 750.226a, 750.227, 750.227c, and 750.227d inapplicable to certain persons and organizations.

Sec. 231. (1) Except as provided in subsection (2), sections 224, 224a, 224b, 226a, 227, 227c, and 227d do not apply to any of the following:

(a) A peace officer of an authorized police agency of the United States, of this state, or of a political subdivision of this state, who is regularly employed and paid by the United States, this state, or a political subdivision of this state.

(b) A person who is regularly employed by the state department of corrections and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(c) A person employed by a private vendor that operates a youth correctional facility authorized under section 20g of 1953 PA 232, MCL 791.220g, who meets the same criteria established by the director of the state department of corrections for departmental employees described in subdivision (b) and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(d) A member of the United States army, air force, navy, or marine corps or the United States coast guard while carrying weapons in the line of or incidental to duty.

(e) An organization authorized by law to purchase or receive weapons from the United States or from this state.

(f) A member of the national guard, armed forces reserve, the United States coast guard reserve, or any other authorized military organization while on duty or drill, or in going to or returning from a place of assembly or practice, while carrying weapons used for a purpose of the national guard, armed forces reserve, United States coast guard reserve, or other duly authorized military organization.

(2) As applied to section 224a(1) only, subsection (1) is not applicable to an individual included under subsection (1)(a), (b), or (c) unless he or she has been trained on the use, effects, and risks of using a portable device or weapon described in section 224a(1).

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 537]

(SB 926)

AN ACT to amend 1999 PA 94, entitled "An act to create the Michigan merit award scholarship trust fund; to create the Michigan merit award scholarship board and prescribe the powers and duties of the board; and to provide for the Michigan merit award scholarship program," by amending sections 6, 7, and 8 (MCL 390.1456, 390.1457, and 390.1458).

The People of the State of Michigan enact:

390.1456 Conduct of business; compliance with open meetings act; availability of writings; availability of questions and answers; report on activities; changes of results, scores, or ranges.

Sec. 6. (1) The board shall conduct business in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall give public notice of the time, date, and place of meetings of the board in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) The board shall meet not less than annually and shall keep a record of its proceedings. The board shall make any writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) Except as provided in subsection (4), the board shall obtain and make available to the public all of the qualifying questions and answers, along with the corresponding answer key, to assessment tests administered during the spring of the preceding school year not later than September 1.

(4) If any question will be used in a future assessment test for validity purposes, the board may elect not to make that question and the answer available to the public under subsection (3) for a period of up to 2 years from the date the assessment test that first includes the question is administered.

(5) By December 1 of each year, the board shall submit a report on its activities to the governor and to the legislature. The report shall contain all of the following information:

(a) A list of approved postsecondary educational institutions for the current and immediately preceding fiscal years.

(b) The number of Michigan merit award scholarships awarded and the total amount of Michigan merit award scholarship money paid in the immediately preceding fiscal year.

(c) A projection of revenues and expenditures from the trust fund for the current fiscal year and the next 10 fiscal years.

(d) The dollar amount of the Michigan merit award scholarships available under section 7(2) and (3) in the current fiscal year, the amount of any adjustments to the dollar amount under section 7(5) from the beginning of the immediately preceding fiscal year, and any adjustments to the dollar amount projected for the remainder of the current fiscal year or for the next fiscal year.

(e) All of the following results, scores, or ranges of scores:

(*i*) Used as qualifying results in the immediately preceding fiscal year.

(*ii*) Determined by the board as qualifying results in the current fiscal year.

(*iii*) Projected by the board as qualifying results for the next fiscal year.

(f) For the immediately preceding fiscal year, the number of students who took the assessment tests, the number of students by subject area who received qualifying results, the number of graduating high school seniors who met the requirements for a Michigan merit award scholarship, and the total number of students who met the requirements for a Michigan merit award scholarship.

(g) The number of persons participating in and the amount awarded in the immediately preceding fiscal year under the tuition incentive program described in section 310 of 2002 PA 144 or a successor to that program.

(6) At least 60 days before changing the results, scores, or ranges of scores used as qualifying results, the board shall provide written notice of its intent to change the results, scores, or ranges of scores used as qualifying results, and a report explaining the board's decision to change the results, scores, or ranges of scores used as qualifying results, to the standing committees of the senate and the house of representatives that have primary jurisdiction over legislation pertaining to education. The standing committees shall review the board's report and may hold hearings on the board's decision.

390.1457 Michigan merit award scholarship program; establishment; administration; eligibility of students for award; requirements; adjustment of available amount; review and approval of assessment test; intent of legislature; additional award; failure to initially achieve qualifying results; nonpublic or home school student.

Sec. 7. (1) The Michigan merit award scholarship program is established. The board shall administer the Michigan merit award scholarship program.

(2) Subject to subsection (6), each student enrolled in grade 11 in or after the 1998-1999 school year who meets the requirements of subsection (4), and subject to adjustment under subsection (5), is eligible for the award of a $2,500.00 Michigan merit award scholarship if the student is enrolled in an approved postsecondary educational institution in this state or the award of a $1,000.00 Michigan merit award scholarship if the student is enrolled in an approved postsecondary educational institution outside this state if the board finds that the student while in high school has taken the assessment test in the subject areas of reading, writing, mathematics, and science and meets 1 of the following:

(a) Has received qualifying results in each of the subject areas of reading, writing, mathematics, and science.

(b) Did not receive qualifying results in 1 or 2 of the subject areas of reading, writing, mathematics, and science, but received an overall score in the top 25% of a nationally recognized college admission examination.

(c) Did not receive qualifying results in 1 or 2 of the subject areas of reading, writing, mathematics, and science, but received a qualifying score or scores as determined by the board on a nationally recognized job skills assessment test designated by the board.

(3) Subject to subsection (6) and to adjustment under subsection (5), a student who was enrolled in grade 7 in or after the 1999-2000 school year and who the board finds has taken the assessment test in each of the subject areas while in grades 7 and 8 is eligible for 1 of the following additional Michigan merit award scholarships:

(a) If the board finds that the student while in grades 7 and 8 received qualifying results in 2 of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of $250.00.

(b) If the board finds that the student while in grades 7 and 8 received qualifying results in 3 of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of $375.00.

(c) If the board finds that the student while in grades 7 and 8 received qualifying results in all of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of $500.00.

(4) In addition to the requirements set forth in subsections (2) and (3), to be eligible for the award of 1 or both Michigan merit award scholarships under this section, the board must find that a student satisfies all of the following:

(a) The student has graduated from high school or passed the general educational development (GED) test or other graduate equivalency examination approved by the state board.

(b) The student graduated from high school or passed the general educational development (GED) test or other graduate equivalency examination approved by the state board within 1 of the following time periods:

(*i*) If the student graduated from high school or passed the test or examination before March 1, 2002, within the 7-year period preceding the student's application to receive his or her Michigan merit award scholarship money.

(*ii*) If the student graduated on or after March 1, 2002, within the 4-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship money, or if the student becomes a member of the United States armed forces or peace corps during this 4-year period and serves for 4 years or less, the 4-year period is extended by a period equal to the number of days the student served as a member of the United States armed forces or peace corps. The board may also extend the 4-year period if the board determines that an extension is warranted because of an illness or disability of the student or in the student's immediate family or another family emergency.

(c) The student is enrolled in an approved postsecondary educational institution. For students who qualify under subsection (2)(c), the student is enrolled in a vocational or technical education program at an approved postsecondary educational institution.

(d) The student has not been convicted of a felony involving an assault, physical injury, or death.

(e) The student satisfies any additional eligibility requirements established by the board.

(5) In any fiscal year, the board may adjust the amount of a Michigan merit award scholarship available to students eligible under 1 or more of subsections (2), (3), and (9), based upon its determination of available resources and amounts appropriated, but the board shall not increase an amount by more than 5% in any fiscal year. The board shall notify the governor, the speaker of the house of representatives, and the majority leader of the senate in writing at least 30 days before an adjustment under this subsection.

(6) For assessment tests administered after January 1, 2000, the board shall not use the assessment test to determine eligibility for a Michigan merit award scholarship under this section for a particular year unless the board has reviewed and approved the assessment test before it was administered for that year.

(7) The board shall provide each student written notice of whether or not the student is eligible for the award of 1 or more Michigan merit award scholarships described in this section. If the student is eligible, the written notice shall also contain the Michigan merit award scholarship amount for which the student is eligible, how the student applies for payment of Michigan merit award scholarship, and any other information the board considers necessary regarding qualification requirements or conditions relating to the use of the Michigan merit award scholarship.

(8) It is the intent of the legislature that the level of student performance required to achieve qualifying results in a subject area of an assessment test remains approximately the same, and that the board not reduce the required level of student performance as a means of increasing the number of Michigan merit award scholarships awarded.

(9) If a student who has previously received a $1,000.00 Michigan merit award scholarship as a student enrolled in an approved postsecondary educational institution outside of this state enrolls in an approved postsecondary educational institution in this state and meets the requirements of subsection (4), and subject to adjustment under subsection (5), the student is eligible for the award of an additional $1,500.00 Michigan merit award scholarship.

(10) A pupil who does not initially receive qualifying results shall be extended an opportunity to achieve the requisite qualifying results by taking a subsequent assessment test.

(11) A nonpublic school student or home school student may take, and the board shall administer if requested, an assessment test at a site designated by the board.

390.1458 Scholarship; use; payment; consideration in determining financial aid program; certification or affirmation by student; request or application for payment.

Sec. 8. (1) A Michigan merit award scholarship shall be used only to pay for eligible costs. The board shall determine the manner and form of application for payment of a Michigan merit award scholarship by a student eligible under section 7 and the procedure for payment to the student or to the approved postsecondary educational institution on the student's behalf. As determined by the board, upon the request of a student or parent or legal guardian of a minor student, the board may pay a Michigan merit award scholarship in 2 consecutive annual installments rather than 1 lump sum.

(2) An approved postsecondary educational institution shall not consider a Michigan merit award scholarship in determining a student's eligibility for a financial aid program administered by this state. It is the intent of the legislature that an approved postsecondary educational institution not reduce institutionally-funded student aid because of the Michigan merit award scholarship program.

(3) Before payment of a Michigan merit award scholarship to a student or approved postsecondary educational institution, the student shall certify or affirm in writing to the board each of the following:

(a) That the student is enrolled at an approved postsecondary educational institution.

(b) The name of the approved postsecondary educational institution in which the student is enrolled.

(c) That the student agrees to use the Michigan merit award scholarship only for eligible costs.

(d) That the student has not been convicted of a felony involving an assault, physical injury, or death.

(e) That the student graduated from high school or passed the general educational development (GED) test or approved graduate equivalency examination within 1 of the following time periods:

(*i*) If the student graduated from high school or passed the test or examination before March 1, 2002, within the 7-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship.

(*ii*) If the student graduated on or after March 1, 2002, within the 4-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship, or within a period equal to 4 years plus the number of days the student served as a member of the United States armed forces or peace corps if the student became a member of the United States armed forces or peace corps during this 4-year period and served for 4 years or less. The board may also extend the 4-year period if the board determines that an extension is warranted because of an illness or disability of the student or in the student's immediate family or another family emergency.

(4) The board shall not disburse funds for a Michigan merit award scholarship to a student or an approved postsecondary educational institution on behalf of the student for use in any academic year unless it receives the request or application for payment, including the written certification or affirmation described in this section, from the student on or before September 30 in that academic year.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 538]

(SB 1241)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation

self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding section 3406q.

The People of the State of Michigan enact:

500.3406q Off-label use of approved drug; coverage; conditions; compliance; use of copayment, deductible, sanction, or utilization control; limitation; definitions.

Sec. 3406q. (1) An expense-incurred hospital, medical, or surgical policy or certificate delivered, issued for delivery, or renewed in this state that provides pharmaceutical coverage and a health maintenance organization contract shall provide coverage for an off-label use of a federal food and drug administration approved drug and the reasonable cost of supplies medically necessary to administer the drug.

(2) Coverage for a drug under subsection (1) applies if all of the following conditions are met:

(a) The drug is approved by the federal food and drug administration.

(b) The drug is prescribed by an allopathic or osteopathic physician for the treatment of either of the following:

(*i*) A life-threatening condition so long as the drug is medically necessary to treat that condition and the drug is on the plan formulary or accessible through the health plan's formulary procedures.

(*ii*) A chronic and seriously debilitating condition so long as the drug is medically necessary to treat that condition and the drug is on the plan formulary or accessible through the health plan's formulary procedures.

(c) The drug has been recognized for treatment for the condition for which it is prescribed by 1 of the following:

(*i*) The American medical association drug evaluations.

(*ii*) The American hospital formulary service drug information.

(*iii*) The United States pharmacopoeia dispensing information, volume 1, "drug information for the health care professional".

(*iv*) Two articles from major peer-reviewed medical journals that present data supporting the proposed off-label use or uses as generally safe and effective unless there is clear and convincing contradictory evidence presented in a major peer-reviewed medical journal.

(3) Upon request, the prescribing allopathic or osteopathic physician shall supply to the insurer or health maintenance organization documentation supporting compliance with subsection (2).

(4) This section does not prohibit the use of a copayment, deductible, sanction, or a mechanism for appropriately controlling the utilization of a drug that is prescribed for a use different from the use for which the drug has been approved by the food and drug administration. This may include prior approval or a drug utilization review program. Any copayment, deductible, sanction, prior approval, drug utilization review program, or mechanism described in this subsection shall not be more restrictive than for prescription coverage generally.

(5) As used in this section:

(a) "Chronic and seriously debilitating" means a disease or condition that requires ongoing treatment to maintain remission or prevent deterioration and that causes significant long-term morbidity.

(b) "Life-threatening" means a disease or condition where the likelihood of death is high unless the course of the disease is interrupted or that has a potentially fatal outcome where the end point of clinical intervention is survival.

(c) "Off-label" means the use of a drug for clinical indications other than those stated in the labeling approved by the federal food and drug administration.

Effective date.

Enacting section 1. This amendatory act takes effect 180 days after the date this amendatory act is enacted.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 539]

(SB 1242)

AN ACT to amend 1980 PA 350, entitled "An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of health care providers to nonprofit health care corporations and to specify their rights, powers, and immunities with respect thereto; to provide for a Michigan caring program; to provide for the regulation and supervision of nonprofit health care corporations by the commissioner of insurance; to prescribe powers and duties of certain other state officers with respect to the regulation and supervision of nonprofit health care corporations; to provide for the imposition of a regulatory fee; to regulate the merger or consolidation of certain corporations; to prescribe an expeditious and effective procedure for the maintenance and conduct of certain administrative appeals relative to provider class plans; to provide for certain administrative hearings relative to rates for health care benefits; to provide for certain causes of action; to prescribe penalties and to provide civil fines for violations of this act; and to repeal certain acts and parts of acts," (MCL 550.1101 to 550.1704) by adding section 416c.

The People of the State of Michigan enact:

550.1416c Off-label use of approved drug; coverage; conditions; compliance; use of copayment, deductible, sanction, or utilization control; limitation; definitions.

Sec. 416c. (1) A health care corporation group or nongroup certificate that provides pharmaceutical coverage shall provide coverage for an off-label use of a federal food and drug administration approved drug and the reasonable cost of supplies medically necessary to administer the drug.

(2) Coverage for a drug under subsection (1) applies if all of the following conditions are met:

(a) The drug is approved by the federal food and drug administration.

(b) The drug is prescribed by an allopathic or osteopathic physician for the treatment of either of the following:

(*i*) A life-threatening condition so long as the drug is medically necessary to treat that condition and the drug is on the plan formulary or accessible through the health plan's formulary procedures.

(*ii*) A chronic and seriously debilitating condition so long as the drug is medically necessary to treat that condition and the drug is on the plan formulary or accessible through the health plan's formulary procedures.

(c) The drug has been recognized for treatment for the condition for which it is prescribed by 1 of the following:

(*i*) The American medical association drug evaluations.

(*ii*) The American hospital formulary service drug information.

(*iii*) The United States pharmacopoeia dispensing information, volume 1, "drug information for the health care professional".

(*iv*) Two articles from major peer-reviewed medical journals that present data supporting the proposed off-label use or uses as generally safe and effective unless there is clear and convincing contradictory evidence presented in a major peer-reviewed medical journal.

(3) Upon request, the prescribing allopathic or osteopathic physician shall supply to the health care corporation documentation supporting compliance with subsection (2).

(4) This section does not prohibit the use of a copayment, deductible, sanction, or a mechanism for appropriately controlling the utilization of a drug that is prescribed for a use different from the use for which the drug has been approved by the food and drug administration. This may include prior approval or a drug utilization review program. Any copayment, deductible, sanction, prior approval, drug utilization review program, or mechanism described in this subsection shall not be more restrictive than for prescription coverage generally.

(5) As used in this section:

(a) "Chronic and seriously debilitating" means a disease or condition that requires ongoing treatment to maintain remission or prevent deterioration and that causes significant long-term morbidity.

(b) "Life-threatening" means a disease or condition where the likelihood of death is high unless the course of the disease is interrupted or that has a potentially fatal outcome where the end point of clinical intervention is survival.

(c) "Off-label" means the use of a drug for clinical indications other than those stated in the labeling approved by the federal food and drug administration.

Effective date.

Enacting section 1. This amendatory act takes effect 180 days after the date this amendatory act is enacted.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 540]

(HB 5336)

AN ACT to amend 1989 PA 24, entitled "An act to provide for the establishment and maintenance of district libraries; to provide for district library boards; to define the powers and duties of certain state and local governmental entities; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 6, 12, 14, and 25 (MCL 397.176, 397.182, 397.184, and 397.195) and by adding section 25a.

The People of the State of Michigan enact:

397.176 Organizational plan; revision of board structure and selection.

Sec. 6. Within 1 year after May 22, 1989, the board of a district library established pursuant to former 1955 PA 164 shall submit to the state librarian an organizational plan including the information required to be set forth in an agreement under section 4(1) and shall revise the board structure and selection to conform to section 9 or to sections 10 and 11. If the board of a district library established pursuant to former 1955 PA 164 complies with this section and the state librarian does not disapprove the revision of board structure and selection, the district library shall be considered to be established pursuant to this act.

397.182 Powers of board; compensation and expenses of board members; deposit and expenditure of money in district library fund.

Sec. 12. (1) A board may do 1 or more of the following:

(a) Establish, maintain, and operate a public library for the district.

(b) Appoint and remove officers from among its members.

(c) Appoint and remove a librarian and necessary assistants and fix their compensation.

(d) Acquire real or personal property for use for library purposes by purchase, land contract, installment purchase contract, lease with or without option to purchase, or title retaining contract.

(e) Erect buildings.

(f) Supervise and control district library property.

(g) Enter into a contract to receive library-related service from or give library-related service to a library or a municipality within or without the district.

(h) Adopt bylaws and regulations, not inconsistent with this act, governing the board and the district library.

(i) Propose and levy upon approval of the electors as provided in this act a tax for support of the district library.

(j) Borrow money pursuant to the district library financing act, 1988 PA 265, MCL 397.281 to 397.290.

(k) Issue bonds pursuant to the district library financing act, 1988 PA 265, MCL 397.281 to 397.290.

(*l*) Accept gifts and grants for the district library.

(m) Do any other thing necessary for conducting the district library service, the cost of which shall be charged against the district library fund.

(2) A board may reimburse a board member for necessary expenses that the member incurs in the performance of official duties. A board may compensate board members for attending meetings of the board and shall include the amount of compensation in the annual budget. Compensation shall not exceed $30.00 per board member per meeting. A board member shall not be compensated for attending more than 52 meetings per year.

(3) Money for the district library shall be paid to the board and deposited in a fund known as the district library fund. The board shall exclusively control the expenditure of money deposited in the district library fund.

397.184 Provisions governing elections.

Sec. 14. (1) An election for or recall of board members and an election for a districtwide tax shall be conducted under the provisions of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, and applicable provisions of the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, except to the extent that those provisions are inconsistent with the provisions of this act.

(2) If none of the participating municipalities are school districts, an election for a districtwide tax is governed by sections 15 to 18 and section 23. If 1 or more of the participating municipalities are school districts, an election for a districtwide tax is governed by section 15 and sections 19 to 23.

(3) If none of the participating municipalities are school districts, an election for district library board members is governed by sections 16 to 18 and section 23. If 1 or more of the participating municipalities are school districts, an election for district library board members is governed by sections 19 to 23.

397.195 Municipality other than school district as party to existing agreement; requirements; acceptance conditioned on authorization of tax; change in number of mills based on district library agreement.

Sec. 25. (1) A municipality other than a school district may become a party to an existing agreement if the agreement's requirements concerning the addition of a participating municipality are satisfied, or, in the absence of requirements in the agreement, if each of the following requirements is satisfied:

(a) The legislative body of the municipality resolves by majority vote that the municipality become a participating municipality and that all or, pursuant to section 3(2), a portion of the territory of the municipality be added to the district.

(b) The resolution is conditioned upon the board's adopting, within a period of time specified in the resolution, amendments to the agreement specified in the resolution. The amendments specified shall reflect the addition of the municipality or of the territory to the district and shall include, but need not be limited to, changes in board representation

or the percentage of funds necessary for the establishment and operation of the district library to be supplied by each participating municipality after the municipality becomes a party to the agreement.

(c) The board amends the agreement within the time and in the manner specified in the resolution of the legislative body of the municipality. Notwithstanding anything to the contrary in the procedure for amending the agreement set forth in the agreement pursuant to section 4, the amendment shall be made by majority vote of the members of the board elected or appointed and serving.

(2) If there is a districtwide library tax, the board shall condition acceptance of the municipality or portion of the territory of the municipality into the district on the authorization of that tax by a majority of the electors of the municipality or portion of the territory of the municipality voting on the proposal.

(3) Notwithstanding section 13 or a districtwide tax or taxes authorized by section 13, an existing district library agreement may change the number of mills authorized in the existing district library agreement if 1 or more municipalities or parts of municipalities join the existing district library district. The change of the number of mills to be levied in the district library district shall be contingent on the approval by a majority of the voters of the existing district library district voting on the question and on the approval of a majority of the voters of each municipality or part of a municipality seeking to join the existing library district voting on the question. Defeat of the proposal submitted to the electors of the existing district library district shall not have any effect on the validity of the continued levy by the existing district library of previously authorized millage.

397.195a Consolidated district library agreement.

Sec. 25a. (1) A county, having a population of at least 400,000 and not more than 500,000 on the date the amendatory act that added this section became effective, and 1 or more other participating municipalities may jointly establish a consolidated district library if each of the following requirements is satisfied:

(a) The consolidated district library is a consolidation of 2 or more district libraries each of which has been established, under this act, and includes all of the district of each district library included in the consolidated district library, and the district of each included district library is located wholly within the county joining in establishing the consolidated district library.

(b) The legislative body of each participating municipality identified in the agreement for the consolidated district library adopts a resolution providing for establishment of the consolidated district library and approving a consolidated district library agreement.

(c) The participating municipalities in the consolidated district library include at least 1 participating municipality from each of the district libraries included in the consolidated district library. The county may be the required participating municipality for any included district library if the county is a participating municipality of that district library.

(d) Establishment of the consolidated district library is approved by a majority of the electors of the district of each district library included in the consolidated district library, and by a majority of the electors of each participating municipality in a district library included in the consolidated district library, in which municipality a district library tax is levied by that municipality or is authorized to be levied by the municipality.

(2) Except as otherwise provided by this section, a consolidated district library agreement shall comply with section 4. A consolidated district library agreement may contain the provision authorized by section 4(2), and, if it does include such a provision, the agreement shall comply with the requirements of section 4(2).

(3) A consolidated district library agreement shall specify an establishment date for the consolidated district library and, as to each district library being consolidated into the consolidated district library, a date on which, if the consolidated district library has been established, the district library being consolidated into the consolidated district library will cease providing library services. The specified establishment date for the consolidated district library may be the date on which the electors approve the establishment of the consolidated district library as prescribed in subsection (1)(d).

(4) The board of commissioners of a county proposing to join in establishing a consolidated district library, on behalf of the participating municipalities proposing to establish that consolidated district library, shall file the consolidated district library agreement with the state librarian, and shall otherwise comply with section 3(5). For purposes of section 3(6), (7), and (8), and section 5, the filed consolidated district library agreement is considered to be an agreement described in section 4 if filed in accordance with section 3(5) and section 5(1).

(5) Subject to subsection (1), a consolidated district library is established the later of either of the following:

(a) The establishment date specified in the consolidated district library agreement.

(b) The earlier of the date on which the county board of commissioners receives notice of the state librarian's approval of the agreement, or the expiration of 30 days following the date on which the state librarian receives the agreement, without the state librarian having sent a written statement of approval or disapproval.

(6) On the date specified in the consolidated district library agreement for a district library being consolidated into the consolidated district library to cease providing library services, the board of that district library is dissolved and, subject to subsection (8), the assets and liabilities of that district library are transferred to the consolidated district library. Any contract entered into by a district library consolidated into the consolidated district library, if entered into after the requirements of subsection (1) for establishment of a consolidated district library have been satisfied, may be rescinded by the consolidated district library within 60 days after the consolidated district library is established. If so provided in the consolidated district library agreement, the consolidated district library board may be established and may function prior to the consolidated district library establishment date specified in the agreement for the purpose of preparing for the establishment. Preparation may include, but is not limited to, entering into contracts that will become effective on or after the date on which the consolidated district library is established. Preparation does not include levying a tax. A consolidated district library is a successor district library to the district libraries consolidated into the consolidated district library.

(7) If a consolidated district library agreement prescribes appointed board members, the board shall consist of not fewer than 5 and not more than 9 members. The agreement may authorize 1 or more board members to be appointed by a municipality that was a participating municipality in a district library included in the consolidated district library, even though that municipality is not participating in the consolidated district library.

(8) A tangible asset of a district library being included in a consolidated district library, that was contributed to that district library for use by that district library only, shall be distributed upon establishment of the consolidated district library to the distributee designated by that included district library's agreement to receive that asset upon dissolution of that district library, unless that distributee concurs in a different distribution. A tangible asset that has been transferred to a district library for nominal consideration is considered contributed to that library. A tangible asset that was

originally received by a district library being included in a consolidated district library, from a participating municipality of that district library, and which under that district library's agreement is to be distributed to that municipality upon dissolution of that district library, is not transferred to the consolidated district library without the approval of that municipality.

(9) A consolidated district library may not levy a tax that was authorized for a district library included in the consolidated district library. A ballot question for approval of the establishment of a consolidated district library may include authorization for a districtwide tax for the consolidated district library. However, a consolidated district library tax authorization may be stated as a separate ballot question. A question whether to approve the establishment of a consolidated district library, and, prior to establishment of a consolidated district library, a proposal for authorization of a districtwide tax for a consolidated district library, may be submitted to the electorate through adoption of a resolution of, and certification by, the county board of commissioners. After a consolidated district library is established, any ballot proposal for a districtwide tax for that library shall be adopted and certified by that library's board. Submission to the electorate of a proposal for authorization of a districtwide tax, as permitted by this subsection through action by the county board of commissioners prior to establishment of a consolidated district library, does not render the tax, if authorized and levied, a county tax as distinguished from a district library tax. If the tax is authorized, any levy of the tax shall be by the board of the consolidated district library. A consolidated district library shall not levy a tax before the boards of all the district libraries being consolidated into the consolidated district library are dissolved as provided in subsection (6).

(10) A question of whether to approve establishment of a district library, and a question of whether to approve a proposal for a districtwide tax for a consolidated district library, shall be certified by the county board of commissioners or the consolidated district library board to the clerk not later than 60 days before the election. The question shall be certified for inclusion on the ballot at the next general election or the next state primary election immediately preceding the next general election, scheduled to be held at least 60 days after the certification, or at a special election not occurring within 45 days of that next general or primary election.

(11) For purposes of sections 14 through 23, a question certified under subsection (10), and an election of members of a consolidated district library board, shall be considered as being for a district in which none of the participating municipalities are school districts, notwithstanding whether 1 or more school districts are such municipalities. If a consolidated district library is established, the costs of an election on whether to approve a resolution providing for establishment of the district library shall be charged to and reimbursed by the consolidated district library in the same manner and to the same extent as costs are charged to and reimbursed by the district library under section 23 for an election for board members or a districtwide tax. If there is an election on whether to approve the establishment of a consolidated district library, and if the consolidated district library is not established, costs of the election, which would be charged to and reimbursed by the consolidated district library under this subsection if the consolidated district library had been established, shall be charged to and reimbursed by the county. Those costs include the costs of any proposal for a districtwide tax for the consolidated district library submitted to the electorate at that same election.

(12) A consolidated district library is a district library established pursuant to this act. Subject to this section, other sections of this act apply to a consolidated district library.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 541]

(SB 1302)

AN ACT to amend 2001 PA 34, entitled "An act relative to the borrowing of money and the issuance of certain debt and securities; to provide for tax levies and sinking funds; to prescribe powers and duties of certain departments, state agencies, officials, and employees; to impose certain duties, requirements, and filing fees upon political subdivisions of this state; to authorize the issuance of certain debt and securities; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 105, 303, 319, 401, 517, and 809 (MCL 141.2105, 141.2303, 141.2319, 141.2401, 141.2517, and 141.2809) and by adding sections 304, 308, and 802; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

141.2105 Municipal security; limitations.

Sec. 105. A municipal security does not include any of the following:

(a) A contract for the purchase of real or personal property.

(b) A contract for the lease of real or personal property with or without an option to purchase.

(c) A contract, lease, note, or other security given in connection with a contract described in subdivision (a) or (b).

(d) A security that is evidence of an emergency loan under section 1 of 1855 PA 105, MCL 21.141, in conjunction with the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, or qualified agricultural loans under section 2a of 1855 PA 105, MCL 21.142a.

(e) A mortgage secured by real property and its corresponding security to the extent secured by the mortgage.

(f) A contract between 1 or more municipalities under whose terms 1 or more municipalities pledge their revenues or full faith and credit to secure payment of a proposed municipal security issued by 1 of the municipalities.

141.2303 Annual audit report and qualifying statement; filing by municipality; compliance requirements; determination; correction of noncompliant requirements; reconsideration; order granting exception from prior approval.

Sec. 303. (1) Each municipality shall file an audit report annually with the department within 6 months from the end of its fiscal year or as otherwise provided in the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(2) Accompanying the audit report described in subsection (1), a municipality shall file a qualifying statement, on a form and in the manner provided by the department, which shall be certified by the chief administrative officer. Within 30 business days of the receipt of the qualifying statement, the department shall determine if the municipality complies with the requirements of subsection (3). If the department determines that the municipality complies with the provisions of subsection (3) or if the department fails to notify the municipality of its determination under this subsection within 30 business days of receipt of the qualifying statement, the municipality may proceed to issue municipal securities under this act without further approval from the department until 30 business days after the next qualifying statement is due or a new determination is made by the department, whichever occurs first.

(3) To qualify to issue municipal securities without further approval from the department, the municipality shall be in material compliance with all of the following requirements, as determined by the department:

(a) The municipality is not operating under the provisions of the local government fiscal responsibility act, 1990 PA 72, MCL 141.1201 to 141.1291.

(b) The municipality did not issue securities in the immediately preceding 5 fiscal years or current fiscal year that were authorized by either the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, other than a security issued for a loan authorized under section 3(2)(a) of the emergency municipal loan act, 1980 PA 243, MCL 141.933, or the fiscal stabilization act, 1981 PA 80, MCL 141.1001 to 141.1011.

(c) The municipality was not required by the terms of a court order or judgment to levy a tax in the preceding fiscal year. For purposes of this subdivision, the department may determine that a court order or judgment to levy a tax is not material if it did not have an adverse financial impact on the municipality.

(d) The most recent audit report, as required by the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, was filed with the department within 6 months from the end of the fiscal year of the municipality.

(e) The debt retirement fund balance for any municipal security that is funded from an unlimited tax levy does not exceed 150% of the amount required for principal and interest payments due for that municipal security in the next fiscal year.

(f) The municipality is not currently exceeding its statutory or constitutional debt limits.

(g) The municipality has no outstanding securities that were not authorized by statute.

(h) The municipality is not currently and during the preceding fiscal year was not in violation of any provisions in the covenants for an outstanding security.

(i) The municipality was not delinquent more than 1 time in the preceding fiscal year in transferring employee taxes withheld to the appropriate agency, transferring taxes collected as agent for another taxing entity to that taxing unit, or making all required pension, retirement, or benefit plan contributions.

(j) The most recent delinquent property taxes of the municipality, without regard to payments received from the county under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, did not exceed 18% of the amount levied.

(k) The municipality did not submit a qualifying statement or an application for any other municipal security in the preceding 12 months that was materially false or incorrect.

(*l*) The municipality is not in default on the payment of any debt, excluding industrial development revenue bonds issued under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, economic development corporation bonds issued under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, bonds issued by a local hospital finance authority for a private hospital under the hospital finance authority act, 1969 PA 38, MCL 331.31 to 331.84, or any other debt for which the municipality is not financially liable.

(m) The municipality did not end the immediately preceding fiscal year with a deficit in any fund, unless the municipality has filed a financial plan to correct that deficit condition that is acceptable to the department.

(n) The municipality has not been found by a court of competent jurisdiction to be in violation of any finance or tax-related state or federal statutes during the preceding fiscal year.

(o) The municipality has not been determined by the department to be in violation of this act during the preceding fiscal year.

(p) The municipality did not issue a refunding security in the preceding fiscal year to avoid a potential default on an outstanding security.

(4) If a municipality is notified within 30 business days of the filing of the qualifying statement that it does not comply with 1 or more of the requirements of subsection (3), the municipality may correct the noncompliant requirements and request a reconsideration of the determination from the department as provided in subsection (5).

(5) A municipality may request a reconsideration of the determination from the department. That request shall indicate the requirements that the department determined the municipality to be not in compliance with and the action taken by the municipality to correct the noncompliance. Within 30 business days of the receipt of the request for reconsideration, the department shall determine if the municipality complies with the requirements of subsection (3) or, if the department fails to notify the municipality of its determination under this subsection within 30 business days of receipt of the request for reconsideration, the municipality will be granted qualified status.

(6) If a municipality is notified within 30 business days after filing a request for reconsideration that it does not comply with the requirements of subsection (3), the municipality shall not issue municipal securities under this act without the prior written approval of the department to issue a municipal security as provided in subsections (7) and (8).

(7) If a municipality has not been granted qualified status, the municipality must obtain, for each municipal security, the prior written approval of the department to issue a municipal security. To request prior written approval to issue a municipal security, the municipality shall submit an application and supporting documentation to the department on a form and in a manner prescribed by the department, which shall be certified by the chief administrative officer. A filing fee equal to 0.03% of the principal amount of the municipal security to be issued, but not less than $800.00 and not greater than $2,000.00 as determined by the department, shall accompany each application. If the qualifying statement required by subsection (2) was received by the department more than 6 months after the end of the municipality's fiscal year, a late fee of $100.00 shall accompany the first application filed after that date. Within 30 business days of receiving an application, the fee, and supporting documentation from a municipality, the department shall make a determination whether the municipality has met all of the following requirements:

(a) Has indicated the authority to issue the municipal security requested.

(b) Is projected to be able to repay the municipal security when due.

(c) Has filed information with the department indicating compliance with the requirements of subsection (3) or adequately addressed any noncompliance with subsection (3) as determined by the department.

(d) If required by the department, has obtained an investment grade rating for the municipal security or has purchased insurance for payment of the principal and interest on the municipal security to the holders of the municipal security, or has otherwise enhanced the creditworthiness of the municipal security.

(8) If the department determines that the requirements in subsection (7) have been met, the department shall approve the issuance of the proposed municipal security. If the department determines that the requirements in subsection (7) have not been met, the department shall issue a notice of deficiency to the municipality that prevents the issuance of the proposed municipal security. The notice of deficiency shall state the specific deficiencies and problems with the proposed issuance. After the deficiencies and problems

have been addressed as determined by the department, the department shall approve the issuance of the proposed municipal security.

(9) A determination by the department that a municipality has been granted qualified status constitutes an order granting exception from prior approval under former 1943 PA 202, of that municipality's securities.

141.2304 Issuance of municipal security; provisions applicable to contracting municipalities.

Sec. 304. If a municipality issues a municipal security subject to this act and the principal and interest for that municipal security will be paid by 1 or more municipalities not issuing the municipal security under a contract, then 1 of the following applies:

(a) If all of the municipalities contracting to pay the municipal security have been granted qualified status, then the issuance of the municipal security is subject to section 303(2).

(b) Except as provided in subdivision (c), if 1 or more of the municipalities contracting to pay the municipal security have not been granted qualified status, then the issuance of the municipal security is subject to section 303(7).

(c) If 1 or more of the municipalities contracting to pay the municipal security have not been granted qualified status and the other municipalities representing over 50% of the contractual obligation have been granted qualified status and the municipality that issues the municipal security has been granted qualified status and pledges its full faith and credit on the municipal security, then the issuance of the municipal security is subject to section 303(2).

141.2308 Limited tax full faith and credit pledge; notice.

Sec. 308. If a municipality issues a municipal security that contains the limited tax full faith and credit pledge of the municipality after October 1, 2002, a notice of at least 1 meeting at which a decision will be made or discussed with respect to the issuance of the municipal security shall contain a statement that the proposed municipal security will contain a limited tax full faith and credit pledge of the municipality. This section does not apply to a refunding security, short-term municipal security issued under part 4, or a municipal security for which the municipality is required to provide a notice of the right of referendum by law or charter.

141.2319 Document to be filed by municipality; failure to comply with subsection (1) or (2).

Sec. 319. (1) Within 15 business days of completing the issuance of any municipal security qualified under section 303(3), the municipality shall file a copy of all of the following with the department in a form and manner prescribed by the department:

(a) A copy of the municipal security.

(b) A proof of publication of the notice of sale, if applicable.

(c) A copy of the award resolution or certificate of award including a detail of the annual interest rate and call features on the municipal security.

(d) A copy of the legal opinion regarding the legality and tax status of the municipal security.

(e) A copy of the notice of rating of the municipal security received from a recognized rating agency, if any.

(f) A copy of the resolution or ordinance authorizing the issuance of the municipal security.

(g) A copy of the official statement, if any.

(h) For a refunding security, documentation indicating compliance with section 611.

(i) A filing fee equaling 0.02% of the principal amount of the municipal security issued, but in an amount not less than $100.00 and not greater than $1,000.00, as determined by the department.

(j) If the qualifying statement required by section 303(2) was received by the department more than 6 months after the end of the municipality's fiscal year, a late fee of $100.00 with the first filing thereafter.

(k) For a municipal security issued under section 305(2), documentation indicating compliance with section 305(2).

(2) Within 15 business days of completing the issuance of any municipal security approved under section 303(7), the municipality shall file all of the following with the department in a form and manner prescribed by the department:

(a) A copy of the municipal security.

(b) A proof of publication of the notice of sale, if applicable.

(c) A copy of the award resolution including a detail of the annual interest rate and call features on the municipal security.

(d) A copy of the legal opinion regarding the legality and tax status of the municipal security.

(e) A copy of the notice of rating of the municipal security received from a recognized rating agency, if any.

(f) A copy of the resolution or ordinance authorizing the issuance of the municipal security.

(g) A copy of the official statement, if any.

(h) For a refunding security, documentation indicating compliance with section 611.

(i) For a municipal security issued under section 305(2), documentation indicating compliance with section 305(2).

(3) The failure to comply with subsection (1) or (2) does not invalidate any of the securities issued or reported under this act.

141.2401 Short-term municipal securities; issuance; conditions; public airport authority.

Sec. 401. (1) A municipality may, by resolution of its governing body, and without a vote of the electors, issue short-term municipal securities in anticipation of and payable from taxes to be collected by the municipality for its then next succeeding fiscal year or the taxes for a current fiscal year, or if the taxes for the next succeeding fiscal year and the taxes for the current fiscal year are both levied in the same calendar year, then in anticipation of and payable from the collection of both of the taxes.

(2) By resolution of its governing body and without a vote of the electors, an authority organized under 1957 PA 206, MCL 259.621 to 259.631, or a public airport authority created or incorporated under the public airport authority act, chapter VIA of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.108 to 259.125c, may borrow money and issue short-term municipal securities maturing not more than 1 year from the date of issue in anticipation of the collection of revenues to which it will be entitled to receive within 1 year from the date of the short-term municipal securities' issuance. The amount of the short-term municipal securities issued under this section shall

not exceed 50% of the revenues collected in the preceding fiscal year not pledged for the payment of a security other than a short-term municipal security issued under this section as conclusively certified by the governing body of the authority. The resolution shall provide for the pledging of all or a portion of the revenues of the authority not previously pledged for the payment of a security. The resolution may also provide for the pledging of other assets of the authority as additional security for the payment of the short-term municipal security. The resolution also shall provide that from the receipts of the revenues in anticipation of which the authority issued the short-term municipal security, there shall be set aside in a special fund to be used for the payment of principal and interest on the short-term municipal security a portion of each dollar received that is not less than 125% of the percentage that the principal amount of the short-term municipal security bears to the amount certified as the revenues estimated to be collected, until the amount set aside is sufficient for the payment of principal and interest on the short-term municipal security. The amount set aside shall be used only for the payment of the principal and interest on the short-term municipal security until the short-term municipal security is paid as to both principal and interest. Except when in conflict with the requirements of section 9 of 1957 PA 206, MCL 259.629, the short-term municipal securities authorized under this subsection are subject to this act.

141.2517 Capital improvement items; issuance of municipal security to pay cost; notice of intent; petition; referendum; special election; limitation on amount.

Sec. 517. (1) A county, city, village, or township may by resolution of its governing body, and without a vote of its electors, issue a municipal security under this section to pay the cost of any capital improvement items, provided that the amount of taxes necessary to pay the principal and interest on that municipal security, together with the taxes levied for the same year, shall not exceed the limit authorized by law.

(2) If a county, city, village, or township issues a municipal security under this section, before issuance, the county, city, village, or township shall publish a notice of intent to issue the municipal security. The notice of intent shall be directed to the electors of the county, city, village, or township, shall be published in a newspaper that has general circulation in the county, city, village, or township, and shall state the maximum amount of municipal securities to be issued, the purpose of the municipal securities, the source of payment, the right of referendum on the issuance of the municipal securities, and any other information the county, city, village, or township determines necessary to adequately inform the electors of the nature of the issue. The notice of intent shall not be less than 1/4 page in size in the newspaper. If, within 45 days after the publication of the notice of intent, a petition, signed by not less than 10% or 15,000 of the registered electors, whichever is less, residing within the county, city, village, or township, is filed with the governing body of the county, city, village, or township, requesting a referendum upon the question of the issuance of the municipal securities, then the municipality shall not issue the municipal securities until authorized by the vote of a majority of the electors of the county, city, village, or township qualified to vote and voting on the question at a general or special election. A special election called for this purpose shall not be included in a statutory or charter limitation as to the number of special elections to be called within a period of time. Signatures on the petition shall be verified by a person under oath as the actual signatures of the persons whose names are signed to the petition, and the governing body of the county, city, village, or township shall have the same power to reject signatures and petitions as city clerks under section 25 of the home rule city act, 1909 PA 279, MCL 117.25. The number of registered electors in the county, city, village, or township shall be determined by the governing body of the county, city, village, or township.

(3) Municipal securities issued under subsection (1) by a county, city, village, or township shall not exceed 5% of the state equalized valuation of the property assessed in that county, city, village, or township.

141.2802 Outstanding municipal security; default; powers of department; plan; implementation.

Sec. 802. (1) If a municipality fails to pay any installment of principal or interest on an outstanding municipal security on or before its due date, the state treasurer, for a municipality other than a school district, or the superintendent of public instruction, for a school district, may take that action it considers advisable to investigate the municipality's fiscal affairs, may consult with the governing body of the municipality, and may negotiate with the municipality's creditors in order to assist the municipality in developing a plan for financing, adjusting, or compromising the outstanding municipal security for which a payment of an installment of principal or interest had not been paid. As a component of a plan for financing the outstanding municipal security that has been defaulted upon, the department may agree and shall have the power to withhold all or part of state payments under an appropriation made to the municipality, the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921, or the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772, that the municipality is entitled to receive and to use these withheld amounts to pay unpaid amounts or subsequently due amounts, or both, of principal and interest on the outstanding municipal security.

(2) When a plan is developed that the department finds to be fair and equitable and reasonably within the ability of the municipality to meet, the department shall enter an order finding that it is fair, equitable, and within the ability of the municipality to meet. The department shall then advise the governing body to take the necessary steps to implement the plan. If the governing body declines or refuses to do so within 90 days after receiving the department's advice, the department shall be vested with all powers of the municipality, its governing body, and its officers that are necessary to implement the plan. When the department is vested with the authority to implement the plan, the members of the governing body and all officers and employees of the municipality shall be under an affirmative duty to do all things the department determines to be necessary to implement the plan. The department may institute appropriate proceedings in the courts of this state, including those for writs of mandamus and injunctions, to enforce the department's implementation of the plan and compliance with the plan by the governing body and other officers and employees of the municipality.

141.2809 Effect of orders approving issuance of securities.

Sec. 809. All orders approving the issuance of securities issued by the department shall continue in force and effect until October 31, 2002. The terms of former 1943 PA 202 and the administrative rules of the municipal finance division shall apply with respect to any security issued pursuant to an order of the department that was issued before May 1, 2002.

Repeal of § 141.2815.

Enacting section 1. Section 815 of the revised municipal finance act, 2001 PA 34, MCL 141.2815, is repealed.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 542]

(SB 1275)

AN ACT to amend 1994 PA 295, entitled "An act to require persons convicted of certain offenses to register; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe penalties and sanctions," by amending sections 2, 5, 5a, 7, 8, 9, and 10 (MCL 28.722, 28.725, 28.725a, 28.727, 28.728, 28.729, and 28.730), sections 2, 5, 7, 8, 9, and 10 as amended and section 5a as added by 1999 PA 85, and by adding sections 1a and 4a.

The People of the State of Michigan enact:

28.721a Legislative declarations; determination; intent.

Sec. 1a. The legislature declares that the sex offenders registration act was enacted pursuant to the legislature's exercise of the police power of the state with the intent to better assist law enforcement officers and the people of this state in preventing and protecting against the commission of future criminal sexual acts by convicted sex offenders. The legislature has determined that a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals, and welfare of the people, and particularly the children, of this state. The registration requirements of this act are intended to provide law enforcement and the people of this state with an appropriate, comprehensive, and effective means to monitor those persons who pose such a potential danger.

28.722 Definitions.

Sec. 2. As used in this act:

(a) "Convicted" means 1 of the following:

(*i*) Having a judgment of conviction or a probation order entered in any court having jurisdiction over criminal offenses, including but not limited to, a tribal court or a military court, and including a conviction subsequently set aside under 1965 PA 213, MCL 780.621 to 780.624.

(*ii*) Being assigned to youthful trainee status under sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15.

(*iii*) Having an order of disposition entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, that is open to the general public under section 28 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.28.

(*iv*) Having an order of disposition or other adjudication in a juvenile matter in another state or country.

(b) "Department" means the department of state police.

(c) "Institution of higher education" means 1 or more of the following:

(*i*) A public or private community college, college, or university.

(*ii*) A public or private trade, vocational, or occupational school.

(d) "Local law enforcement agency" means the police department of a municipality.

(e) "Listed offense" means any of the following:

(*i*) A violation of section 145a, 145b, or 145c of the Michigan penal code, 1931 PA 328, MCL 750.145a, 750.145b, and 750.145c.

(*ii*) A violation of section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158, if a victim is an individual less than 18 years of age.

(*iii*) A third or subsequent violation of any combination of the following:

(A) Section 167(1)(f) of the Michigan penal code, 1931 PA 328, MCL 750.167.

(B) Section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a.

(C) A local ordinance of a municipality substantially corresponding to a section described in sub-subparagraph (A) or (B).

(*iv*) Except for a juvenile disposition or adjudication, a violation of section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, if a victim is an individual less than 18 years of age.

(*v*) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if a victim is an individual less than 18 years of age.

(*vi*) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(*vii*) A violation of section 448 of the Michigan penal code, 1931 PA 328, MCL 750.448, if a victim is an individual less than 18 years of age.

(*viii*) A violation of section 455 of the Michigan penal code, 1931 PA 328, MCL 750.455.

(*ix*) A violation of section 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(*x*) Any other violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age.

(*xi*) An offense committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(*xii*) An attempt or conspiracy to commit an offense described in subparagraphs (*i*) to (*xi*).

(*xiii*) An offense substantially similar to an offense described in subparagraphs (*i*) to (*xii*) under a law of the United States, any state, or any country or under tribal or military law.

(f) "Municipality" means a city, village, or township of this state.

(g) "Residence", as used in this act, for registration and voting purposes means that place at which a person habitually sleeps, keeps his or her personal effects, and has a regular place of lodging. If a person has more than 1 residence, or if a wife has a residence separate from that of the husband, that place at which the person resides the greater part of the time shall be his or her official residence for the purposes of this act. This section shall not be construed to affect existing judicial interpretation of the term residence.

(h) "Student" means an individual enrolled on a full- or part-time basis in a public or private educational institution, including but not limited to a secondary school, trade school, professional institution, or institution of higher education.

28.724a Status report to local law enforcement agency; requirements; reports; written documentation.

Sec. 4a. (1) An individual required to be registered under this act who is not a resident of this state shall report his or her status in person to the local law enforcement agency or sheriff's department having jurisdiction over a campus of an institution of higher education, or to the department post nearest to that campus, if any of the following occur:

(a) Regardless of whether he or she is financially compensated or receives any governmental or educational benefit, the individual is or becomes a full- or part-time

employee, contractual provider, or volunteer with that institution of higher education and his or her position will require that he or she be present on that campus for 14 or more consecutive days or 30 or more total days in a calendar year.

(b) The individual is or becomes an employee of a contractual provider described in subdivision (a) and his or her position will require that he or she be present on that campus for 14 or more consecutive days or 30 or more total days in a calendar year.

(c) The status described in subdivision (a) or (b) is discontinued.

(d) The individual changes the campus on which he or she is an employee, a contractual provider, an employee of a contractual provider, or a volunteer as described in subdivision (a) or (b).

(e) The individual is or enrolls as a student with that institution of higher education or the individual discontinues that enrollment.

(f) As part of his or her course of studies at an institution of higher education in this state, the individual is present at any other location in this state, another state, a territory or possession of the United States, or another country for 14 or more consecutive days or 30 or more total days in a calendar year, or the individual discontinues his or her studies at that location.

(2) An individual required to be registered under this act who is a resident of this state shall report his or her status in person to the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post nearest to the individual's new residence or domicile, if any of the events described under subsection (1) occur.

(3) The report required under subsections (1) and (2) shall be made as follows:

(a) For an individual registered under this act before the effective date of the amendatory act that added this section and who is required to make his or her first report under subsections (1) and (2), not later than January 15, 2003.

(b) For an individual who is an employee, a contractual provider, an employee of a contractual provider, or a volunteer on that campus on the effective date of the amendatory act that added this section, or who is a student on that campus on the effective date of the amendatory act that added this section, who is subsequently required to register under this act, on the date he or she is required to register under this act.

(c) Except as provided under subdivisions (a) and (b), within 10 days after the individual becomes an employee, a contractual provider, an employee of a contractual provider, or a volunteer on that campus, or discontinues that status, or changes location, or within 10 days after he or she enrolls or discontinues his or her enrollment as a student on that campus including study in this state or another state, a territory or possession of the United States, or another country.

(4) The additional registration reports required under this section shall be made in the time periods described in section 5a(4)(a) and (b) for reports under that section.

(5) The local law enforcement agency, sheriff's department, or department post to which an individual reports under this section shall require the individual to present written documentation of employment status, contractual relationship, volunteer status, or student status. Written documentation under this subsection may include, but need not be limited to, any of the following:

(a) A W-2 form, pay stub, or written statement by an employer.

(b) A contract.

(c) A student identification card or student transcript.

28.725 Notice to law enforcement agency.

Sec. 5. (1) Within 10 days after any of the following occur, an individual required to be registered under this act shall notify the local law enforcement agency or sheriff's department having jurisdiction where his or her new residence or domicile is located or the department post of the individual's new residence or domicile:

(a) The individual changes his or her residence, domicile, or place of work or education, including any change required to be reported under section 4a.

(b) The individual is paroled.

(c) Final release of the individual from the jurisdiction of the department of corrections.

(2) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff's department having jurisdiction over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

(3) An individual required to be registered under this act shall notify the department on a form prescribed by the department not later than 10 days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(4) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(5) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(6) Except as provided in subsection (7), an individual shall comply with this section for 25 years after the date of initially registering or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer.

(7) An individual shall comply with this section for life if the individual is convicted of any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:

(a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.

(b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.

(c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.

(d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(f) An attempt or conspiracy to commit an offense described in subdivisions (a) to (e).

(g) Except as provided in this subdivision, a second or subsequent listed offense after October 1, 1995 regardless of when any earlier listed offense was committed. An individual is not required to comply with this section for life if his or her first or second listed offense is for a conviction on or before September 1, 1999 for an offense that was added on September 1, 1999 to the definition of listed offense, unless he or she is convicted of a subsequent listed offense after September 1, 1999.

28.725a Notice to registered individual; explanation of duties.

Sec. 5a. (1) Not later than September 1, 1999, the department shall mail a notice to each individual registered under this act who is not in a state correctional facility explaining the individual's duties under this section and this act as amended and the procedure for registration, notification, and verification.

(2) Upon the release of an individual registered under this act who is in a state correctional facility, the department of corrections shall provide written notice to that individual explaining his or her duties under this section and this act as amended and the procedure for registration, notification, and verification. The individual shall sign and date the notice. The department of corrections shall maintain a copy of the signed and dated notice in the individual's file. The department of corrections shall forward the original notice to the department within 30 days, regardless of whether the individual signs it.

(3) Not later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides. The individual shall present proof of domicile or residence and update any information that changed since registration, including information that is required to be reported under section 4a. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released.

(4) Following initial verification under subsection (3), or registration under this act after January 15, 2000, an individual required to be registered under this act who is not incarcerated shall report in person to the local law enforcement agency or sheriff's department having jurisdiction where he or she is domiciled or resides or to the department post in or nearest to the county where he or she is domiciled or resides for verification of domicile or residence as follows:

(a) If the person is registered only for 1 or more misdemeanor listed offenses, not earlier than January 1 or later than January 15 of each year after the initial verification or registration. As used in this subdivision, "misdemeanor listed offense" means a listed offense that is any of the following:

(*i*) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, committed before June 1, 2002.

(*ii*) A violation of section 145c(4), 167(1)(f), or 448 of the Michigan penal code, 1931 PA 328, MCL 750.145c, 750.167, and 750.448.

(*iii*) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, other than a violation committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(*iv*) A violation of a local ordinance of a municipality substantially corresponding to a section described in subparagraph (*i*), (*ii*), or (*iii*).

(*v*) A violation of a law of this state or a local ordinance of a municipality that by its nature constitutes a sexual offense against an individual who is less than 18 years of age if the violation is not specifically designated a felony and is punishable by imprisonment for 1 year or less.

(*vi*) An attempt or conspiracy to commit an offense described in subparagraphs (*i*) to (*v*).

(*vii*) An offense substantially similar to an offense described in subparagraphs (*i*) to (*vi*) under a law of the United States, any state, or any country or under tribal or military law.

(b) If the person is registered for 1 or more felony listed offenses, not earlier than the first day or later than the fifteenth day of each April, July, October, and January following initial verification or registration. As used in this subdivision, "felony listed offense" means a listed offense that is any of the following:

(*i*) A violation of section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a, committed on or after June 1, 2002.

(*ii*) A violation of section 145b, 145c(2) or (3), 349, 350, 455, 520b, 520c, 520d, 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145b, 750.145c, 750.349, 750.350, 750.455, 750.520b, 750.520c, 750.520d, 750.520e, and 750.520g.

(*iii*) A violation of section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a, committed by a person who was, at the time of the offense, a sexually delinquent person as defined in section 10a of the Michigan penal code, 1931 PA 328, MCL 750.10a.

(*iv*) A violation of a law of this state that by its nature constitutes a sexual offense against an individual who is less than 18 years of age if the violation is specifically designated a felony or is punishable by imprisonment for more than 1 year.

(*v*) An attempt or conspiracy to commit an offense described in subparagraphs (*i*) to (*iv*).

(*vi*) An offense substantially similar to an offense described in subparagraphs (*i*) to (*v*) under a law of the United States, any state, or any country or under tribal or military law.

(5) When an individual reports under subsection (3) or (4), an officer or authorized employee of the local law enforcement agency, sheriff's department, or department post shall verify the individual's residence or domicile and any information required to be reported under section 4a. The officer or authorized employee shall sign and date a verification form. The officer shall give a copy of the signed form showing the date of verification to the individual. The officer or employee shall forward verification information to the department by the law enforcement information network in the manner the department prescribes. The department shall revise the data bases maintained under section 8 as necessary and shall indicate verification in the compilation under section 8(2).

(6) An individual required to be registered under this act shall maintain either a valid operator's or chauffeur's license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300, with the individual's current address. The license or card may be used as proof of domicile or residence under this section. In addition, the officer or authorized employee may require the individual to produce another document bearing his or her name and address, including but not limited to voter registration or a utility or other bill. The department may specify other satisfactory proof of domicile or residence.

(7) Not earlier than January 1, 2000 or later than January 15, 2000, an individual registered under this act who is not incarcerated shall report in person to a secretary of state office and have his or her digitized photograph taken. An individual registered under this act who is incarcerated on January 15, 2000 shall report under this subsection not less than 10 days after he or she is released. The individual is not required to report under this

subsection if he or she had a digitized photograph taken for an operator's or chauffeur's license or official state personal identification card before January 1, 2000, or within 2 years before he or she is released. The photograph shall be used on the individual's operator's or chauffeur's license or official state personal identification card. The individual shall have a new photograph taken when he or she renews the license or identification card as provided by law. The secretary of state shall make the digitized photograph available to the department for a registration under this act.

(8) If an individual does not report under subsection (3) or (4) or section 4a, the department shall notify the local law enforcement agency, sheriff's department, or department post. An appearance ticket may be issued for the individual's failure to report as provided in sections 9a to 9g of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g.

(9) The department shall prescribe the form for the notices and verification procedures required under this section.

28.727 Registration form.

Sec. 7. (1) A registration under this act shall be made on a form provided by the department and shall be forwarded to the department in the format the department prescribes. A registration shall contain all of the following:

(a) The individual's name, social security number, date of birth, and address or expected address. An individual who is in a witness protection and relocation program is only required to use the name and identifying information reflecting his or her new identity in a registration under this act. The registration and compilation databases shall not contain any information identifying the individual's prior identity or locale. The department shall request each individual to provide his or her date of birth if it is not included in the registration, and that individual shall comply with the request within 10 days.

(b) A brief summary of the individual's convictions for listed offenses regardless of when the conviction occurred, including where the offense occurred and the original charge if the conviction was for a lesser offense.

(c) A complete physical description of the individual.

(d) The photograph required under section 5a.

(e) The individual's fingerprints if not already on file with the department. An individual required to be registered on September 1, 1999 shall have his or her fingerprints taken not later than September 12, 1999 if not already on file with the department. The department shall forward a copy of the individual's fingerprints to the federal bureau of investigation if not already on file with that bureau.

(f) Information that is required to be reported under section 4a.

(2) A registration may contain the individual's blood type and whether a DNA identification profile of the individual is available.

(3) The form used for registration or verification under this act shall contain a written statement that explains the duty of the individual being registered to provide notice of a change of address under section 5, the procedures for providing that notice, and the verification procedures under section 5a.

(4) The individual shall sign a registration, notice, and verification. However, the registration, notice, or verification shall be forwarded to the department regardless of whether the individual signs it.

(5) The officer, court, or an employee of the agency registering the individual or receiving or accepting a registration under section 4 shall sign the registration form.

(6) An individual shall not knowingly provide false or misleading information concerning a registration, notice, or verification.

(7) The department shall prescribe the form for a notification required under section 5 and the format for forwarding the notification to the department.

(8) The department shall promptly provide registration, notice, and verification information to the federal bureau of investigation and to local law enforcement agencies, sheriff's departments, department posts, and agencies of other states requiring the information, as provided by law.

28.728 Data base; compilation; availability.

Sec. 8. (1) The department shall maintain a computerized data base of registrations and notices required under this act.

(2) The department shall maintain a computerized data base separate from that described in subsection (1) to implement section 10(2) and (3). The data base shall consist of a compilation of individuals registered under this act, but except as provided in this subsection, shall not include any individual registered solely because he or she had 1 or more dispositions for a listed offense entered under section 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18, in a case that was not designated as a case in which the individual was to be tried in the same manner as an adult under section 2d of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2d. The exclusion for juvenile dispositions does not apply to a disposition for a violation of section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, after the individual becomes 18 years of age.

(3) The compilation of individuals shall be indexed numerically by zip code area. Within each zip code area, the compilation shall contain all of the following information:

(a) The name and aliases, address, physical description, and birth date of each individual registered under this act who is included in the compilation and who resides in that zip code area and any listed offense of which the individual has been convicted.

(b) The name and campus location of each institution of higher education to which the individual is required to report under section 4a.

(4) The department shall update the compilation with new registrations, deletions from registrations, and address changes at the same time those changes are made to the data base described in subsection (1). The department shall make the compilation available to each department post, local law enforcement agency, and sheriff's department by the law enforcement information network. Upon request by a department post, local law enforcement agency, or sheriff's department, the department shall provide to that post, agency, or sheriff's department the information from the compilation in printed form for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction. The department shall provide the ability to conduct a computerized search of the compilation based upon the name and campus location of an institution of higher education described in subsection (3)(b).

(5) The department shall make the compilation or information from the compilation available to a department post, local law enforcement agency, sheriff's department, and the public by electronic, computerized, or other similar means accessible to the post, agency, or sheriff's department. The electronic, computerized, or other similar means shall provide for both a search by name and by zip code.

(6) If a court determines that the public availability under section 10 of any information concerning individuals registered under this act, including names and aliases, addresses, physical descriptions, or dates of birth, violates the constitution of the United States or this state, the department shall revise the compilation in subsection (2) so that it does not contain that information.

28.729 Violations; penalties.

Sec. 9. (1) Except as provided in subsections (2) and (3), an individual required to be registered under this act who willfully violates this act is guilty of a felony punishable as follows:

(a) If the individual has no prior convictions for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(b) If the individual has 1 prior conviction for a violation of this act, other than a failure to comply with section 5a, by imprisonment for not more than 7 years or a fine of not more than $5,000.00, or both.

(c) If the individual has 2 or more prior convictions for violations of this act, other than a failure to comply with section 5a, by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both.

(2) An individual who fails to comply with section 5a is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(3) An individual who willfully fails to sign a registration, notice, or verification as provided in section 7(4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(4) The court shall revoke the probation of an individual placed on probation who willfully violates this act.

(5) The court shall revoke the youthful trainee status of an individual assigned to youthful trainee status who willfully violates this act.

(6) The parole board shall rescind the parole of an individual released on parole who willfully violates this act.

(7) An individual's failure to register as required by this act or a violation of section 5(1), (3), or (4) may be prosecuted in the judicial district of any of the following:

(a) The individual's last registered address or residence.

(b) The individual's actual address or residence.

(c) Where the individual was arrested for the violation.

28.730 Confidentiality; exemption from disclosure; availability of information from compilation; violation as misdemeanor; penalty; civil cause of action; applicability of subsections (4) and (5) to compilation.

Sec. 10. (1) Except as provided in this act, a registration or report under section 4a is confidential and information from that registration or report shall not be open to inspection except for law enforcement purposes. The registration or report and all included materials and information are exempt from disclosure under section 13 of the freedom of information act, 1976 PA 442, MCL 15.243.

(2) A department post, local law enforcement agency, or sheriff's department shall make information from the compilation described in section 8(2) for the zip code areas located in whole or in part within the post's, agency's, or sheriff's department's jurisdiction available for public inspection during regular business hours. A department post, local law enforcement agency, or sheriff's department is not required to make a copy of the information for a member of the public.

(3) The department may make information from the compilation described in section 8(2) available to the public through electronic, computerized, or other accessible means.

(4) Except as provided in this act, an individual other than the registrant who knows of a registration or report under this act and who divulges, uses, or publishes nonpublic information concerning the registration or report in violation of this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

(5) An individual whose registration or report is revealed in violation of this act has a civil cause of action against the responsible party for treble damages.

(6) Subsections (4) and (5) do not apply to the compilation described in section 8(2) or information from that compilation that is provided or made available under section 8(2) or under subsection (2) or (3).

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 543]

(SB 184)

AN ACT to amend 1963 PA 17, entitled "An act to relieve certain persons from civil liability when rendering emergency care, when rendering care to persons involved in competitive sports under certain circumstances, or when participating in a mass immunization program approved by the department of public health," by amending sections 1 and 2 (MCL 691.1501 and 691.1502), section 1 as amended by 1987 PA 30.

The People of the State of Michigan enact:

691.1501 Physicians, physician's assistant, or nurses rendering emergency care or determining fitness to engage in competitive sports; liability for acts or omissions; definitions.

Sec. 1. (1) A physician, physician's assistant, registered professional nurse, or licensed practical nurse who in good faith renders emergency care without compensation at the scene of an emergency, if a physician-patient relationship, physician's assistant-patient relationship, registered professional nurse-patient relationship, or licensed practical nurse-patient relationship did not exist before the emergency, is not liable for civil damages as a result of acts or omissions by the physician, physician's assistant, registered

professional nurse, or licensed practical nurse in rendering the emergency care, except acts or omissions amounting to gross negligence or willful and wanton misconduct.

(2) A physician or physician's assistant who in good faith performs a physical examination without compensation upon an individual to determine the individual's fitness to engage in competitive sports and who has obtained a form described in this subsection signed by the individual or, if the individual is a minor, by the parent or guardian of the minor, is not liable for civil damages as a result of acts or omissions by the physician or physician's assistant in performing the physical examination, except acts or omissions amounting to gross negligence or willful and wanton misconduct or which are outside the scope of the license held by the physician or physician's assistant. The form required by this subsection shall contain a statement indicating that the person signing the form knows that the physician or physician's assistant is not necessarily performing a complete physical examination and is not liable under this section for civil damages as a result of acts or omissions by the physician or physician's assistant in performing the physical examination, except acts or omissions amounting to gross negligence or willful and wanton misconduct or which are outside the scope of the license held by the physician or physician's assistant.

(3) A physician, physician's assistant, registered professional nurse, or licensed practical nurse who in good faith renders emergency care without compensation to an individual requiring emergency care as a result of having engaged in competitive sports is not liable for civil damages as a result of acts or omissions by the physician, physician's assistant, registered professional nurse, or licensed practical nurse in rendering the emergency care, except acts or omissions amounting to gross negligence or willful and wanton misconduct and except acts or omissions that are outside the scope of the license held by the physician, physician's assistant, registered professional nurse, or licensed practical nurse. This subsection applies to the rendering of emergency care to a minor even if the physician, physician's assistant, registered professional nurse, or licensed practical nurse does not obtain the consent of the parent or guardian of the minor before the emergency care is rendered.

(4) As used in this act:

(a) "Competitive sports" means sports conducted as part of a program sponsored by a public or private school that provides instruction in grades kindergarten through 12 or a charitable or volunteer organization. Competitive sports do not include sports conducted as part of a program sponsored by a public or private college or university.

(b) "Licensed practical nurse" means an individual licensed to engage in the practice of nursing as a licensed practical nurse under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(c) "Physician" means an individual licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(d) "Physician's assistant" means an individual licensed to engage in the practice of medicine or the practice of osteopathic medicine and surgery performed under the supervision of a physician as provided in article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(e) "Registered professional nurse" means an individual licensed to engage in the practice of nursing under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

691.1502 Emergency care; exemption of certain persons from civil liability; exception; staffing hospital emergency facilities.

Sec. 2. (1) If an individual's actual hospital duty does not require a response to the emergency situation, a physician, physician's assistant, dentist, podiatrist, intern, resident, registered nurse, licensed practical nurse, registered physical therapist, clinical laboratory technologist, inhalation therapist, certified registered nurse anesthetist, x-ray technician, or paramedic, who in good faith responds to a life threatening emergency or responds to a request for emergency assistance in a life threatening emergency within a hospital or other licensed medical care facility, is not liable for civil damages as a result of an act or omission in the rendering of emergency care, except an act or omission amounting to gross negligence or willful and wanton misconduct.

(2) The exemption from liability under subsection (1) does not apply to a physician if a physician-patient relationship, to a physician's assistant if a physician's assistant-patient relationship, or to a licensed nurse if a nurse-patient relationship existed before the emergency.

(3) The exemption from liability under subsection (1) does not apply to a physician's assistant unless the response by the physician's assistant is within the scope of the license held by the physician's assistant or within the expertise or training of the physician's assistant.

(4) This act does not diminish a hospital's responsibility to reasonably and adequately staff hospital emergency facilities if the hospital maintains or holds out to the general public that it maintains emergency room facilities.

Applicability.

Enacting section 1. This amendatory act applies to a cause of action arising on or after the effective date of this amendatory act.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 544]

(SB 794)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local

ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 2882 (MCL 333.2882), as amended by 1997 PA 54.

The People of the State of Michigan enact:

333.2882 Issuance of certain certified copies; request; fee; request of adopted adult or confidential intermediary; phrase to be marked on certificate provided under subsection (2) or (3).

Sec. 2882. (1) Except as otherwise provided in section 2890, upon written request and payment of the prescribed fee, the state registrar or local registrar shall issue the appropriate 1 of the following:

(a) A certified copy of a live birth record, a certificate of registration containing the items indicated in section 2881(2), or a certified copy of documentary evidence on file in the office of the state registrar that is not sealed under section 2832 and that served as the basis for a change of a live birth record to 1 of the following:

(*i*) The individual who is the subject of the live birth record.

(*ii*) A parent named in the birth record.

(*iii*) An heir, a legal representative, or a legal guardian of the individual who is the subject of the live birth record.

(*iv*) A court of competent jurisdiction.

(b) If the live birth record is 100 or more years old, a certified copy of the live birth record to any applicant.

(c) A certified copy of a death record, including the cause of death, to any applicant.

(d) A certified copy of a marriage or divorce record to any applicant, except as provided by rule.

(e) A certified copy of a fetal death record that was filed before September 30, 1978, to any applicant.

(f) A certified copy of an acknowledgment of parentage that was filed after January 1, 1997, to any applicant.

(2) Upon written request of an adult who has been adopted and payment of the prescribed fee, the state registrar shall issue to that individual a copy of his or her original certificate of live birth, if the written request identifies the name of the adult adoptee and is accompanied by a copy of a central adoption registry clearance reply form that was completed by the family independence agency and delivered to that individual as required by section 68(9) of the Michigan adoption code, chapter X of 1939 PA 288, MCL 710.68.

(3) Upon written request of a confidential intermediary appointed under section 68b of the Michigan adoption code, chapter X of 1939 PA 288, MCL 710.68b, presentation of a certified copy of the order of appointment, identification of the name of the adult adoptee, and payment of the required fee, the state registrar shall issue to the confidential intermediary a copy of the original certificate of live birth of the adult adoptee on whose behalf the intermediary was appointed.

(4) A copy of the original certificate of live birth provided under subsection (2) or (3) shall have the following phrase marked on the face of the copy: "This document is a copy of a sealed record and is not the active birth certificate of the individual whose name appears on this document".

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 545]

(SB 833)

AN ACT to amend 1933 PA 99, entitled "An act to authorize villages, townships, cities, and school districts to enter into contracts and agreements for the purchase of real or personal property for public purposes; to provide for the payment of the purchase price thereof; to authorize school districts to enter into certain other contracts; and to prescribe the use of the real or personal property," by amending section 1 (MCL 123.721), as amended by 1997 PA 77.

The People of the State of Michigan enact:

123.721 Purchase of real or personal property; contract or agreement; limitations; exceptions.

Sec. 1. (1) A village, township, city, or school district, after adoption of a resolution by its governing body approving the action, may enter into any contract or agreement for the purchase of real or personal property for public purposes, to be paid for in installments over a period of not to exceed 15 years and not to exceed the useful life of the property acquired as determined by the resolution. For school buses, the determined useful life shall not exceed 6 years. The outstanding balance of all purchases authorized under this act, exclusive of interest, shall not exceed 1-1/4% of the taxable value of the real and personal property in the village, township, city, or school district at the date of the contract or agreement. The limitations do not apply to contracts or leases entered into under 1948 (1st Ex Sess) PA 31, MCL 123.951 to 123.965, or to other contracts or leases between public corporations or municipalities. The contracts or agreements, and the purchase of property under the contracts or agreements are not subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) The governing body of a village, township, city, or school district may include in its budget and pay a sum or sums as may be necessary each year to meet the payments of any installments, and the interest thereon, when and as the installment becomes due, including overdue installments.

(3) The authority granted in this act shall not be construed to authorize the governing body of a city, village, township, or school district to levy taxes in excess of statutory or charter limitations without the approval of its electors.

(4) The limitations imposed by subsection (1) are not applicable to a contract for purchase of lands declared surplus by the United States government or one of its agencies, subject to the prior approval of the contract by the department of treasury.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 546]

(SB 1174)

AN ACT to amend 1969 PA 295, entitled "An act to establish the Michigan higher education facilities authority; to prescribe its powers and duties; to authorize the authority

to borrow money and issue bonds for educational facilities; to exempt the bonds from taxation; and to authorize the authority to lend money to nonprofit educational institutions in this state to finance or refinance capital improvements," by amending section 6 (MCL 390.926), as amended by 1982 PA 409.

The People of the State of Michigan enact:

390.926 Bonds.

Sec. 6. (1) The authority may issue its bonds in the principal amount it considers necessary to provide funds for achieving its purposes under this act, including the making of educational loans, the payment of interest on bonds of the authority during construction, the establishment of reserves to secure the bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The authority may issue refunding bonds whenever it considers refunding expedient, whether the bonds to be refunded have or have not matured. The proceeds of the refunding bonds shall be applied to the purchase, redemption, or payment of the bonds refunded. Except as may otherwise be expressly provided in the resolution authorizing the bonds, every issue of bonds shall be general obligations of the authority to be satisfied out of any revenues or money or other property of the authority, subject to an agreement with the holders of particular bonds in support of which particular receipts, revenues, security for educational loans, or other property of the authority has been pledged or mortgaged.

(2) Bonds issued by the authority shall be subject to this act and are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The bonds of the authority shall be authorized by resolution of its members, shall be serial or term bonds, or a combination of serial and term bonds, shall bear the date, and shall mature at the time or times, not exceeding 30 years from date of issue, as the resolution may provide. The bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon, registered, or both, carry the registration privileges, be executed in the manner, be payable in the medium of payment at the place or places, and be subject to the terms of redemption as the resolution or resolutions may provide. The bonds of the authority may be sold by the authority, at public or private sale, at the price or prices as the authority determines.

(4) A pledge made by the authority in connection with the issuance of bonds shall be valid and binding from the time the pledge is made. The money or property pledged and subsequently received by the authority shall immediately be subject to the lien of the pledge without a physical delivery or further act. The lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether those parties have notice of the lien. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(5) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

(6) For the purpose of more effectively managing its debt service, the authority may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the authority.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 547]

(SB 1175)

AN ACT to amend 1975 PA 222, entitled "An act to establish the Michigan higher education student loan authority for the purpose of providing loans to eligible students and to parents of students; to prescribe its powers and duties; to authorize the authority to borrow money and issue bonds which are subject to or exempt from federal income taxation and to provide for the disposition of those funds; to exempt the bonds from taxation; to authorize the authority to acquire loans made to eligible students or to parents of students; and to authorize persons, corporations, and associations to make gifts to the authority," by amending section 5 (MCL 390.1155), as amended by 1984 PA 259.

The People of the State of Michigan enact:

390.1155 Bonds; purposes; general obligation of authority; approval by municipal finance commission or successor agency; determination; resolution; requirements; issuance subject to agency financing reporting act; interest rate agreement.

Sec. 5. (1) The authority may issue its bonds in the principal amounts necessary to provide funds for achieving its purposes under this act including the payment of interest on bonds of the authority, the establishment of reserves to secure the bonds, and other expenditures of the authority incident to and necessary or convenient to carry out its purposes and powers. The authority may issue refunding bonds when it considers refunding expedient, whether the bonds to be refunded have or have not matured. The proceeds of the refunding bonds shall be applied to the purchase, redemption, or payment of the bonds refunded. Except as otherwise expressly provided in a resolution authorizing bonds, an issue of bonds shall be a general obligation of the authority to be satisfied out of revenues or money or other property of the authority, subject to an agreement with the holders of particular receipts, revenues, or other property of the authority that has been pledged or mortgaged.

(2) Bonds issued by the authority are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) The authority shall authorize its bonds by resolution. The bonds shall bear interest at a rate or rates, which are fixed for the term of the bonds or which are calculated upon a formula to vary; be in the denominations; be in a form approved by the authority; carry registration privileges; be executed in a manner; be payable in a medium of payment; and at a place or places; be subject to terms of redemption; and be subject to any other terms and conditions as the resolution or resolutions may provide. The bonds authorized under this section may be sold by the authority at public or private sale at a price determined by the authority. If the bonds are:

(a) Serial bonds or term bonds, or both, the bonds shall bear a date, and, if serial bonds, shall be payable either semiannually or annually, and shall mature at a time or times, not exceeding 40 years after the date of issue, as provided in the resolution.

(b) Term loans, commercial paper, or other evidences of indebtedness, the bonds shall bear a date or dates; and shall mature at a time or times not exceeding 30 years after the date of issue, as the resolution or resolutions shall provide.

(4) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

(5) For the purpose of more effectively managing its debt service, the authority may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the authority.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 548]

(SB 1176)

AN ACT to amend 1976 PA 289, entitled "An act to implement, clarify, and confirm the constitutional powers of the bodies corporate controlling those institutions of higher education named in sections 4, 5, and 6 of article 8 of the state constitution of 1963, or established by law as therein provided, regarding the establishment and financing of student loan programs," by amending section 2 (MCL 390.1352).

The People of the State of Michigan enact:

390.1352 §§ 141.2101 to 141.2821, 141.151 to 141.153, and 141.101 to 141.140 inapplicable to borrowing under act; purpose of act; provisions cumulative as to powers of board; bonds and notes subject to agency financing reporting act.

Sec. 2. (1) The revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, 1969 PA 342, MCL 141.151 to 141.153, and the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, shall not apply to any borrowing provided for in this act. This act shall implement, clarify, and confirm the existing constitutional power of a board to make the student loans described in this act and to finance the student loan program as provided in this act. This act is in addition to any other act granting powers to a board and shall not be construed as a limitation on any existing power, express or implied, of a board.

(2) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 549]

(HB 6074)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the

establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," (MCL 211.1 to 211.157) by adding section 9i.

The People of the State of Michigan enact:

211.9i Alternative energy personal property; exemption from tax.

Sec. 9i. (1) Alternative energy personal property is exempt from the collection of taxes under this act as provided in this section.

(2) If the Michigan next energy authority certifies alternative energy personal property as eligible for the exemption under this section as provided in the Michigan next energy authority act, the Michigan next energy authority shall forward a copy of that certification to all of the following:

(a) The secretary of the local school district in which the alternative energy personal property is located.

(b) The treasurer of the local tax collecting unit in which the alternative energy personal property is located.

(3) Within 60 days after receipt of the certification of alternative energy personal property under subsection (2), the school board for the local school district in which the alternative energy personal property is located, with the written concurrence of the superintendent of the local school district, may adopt a resolution to not exempt that alternative energy personal property from a tax levied in that local school district under section 1212 of the revised school code, 1976 PA 451, MCL 380.1212, or a tax levied under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, to retire outstanding bonded indebtedness. If a resolution is adopted under this subsection, a copy of the resolution shall be forwarded to the Michigan next energy authority, to the treasurer of the local tax collecting unit, and to the state treasurer. If a resolution is not adopted under this subsection, that alternative energy personal property is exempt from a tax levied in that local school district under section 1212 of the revised school code, 1976 PA 451, MCL 380.1212, or a tax levied under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, to retire outstanding bonded indebtedness, for the period provided in subsection (5).

(4) Within 60 days after receipt of the certification of alternative energy personal property under subsection (2), the governing body of the local tax collecting unit in which the alternative energy personal property is located may adopt a resolution to not exempt that alternative energy personal property from the taxes collected in that local tax collecting unit, except taxes collected under sections 1211 and 1212 of the revised school code, 1976 PA 451, MCL 380.1211 and 380.1212, a tax levied under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, to retire outstanding bonded indebtedness, or the tax levied by this state under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906. The clerk of the local tax collecting unit shall notify in writing the assessor of the local tax collecting unit in which the alternative energy personal property is located and the legislative body of each taxing unit that levies ad valorem property taxes in that local tax collecting unit in which the alternative energy personal property is located. Notice of the meeting at which the resolution will be considered shall be provided as required under the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Before acting on the

resolution, the governing body of the local tax collecting unit shall afford the assessor and a representative of the affected taxing units an opportunity for a hearing. If a resolution is adopted under this subsection, a copy of the resolution shall be forwarded to the Michigan next energy authority and to the state treasurer. If a resolution is not adopted under this subsection, that alternative energy personal property is exempt from the taxes collected in that local tax collecting unit for the period provided in subsection (5), except as otherwise provided in this section.

(5) The exemption under this section applies to taxes levied after December 31, 2002 and before January 1, 2013.

(6) As used in this section:

(a) "Alternative energy personal property" means all of the following:

(*i*) An alternative energy system.

(*ii*) An alternative energy vehicle.

(*iii*) All personal property of an alternative energy technology business.

(*iv*) The personal property of a business that is not an alternative energy technology business that is used solely for the purpose of researching, developing, or manufacturing an alternative energy technology.

(b) "Alternative energy system", "alternative energy vehicle", "alternative energy technology", and "alternative energy technology business" mean those terms as defined in the Michigan next energy authority act.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 550]

(SB 534)

AN ACT to amend 1968 PA 251, entitled "An act to regulate the creation and management of cemeteries; to regulate the sale of cemetery services and merchandise; to provide for a cemetery commissioner, and to prescribe the powers and duties of the commissioner; to require the registration and audit of cemeteries; to regulate persons selling burial, entombment, or columbarium rights, cemetery services, or cemetery merchandise; and to prescribe penalties," by amending section 9 (MCL 456.529), as amended by 1982 PA 132.

The People of the State of Michigan enact:

456.529 Commissioner; hearings; oaths; testimony; witnesses; production of books and records; subpoena; violation of act, rule, or order; cease and desist order; assurance of discontinuance; action to enforce compliance; injunction or restraining order; appointment of receiver or conservator; bond not required; denial of application; suspension or revocation of permit or registration; "municipal corporation" defined.

Sec. 9. (1) The commissioner may hold hearings, administer oaths, take testimony under oath, and request in writing the appearance and testimony of witnesses, including

the production of books and records. Upon the refusal of a witness to appear, testify, or submit books and records after a written request, the commissioner or a party to a contested case may apply to the circuit court for Ingham county for a subpoena or a subpoena duces tecum. The court shall issue a subpoena when reasonable grounds are shown.

(2) When it appears to the commissioner that a person or registrant has violated this act or a rule promulgated or order issued under this act, the commissioner may do 1 or more of the following:

(a) Issue a cease and desist order.

(b) Accept an assurance of discontinuance.

(c) Bring an action in the circuit court for the county in which the person resides or in the circuit court for the county of Ingham, to enforce compliance with this act or a rule promulgated or order issued under this act.

(3) Upon a proper showing regarding an action brought under subsection (2)(c), a permanent or temporary injunction or a restraining order may be granted and a receiver or conservator may be appointed by the court. A receiver or conservator appointed by the court may take possession of the assets and may sell, assign, transfer, or convey the cemetery to a municipal corporation or other person other than the holder of a license for the practice of mortuary science or a person who owns, manages, supervises, operates, or maintains, either directly or indirectly, a funeral establishment, under conditions prescribed by the court, in order to discharge outstanding contractual obligations. The court may allow the receiver or conservator to file for protection under the bankruptcy code.

(4) In the order of sale of the cemetery, the court shall make provision for notice to creditors and the filing of claims against the receivership or conservatorship. Any remaining funds held by the cemetery in escrow under this act belong to the contract buyers or beneficiaries of the contract buyers and shall not be distributed to the general creditors of the cemetery. This section does not prohibit the court from allowing the sale of the cemetery to a person other than the holder of a license for the practice of mortuary science or a person who owns, manages, supervises, operates, or maintains, either directly or indirectly, a funeral establishment or municipal corporation.

(5) In addition to an action taken under this section, the commissioner may deny an application or may suspend or revoke a permit or registration after a hearing as set forth in this act.

(6) As used in this section, "municipal corporation" means that term as defined in section 1 of 1927 PA 10, MCL 456.181.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 535 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

Compiler's note: Senate Bill No. 535, referred to in enacting section 1, was filed with the Secretary of State July 26, 2002, and became P.A. 2002, No. 551, Imd. Eff. July 26, 2002.

[No. 551]

(SB 535)

AN ACT to amend 1927 PA 10, entitled "An act to authorize cemetery corporations to sell or convey property rights, franchises and liabilities to a municipal corporation," by amending the title and sections 1, 2, 3, and 4 (MCL 456.181, 456.182, 456.183, and 456.184).

The People of the State of Michigan enact:

TITLE

An act to authorize cemetery corporations, partnerships, limited liability companies, and other legal entities to sell, assign, or convey property rights, franchises, and liabilities to a municipal corporation.

456.181 Cemetery corporations; sale to municipal corporation; definitions.

Sec. 1. (1) A legal entity organized under any law of this state for the purpose of establishing or maintaining a cemetery may sell, assign, transfer, or convey to any municipal corporation in which the cemetery is located or to any municipal corporation within 10 miles of the municipal corporation in which that cemetery is located all or any part of its assets, rights, franchises, and liabilities. The sale, assignment, transfer, or conveyance may also be as a result of the disposition of the cemetery and its assets and liabilities under a receivership or conservatorship action under section 9 of the cemetery regulation act, 1968 PA 251, MCL 456.529.

(2) The sale, assignment, transfer, or conveyance under subsection (1) may be according to terms as are ordered or mutually agreed upon, under either of the following circumstances:

(a) The owner, partner, or a majority of the owners, stockholders, partners, or members of the stock or other evidence of ownership or control issued by the legal entity present and voting at a special meeting called for that purpose.

(b) Pursuant to an order of a court of competent jurisdiction as described in subsection (1).

(3) As used in this act:

(a) "Legal entity" means a sole proprietorship, partnership, corporation, limited liability company, or any other entity.

(b) "Municipal corporation" means a county, township, city, or village.

456.182 Resolution of directors; special meeting; transfer of cemetery to municipal corporation.

Sec. 2. (1) Except as otherwise provided in subsection (2), the governing board of the legal entity, as applicable, may at a regular meeting pass a resolution containing the substance of the contract of conveyance proposed to be entered into between the legal entity and a municipal corporation and calling a special meeting of the owners, partners, members, or stockholders for the purpose of authorizing that transfer.

(2) A cemetery may be transferred to a municipal corporation in which the cemetery is located pursuant to a court order issued as a result of a receivership or conservatorship action conducted under section 9 of the cemetery regulation act, 1968 PA 251, MCL 456.529, without a resolution executed by the governing board of the legal entity under subsection (1).

456.183 Notice of special meeting; publication.

Sec. 3. (1) Except as otherwise provided for in subsection (2), notice of a meeting pursuant to section 2 shall be given by publication of a notice for 6 consecutive weeks previous to the time of holding the meeting in a newspaper published and circulated in the county in which the legal entity has its principal office or place of business. The notice shall state the time and place of the meeting, its purpose, and the substance of the proposed contract of conveyance. Proof of publication shall be filed with the secretary of the legal entity, as applicable, on or before the date of meeting.

(2) This section does not apply if the sale, assignment, transfer, or conveyance is the result of the disposition of the cemetery and its assets and liabilities under a receivership or conservatorship under section 9 of the cemetery regulation act, 1968 PA 251, MCL 456.529.

456.184 Legal rights and privileges unaffected by sale; duties of municipal corporation.

Sec. 4. (1) The legal rights and privileges, statutory or otherwise, of the owners, stockholders, partners, or members are not affected by the contract or conveyance by which the cemetery property is transferred to a municipal corporation. The municipal corporation shall assume and perform all liabilities, charges, and duties, statutory or otherwise, imposed upon or assumed by the municipal corporation, fully perform all existing contracts or agreements of the cemetery, and carry out and perform all provisions as to maintenance whether imposed upon the legal entity by statute or assumed by its bylaws or other originating documentation.

(2) Any fund for maintenance as provided by statute or by the bylaws or other originating documentation of the legal entity shall be turned over to the municipal corporation and preserved, applied, and used as required under statute or under bylaws or other originating documents.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 534 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

Compiler's note: Senate Bill No. 534, referred to in enacting section 1, was filed with the Secretary of State July 26, 2002, and became P.A. 2002, No. 550, Imd. Eff. July 26, 2002.

[No. 552]

(HB 5365)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy

and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 217, 234, and 717 (MCL 257.217, 257.234, and 257.717), section 217 as amended by 2000 PA 397, section 234 as amended by 2000 PA 151, and section 717 as amended by 2002 PA 453.

The People of the State of Michigan enact:

257.217 Application for registration and certificate of title; out-of-state vehicle; form; fee; signature of owner; contents; leased pickup truck or vehicle; duties of dealer and person selling certain vehicles; temporary registration; copy of security agreement; service fee; imprint on back side of check or bank draft; liability for damages.

Sec. 217. (1) An owner of a vehicle that is subject to registration under this act shall apply to the secretary of state, upon an appropriate form furnished by the secretary of state, for the registration of the vehicle and issuance of a certificate of title for the vehicle. A vehicle brought into this state from another state or jurisdiction that has a rebuilt, salvage, scrap, flood, or comparable certificate of title issued by that other state or jurisdiction shall be issued a rebuilt, salvage, scrap, or flood certificate of title by the secretary of state. The application shall be accompanied by the required fee. An application for a certificate of title shall bear the signature of the owner. The application shall contain all of the following:

(a) The owner's name, the owner's bona fide residence, and either of the following:

(*i*) If the owner is an individual, the owner's mailing address.

(*ii*) If the owner is a firm, association, partnership, limited liability company, or corporation, the owner's business address.

(b) A description of the vehicle including the make or name, style of body, and model year; the number of miles, not including the tenths of a mile, registered on the vehicle's odometer at the time of transfer; whether the vehicle is a flood vehicle or another state previously issued the vehicle a flood certificate of title; whether the vehicle is to be or has been used as a taxi or police vehicle, or by a political subdivision of this state, unless the vehicle is owned by a dealer and loaned or leased to a political subdivision of this state for use as a driver education vehicle; whether the vehicle has previously been issued a salvage or rebuilt certificate of title from this state or a comparable certificate of title from any other state or jurisdiction; vehicle identification number; and the vehicle's weight fully equipped, if a passenger vehicle registered in accordance with section 801(1)(a), and, if a trailer coach or pickup camper, in addition to the weight, the manufacturer's serial number, or in the absence of the serial number, a number assigned by the secretary of state. A number assigned by the secretary of state shall be permanently placed on the trailer coach or pickup camper in the manner and place designated by the secretary of state.

(c) A statement of the applicant's title and the names and addresses of the holders of security interests in the vehicle and in an accessory to the vehicle, in the order of their priority.

(d) Further information that the secretary of state reasonably requires to enable the secretary of state to determine whether the vehicle is lawfully entitled to registration and the owner entitled to a certificate of title. If the secretary of state is not satisfied as to the ownership of a late model vehicle or other vehicle having a value over $2,500.00, before registering the vehicle and issuing a certificate of title, the secretary of state may require the applicant to file a properly executed surety bond in a form prescribed by the secretary of state and executed by the applicant and a company authorized to conduct a surety business in this state. The bond shall be in an amount equal to twice the value of the vehicle as determined by the secretary of state and shall be conditioned to indemnify or reimburse the secretary of state, any prior owner, and any subsequent purchaser of the vehicle and their successors in interest against any expense, loss, or damage, including reasonable attorney's fees, by reason of the issuance of a certificate of title for the vehicle or on account of any defect in the right, title, or interest of the applicant in the vehicle. An interested person has a right of action to recover on the bond for a breach of the conditions of the bond, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of 3 years, or before 3 years if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the secretary of state, unless the secretary of state has received notification of the pendency of an action to recover on the bond. If the secretary of state is not satisfied as to the ownership of a vehicle that is valued at $2,500.00 or less and that is not a late model vehicle, the secretary of state shall require the applicant to certify that the applicant is the owner of the vehicle and entitled to register and title the vehicle.

(e) Except as provided in subdivision (f), an application for a commercial vehicle shall also have attached a scale weight receipt of the motor vehicle fully equipped as of the time the application is made. A scale weight receipt is not necessary if there is presented with the application a registration receipt of the previous year that shows on its face the empty weight of the motor vehicle as registered with the secretary of state that is accompanied by a statement of the applicant that there has not been structural change in the motor vehicle that has increased the empty weight and that the previous registered weight is the true weight.

(f) An application for registration of a vehicle on the basis of elected gross weight shall include a declaration by the applicant specifying the elected gross weight for which application is being made.

(g) If the application is for a certificate of title of a motor vehicle registered in accordance with section 801(1)(p), the application shall include the manufacturer's suggested base list price for the model year of the vehicle. Annually, the secretary of state shall publish a list of the manufacturer's suggested base list price for each vehicle being manufactured. Once a base list price is published by the secretary of state for a model year for a vehicle, the base list price shall not be affected by subsequent increases in the manufacturer's suggested base list price but shall remain the same throughout the model year unless changed in the annual list published by the secretary of state. If the secretary of state's list has not been published for that vehicle by the time of the application for registration, the base list price shall be the manufacturer's suggested retail price as shown on the label required to be affixed to the vehicle under section 3 of the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1232. If the manufacturer's suggested retail price is unavailable, the application shall list the purchase price of the vehicle as defined in section 801(4).

(2) An applicant for registration of a leased pickup truck or passenger vehicle that is subject to registration under this act, except a vehicle that is subject to registration tax under section 801g, shall disclose in writing to the secretary of state the lessee's name, the lessee's bona fide residence, and either of the following:

(a) If the lessee is an individual, the lessee's Michigan driver license number or Michigan personal identification number or, if the lessee does not have a Michigan driver license or Michigan personal identification number, the lessee's mailing address.

(b) If the lessee is a firm, association, partnership, limited liability company, or corporation, the lessee's business address.

(3) The secretary of state shall maintain the information described in subsection (2) on the secretary of state's computer records.

(4) A dealer selling or exchanging vehicles required to be titled, within 15 days after delivering a vehicle to the purchaser, and a person engaged in the sale of vessels required to be numbered by part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199, within 15 days after delivering a boat trailer weighing less than 2,500 pounds to the purchaser, shall apply to the secretary of state for a new title, if required, and transfer or secure registration plates and secure a certificate of registration for the vehicle or boat trailer, in the name of the purchaser. The dealer's license may be suspended or revoked in accordance with section 249 for failure to apply for a title when required or for failure to transfer or secure registration plates and certificate of registration within the 15 days required by this section. If the dealer or person fails to apply for a title when required, and to transfer or secure registration plates and secure a certificate of registration and pay the required fees within 15 days of delivery of the vehicle or boat trailer, a title and registration for the vehicle or boat trailer may subsequently be acquired only upon the payment of a transfer fee of $15.00 in addition to the fees specified in section 806. The purchaser of the vehicle or boat trailer shall sign the application, including, when applicable, the declaration specifying the maximum elected gross weight, as required by subsection (1)(f), and other necessary papers to enable the dealer or person to secure the title, registration plates, and transfers from the secretary of state. If the secretary of state mails or delivers a purchaser's certificate of title to a dealer, the dealer shall mail or deliver the certificate of title to the purchaser not more than 5 days after receiving the certificate of title from the secretary of state.

(5) If a vehicle is delivered to a purchaser who has valid Michigan registration plates that are to be transferred to the vehicle, and an application for title, if required, and registration for the vehicle is not made before delivery of the vehicle to the purchaser, the registration plates shall be affixed to the vehicle immediately, and the dealer shall provide the purchaser with an instrument in writing, on a form prescribed by the secretary of state, which shall serve as a temporary registration for the vehicle for a period of 15 days from the date the vehicle is delivered.

(6) An application for a certificate of title that indicates the existence of a security interest in the vehicle or in an accessory to the vehicle, if requested by the security interest holder, shall be accompanied by a copy of the security agreement which need not be signed. The request may be made of the seller on an annual basis. The secretary of state shall indicate on the copy the date and place of filing of the application and return the copy to the person submitting the application who shall forward it to the holder of the security interest named in the application.

(7) If the seller does not prepare the credit information, contract note, and mortgage, and the holder, finance company, credit union, or banking institution requires the installment seller to record the lien on the title, the holder, finance company, credit union, or

banking institution shall pay the seller a service fee of not more than $10.00. The service fee shall be paid from the finance charges and shall not be charged to the buyer in addition to the finance charges. The holder, finance company, credit union, or banking institution shall issue its check or bank draft for the principal amount financed, payable jointly to the buyer and seller, and there shall be imprinted on the back side of the check or bank draft the following:

"Under Michigan law, the seller must record a first lien in favor of (name of lender) _____ on the vehicle with vehicle identification number _____ and title the vehicle only in the name(s) shown on the reverse side." On the front of the sales check or draft, the holder, finance company, credit union, or banking institution shall note the name(s) of the prospective owner(s). Failure of the holder, finance company, credit union, or banking institution to comply with these requirements frees the seller from any obligation to record the lien or from any liability that may arise as a result of the failure to record the lien. A service fee shall not be charged to the buyer.

(8) In the absence of actual malice proved independently and not inferred from lack of probable cause, a person who in any manner causes a prosecution for larceny of a motor vehicle; for embezzlement of a motor vehicle; for any crime an element of which is the taking of a motor vehicle without authority; or for buying, receiving, possessing, or aiding in the concealment of a stolen, embezzled, or converted motor vehicle knowing that the motor vehicle has been stolen, embezzled, or converted, is not liable for damages in a civil action for causing the prosecution. This subsection does not relieve a person from proving any other element necessary to sustain his or her cause of action.

257.234 Presentation of certificate of title and registration certificate to secretary of state; fees; issuance of new certificate of title and registration certificate; mail or delivery; repossession of license plates; payment of transfer fee; compliance with § 257.238.

Sec. 234. (1) The purchaser or transferee, unless the person is a licensed dealer, shall present or cause to be presented the certificate of title and registration certificate if plates are being transferred to another vehicle, assigned as provided in this act, to the secretary of state accompanied by the fees as provided by law, whereupon a new certificate of title and registration certificate shall be issued to the assignee. The certificate of title shall be mailed or delivered to the owner or another person the owner may direct in a separate instrument in a form the secretary of state shall prescribe.

(2) If the secretary of state mails or delivers a purchaser's or transferee's certificate of title to a dealer, the dealer shall mail or deliver that certificate of title to the purchaser or transferee not more than 5 days after receiving the certificate of title from the secretary of state.

(3) Unless the transfer is made and the fee paid within 15 days, the vehicle is considered to be without registration, the secretary of state may repossess the license plates, and transfer of the vehicle ownership may be effected and a valid registration acquired thereafter only upon payment of a transfer fee of $15.00 in addition to the fee provided for in section 806.

(4) If a security interest is reserved or created at the time of the transfer, the parties shall comply with the requirements of section 238.

257.717 Maximum permissible width of vehicle or load; operation or movement of implement of husbandry; extension beyond center line of highway; permit; designation of highway for operation of vehicle or vehicle combination; special permit; violation as civil infraction; charging owner.

Sec. 717. (1) The total outside width of a vehicle or the load on a vehicle shall not exceed 96 inches, except as otherwise provided in this section.

(2) A person may operate or move an implement of husbandry of any width on a highway as required, designed, and intended for farming operations, including the movement of implements of husbandry being driven or towed and not hauled on a trailer, without obtaining a special permit for an excessively wide vehicle or load under section 725. The operation or movement of the implement of husbandry shall be in a manner so as to minimize the interruption of traffic flow. A person shall not operate or move an implement of husbandry to the left of the center of the roadway from a half hour after sunset to a half hour before sunrise, under the conditions specified in section 639, or at any time visibility is substantially diminished due to weather conditions. A person operating or moving an implement of husbandry shall follow all traffic regulations.

(3) The total outside width of the load of a vehicle hauling concrete pipe, agricultural products, or unprocessed logs, pulpwood, or wood bolts shall not exceed 108 inches.

(4) Except as provided in subsections (2) and (5) and this subsection, if a vehicle that is equipped with pneumatic tires is operated on a highway, the maximum width from the outside of 1 wheel and tire to the outside of the opposite wheel and tire shall not exceed 102 inches, and the outside width of the body of the vehicle or the load on the vehicle shall not exceed 96 inches. However, a truck and trailer or a tractor and semitrailer combination hauling pulpwood or unprocessed logs may be operated with a maximum width of not to exceed 108 inches in accordance with a special permit issued under section 725.

(5) The total outside body width of a bus, a trailer coach, a truck camper, or a motor home shall not exceed 102 inches. However, an appurtenance of a trailer coach, a truck camper, or a motor home that extends not more than 6 inches beyond the total outside body width is not a violation of this section.

(6) A vehicle shall not extend beyond the center line of a state trunk line highway except when authorized by law. Except as provided in subsection (2), if the width of the vehicle makes it impossible to stay away from the center line, a permit shall be obtained under section 725.

(7) The director of the state transportation department, a county road commission, or a local authority may designate a highway under the agency's jurisdiction as a highway on which a person may operate a vehicle or vehicle combination that is not more than 102 inches in width, including load, the operation of which would otherwise be prohibited by this section. The agency making the designation may require that the owner or lessee of the vehicle or of each vehicle in the vehicle combination secure a permit before operating the vehicle or vehicle combination. This subsection does not restrict the issuance of a special permit under section 725 for the operation of a vehicle or vehicle combination. This subsection does not permit the operation of a vehicle or vehicle combination described in section 722a carrying a load described in that section if the operation would otherwise result in a violation of that section.

(8) The director of the state transportation department, a county road commission, or a local authority may issue a special permit under section 725 to a person operating a vehicle or vehicle combination if all of the following are met:

(a) The vehicle or vehicle combination, including load, is not more than 106 inches in width.

(b) The vehicle or vehicle combination is used solely to move new motor vehicles or parts or components of new motor vehicles between facilities that meet all of the following:

(*i*) New motor vehicles or parts or components of new motor vehicles are manufactured or assembled in the facilities.

(*ii*) The facilities are located within 10 miles of each other.

(*iii*) The facilities are located within the city limits of the same city and the city is located in a county that has a population of more than 400,000 and less than 500,000 according to the most recent federal decennial census.

(c) The special permit and any renewals are each issued for a term of 1 year or less.

(9) A person who violates this section is responsible for a civil infraction. The owner of the vehicle may be charged with a violation of this section.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 553]

(SB 924)

AN ACT to amend 1972 PA 222, entitled "An act to provide for an official personal identification card; to provide for its form, issuance and use; to regulate the use and disclosure of information obtained from the card; to prescribe the powers and duties of the secretary of state; to prescribe fees; and to prescribe certain penalties for violations," by amending the title and section 2 (MCL 28.292), the title as amended by 1997 PA 99 and section 2 as amended by 2001 PA 238.

The People of the State of Michigan enact:

TITLE

An act to provide for an official personal identification card; to provide for its form, issuance and use; to regulate the use and disclosure of information obtained from the card; to prescribe the powers and duties of the secretary of state; to prescribe fees; to prescribe certain penalties for violations; and to provide an appropriation for certain purposes.

28.292 Official state personal identification card; contents; duties of secretary of state; methods; placement of name on organ donor registry; form; emergency medical information card; fingerprint or finger image; retention and use of person's image; access by law enforcement agency; list under sex offenders registration act; evidence of blindness; cardholder less than 21 years of age; information contained; issuance; manufacture; fees; expiration; renewal; waiver of fee; correction for change of name or address; application for renewal; other information; emancipated minor; validity.

Sec. 2. (1) The official state personal identification card shall contain the following:

(a) An identification number permanently assigned to the person.

(b) The full name, date of birth, sex, residential address, height, weight, eye color, image, and signature of the person to whom the identification card is issued.

(c) An indication that the identification card contains 1 or more of the following:

(*i*) The blood type of the person.

(*ii*) Immunization data of the person.

(*iii*) Medication data of the person.

(*iv*) A statement that the person is deaf.

(*v*) A statement that the person is an organ and tissue donor pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109. If the identification card contains such a statement, the statement shall include the signature of the person, along with the signature of at least 1 witness.

(*vi*) Emergency contact information of the person.

(d) Beginning July 1, 2003, in the case of a person who is less than 18 years of age at the time of issuance of the identification card, the dates on which the person will become 18 years of age and 21 years of age.

(e) Beginning July 1, 2003, in the case of a person who is at least 18 years of age but less than 21 years of age at the time of issuance of the identification card, the date on which the person will become 21 years of age.

(2) In conjunction with the issuance of an official state personal identification card, the secretary of state shall do all of the following:

(a) Provide the applicant with all of the following:

(*i*) Written information explaining the applicant's right to make an anatomical gift in the event of death pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109, and in accordance with this section.

(*ii*) Written information describing the organ donation registry program maintained by Michigan's federally designated organ procurement organization or its successor organization. The written information required under this subparagraph shall include, in a type size and format that is conspicuous in relation to the surrounding material, the address and telephone number of Michigan's federally designated organ procurement organization or its successor organization, along with an advisory to call Michigan's federally designated organ procurement organization or its successor organization with questions about the organ donor registry program.

(*iii*) Written information giving the applicant the opportunity to have his or her name placed on the organ donor registry described in subparagraph (*ii*).

(b) Provide the applicant with the opportunity to specify on his or her official state personal identification card that he or she is willing to make an anatomical gift in the event of death pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109, and in accordance with this section.

(c) Inform the applicant in writing that, if he or she indicates to the secretary of state under this section a willingness to have his or her name placed on the organ donor registry described in subdivision (a)(*ii*), the secretary of state will forward the applicant's name and address to the organ donation registry maintained by Michigan's federally designated organ procurement organization or its successor organization, pursuant to subsection (4).

(3) The secretary of state may fulfill the requirements of subsection (2) by 1 or more of the following methods:

(a) Providing printed material enclosed with a mailed notice for the issuance or renewal of an official state personal identification card.

(b) Providing printed material to an applicant who personally appears at a secretary of state branch office.

(c) Through electronic information transmittals for applications processed by electronic means.

(4) If an applicant indicates a willingness under this section to have his or her name placed on the organ donor registry described in subsection (2)(a)(*ii*), the secretary of state shall within 10 days forward the applicant's name and address to the organ donor registry maintained by Michigan's federally designated organ procurement organization or its successor organization. The secretary of state may forward information under this subsection by mail or by electronic means. The secretary of state shall not maintain a record of the name or address of an individual who indicates a willingness to have his or her name placed on the organ donor registry after forwarding that information to the organ donor registry under this subsection. Information about an applicant's indication of a willingness to have his or her name placed on the organ donor registry obtained by the secretary of state under subsection (2) and forwarded under this subsection is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 13(1)(d) of the freedom of information act, 1976 PA 442, MCL 15.243.

(5) The secretary of state shall prescribe the form of the identification card. The secretary of state shall designate on the identification card a space where the applicant may place a sticker or decal of the uniform size as the secretary may specify to indicate that the cardholder carries a separate emergency medical information card. The sticker or decal may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the emergency medical information card, but shall meet the specifications of the secretary of state. The sticker or decal also may be used to indicate that the cardholder has designated 1 or more patient advocates in accordance with section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506. The emergency medical information card, carried separately by the cardholder, may contain the information described in subsection (2)(c), information concerning the cardholder's patient advocate designation, other emergency medical information, or an indication as to where the cardholder has stored or registered emergency medical information. Beginning on and after July 1, 2003, an original identification card or the first renewal of an existing identification card issued to a person less than 21 years of age shall be portrait or vertical in form and an original identification card or the first renewal of an existing identification card issued to a person 21 years of age or over shall be landscape or horizontal in form. Except as otherwise required in this act, other information required on the identification card pursuant to this act may appear on the identification card in a form prescribed by the secretary of state.

(6) The identification card shall not contain a fingerprint or finger image of the applicant.

(7) Except as provided in this subsection, the secretary of state may retain and use a person's image described in subsection (1)(b) only for programs administered by the secretary of state. Except as provided in this subsection, the secretary of state shall not use a person's image unless written permission for that purpose is granted by the person to the secretary of state or specific enabling legislation permitting the use is enacted into law. A law enforcement agency of this state shall have access to any information retained by the secretary of state under this subsection. The information may be utilized for any law enforcement purpose unless otherwise prohibited by law. The department of state police shall provide to the secretary of state updated lists of persons required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or an official state personal identification card and the secretary of state shall make images of those persons available to the department of state police as provided in the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.732.

(8) If a person presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368, and is issued or is the holder of an official state personal identification card, the secretary of state shall mark the person's identification card in a manner that clearly indicates that the cardholder is legally blind.

(9) Until July 1, 2003, if the secretary of state issues an official state personal identification card to a person who at the time of application is 20-1/2 years of age or less, the secretary of state shall mark the person's identification card in a manner that clearly indicates that the cardholder is less than 21 years of age.

(10) An official state personal identification card may contain an identifier for voter registration purposes. An official state personal identification card may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's identification card number, birth date, expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the person's name, address, driving record, or other personal identifier. The identification card shall identify the encoded information.

(11) An official state personal identification card shall be issued only upon authorization of the secretary of state, and shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the identification card without ready detection.

(12) Except as otherwise provided in this act, an applicant shall pay a fee of $6.00 to the secretary of state for each original or renewal identification card issued. A service fee of $1.00 shall be added to each fee collected for an original or renewal identification card. The department of treasury shall deposit the fees received and collected under this section in the state treasury to the credit of the general fund. The legislature shall appropriate the fees credited to the general fund under this act to the secretary of state for the administration of this act. Appropriations from the Michigan transportation fund shall not be used to compensate the secretary of state for costs incurred and services performed under this section.

(13) An original or renewal official state personal identification card shall expire on the birthday of the person to whom it is issued in the fourth year following the date of issuance. The secretary of state shall not issue an official state personal identification card under this act for a period greater than 4 years. Except as provided in this subsection, a person may apply for a renewal of an official state personal identification card by mail or by other methods prescribed by the secretary of state. The secretary of state shall require renewal in person by a person required under section 5a of the sex offenders registration act, 1994 PA 295, MCL 28.725a, to maintain a valid operator's or chauffeur's license or official state personal identification card.

(14) The secretary of state shall waive the fee under this section if the applicant is a person 65 years of age or older, is a person who has had his or her operator's or chauffeur's license suspended, revoked, or denied under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, because of a mental or physical infirmity or disability, is a person who presents evidence of statutory blindness as provided in 1978 PA 260, MCL 393.351 to 393.368, or is a person who presents other good cause for a fee waiver.

(15) A person who has been issued an official state personal identification card shall apply for a renewal official state personal identification card if the person changes his or her name.

(16) A person who has been issued an official state personal identification card shall apply for a corrected identification card if he or she changes his or her residential address.

The secretary of state may correct the address on an identification card by a method prescribed by the secretary of state. A fee shall not be charged for a change of residential address.

(17) Except as otherwise provided in subsections (15) and (16), a person who has been issued an official state personal identification card may apply for a renewal official state personal identification card for 1 or more of the following reasons:

(a) The person wants to change any information on the identification card.

(b) An identification card issued under this act is lost, destroyed, or mutilated, or becomes illegible.

(18) A person may indicate on an official state personal identification card in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, a statement that the person is deaf, or a statement that the person has made an anatomical gift pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(19) If an applicant provides proof to the secretary of state that he or she is a minor who has been emancipated pursuant to 1968 PA 293, MCL 722.1 to 722.6, the official state personal identification card shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

(20) A valid official state personal identification card presented by the person to whom the card is issued shall be considered the same as a valid state of Michigan driver license when identification is requested except as otherwise specifically provided by law.

Appropriation.

Enacting section 1. There is appropriated from the amount provided in section 310(16) of the Michigan vehicle code, 1949 PA 300, MCL 257.310, a sufficient amount to carry out the provisions of the 2002 amendatory act that amended section 2 of 1972 PA 222, MCL 28.292, and the 2002 amendatory act that provided an appropriation in section 310 of the Michigan vehicle code, 1949 PA 300, MCL 257.310.

Effective date.

Enacting section 2. This amendatory act takes effect October 1, 2002.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless Senate Bill No. 925 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

Compiler's note: Senate Bill No. 925, referred to in enacting section 3, was filed with the Secretary of State July 26, 2002, and became P.A. 2002, No. 554, Eff. Oct. 1, 2002.

[No. 554]

(SB 925)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor

vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending the title and sections 310, 310e, and 314 (MCL 257.310, 257.310e, and 257.314), the title as amended by 2000 PA 408, section 310 as amended by 2002 PA 126, section 310e as amended by 2002 PA 422, and section 314 as amended by 2000 PA 173.

The People of the State of Michigan enact:

TITLE

An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date.

257.310 Operator's or chauffeur's license; issuance; motorcycle indorsement or vehicle group designation or indorsement application; contents of license; digitized license; unlawful acts; penalties; temporary driver's permit; medical data or anatomical gift; designation of patient advocate or emancipated status.

Sec. 310. (1) The secretary of state shall issue an operator's license to each person licensed as an operator and a chauffeur's license to each person licensed as a chauffeur. An applicant for a motorcycle indorsement under section 312a or a vehicle group designation or indorsement shall first qualify for an operator's or chauffeur's license before the indorsement or vehicle group designation application is accepted and processed. Beginning on and after July 1, 2003, an original license or the first renewal of an existing license issued to a person less than 21 years of age shall be portrait or vertical in form and

an original license or the first renewal of an existing license issued to a person 21 years of age or over shall be landscape or horizontal in form.

(2) The license issued under subsection (1) shall contain all of the following information:

(a) The distinguishing number permanently assigned to the licensee.

(b) The full name, date of birth, address of residence, height, eye color, sex, an image, and the signature of the licensee.

(c) An indication that the license contains 1 or more of the following:

(*i*) The blood type of the licensee.

(*ii*) Immunization data of the licensee.

(*iii*) Medication data of the licensee.

(*iv*) A statement that the licensee is deaf.

(*v*) A statement that the licensee is an organ and tissue donor pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(*vi*) Emergency contact information of the licensee.

(*vii*) A sticker or decal as specified by the secretary of state to indicate that the licensee has designated 1 or more patient advocates in accordance with section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506, or a statement that the licensee carries an emergency medical information card.

(d) If the licensee has made a statement described in subdivision (c)(*v*), the signature of the licensee following the indication of his or her organ and tissue donor intent identified in subdivision (c)(*v*), along with the signature of at least 1 witness.

(e) The sticker or decal described in subdivision (c)(*vii*) may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the emergency medical information card, but shall meet the specifications of the secretary of state. The emergency medical information card may contain the information described in subdivision (c)(*vi*), information concerning the licensee's patient advocate designation, other emergency medical information, or an indication as to where the licensee has stored or registered emergency medical information.

(f) Beginning July 1, 2003, in the case of a licensee who is less than 18 years of age at the time of issuance of the license, the date on which the licensee will become 18 years of age and 21 years of age.

(g) Beginning July 1, 2003, in the case of a licensee who is at least 18 years of age but less than 21 years of age at the time of issuance of the license, the date on which the licensee will become 21 years of age.

(3) Except as otherwise required in this chapter, other information required on the license pursuant to this chapter may appear on the license in a form prescribed by the secretary of state.

(4) The license shall not contain a fingerprint or finger image of the licensee.

(5) A digitized license may contain an identifier for voter registration purposes. The digitized license may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's driver license number, birth date, license expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the person's name, address, driving record, or other personal identifier. The license shall identify the encoded information.

(6) The license shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the license without ready detection. In addition, a license with a vehicle group designation shall contain the information required pursuant to 49 C.F.R. part 383.

(7) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates a license photograph, the negative of the photograph, an image, a license, or the electronic data contained on a license or a part of a license or who uses a license, an image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:

(a) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than $10,000.00, or both.

(c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(8) A person who sells, or who possesses with the intent to deliver to another, a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both.

(9) A person who is in possession of 2 or more reproduced, altered, counterfeited, forged, or duplicated license photographs, negatives of the photograph, images, licenses, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both.

(10) A person who is in possession of a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(11) Subsections (7)(a) and (b), (8), and (9) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(12) The secretary of state, upon determining after an examination that an applicant is mentally and physically qualified to receive a license, may issue to that person a temporary driver's permit entitling the person while having the permit in his or her immediate possession to drive a motor vehicle upon the highway for a period not exceeding 60 days before issuance to the person of an operator's or chauffeur's license by the secretary of state.

(13) An operator or chauffeur may indicate on the license in a place designated by the secretary of state his or her blood type, emergency contact information, immunization

data, medication data, or a statement that the licensee is deaf, or a statement that the licensee is an organ and tissue donor and has made an anatomical gift pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(14) An operator or chauffeur may indicate on the license in a place designated by the secretary of state that he or she has designated a patient advocate in accordance with sections 5506 to 5513 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5513.

(15) If the applicant provides proof to the secretary of state that he or she is a minor who has been emancipated pursuant to 1968 PA 293, MCL 722.1 to 722.6, the license shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

257.310e Graduated licensing.

Sec. 310e. (1) Except as otherwise provided in this act, an operator's or chauffeur's license issued to a person who is 17 years of age or less shall be in a form as prescribed in section 310 beginning July 1, 2003, and is valid only upon the issuance of a graduated driver license.

(2) The secretary of state shall designate graduated licensing provisions in a manner that clearly indicates that the person is subject to the appropriate provisions described in this section.

(3) Except as otherwise provided in section 303, a person who is not less than 14 years and 9 months of age may be issued a level 1 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:

(a) Passed a vision test and met health standards as prescribed by the secretary of state.

(b) Successfully completed segment 1 of a driver education course approved by the department of education including a minimum of 6 hours of on-the-road driving time with the instructor.

(c) Received written approval of a parent or legal guardian.

(4) A person issued a level 1 graduated licensing status may operate a motor vehicle only when accompanied either by a licensed parent or legal guardian or, with the permission of the parent or legal guardian, a licensed driver 21 years of age or older. Except as otherwise provided in this section, a person is restricted to operating a motor vehicle with a level 1 graduated licensing status for not less than 6 months.

(5) A person may be issued a level 2 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:

(a) Had a level 1 graduated licensing status for not less than 6 months.

(b) Successfully completed segment 2 of a driver education course approved by the department of education.

(c) Not incurred a moving violation resulting in a conviction or civil infraction determination or been involved in an accident for which the official police report indicates a moving violation on the part of the person during the 90-day period immediately preceding application.

(d) Presented a certification by the parent or guardian that he or she, accompanied by his or her licensed parent or legal guardian or, with the permission of the parent or legal guardian, any licensed driver 21 years of age or older, has accumulated a total of not less than 50 hours of behind-the-wheel experience including not less than 10 nighttime hours.

(e) Successfully completed a secretary of state approved performance road test. The secretary of state may enter into an agreement with another public or private person or agency, including a city, village, or township, to conduct this performance road test. This subdivision applies to a person 16 years of age or over only if the person has satisfied subdivisions (a), (b), (c), and (d).

(6) A person issued a level 2 graduated licensing status under subsection (5) shall remain at level 2 for not less than 6 months and shall not operate a motor vehicle within this state from 12 midnight to 5 a.m. unless accompanied by a parent or legal guardian or a licensed driver over the age of 21 designated by the parent or legal guardian, or except when going to or from employment.

(7) The provisions and provisional period described in subsection (4) or (6) shall be expanded or extended, or both, beyond the periods described in subsection (4) or (6) if any of the following occur and are recorded on the licensee's driving record during the provisional periods described in subsection (4) or (6) or any additional periods imposed under this subsection:

(a) A moving violation resulting in a conviction, civil infraction determination, or probate court disposition.

(b) An accident for which the official police report indicates a moving violation on the part of the licensee.

(c) A license suspension for a reason other than a mental or physical disability.

(d) A violation of subsection (4) or (6).

(8) The provisional period described in subsection (4) shall be extended under subsection (7) until the licensee completes 90 consecutive days without a moving violation, an accident in which a moving violation resulted, accident, suspension, or provisional period violation listed in subsection (7) or until age 18, whichever occurs first. The provisional period described in subsection (6) shall be extended under subsection (7) until the licensee completes 12 consecutive months without a moving violation, accident, suspension, or restricted period violation listed in subsection (7) or until age 18, whichever occurs first.

(9) A person who is not less than 17 years of age may be issued a level 3 graduated licensing status under this subsection if the person has completed 12 consecutive months without a moving violation, an accident in which a moving violation resulted, accident, suspension, or restricted period violation listed in subsection (7) while the person was issued a level 2 graduated licensing status under subsection (5).

(10) Notice shall be given by first-class mail to the last known address of a licensee if the provisions are expanded or extended as described in subsection (7).

(11) A person who violates subsection (4) or (6) is responsible for a civil infraction.

(12) If a person is determined responsible for a violation of subsection (4) or (6), the secretary of state shall send written notification of any conviction or moving violation to a designated parent or guardian of the person.

(13) For purposes of this section:

(a) Upon conviction for a moving violation, the date of the arrest for the violation shall be used in determining whether the conviction occurred within a provisional licensure period under this section.

(b) Upon entry of a civil infraction determination for a moving violation, the date of issuance of a citation for a civil infraction shall be used in determining whether the civil infraction determination occurred within a provisional licensure period under this section.

(c) The date of the official police report shall be used in determining whether a licensee was driving a motor vehicle involved in an accident for which the official police report indicates a moving violation on the part of the licensee or indicates the licensee had been drinking intoxicating liquor.

(14) A person shall have his or her graduated licensing status in his or her immediate possession at all times when operating a motor vehicle, and shall display the card upon demand of a police officer. A person who violates this subsection is responsible for a civil infraction.

(15) This section does not apply to a person 15 years of age or older who is currently enrolled but has not completed a driver education course on April 1, 1997 or who has completed a driver education course but has not acquired his or her driver license on April 1, 1997.

257.314 Operator's or chauffeur's license; duration; expiration; identification of licensee less than 21; renewal; fee; extension.

Sec. 314. (1) Except as otherwise provided in this section, an operator's license shall expire on the birthday of the person to whom the license is issued in the fourth year following the date of the issuance of the license unless suspended or revoked before that date or issued pursuant to section 314b. A license shall not be issued for a period longer than 4 years. A person holding a license at any time within 45 days before the expiration of his or her license may make application for a new license as provided for in this chapter. However, a knowledge test for an original group designation or indorsement may be taken at any time during this period and the results shall be valid for 12 months. However, if the licensee will be out of the state during the 45 days immediately preceding expiration of the license or for other good cause shown cannot apply for a license within the 45-day period, application for a new license may be made not more than 6 months before expiration of the license. This new license when granted shall expire as provided for in this chapter.

(2) The first operator's license issued to a person who at the time of application is less than 20-1/2 years of age shall expire on the licensee's twenty-first birthday unless suspended or revoked. Until July 1, 2003, the secretary of state shall code the license in a manner which clearly identifies the licensee as being less than 21 years of age.

(3) The first chauffeur's license issued to a person shall expire on the licensee's birthday in the fourth year following the date of issuance unless the license is suspended or revoked before that date or is issued pursuant to section 314b. The chauffeur's license of a person who at the time of application is less than 20-1/2 years of age shall expire on the licensee's twenty-first birthday unless suspended or revoked. Until July 1, 2003, the secretary of state shall code the license in a manner which clearly identifies the licensee as being less than 21 years of age. A subsequent chauffeur's license shall expire on the birthday of the person to whom the license is issued in the fourth year following the date of issuance of the license unless the license is suspended or revoked before that date or is issued pursuant to section 314b.

(4) A person may apply for an extension of his or her driving privileges if he or she is out of state on the date that his or her operator's or chauffeur's license expires. The extension may extend the license for 90 days beyond the expiration date or within 2 weeks after the applicant returns to Michigan, whichever occurs first.

(5) A person who will be out of state for more than 90 days beyond the expiration date of his or her operator's license may apply for a 2-year extension of his or her driving privileges. The applicant for this extension shall submit a statement evidencing a vision

examination in accordance with the rules promulgated by the secretary of state under section 309. The fee for a 2-year extension shall be the same as provided in section 314b(2).

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 924 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

Compiler's note: Senate Bill No. 924, referred to in enacting section 2, was filed with the Secretary of State July 26, 2002, and became P.A. 2002, No. 553, Eff. Oct. 1, 2002.

[No. 555]

(SB 1062)

AN ACT to amend 1913 PA 380, entitled "An act to regulate gifts of real and personal property to cities, villages, townships, and counties, and the use of the those gifts; and to validate all such gifts made before the enactment of this act," by amending section 1 (MCL 123.871), as amended by 1985 PA 9; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

123.871 Gift of real or personal property to city, village, township, or county; public purposes; conditions, limitations, and requirements; validity.

Sec. 1. Any city, village, township, or county may receive, own, and enjoy any gift of real or personal property, made by grant, devise, bequest, or in any other manner, for public parks, grounds, cemeteries, public buildings, or other public purposes, whether made directly or in trust, subject to the conditions, limitations, and requirements provided in the grant, devise, bequest, or other instrument. A gift shall not be invalid because of an informality in the instrument evidencing the gift, if the intent can be determined from the instrument, or by reason of its contravening a statute or rule against perpetuities. All gifts made prior to August 14, 1913, either by grant, devise, bequest, or in any other manner, are declared valid, though they violate a statute or rule against perpetuities, the same as if this act had been in effect when made.

Repeal of § 123.873.

Enacting section 1. Section 3 of 1913 PA 380, MCL 123.873, is repealed.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 556]

(SB 1170)

AN ACT to amend 1984 PA 270, entitled "An act relating to the economic development of this state; to create the Michigan strategic fund and to prescribe its powers and duties; to transfer and provide for the acquisition and succession to the rights, properties, obligations, and duties of the job development authority and the Michigan economic development authority to the Michigan strategic fund; to provide for the expenditure of proceeds in certain funds to which the Michigan strategic fund succeeds in ownership; to provide for the issuance of, and terms and conditions for, notes and bonds of the Michigan strategic fund; to exempt the property, income, and operation of the fund and its bonds and notes, and the interest thereon, from certain taxes; to provide for the creation of certain centers within and for the purposes of the Michigan strategic fund; to provide for the creation and funding of certain accounts for certain purposes; to impose certain powers and duties upon certain officials, departments, and authorities of the state; to provide penalties; and to repeal certain acts and parts of acts," by amending sections 23 and 47 (MCL 125.2023 and 125.2047), section 23 as amended by 1987 PA 278.

The People of the State of Michigan enact:

125.2023 Bonds or notes.

Sec. 23. (1) The fund may borrow money and issue bonds or notes for the following purposes:

(a) To provide sufficient funds for achieving the fund's purposes and objectives including, but not limited to, amounts necessary to pay the costs of acquiring a project or part of a project; to make loans for the costs of a project or part of a project; to make loans pursuant to section 7(r) for an export related transaction; for making grants; for providing money to guarantee or insure loans, leases, bonds, notes, or other indebtedness; for making working capital loans; for all other expenditures of the fund incident to and necessary or convenient to carry out the fund's purposes, objectives, and powers; and for any combination of the foregoing. The cost of a project may include administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees that are necessary for the project.

(b) To refund bonds or notes of the fund issued under this act, of the job development authority issued under former 1975 PA 301, of the Michigan economic development authority issued under former 1982 PA 70, of an economic development corporation issued under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, or of a municipality issued under the industrial development revenue bond act of 1963, 1963 PA 62, MCL 125.1251 to 125.1267, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of the issuance of the refunding bonds or notes; and to issue bonds or notes partly to refund the bonds or notes and partly for any other purpose provided for by this section.

(c) To pay the costs of issuance of bonds or notes under this act; to pay interest on bonds or notes becoming payable prior to the receipt of the first revenues available for payment of that interest as determined by the board; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in the amount determined by the board.

(2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the board, shall bear the date or dates, and shall mature at the time or times not exceeding 50 years from the date of issuance, as the resolution may provide. The bonds and notes shall bear interest at the rate or rates as may be set, reset, or calculated from time to time, or may bear no interest, as provided in the resolution. The bonds and notes shall be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be transferable, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of prior redemption at the option of the fund or the holders of the bonds and notes as the resolution or resolutions may provide. The bonds and notes of the fund may be sold at public or private sale at the price or prices determined by the fund. For purposes of 1966 PA 326, MCL 438.31 to 438.33, this act and other acts applicable to the fund shall regulate the rate of interest payable or charged by the fund, and 1966 PA 326, MCL 438.31 to 438.33, does not apply. Bonds and notes may be sold at a discount.

(3) Bonds or notes may be 1 or more of the following:

(a) Made the subject of a put or agreement to repurchase by the fund or others.

(b) Secured by a letter of credit or by any other collateral that the resolution may authorize.

(c) Reissued by the fund once reacquired by the fund pursuant to any put or repurchase agreement.

(4) The fund may authorize by resolution any member of the board to do 1 or more of the following:

(a) Sell and deliver, and receive payment for notes or bonds.

(b) Refund notes or bonds by the delivery of new notes or bonds whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes.

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes.

(d) Buy notes or bonds so issued at not more than the face value of the notes or bonds.

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the fund or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(5) Except as may otherwise be expressly provided by the fund, every issue of its notes or bonds shall be general obligations of the fund payable out of revenues, properties, or money of the fund, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security for the notes or bonds.

(6) The notes or bonds of the fund are negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, subject only to the provisions of the notes or bonds for registration.

(7) Bonds or notes issued by the fund are not subject to the terms of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821. The bonds or notes issued by the fund are not required to be registered. A filing of a bond or note of the fund is not required under the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

(8) A resolution authorizing notes or bonds may contain any or all of the following covenants, which shall be a part of the contract with the holders of the notes or bonds:

(a) A pledge of all or a part of the fees, charges, and revenues made or received by the fund, or all or a part of the money received in payment of lease rentals, or loans and

interest on the loans, and other money received or to be received to secure the payment of the notes or bonds or of an issue of the notes or bonds, subject to agreements with bondholders or noteholders as may then exist.

(b) A pledge of all or a part of the assets of the fund, including leases, or notes or mortgages and obligations securing the same to secure the payment of the notes or bonds or of an issue of notes or bonds, subject to agreements with noteholders or bondholders as may then exist.

(c) A pledge of a loan, grant, or contribution from the federal, state, or local government, or source in aid of a project as provided for in this act.

(d) A pledge of money directly derived from payments from the heritage trust fund created by the heritage trust fund act of 1982, former 1982 PA 327.

(e) The use and disposition of the revenues and income from leases, or from loans, notes, and mortgages owned by the fund.

(f) The establishment and setting aside of reserves or sinking funds and the regulation and disposition of reserves or sinking funds subject to this act.

(g) Limitations on the purpose to which the proceeds of sale of the notes or bonds may be applied and limitations on pledging those proceeds to secure the payment of other bonds or notes.

(h) Authority for and limitations on the issuance of additional notes or bonds for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured. Additional bonds pledging money derived from the heritage trust fund as provided in subdivision (d) may only be issued if the issuance meets the requirements of section 204 of the resolution adopted by the Michigan economic development authority authorizing issuance of its bonds dated December 1, 1982, and any requirement of former 1982 PA 70, provided that these requirements do not apply if those bonds have been defeased.

(i) The procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent to an amendment or abrogation, and the manner in which the consent may be given.

(j) Vest in a trustee or a secured party the property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the fund may determine necessary or appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the rights of the noteholders and bondholders. A trust agreement may be executed by the fund with any trustee who may be located inside or outside this state to accomplish any of the foregoing.

(k) Pay maintenance and repair costs of a project.

(*l*) The insurance to be carried on a project and the use and disposition of insurance money and condemnation awards.

(m) The terms, conditions, and agreements upon which the holder of the bonds, or a portion of the bonds, is entitled to the appointment of a receiver by the circuit court. A receiver who is appointed may enter and take possession of the project and maintain it or lease or sell the project for cash or on an installment sales contract and prescribe rentals and payments therefor and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as the fund.

(n) Any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.

(9) A pledge made by the fund is valid and binding from the time the pledge is made. The money or property so pledged and thereafter received by the fund is immediately

subject to the lien of the pledge without a physical delivery or further act. The lien of a pledge is valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the fund and is valid and binding as against the transfer of the money or property pledged, irrespective of whether the parties have notice. Neither the resolution, the trust agreement, nor any other instrument by which a pledge is created need be recorded.

(10) A member of the board or a person executing the notes or bonds is not liable personally on the notes or bonds and is not subject to personal liability of accountability by reason of the issuance of the notes or bonds.

(11) This state is not liable on notes or bonds of the fund, and the notes or bonds shall not be considered a debt of this state. The notes and bonds shall contain on their face a statement indicating this fact.

(12) The notes and bonds of the fund are securities in which the public officers and bodies of this state; municipalities and municipal subdivisions; insurance companies, associations, and other persons carrying on an insurance business; banks, trust companies, savings banks, savings associations, and savings and loan associations; investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and all other persons who are authorized to invest in bonds or other obligations of this state may properly and legally invest funds.

(13) The property of the fund and its income and operation is exempt from all taxation by this state or any of its political subdivisions, and all bonds and notes of the fund, the interest on the bonds and notes, and their transfer are exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the fund under this act, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the fund, issued pursuant to this act, the interest on the notes and bonds, the transfer of the notes and bonds, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation provided by the laws of this state, except for estate, gift, and inheritance taxes.

(14) The issuance of bonds and notes under this act is subject to the agency financing reporting act.

(15) For the purpose of more effectively managing its debt service, the fund may enter into an interest rate exchange or swap, hedge, or similar agreement with respect to its bonds or notes on the terms and payable from the sources and with the security, if any, as determined by a resolution of the board.

125.2047 Borrowing or contracting for loan insurance and loan guarantees; debt limitation; approval; certain acts inapplicable.

Sec. 47. A municipality is hereby authorized to borrow or contract for loan insurance and loan guarantees from the fund pursuant to this act, notwithstanding any charter provision to the contrary, or other provision of law. Any amount borrowed by a municipality pursuant to this act shall not be included in, or charged against, any statutory or charter debt limitation of the municipality. A municipality shall not be required to seek or obtain the approval of the electors to borrow money pursuant to this act. The borrowing shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, nor to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 557]

(SB 1266)

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 18d (MCL 247.668d).

The People of the State of Michigan enact:

247.668d Contracts between governmental units for construction or reconstruction of highways; contributions; pledges; bonds; applicability of revised municipal finance act and agency financing reporting act.

Sec. 18d. (1) The state transportation commission, county road commission, and a city or village may enter into a contract providing for the construction or reconstruction of highways, including limited access highways, under the jurisdiction and control of 1 of the contracting parties to the extent that the contracting parties are otherwise authorized by law to expend moneys on the highways, roads, or streets, which contract shall provide for allocation of the share of the cost of the construction or reconstruction to be borne by the department or a county road commission, city, or village in annual installments for a period not to exceed 30 years. The contract shall designate the department or a county road commission, city, or village to carry on, in whole or in part, the engineering, construction, or reconstruction work required by the contract, which may include the construction or enlargement, reconstruction, or relocation of existing highways and work

incidental to the engineering, construction, or reconstruction work. The contract shall designate the department or a county road commission, city, or village to undertake the acquisition of rights of way required for the highways, which rights of way may be acquired by purchase or condemnation by the department or a county road commission, city, or village in its own name for the purposes of the construction or reconstruction. The department or a county road commission, city, or village may make a contribution to the cost of its highway construction and reconstruction projects as are provided for in contracts authorized in this section. A governmental unit may make irrevocable pledges of its Michigan transportation fund receipts to meet its annual obligations pursuant to the contracts. A governmental unit that is a party to a contract may make an additional irrevocable pledge of a contribution or funds received, or to be received, by the department or a county road commission, city, or village from the federal government or 1 of its agencies or from any other source for or in aid of the highway construction or reconstruction projects provided for in the contracts. A governmental unit that is a party to the contracts may borrow money and issue bonds in accordance with this act for the purpose of providing funds for the immediate construction or reconstruction of the highway projects contemplated by the contracts. The bonds shall be secured by an irrevocable pledge of the annual contributions required to be made by the department or a county road commission, city, or village that is a party to the contracts. Before the issuance of the bonds by a governmental unit, the issuance of the bonds shall be approved by a resolution of the state administrative board and by a resolution of the county road commission of each county and the governing body of each city or village that is a party to the contracts. The annual contribution required by the contracts shall be paid to the governmental unit issuing the bonds. A governmental unit that is a party to the contracts, at any time, may pay all or part of the unpaid annual contributions undertaken by it in a contract, and may raise money for that payment by the issuance of bonds in accordance with and subject to this act. A contract executed under this section may authorize the governmental unit issuing the bonds pursuant to the contract to receive bids for the bonds, accept the best bid, and issue and deliver the bonds for and on behalf of all the parties to the contract.

(2) The aggregate amount of annual contributions from the Michigan transportation fund that may be made by a county, city, or village under this section and pledged for the payment of principal and interest on bonds issued pursuant to a contract, shall not exceed 40% of the total amount received by it from the Michigan transportation fund during the last completed fiscal year ending on the June 30 before the execution of a contract. The amount of an annual contribution made by the state transportation department and pledged for the payment of bonds pursuant to this section shall be included in computing the bonding limit set forth in section 18b. The total aggregate amount that may be pledged by a city or village for the payment of principal and interest on bonds issued pursuant to a contract entered into in accordance with this section and 1952 PA 175, MCL 247.701 to 247.707, shall not exceed 50% of the total amount received by the city or village from the Michigan transportation fund and the highway construction fund during the last completed fiscal year ending on June 30 before the issuance of the bonds.

(3) Bonds issued and contracts entered into under this section are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) The issuance of bonds under this section is subject to the agency financing reporting act.

This act is ordered to take immediate effect.
Approved July 25, 2002.
Filed with Secretary of State July 26, 2002.

[No. 558]

(SB 395)

AN ACT to establish the Michigan days of remembrance of the Armenian genocide.

The People of the State of Michigan enact:

435.281 Michigan days of remembrance of the Armenian genocide of 1915-1923.

Sec. 1. The legislature declares that April 24 of each year shall be the Michigan day of remembrance of the Armenian genocide of 1915-1923, and that the period beginning on the Sunday before that day through the following Sunday shall be the days of remembrance in this state, in memory of the victims of the genocide, and in honor of the survivors.

This act is ordered to take immediate effect.
Approved August 27, 2002.
Filed with Secretary of State August 28, 2002.

[No. 559]

(SB 749)

AN ACT to amend 1980 PA 350, entitled "An act to provide for the incorporation of nonprofit health care corporations; to provide their rights, powers, and immunities; to prescribe the powers and duties of certain state officers relative to the exercise of those rights, powers, and immunities; to prescribe certain conditions for the transaction of business by those corporations in this state; to define the relationship of health care providers to nonprofit health care corporations and to specify their rights, powers, and immunities with respect thereto; to provide for a Michigan caring program; to provide for the regulation and supervision of nonprofit health care corporations by the commissioner of insurance; to prescribe powers and duties of certain other state officers with respect to the regulation and supervision of nonprofit health care corporations; to provide for the imposition of a regulatory fee; to regulate the merger or consolidation of certain corporations; to prescribe an expeditious and effective procedure for the maintenance and conduct of certain administrative appeals relative to provider class plans; to provide for certain administrative hearings relative to rates for health care benefits; to provide for certain causes of action; to prescribe penalties and to provide civil fines for violations of this act; and to repeal certain acts and parts of acts," by amending sections 451, 455, 459, 461, 465, 469, and 479 (MCL 550.1451, 550.1455, 550.1459, 550.1461, 550.1465, 550.1469, and 550.1479), as added by 1994 PA 40, and by adding sections 218, 480, and 480a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

550.1218 Health care corporation; prohibited actions.

Sec. 218. A health care corporation shall not do any of the following:

(a) Take any action to change its nonprofit status.

(b) Dissolve, merge, consolidate, mutualize, or take any other action that results in a change in direct or indirect control of the health care corporation or sell, transfer, lease, exchange, option, or convey assets that results in a change in direct or indirect control of the health care corporation.

550.1451 Definitions.

Sec. 451. As used in this part:

(a) "Applicant" means:

(*i*) For a nongroup medicare supplement certificate, the person who seeks to contract for benefits.

(*ii*) For a group medicare supplement certificate, the proposed certificate holder.

(b) "Bankruptcy" means when a medicare+choice organization that is not an insurer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in this state.

(c) "Certificate" means any certificate delivered or issued for delivery in this state under a medicare supplement certificate.

(d) "Certificate form" means the form on which the certificate is delivered or issued for delivery.

(e) "Continuous period of creditable coverage" means the period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than 63 days.

(f) "Creditable coverage" means coverage of an individual provided under any of the following:

(*i*) A group health plan.

(*ii*) Health insurance coverage.

(*iii*) Part A or part B of medicare.

(*iv*) Medicaid other than coverage consisting solely of benefits under section 1928 of medicaid, 42 U.S.C. 1396s.

(*v*) Chapter 55 of title 10 of the United States Code, 10 U.S.C. 1071 to 1110.

(*vi*) A medical care program of the Indian health service or of a tribal organization.

(*vii*) A state health benefits risk pool.

(*viii*) A health plan offered under chapter 89 of title 5 of the United States Code, 5 U.S.C. 8901 to 8914.

(*ix*) A public health plan as defined in federal regulation.

(*x*) Health care under section 5(e) of title I of the peace corps act, Public Law 87-293, 22 U.S.C. 2504.

(g) "Direct response solicitation" means solicitation in which a health care corporation representative does not contact the applicant in person and explain the coverage available, such as, but not limited to, solicitation through direct mail or through advertisements in periodicals and other media.

(h) "Employee welfare benefit plan" means a plan, fund, or program of employee benefits as defined in section 3 of subtitle A of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1002.

(i) "Insolvency" means when an insurer licensed to transact the business of insurance in this state has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the insurer's state of domicile.

(j) "Insurer" includes any entity, including a health care corporation, delivering or issuing for delivery in this state medicare supplement policies.

(k) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(*l*) "Medicare" means title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28, 1395x to 1395yy, and 1395bbb to 1395ggg.

(m) "Medicare+choice plan" means a plan of coverage for health benefits under medicare part C as defined in section 1859 of part C of medicare, 42 U.S.C. 1395w-28, and includes any of the following:

(*i*) Coordinated care plans that provide health care services, including, but not limited to, health maintenance organization plans with or without a point-of-service option, plans offered by provider-sponsored organizations, and preferred provider organization plans.

(*ii*) Medical savings account plans coupled with a contribution into a medicare+choice medical savings account.

(*iii*) Medicare+choice private fee-for-service plans.

(n) "Medicare supplement buyer's guide" means the document entitled, "guide to health insurance for people with medicare", developed by the national association of insurance commissioners and the United States department of health and human services or a substantially similar document as approved by the commissioner.

(o) "Medicare supplement certificate" means a nongroup or group certificate that is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare and medicare select certificates under section 467. Medicare supplement certificate does not include a certificate of 1 or more employers or labor organizations, or of the trustees of a fund established by 1 or more employers or labor organizations, or both, for employees or former employees, or both, or for members or former members, or both, of the labor organizations.

(p) "PACE" means a program of all-inclusive care for the elderly as described in the social security act.

(q) "Secretary" means the secretary of the United States department of health and human services.

(r) "Social security act" means the social security act, chapter 531, 49 Stat. 620.

550.1455 Basic core package of benefits; additional benefits; availability; contents.

Sec. 455. Every health care corporation issuing a medicare supplement certificate in this state shall make available a medicare supplement certificate that includes only a basic core package of benefits to each prospective member. A health care corporation issuing a medicare supplement certificate in this state may make available to prospective members benefits pursuant to section 459 that are in addition to, but not instead of, the basic core package. The basic core package of benefits shall include all of the following:

(a) Coverage of part A medicare eligible expenses for hospitalization to the extent not covered by medicare from the 61st day through the 90th day in any medicare benefit period.

(b) Coverage of part A medicare eligible expenses incurred for hospitalization to the extent not covered by medicare for each medicare lifetime inpatient reserve day used.

(c) Upon exhaustion of the medicare hospital inpatient coverage including the lifetime reserve days, coverage of the medicare part A eligible expenses for hospitalization paid at the diagnostic related group day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days.

(d) Coverage under medicare parts A and B for the reasonable cost of the first 3 pints of blood or equivalent quantities of packed red blood cells, as defined under federal regulations unless replaced in accordance with federal regulations.

(e) Coverage for the coinsurance amount, or the copayment amount paid for hospital outpatient department services under a prospective payment system, of medicare eligible expenses under part B regardless of hospital confinement, subject to the medicare part B deductible.

550.1459 Benefits in addition to basic core package; conformance to § 550.1461(5)(b) to (j); reimbursement for preventative screening tests and services; definitions.

Sec. 459. (1) In addition to the basic core package of benefits required under section 455, the following benefits may be included in a medicare supplement certificate and if included shall conform to section 461(5)(b) to (j):

(a) Medicare part A deductible: coverage for all of the medicare part A inpatient hospital deductible amount per benefit period.

(b) Skilled nursing facility care: coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a medicare benefit period for posthospital skilled nursing facility care eligible under medicare part A.

(c) Medicare part B deductible: coverage for all of the medicare part B deductible amount per calendar year regardless of hospital confinement.

(d) Eighty percent of the medicare part B excess charges: coverage for 80% of the difference between the actual medicare part B charge as billed, not to exceed any charge limitation established by medicare or state law, and the medicare-approved part B charge.

(e) One hundred percent of the medicare part B excess charges: coverage for all of the difference between the actual medicare part B charge as billed, not to exceed any charge limitation established by medicare or state law, and the medicare-approved part B charge.

(f) Basic outpatient prescription drug benefit: coverage for 50% of outpatient prescription drug charges, after a $250.00 calendar year deductible, to a maximum of $1,250.00 in benefits received by the member per calendar year, to the extent not covered by medicare.

(g) Extended outpatient prescription drug benefit: coverage for 50% of outpatient prescription drug charges, after a $250.00 calendar year deductible, to a maximum of $3,000.00 in benefits received by the member per calendar year, to the extent not covered by medicare.

(h) Medically necessary emergency care in a foreign country: coverage to the extent not covered by medicare for 80% of the billed charges for medicare-eligible expenses for medically necessary emergency hospital, physician, and medical care received in a foreign country, which care would have been covered by medicare if provided in the United States and which care began during the first 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of $250.00, and a lifetime maximum

benefit of $50,000.00. For purposes of this benefit, "emergency care" means care needed immediately because of an injury or an illness of sudden and unexpected onset.

(i) Preventive medical care benefit: coverage for the following preventive health services:

(*i*) An annual clinical preventive medical history and physical examination that may include tests and services from subparagraph (*ii*) and patient education to address preventive health care measures.

(*ii*) Any 1 or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(A) Digital rectal examination.

(B) Dipstick urinalysis for hematuria, bacteriuria, and proteinuria.

(C) Pure tone, air only, hearing screening test, administered or ordered by a physician.

(D) Serum cholesterol screening every 5 years.

(E) Thyroid function test.

(F) Diabetes screening.

(G) Tetanus and diphtheria booster every 10 years.

(H) Any other tests or preventive measures determined appropriate by the attending physician.

(j) At-home recovery benefit: coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery. At-home recovery services provided shall be primarily services that assist in activities of daily living. The member's attending physician shall certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by medicare. Coverage is excluded for home care visits paid for by medicare or other government programs and care provided by family members, unpaid volunteers, or providers who are not care providers. Coverage is limited to:

(*i*) No more than the number of at-home recovery visits certified as necessary by the member's attending physician. The total number of at-home recovery visits shall not exceed the number of medicare approved home health care visits under a medicare approved home care plan of treatment.

(*ii*) The actual charges for each visit up to a maximum reimbursement of $40.00 per visit.

(*iii*) One thousand six hundred dollars per calendar year.

(*iv*) Seven visits in any 1 week.

(*v*) Care furnished on a visiting basis in the member's home.

(*vi*) Services provided by a care provider as defined in this section.

(*vii*) At-home recovery visits while the member is covered under the certificate and not otherwise excluded.

(*viii*) At-home recovery visits received during the period the member is receiving medicare approved home care services or no more than 8 weeks after the service date of the last medicare approved home health care visit.

(k) New or innovative benefits: a health care corporation may, with the prior approval of the commissioner, offer new or innovative benefits in addition to the benefits provided in a certificate that otherwise complies with the applicable standards. These benefits may

include benefits that are appropriate to medicare supplement coverage, new or innovative, not otherwise available, cost-effective, and offered in a manner that is consistent with the goal of simplification of medicare supplement certificates.

(2) Reimbursement for the preventive screening tests and services under subsection (1)(i)(*ii*) shall be for the actual charges up to 100% of the medicare-approved amount for each test or service, as if medicare were to cover the test or service as identified in the American medical association current procedural terminology codes, to a maximum of $120.00 annually under this benefit. This benefit shall not include payment for any procedure covered by medicare.

(3) As used in subsection (1)(j):

(a) "Activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

(b) "Care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

(c) "Home" means any place used by the member as a place of residence, provided that it qualifies as a residence for home health care services covered by medicare. A hospital or skilled nursing facility shall not be considered the member's home.

(d) "At-home recovery visit" means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive 4 hours in a 24-hour period of services provided by a care provider is 1 visit.

550.1461 Availability of certificate form containing basic core benefits; other groups, packages, or combinations of benefits; designations; structure, language, and format; use of other designations; requirements.

Sec. 461. (1) A health care corporation shall make available to each prospective medicare supplement certificate holder a certificate form containing only the basic core benefits as provided in section 455.

(2) Groups, packages, or combinations of medicare supplement benefits other than those listed in this section shall not be offered for sale in this state except as may be permitted in section 459(1)(k).

(3) Benefit plans shall contain the appropriate a through j designations, shall be uniform in structure, language, and format to the standard benefit plans in subsection (5), and shall conform to the definitions in this part. Each benefit shall be structured in accordance with sections 455 and 459 and list the benefits in the order shown in subsection (5). For purposes of this section, "structure, language, and format" means style, arrangement, and overall content of a benefit.

(4) In addition to the benefit plan designations a through j as provided under subsection (5), a health care corporation may use other designations to the extent permitted by law.

(5) A medicare supplement benefit plan shall conform to 1 of the following:

(a) A standardized medicare supplement benefit plan A shall be limited to the basic core benefits common to all benefit plans as defined in section 455.

(b) A standardized medicare supplement benefit plan B shall include only the following: the core benefits as defined in section 455 and the medicare part A deductible as defined in section 459(1)(a).

(c) A standardized medicare supplement benefit plan C shall include only the following: the core benefits as defined in section 455, the medicare part A deductible, skilled nursing facility care, medicare part B deductible, and medically necessary emergency care in a foreign country as defined in section 459(1)(a), (b), (c), and (h).

(d) A standardized medicare supplement benefit plan D shall include only the following: the core benefits as defined in section 455, the medicare part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in section 459(1)(a), (b), (h), and (j).

(e) A standardized medicare supplement benefit plan E shall include only the following: the core benefits as defined in section 455, the medicare part A deductible, skilled nursing facility care, medically necessary emergency care in a foreign country, and preventive medical care as defined in section 459(1)(a), (b), (h), and (i).

(f) A standardized medicare supplement benefit plan F shall include only the following: the core benefits as defined in section 455, the medicare part A deductible, skilled nursing facility care, medicare part B deductible, 100% of the medicare part B excess charges, and medically necessary emergency care in a foreign country as defined in section 459(1)(a), (b), (c), (e), and (h). A standardized medicare supplement plan F high deductible shall include only the following: 100% of covered expenses following the payment of the annual high deductible plan F deductible. The covered expenses include the core benefits as defined in section 455, plus the medicare part A deductible, skilled nursing facility care, the medicare part B deductible, 100% of the medicare part B excess charges, and medically necessary emergency care in a foreign country as defined in section 459(1)(a), (b), (c), (e), and (h). The annual high deductible plan F deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the medicare supplement plan F certificate, and shall be in addition to any other specific benefit deductibles. The annual high deductible plan F deductible is $1,580.00 for calendar year 2001, and the secretary shall adjust it annually thereafter to reflect the change in the consumer price index for all urban consumers for the 12-month period ending with August of the preceding year, rounded to the nearest multiple of $10.00.

(g) A standardized medicare supplement benefit plan G shall include only the following: the core benefits as defined in section 455, the medicare part A deductible, skilled nursing facility care, 80% of the medicare part B excess charges, medically necessary emergency care in a foreign country, and the at-home recovery benefit as defined in section 459(1)(a), (b), (d), (h), and (j).

(h) A standardized medicare supplement benefit plan H shall include only the following: the core benefits as defined in section 455, the medicare part A deductible, skilled nursing facility care, basic outpatient prescription drug benefit, and medically necessary emergency care in a foreign country as defined in section 459(1)(a), (b), (f), and (h).

(i) A standardized medicare supplement benefit plan I shall include only the following: the core benefits as defined in section 455, the medicare part A deductible, skilled nursing facility care, 100% of the medicare part B excess charges, basic outpatient prescription drug benefit, medically necessary emergency care in a foreign country, and at-home recovery benefit as defined in section 459(1)(a), (b), (e), (f), (h), and (j).

(j) A standardized medicare supplement benefit plan J shall include only the following: the core benefits as defined in section 455, the medicare part A deductible, skilled nursing facility care, medicare part B deductible, 100% of the medicare part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care, and at-home recovery benefit as defined in section 459(1)(a), (b), (c), (e), (g), (h), (i), and (j). A standardized medicare supplement benefit plan J high deductible plan shall consist of only the following: 100% of covered

expenses following the payment of the annual high deductible plan J deductible. The covered expenses include the core benefits as defined in section 455, plus the medicare part A deductible, skilled nursing facility care, medicare part B deductible, 100% of the medicare part B excess charges, extended outpatient prescription drug benefit, medically necessary emergency care in a foreign country, preventive medical care benefit and at-home recovery benefit as defined in section 459(1)(a), (b), (c), (e), (g), (h), (i), and (j). The annual high deductible plan J deductible shall consist of out-of-pocket expenses, other than premiums, for services covered by the medicare supplement plan J certificate, and shall be in addition to any other specific benefit deductibles. The annual deductible shall be $1,580.00 for calendar year 2001, and the secretary shall adjust it annually thereafter to reflect the change in the consumer price index for all urban consumers for the 12-month period ending with August of the preceding year, rounded to the nearest multiple of $10.00.

550.1465 Outline of coverage.

Sec. 465. (1) A health care corporation that offers a medicare supplement certificate shall provide an outline of coverage to the applicant at the time of application and, except for direct response solicitation certificates, shall obtain an acknowledgment of receipt of the outline of coverage from the applicant. The outline of coverage provided to applicants pursuant to this section shall consist of the following 4 parts:

(a) A cover page.

(b) Premium information.

(c) Disclosure pages.

(d) Charts displaying the features of each benefit plan offered by the health care corporation.

(2) If an outline of coverage is provided at the time of application and the medicare supplement certificate is issued on a basis that would require revision of the outline, a substitute outline of coverage properly describing the certificate shall be delivered with the certificate and contain the following statement, in no less than 12-point type, immediately above the company name:

NOTICE: READ THIS OUTLINE OF COVERAGE CAREFULLY. IT IS NOT IDENTICAL TO THE OUTLINE OF COVERAGE PROVIDED UPON APPLICATION AND THE COVERAGE ORIGINALLY APPLIED FOR HAS NOT BEEN ISSUED.

(3) An outline of coverage under subsection (1) shall be in the language and format prescribed in this section and in not less than 12-point type. The A through J letter designation of the plan shall be shown on the cover page and the plans offered by the health care corporation shall be prominently identified. Premium information shall be shown on the cover page or immediately following the cover page and shall be prominently displayed. The premium and method of payment shall be stated for all plans that are offered to the applicant. All possible premiums for the applicant shall be illustrated. The following items shall be included in the outline of coverage in the order prescribed below and in substantially the following form, as approved by the commissioner:

(Health Care Corporation Name)
Medicare Supplement Coverage
Outline of Medicare Supplement Coverage-Cover Page:
Benefit Plan(s)_____ [insert letter(s) of plan(s) being offered]

Medicare supplement coverage can be sold in only 10 standard plans plus 2 high deductible plans. This chart shows the benefits included in each plan. Every health care corporation shall make available Plan "A". Some plans may not be available in your state.

BASIC BENEFITS: Included in All Plans.
Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.
Medical Expenses: Part B coinsurance (20% of Medicare-approved expenses) or, for hospital outpatient department services under a prospective payment system, applicable copayments.
Blood: First three pints of blood each year.

	A	B	C	D	E	F	G	H	I	J
Basic Benefits	x	x	x	x	x	x	x	x	x	x
Skilled Nursing Co-Insurance			x	x	x	x	x	x	x	x
Part A Deductible		x	x	x	x	x	x	x	x	x
Part B Deductible						x				x
Part B Excess						x 100%	x 80%		x 100%	x 100%
Foreign Travel Emergency			x	x	x	x	x	x	x	x
At-Home Recovery				x			x		x	x
Drugs								x $1,250 Limit	x $1,250 Limit	x $3,000 Limit
Preventive Care					x					x

PREMIUM INFORMATION

We (insert health care corporation's name) can only raise your premium if we raise the premium for all certificates like yours in this state. (If the premium is based on the increasing age of the member, include information specifying when premiums will change).

DISCLOSURES

Use this outline to compare benefits and premiums among policies, certificates, and contracts.

READ YOUR POLICY VERY CAREFULLY

This is only an outline describing your certificate's most important features. The certificate is your contract. You must read the certificate itself to understand all of the rights and duties of both you and your health care corporation.

RIGHT TO RETURN CERTIFICATE

If you find that you are not satisfied with your certificate, you may return it to (insert health care corporation's address). If you send the certificate back to us within 30 days after you receive it, we will treat the certificate as if it had never been issued and return all of your payments.

CERTIFICATE REPLACEMENT

If you are replacing another health insurance policy, contract, or certificate, do not cancel it until you have actually received your new certificate and are sure you want to keep it.

NOTICE

This policy may not fully cover all of your medical costs.

[For agent issued certificates]

Neither (insert health care corporation's name) nor its agents are connected with medicare.

[For direct response issued certificates]

(Insert health care corporation's name) is not connected with medicare.

This outline of coverage does not give all the details of medicare coverage. Contact your local social security office or consult "the medicare handbook" for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT

When you fill out the application for the new certificate, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your certificate and refuse to pay any claims if you leave out or falsify important medical information. [If the certificate is guaranteed issue, this paragraph need not appear.]

Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan offered by the health care corporation a chart showing the services, medicare payments, plan payments, and member payments using the same language, in the same order, and using uniform layout and format as shown in the charts that follow. A health care corporation may use additional benefit plan designations on these charts pursuant to section 461(4). Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the commissioner. The health care corporation issuing the certificate shall change the dollar amounts each year to reflect current figures. No more than 4 plans may be shown on 1 chart.] Charts for each plan are as follows:

PLAN A

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$0	$792 (Part A Deductible)
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after:			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs

SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	$0	Up to $99 a day
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN A
MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUT-PATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80% (Generally)	20% (Generally)	$0

Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0

PLAN B

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			

—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	$0	Up to $99 a day
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN B

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUT-PATIENT HOSPITAL TREATMENT, such as Physician's services, in-patient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)

Remainder of Medicare Approved Amounts	80% (Generally)	20% (Generally)	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0

PLAN C

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0

91st day and after —While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used: —Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN C

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUT-PATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80% (Generally)	20% (Generally)	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAG-NOSTIC SERVICES	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			

First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL—NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

PLAN D

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs

SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN D

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80% (Generally)	20% (Generally)	$0

Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
AT-HOME RECOVERY SERVICES—NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
—Benefit for each visit	$0	Actual Charges to $40 a visit	Balance
—Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	$0	Up to the number of Medicare	

		Approved visits, not to exceed 7 each week	
—Calendar year maximum	$0	$1,600	

(continued)

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL—NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

PLAN E

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION*			
Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs

SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN E

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80% (Generally)	20% (Generally)	$0

Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL—NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

PREVENTIVE MEDICAL CARE BENEFIT—NOT COVERED BY MEDICARE Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam, mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First $120 each calendar year	$0	$120	$0
Additional charges	$0	$0	All Costs

PLAN F OR HIGH DEDUCTIBLE PLAN F

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

**This high deductible plan pays the same or offers the same benefits as Plan F after you have paid a calendar year ($1,580) deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are $1,580. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the certificate. This includes Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY $1,580 DEDUCTIBLE**, PLAN PAYS	IN ADDITION TO $1,580 DEDUCTIBLE**, YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after —While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0

—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE			
Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	$0	Balance

PLAN F

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

**This high deductible plan pays the same or offers the same benefits as Plan F after you have paid a calendar year ($1,580) deductible. Benefits from the high deductible Plan F will not begin until out-of-pocket expenses are $1,580. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the certificate. This includes Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY $1,580 DEDUCTIBLE**, PLAN PAYS	IN ADDITION TO $1,580 DEDUCTIBLE**, YOU PAY
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUT-PATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80% (Generally)	20% (Generally)	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	100%	$0
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES —Medically necessary skilled care services and medical supplies	100%	$0	$0

—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL—NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

PLAN G

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs

SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for out-patient drugs and inpatient respite care	$0	Balance

PLAN G

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUT-PATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80% (Generally)	20% (Generally)	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	80%	20%

BLOOD First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES —Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
AT-HOME RECOVERY SERVICES—NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
—Benefit for each visit	$0	Actual Charges to $40 a visit	Balance
—Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
—Calendar year maximum	$0	$1,600	

(continued)

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

PLAN H

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs

SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN H

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUT-PATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80% (Generally)	20% (Generally)	$0

Part B Excess Charges (Above Medicare Approved Amounts)	$0	$0	All Costs
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES— BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE Medicare Approved Services			
—Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL— NOT COVERED BY MEDICARE			
Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

BASIC OUTPATIENT PRESCRIPTION DRUGS—NOT COVERED BY MEDICARE			
First $250 each calendar year	$0	$0	$250
Next $2,500 each calendar year	$0	50%—$1,250 calendar year maximum benefit	50%
Over $2,500 each calendar year	$0	$0	All Costs

PLAN I

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs
SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs

BLOOD First 3 pints Additional amounts	 $0 100%	 3 pints $0	 $0 $0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN I

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

SERVICES	MEDICARE PAYS	PLAN PAYS	YOU PAY
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUTPATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies, physical and speech therapy, diagnostic tests, durable medical equipment, First $100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts Part B Excess Charges (Above Medicare Approved Amounts)	 $0 80% (Generally) $0	 $0 20% (Generally) 100%	 $100 (Part B Deductible) $0 $0
BLOOD First 3 pints Next $100 of Medicare Approved Amounts* Remainder of Medicare Approved Amounts	 $0 $0 80%	 All Costs $0 20%	 $0 $100 (Part B Deductible) $0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$0	$100 (Part B Deductible)
Remainder of Medicare Approved Amounts	80%	20%	$0
AT-HOME RECOVERY SERVICES—NOT COVERED BY MEDICARE Home care certified by your doctor, for personal care during recovery from an injury or sickness for which Medicare approved a Home Care Treatment Plan			
—Benefit for each visit	$0	Actual Charges to $40 a visit	Balance
—Number of visits covered (must be received within 8 weeks of last Medicare Approved visit)	$0	Up to the number of Medicare Approved visits, not to exceed 7 each weeks	
—Calendar year maximum	$0	$1,600	

(continued)

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges*	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum

BASIC OUTPATIENT PRESCRIPTION DRUGS—NOT COVERED BY MEDICARE			
First $250 each calendar year	$0	$0	$250
Next $2,500 each calendar year	$0	50%—$1,250 calendar year maximum benefit	50%
Over $2,500 each calendar year	$0	$0	All Costs

PLAN J OR HIGH DEDUCTIBLE PLAN J

MEDICARE (PART A)—HOSPITAL SERVICES—PER BENEFIT PERIOD

*A benefit period begins on the first day you receive service as an inpatient in a hospital and ends after you have been out of the hospital and have not received skilled care in any other facility for 60 days in a row.

**This high deductible plan pays the same or offers the same benefits as Plan J after you have paid a calendar year ($1,580) deductible. Benefits from the high deductible Plan J will not begin until out-of-pocket expenses are $1,580. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the certificate. This includes Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY $1,580 DEDUCTIBLE**, PLAN PAYS	IN ADDITION TO $1,580 DEDUCTIBLE**, YOU PAY
HOSPITALIZATION* Semiprivate room and board, general nursing and miscellaneous services and supplies			
First 60 days	All but $792	$792 (Part A Deductible)	$0
61st thru 90th day	All but $198 a day	$198 a day	$0
91st day and after			
—While using 60 lifetime reserve days	All but $396 a day	$396 a day	$0
—Once lifetime reserve days are used:			
—Additional 365 days	$0	100% of Medicare Eligible Expenses	$0
—Beyond the Additional 365 days	$0	$0	All Costs

SKILLED NURSING FACILITY CARE* You must meet Medicare's requirements, including having been in a hospital for at least 3 days and entered a Medicare-approved facility within 30 days after leaving the hospital			
First 20 days	All approved amounts	$0	$0
21st thru 100th day	All but $99 a day	Up to $99 a day	$0
101st day and after	$0	$0	All costs
BLOOD			
First 3 pints	$0	3 pints	$0
Additional amounts	100%	$0	$0
HOSPICE CARE Available as long as your doctor certifies you are terminally ill and you elect to receive these services	All but very limited coinsurance for outpatient drugs and inpatient respite care	$0	Balance

PLAN J

MEDICARE (PART B)—MEDICAL SERVICES—PER CALENDAR YEAR

*Once you have been billed $100 of Medicare-Approved amounts for covered services (which are noted with an asterisk), your Part B Deductible will have been met for the calendar year.

**This high deductible plan pays the same or offers the same benefits as Plan J after you have paid a calendar year ($1,580) deductible. Benefits from the high deductible Plan J will not begin until out-of-pocket expenses are $1,580. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the certificate. This includes Medicare deductibles for Part A and Part B, but does not include the plan's separate foreign travel emergency deductible.

SERVICES	MEDICARE PAYS	AFTER YOU PAY $1,580 DEDUCTIBLE**, PLAN PAYS	IN ADDITION TO $1,580 DEDUCTIBLE**, YOU PAY
MEDICAL EXPENSES—IN OR OUT OF THE HOSPITAL AND OUT-PATIENT HOSPITAL TREATMENT, such as Physician's services, inpatient and outpatient medical and surgical services and supplies,			

physical and speech therapy, diagnostic tests, durable medical equipment,			
First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80% (Generally)	20% (Generally)	$0
Part B Excess Charges (Above Medicare Approved Amounts)	$0	100%	$0
BLOOD			
First 3 pints	$0	All Costs	$0
Next $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0
CLINICAL LABORATORY SERVICES—BLOOD TESTS FOR DIAGNOSTIC SERVICES	100%	$0	$0

(continued)

PARTS A & B

HOME HEALTH CARE MEDICARE APPROVED SERVICES			
—Medically necessary skilled care services and medical supplies	100%	$0	$0
—Durable medical equipment			
First $100 of Medicare Approved Amounts*	$0	$100 (Part B Deductible)	$0
Remainder of Medicare Approved Amounts	80%	20%	$0
AT-HOME RECOVERY SERVICES—NOT COVERED BY MEDICARE			
Home care certified by your doctor, for personal care beginning during recovery from an injury or			

sickness for which Medicare approved a Home Care Treatment Plan			
—Benefit for each visit	$0	Actual Charges to $40 a visit	Balance
—Number of visits covered(must be received within 8 weeks of last Medicare Approved visit)	$0	Up to the number of Medicare Approved visits, not to exceed 7 each week	
—Calendar year maximum	$0	$1,600	

(continued)

OTHER BENEFITS—NOT COVERED BY MEDICARE

FOREIGN TRAVEL—NOT COVERED BY MEDICARE Medically necessary emergency care services beginning during the first 60 days of each trip outside the USA			
First $250 each calendar year	$0	$0	$250
Remainder of Charges	$0	80% to a lifetime maximum benefit of $50,000	20% and amounts over the $50,000 lifetime maximum
EXTENDED OUTPATIENT PRESCRIPTION DRUGS—NOT COVERED BY MEDICARE			
First $250 each calendar year	$0	$0	$250
Next $6,000 each calendar year	$0	50%—$3,000 calendar year maximum benefit	50%
Over $6,000 each calendar year	$0	$0	All Costs

PREVENTIVE MEDICAL CARE BENEFIT—NOT COVERED BY MEDICARE Annual physical and preventive tests and services such as: fecal occult blood test, digital rectal exam mammogram, hearing screening, dipstick urinalysis, diabetes screening, thyroid function test, influenza shot, tetanus and diphtheria booster and education, administered or ordered by your doctor when not covered by Medicare			
First $120 each calendar year	$0	$120	$0
Additional charges	$0	$0	All costs

550.1469 Medicare supplement certificate; minimum standards; notice of medical assistance under medicaid; suspension of benefits and premiums; reinstitution of certificate.

Sec. 469. (1) A certificate shall not be titled, advertised, solicited, or issued for delivery in this state as a medicare supplement certificate if the certificate does not meet the minimum standards prescribed in this section. These minimum standards are in addition to all other requirements of this part.

(2) The following standards apply to medicare supplement certificates:

(a) A medicare supplement certificate shall not deny a claim for losses incurred more than 6 months from the effective date of coverage because it involved a preexisting condition. The certificate shall not define a preexisting condition more restrictively than to mean a condition for which medical advice was given or treatment was recommended by or received from a physician within 6 months before the effective date of coverage.

(b) A medicare supplement certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.

(c) A medicare supplement certificate shall provide that benefits designed to cover cost sharing amounts under medicare will be changed automatically to coincide with any changes in the applicable medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.

(d) A medicare supplement certificate shall be guaranteed renewable. Termination shall be for nonpayment of premium or material misrepresentation only.

(e) Termination of a medicare supplement certificate shall not reduce or limit the payment of benefits for any continuous loss that commenced while the certificate was in force, but the extension of benefits beyond the period during which the certificate was in force may be predicated upon the continuous total disability of the member, limited to the duration of the certificate benefit period, if any, or payment of the maximum benefits.

(f) A medicare supplement certificate shall not provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the member, other than the nonpayment of premium.

(3) A medicare supplement certificate shall provide that benefits and premiums under the certificate shall be suspended at the request of the certificate holder for a period not to exceed 24 months in which the certificate holder has applied for and is determined to be entitled to medical assistance under medicaid, but only if the certificate holder notifies the health care corporation of such assistance within 90 days after the date the individual becomes entitled to the assistance. Upon receipt of timely notice, the health care corporation shall return to the certificate holder that portion of the premium attributable to the period of medicaid eligibility, subject to adjustment for paid claims. If a suspension occurs and if the certificate holder loses entitlement to medical assistance under medicaid, the certificate shall be automatically reinstituted effective as of the date of termination of the assistance if the certificate holder provides notice of loss of medicaid medical assistance within 90 days after the date of the loss and pays the premium attributable to the period effective as of the date of termination of the assistance. Each medicare supplement certificate shall provide that benefits and premiums under the certificate shall be suspended at the request of the member if the member is entitled to benefits under section 226(b) of title II of the social security act, and is covered under a group health plan as defined in section 1862(b)(1)(A)(*v*) of the social security act. If suspension occurs and if the member loses coverage under the group health plan, the certificate shall be automatically reinstituted effective as of the date of loss of coverage if the member provides notice of loss of coverage within 90 days after the date of the loss and pays the premium attributable to the period, effective as of the date of termination of enrollment in the group health plan. All of the following apply to the reinstitution of a medicare supplement certificate under this subsection:

(*i*) The reinstitution shall not provide for any waiting period with respect to treatment of preexisting conditions.

(*ii*) Reinstituted coverage shall be substantially equivalent to coverage in effect before the date of the suspension.

(*iii*) Classification of premiums for reinstituted coverage shall be on terms at least as favorable to the certificate holder as the premium classification terms that would have applied to the certificate holder had the coverage not been suspended.

550.1479 Medicare supplement certificate; denial or conditioning of issuance or discrimination in pricing prohibited; conditions; availability of certificate; excluded benefits based on preexisting condition; prohibition; "creditable coverage" defined.

Sec. 479. (1) A health care corporation shall not deny or condition the issuance or effectiveness of a medicare supplement certificate available for sale in this state, or discriminate in the pricing of such a certificate, because of the health status, claims experience, receipt of health care, or medical condition of an applicant if an application for the certificate is submitted during the 6-month period beginning with the first month in which an individual who is 65 years of age or older first enrolled for benefits under medicare part B. Each medicare supplement certificate currently available from a health care corporation shall be made available to all applicants who qualify under this section without regard to age.

(2) If an applicant qualifies under subsection (1), submits an application during the time period provided in subsection (1), and as of the date of application has had a continuous

period of creditable coverage of not less than 6 months, the health care corporation shall not exclude benefits based on a preexisting condition. If the applicant qualifies under subsection (1), submits an application during the time period in subsection (1), and as of the date of application has had a continuous period of creditable coverage that is less than 6 months, the health care corporation shall reduce the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The secretary shall specify the manner of the reduction under this subsection.

(3) Except as provided in subsection (2) and section 483, subsection (1) does not prevent the exclusion of benefits under a certificate, during the first 6 months, based on a preexisting condition for which the member received treatment or was otherwise diagnosed during the 6 months before the coverage became effective.

(4) "Creditable coverage" does not include any of the following:

(a) One or more of the following:

(*i*) Coverage only for accident or disability income insurance, or any combination of accident or disability income insurance.

(*ii*) Coverage issued as a supplement to liability insurance.

(*iii*) Liability insurance, including general liability insurance and automobile liability insurance.

(*iv*) Workers' compensation or similar insurance.

(*v*) Automobile medical payment insurance.

(*vi*) Credit-only insurance.

(*vii*) Coverage for on-site medical clinics.

(*viii*) Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits.

(b) The following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(*i*) Limited scope dental or vision benefits.

(*ii*) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination of long-term care, nursing home care, home health care, or community-based care.

(*iii*) Such other similar, limited benefits as are specified in federal regulations.

(c) The following benefits if offered as independent, noncoordinated benefits:

(*i*) Coverage only for a specified disease or illness.

(*ii*) Hospital indemnity or other fixed indemnity insurance.

(d) The following if it is offered as a separate policy, certificate, or contract of insurance:

(*i*) Medicare supplemental policy as defined under section 1882(g)(1) of part D of medicare, 42 U.S.C. 1395ss.

(*ii*) Coverage supplemental to the coverage provided under chapter 55 of title 10 of the United States Code, 10 U.S.C. 1071 to 1109.

(*iii*) Similar supplemental coverage provided to coverage under a group health plan.

550.1480 Eligibility provisions.

Sec. 480. (1) An eligible person is an individual described in subsection (2) who applies to enroll under a medicare supplement certificate during the period described in subsection (3), and who submits evidence of the date of termination or disenrollment with the application for a medicare supplement certificate. For an eligible person, a health care corporation shall not deny or condition the issuance or effectiveness of a medicare supplement certificate described in subsections (5), (6), and (7) that is offered and is available for issuance to new enrollees by the health care corporation, shall not discriminate in the pricing of the medicare supplement certificate because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under the medicare supplement certificate.

(2) An eligible person under this section is an individual that meets any of the following:

(a) Is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under medicare and the plan terminates or the plan ceases to provide all those supplemental health benefits to the individual.

(b) Is enrolled with a medicare+choice organization under a medicare+choice plan under part C of medicare, and any of the following circumstances apply, or the individual is 65 years of age or older and is enrolled with a PACE provider under section 1894 of the social security act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with the provider if the individual were enrolled in a medicare+choice plan:

(*i*) The certification of the organization or plan has been terminated.

(*ii*) The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides.

(*iii*) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(b) of the social security act, where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards established under section 1856 of the social security act, or the plan is terminated for all individuals within a residence area.

(*iv*) The individual demonstrates, in accordance with guidelines established by the secretary, that the organization offering the plan substantially violated a material provision of the organization's contract in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide covered care in accordance with applicable quality standards, or the organization, or agent or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual.

(*v*) The individual meets other exceptional conditions as the secretary may provide.

(c) Is enrolled with an eligible organization under a contract under section 1876 of the social security act, a similar organization operating under demonstration project authority, effective for periods before April 1, 1999, an organization under an agreement under section 1833(a)(1)(a) of the social security act, a health care prepayment plan, or an organization under a medicare select policy or certificate, and the enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under subdivision (b).

(d) Is enrolled under a medicare supplement policy or certificate and the enrollment ceases because of any of the following:

(*i*) The insolvency of the insurer or health care corporation or bankruptcy of the noninsurer organization or of other involuntary termination of coverage or enrollment under the policy or certificate.

(*ii*) The insurer or health care corporation substantially violated a material provision of the policy or certificate.

(*iii*) The insurer or health care corporation or an agent or other entity acting on the insurer's or health care corporation's behalf, materially misrepresented the policy's or certificate's provisions in marketing the policy or certificate to the individual.

(e) Was enrolled under a medicare supplement policy or certificate and terminates enrollment and subsequently enrolls, for the first time, with any medicare+choice organization under a medicare+choice plan under part C of medicare, any eligible organization under a contract under section 1876 of the social security act, medicare cost, any similar organization operating under demonstration project authority, any PACE provider under section 1894 of the social security act, or a medicare select policy or certificate; and the subsequent enrollment is terminated by the individual during any period within the first 12 months of the subsequent enrollment during which the individual is permitted to terminate the subsequent enrollment under section 1851(e) of the social security act.

(f) Upon first becoming eligible for benefits under part A of medicare at age 65, enrolls in a medicare+choice plan under part C of medicare, or with a PACE provider under section 1894 of the social security act, and disenrolls from the plan or program by not later than 12 months after the effective date of enrollment.

(3) The guaranteed issue time periods under this section are as follows:

(a) For an individual described in subsection (2)(a), the guaranteed issue time period begins on the date the individual receives a notice of termination or cessation of all supplemental health benefits or, if a notice is not received, notice that a claim has been denied because of a termination or cessation, and ends 63 days after the date of the applicable notice.

(b) For an individual described in subsection (2)(b), (c), (e), or (f) whose enrollment is terminated involuntarily, the guaranteed issue time period begins on the date that the individual receives a notice of termination and ends 63 days after the date the applicable coverage is terminated.

(c) For an individual described in subsection (2)(d)(*i*), the guaranteed issue time period begins on the earlier of the date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice, if any, or the date that the applicable coverage is terminated, and ends on the date that is 63 days after the date the coverage is terminated.

(d) For an individual described in subsection (2)(b), (d)(*ii*), (d)(*iii*), (e), or (f) who disenrolls voluntarily, the guaranteed issue time period begins on the date that is 60 days before the effective date of the disenrollment and ends on the date that is 63 days after the effective date.

(e) For an individual described in subsection (2) but not described in subdivisions (a) to (d), the guaranteed issue time period begins on the effective date of disenrollment and ends on the date that is 63 days after the effective date.

(4) For an individual described in subsection (2)(e) whose enrollment with an organization or provider described in subsection (2)(e) is involuntarily terminated within the first 12 months of enrollment, and who, without an intervening enrollment, enrolls

with another such organization or provider, the subsequent enrollment shall be considered an initial enrollment described in subsection (2)(e). For an individual described in subsection (2)(f) whose enrollment within a plan or in a program described in subsection (2)(f) is involuntarily terminated within the first 12 months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment shall be considered an initial enrollment described in subsection (2)(f). For purposes of subsections (2)(e) and (f), an enrollment of an individual with an organization or provider described in subsection (2)(e), or with a plan or provider described in subsection (2)(f), shall not be considered to be an initial enrollment after the 2-year period beginning on the date on which the individual first enrolled with such an organization, provider, or plan.

(5) The medicare supplement certificate to which an eligible person is entitled under subsection (2)(a), (b), (c), and (d) is a medicare supplement certificate that has a benefit package classified as plan a, b, c, or f offered by any health care corporation.

(6) The medicare supplement certificate to which an eligible person is entitled under subsection (2)(e) is the same medicare supplement certificate in which the individual was most recently previously enrolled, if available from the same health care corporation, or, if not so available, a certificate described in subsection (5).

(7) The medicare supplement certificate to which an eligible person is entitled under subsection (2)(f) shall include any medicare supplement certificate offered by any health care corporation.

550.1480a Cessation of enrollment; notification.

Sec. 480a. (1) At the time of an event described in section 480(2) because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, certificate, or plan, the organization that terminates the contract or agreement, the insurer terminating the policy, the health care corporation terminating the certificate, or the administrator of the plan being terminated, respectively, shall notify the individual of his or her rights under section 480 and of the obligations of health care corporations of medicare supplement certificates under section 480(1). The notice shall be communicated contemporaneously with the notification of termination.

(2) At the time of an event described in section 480(2) because of which an individual ceases enrollment under a contract or agreement, policy, certificate, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the insurer offering the policy, the health care corporation offering the certificate, or the administrator of the plan, respectively, shall notify the individual of his or her rights under section 480 and of the obligations of health care corporations providing medicare supplement certificates under section 480(1). The notice shall be communicated within 10 working days of the health care corporation receiving notification of disenrollment.

Repeal of §§ 550.1216, 550.1217, and 550.1487.

Enacting section 1. Sections 216, 217, and 487 of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.550.1216, 550.1217, and 550.1487, are repealed.

This act is ordered to take immediate effect.
Approved September 27, 2002.
Filed with Secretary of State September 27, 2002.

Compiler's note: Enacting section 1 should evidently reference MCL 550.1216 instead of MCL 550.550.1216.

[No. 560]

(SB 287)

AN ACT to make, supplement, and adjust appropriations for capital outlay and certain state departments for the fiscal year ending September 30, 2002 and the fiscal year ending September 30, 2003; to provide for the expenditure of the appropriations; to prescribe certain conditions for the appropriations; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS FOR
FISCAL YEAR 2002-2003

Appropriations; supplemental; capital outlay.

Sec. 101. There is appropriated for capital outlay and for certain state departments for the fiscal year ending September 30, 2003, from the following funds:

APPROPRIATION SUMMARY:		
Full-time equated classified positions....36.7		
GROSS APPROPRIATION	$	12,565,900
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	12,565,900
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		12,565,700
State general fund/general purpose	$	200

Department of agriculture.

Sec. 102. DEPARTMENT OF AGRICULTURE		
(1) APPROPRIATION SUMMARY		
Full-time equated classified positions....36.7		
GROSS APPROPRIATION	$	12,565,700
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	12,565,700
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		12,565,700
State general fund/general purpose	$	0
(2) FAIRS AND EXPOSITIONS		
Purses and supplements - fairs/licensed tracks	$	2,620,000
Standardbred Fedele Fauri futurity		86,800
Standardbred Michigan futurity		86,800
Quarterhorse programs		42,600
Licensed tracks - light horse racing		82,500
Standardbred breeders' awards		1,326,400
Standardbred purses and supplements - licensed tracks		297,100
Standardbred sire stakes		1,111,300

		For Fiscal Year Ending Sept. 30, 2003
Thoroughbred sire stakes	$	1,111,300
Standardbred training and stabling		46,900
Thoroughbred program		1,944,800
Thoroughbred owners' awards		167,300
GROSS APPROPRIATION	$	8,923,800
Appropriated from:		
Special revenue funds:		
Agriculture equine industry development fund		8,923,800
State general fund/general purpose	$	0
(3) OFFICE OF RACING COMMISSIONER		
Full-time equated classified positions....36.7		
Office of racing commissioner—36.7 FTE positions	$	3,641,900
GROSS APPROPRIATION	$	3,641,900
Appropriated from:		
Special revenue funds:		
Agriculture equine industry development fund		2,341,900
State services fee fund		1,300,000
State general fund/general purpose	$	0

Capital outlay.

Sec. 103. CAPITAL OUTLAY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	200
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	200
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	200
(2) STATE BUILDING AUTHORITY FINANCED CONSTRUCTION PROJECTS		
Lake Michigan College - Van Buren center, for design and construction (total authorized cost $7,800,000; state building authority share $3,899,800; Lake Michigan College share $3,900,000; state general fund share $200)	$	100
Michigan Technological University - center for integrated learning and information technology project, for design and construction (total authorized cost $33,838,700; state building authority share $24,999,800; Michigan Technological University share $8,838,700; state general fund share $200)		100
GROSS APPROPRIATION	$	200
Appropriated from:		
State general fund/general purpose	$	200

PART 1A

LINE-ITEM APPROPRIATIONS FOR
FISCAL YEAR 2001-2002

Appropriation for fiscal year ending September 30, 2002; capital outlay.

Sec. 120. There is appropriated for capital outlay and certain state departments for the fiscal year ending September 30, 2002, from the following funds:

APPROPRIATION SUMMARY:		
GROSS APPROPRIATION	$	25,444,900
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	25,444,900
Total federal revenues		14,168,800
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		10,971,000
State general fund/general purpose	$	305,100

Community colleges.

Sec. 121. COMMUNITY COLLEGES

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	205,100
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	205,100
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	205,100
(2) GRANTS		
Renaissance zone tax reimbursement funding	$	205,100
GROSS APPROPRIATION	$	205,100
Appropriated from:		
State general fund/general purpose	$	205,100

Department of community health.

Sec. 122. DEPARTMENT OF COMMUNITY HEALTH

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	25,139,800
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	25,139,800
Total federal revenues		14,168,800
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		10,971,000
State general fund/general purpose	$	0
(2) MEDICAL SERVICES		
Long-term care services	$	25,139,800
GROSS APPROPRIATION	$	25,139,800

		For Fiscal Year Ending Sept. 30, 2002
Appropriated from:		
Federal revenues:		
Total federal revenues	$	14,168,800
Special revenue funds:		
Medicaid quality assurance assessment		10,971,000
State general fund/general purpose	$	0

Department of history, arts, and libraries.

Sec. 123. DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	100,000
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	100,000
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	100,000
(2) LIBRARY OF MICHIGAN		
Renaissance zone reimbursement	$	100,000
Appropriated from:		
State general fund/general purpose	$	100,000

PART 2

PROVISIONS CONCERNING APPROPRIATIONS FOR FISCAL YEAR 2002-2003

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending under part 1 for fiscal year 2002-2003 is $12,565,900.00. State payments to local units of government under part 1 are $0.

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations made and the expenditures authorized under this part and the departments, agencies, commissions, boards, offices, and programs for which an appropriation is made under part 1 are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

DEPARTMENT OF NATURAL RESOURCES

"Old 27 North/Whitmarsh" intersection.

Sec. 301. The department shall transfer $120,000.00 from the federal recreational trail fund to the department of transportation for the purposes of completing the construction

of the separated grade crossing at "Old 27 North/Whitmarsh" intersection of the Gaylord-Cheboygan recreational trail. These funds shall be deposited into the federal funding source utilized for this project.

AERONAUTICS FUND

Airport safety and protection plan program; reimbursement of comprehensive transportation fund debt service obligations; conditional appropriation.

Sec. 401. State aeronautics funds appropriated in part 1 of House Bill No. 5651 of the 91st Legislature for airport safety and protection plan debt service are transferred to the comprehensive transportation fund and are appropriated for the purpose of reimbursing comprehensive transportation fund debt service obligations for the airport safety and protection plan program. This appropriation does not take effect unless House Bill No. 4454 of the 91st Legislature is enacted into law.

PART 2A

PROVISIONS CONCERNING APPROPRIATIONS FOR FISCAL YEAR 2001-2002

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 1201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending under part 1A for fiscal year 2001-2002 is $11,276,100.00. State payments to local units of government under part 1A are $305,100.00.

Appropriations and expenditures subject to §§ 18.1101 to 18.1594.

Sec. 1202. The appropriations made and the expenditures authorized under this part and the departments, agencies, commissions, boards, offices, and programs for which an appropriation is made under part 1A are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Repeal of section 805 of House Bill No. 5651.

Enacting section 1. Section 805 of House Bill No. 5651 of the 91st Legislature is repealed on the effective date of this act.

This act is ordered to take immediate effect.
Approved September 30, 2002.
Filed with Secretary of State September 30, 2002.

Compiler's note: House Bill No. 4454, referred to in section 401, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 680, Eff. Mar. 31, 2003.

[No. 561]

(HB 5651)

AN ACT to make appropriations for the state transportation department and certain transportation purposes for the fiscal year ending September 30, 2003; to provide for the imposition of fees; to provide for reports; to create certain funds and programs; to prescribe requirements for certain railroad and bus facilities; to prescribe certain powers and duties of certain state departments and officials and local units of government; and to provide for the expenditure of the appropriations.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS

Appropriations; state transportation department.

Sec. 101. Subject to the conditions set forth in this act, the amounts listed in this part are appropriated for the state transportation department and certain state purposes designated in this act for the fiscal year ending September 30, 2003, from the funds indicated in this part. The following is a summary of the appropriations in this part:

STATE TRANSPORTATION DEPARTMENT

APPROPRIATION SUMMARY:		
Full-time equated unclassified positions	6.0	
Full-time equated classified positions	3,069.3	
GROSS APPROPRIATION		$ 3,125,181,500
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION		$ 3,125,181,500
Federal revenues:		
DOT, federal transit act		47,550,000
DOT-FHWA, highway research, planning, and construction		936,526,100
DOT-FRA, local rail service assistance		100,000
DOT-FRA, rail passenger/HSGT		3,000,000
Total federal revenues		987,176,100
Special revenue funds:		
Total local revenues		5,800,000
Total private revenues		0
Total local and private revenues		5,800,000
Michigan transportation fund		1,093,043,700
Economic development fund		57,315,000
State trunkline fund		713,370,400
State aeronautics fund		12,107,800
Comprehensive transportation fund		239,751,000
Blue Water Bridge fund		13,617,500
Intercity bus equipment fund		1,000,000
Rail preservation fund		2,000,000
Total other state restricted revenues		2,132,205,400
State general fund/general purpose		$ 0

		For Fiscal Year Ending Sept. 30, 2003
Debt service.		
Sec. 102. DEBT SERVICE		
State trunkline	$	91,903,200
Economic development		13,928,900
Critical bridge		3,000,000
Blue Water Bridge		2,308,100
Airport safety and protection plan		5,000,000
Comprehensive transportation		21,491,900
GROSS APPROPRIATION	$	137,632,100
Appropriated from:		
Federal revenues:		
DOT-FHWA, highway research, planning, and construction		21,000,000
Special revenue funds:		
Comprehensive transportation fund		21,491,900
Michigan transportation fund		3,000,000
State trunkline fund		70,903,200
Blue Water Bridge fund		2,308,100
Economic development fund		13,928,900
State aeronautics fund		5,000,000
State general fund/general purpose	$	0
Interdepartment and statutory contracts.		
Sec. 103. INTERDEPARTMENT AND STATUTORY CONTRACTS		
MTF grant to department of environmental quality	$	884,800
MTF grant to department of state for collection of revenue and fees		90,430,700
MTF grant to department of state for commemorative and specialty plates		4,069,300
MTF grant to legislative auditor general		138,000
MTF grant to department of treasury		10,225,000
STF grant to department of attorney general		2,566,200
STF grant to department of civil service		2,000,000
STF grant to department of management and budget		1,133,900
STF grant to department of state police		8,253,300
STF grant to department of treasury		29,100
STF grant to legislative auditor general		404,200
SAF grant to department of attorney general		125,400
SAF grant to department of civil service		50,000
SAF grant to department of management and budget		27,900
SAF grant to department of treasury		64,100
SAF grant to legislative auditor general		17,100
CTF grant to department of attorney general		131,500
CTF grant to department of civil service		90,000
CTF grant to department of management and budget		49,900
CTF grant to department of treasury		5,300
CTF grant to legislative auditor general		48,200
GROSS APPROPRIATION	$	120,743,900

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Special revenue funds:		
Comprehensive transportation fund	$	324,900
Michigan transportation fund		105,747,800
State aeronautics fund		284,500
State trunkline fund		14,386,700
State general fund/general purpose	$	0

Executive direction.

Sec. 104. EXECUTIVE DIRECTION

Full-time equated unclassified positions 6.0		
Full-time equated classified positions 33.3		
Unclassified salaries	$	532,200
State transportation commission (per diem payments)		10,000
Commission audit—33.3 FTE positions		2,983,000
GROSS APPROPRIATION	$	3,525,200
Appropriated from:		
Special revenue funds:		
State trunkline fund		3,525,200
State general fund/general purpose	$	0

Administrative services.

Sec. 105. ADMINISTRATIVE SERVICES

Full-time equated classified positions 106.0		
Administration—66.0 FTE positions	$	5,934,700
Property management		7,237,300
Human resources—31.0 FTE positions		2,478,300
Economic development administration—9.0 FTE positions		759,500
Worker's compensation		2,966,000
GROSS APPROPRIATION	$	19,375,800
Appropriated from:		
Special revenue funds:		
Economic development fund		500,700
State aeronautics fund		657,400
Comprehensive transportation fund		1,599,000
Michigan transportation fund		77,100
State trunkline fund		16,541,600
State general fund/general purpose	$	0

Information technology.

Sec. 106. INFORMATION TECHNOLOGY

Information technology services and projects	$	26,396,400
GROSS APPROPRIATION	$	26,396,400
Appropriated from:		
Federal revenues:		
DOT-FHWA, highway research, planning, and construction		640,000
Special revenue funds:		
Blue Water Bridge fund		43,900

		For Fiscal Year Ending Sept. 30, 2003
Comprehensive transportation fund	$	240,900
Economic development fund		37,100
Michigan transportation fund		35,200
State aeronautics fund		134,500
State trunkline fund		25,264,800
State general fund/general purpose	$	0

Bureau of finance and administration.

Sec. 107. BUREAU OF FINANCE AND ADMINISTRATION

Full-time equated classified positions....237.0		
Administration—237.0 FTE positions	$	19,758,200
GROSS APPROPRIATION	$	19,758,200
Appropriated from:		
Special revenue funds:		
Michigan transportation fund		1,127,500
State trunkline fund		18,630,700
State general fund/general purpose	$	0

Bureau of transportation planning.

Sec. 108. BUREAU OF TRANSPORTATION PLANNING

Full-time equated classified positions....175.0		
Administration—175.0 FTE positions	$	22,254,900
Grants to regional planning councils		488,800
GROSS APPROPRIATION	$	22,743,700
Appropriated from:		
Federal revenues:		
DOT-FHWA, highway research, planning, and construction		14,566,800
Special revenue funds:		
State aeronautics fund		200,800
Comprehensive transportation fund		1,168,000
Michigan transportation fund		4,760,900
State trunkline fund		2,047,200
State general fund/general purpose	$	0

Bureau of highways.

Sec. 109. BUREAU OF HIGHWAYS

Full-time equated classified positions....1,625.4		
Engineering operations—799.4 FTE positions	$	31,796,800
Maintenance operations—78.0 FTE positions		7,071,200
Program services—748.0 FTE positions		39,004,800
GROSS APPROPRIATION	$	77,872,800
Appropriated from:		
Federal revenues:		
DOT-FHWA, highway research, planning, and construction		5,000,000
Special revenue funds:		
Michigan transportation fund		4,155,900
State trunkline fund		68,716,900
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2003
Highway maintenance.		
Sec. 110. HIGHWAY MAINTENANCE		
Full-time equated classified positions....699.6		
State trunkline operations—699.6 FTE positions	$	99,057,900
Contract operations		133,853,200
GROSS APPROPRIATION	$	232,911,100
Appropriated from:		
Special revenue funds:		
State trunkline fund		232,911,100
State general fund/general purpose	$	0
Road and bridge programs.		
Sec. 111. ROAD AND BRIDGE PROGRAMS		
State trunkline federal aid and road and bridge construction	$	921,880,300
Local federal aid and road and bridge construction		215,132,000
Grants to local programs		33,000,000
Rail grade crossing		3,000,000
Critical bridge fund		29,750,000
County road commissions		597,971,700
Cities and villages		333,396,100
GROSS APPROPRIATION	$	2,134,130,100
Appropriated from:		
Federal revenues:		
DOT-FHWA, highway research, planning, and construction		895,319,300
Special revenue funds:		
Local funds		5,000,000
Blue Water Bridge fund		1,000,000
Michigan transportation fund		972,367,800
State trunkline fund		260,443,000
State general fund/general purpose	$	0
Blue water bridge.		
Sec. 112. BLUE WATER BRIDGE		
Full-time equated classified positions....33.0		
Blue Water Bridge operations—33.0 FTE positions	$	10,265,500
GROSS APPROPRIATION	$	10,265,500
Appropriated from:		
Special revenue funds:		
Blue Water Bridge fund		10,265,500
State general fund/general purpose	$	0
Transportation economic development fund.		
Sec. 113. TRANSPORTATION ECONOMIC DEVELOPMENT FUND		
Forest roads	$	5,040,000
Rural county urban system		2,500,000
Target industries/economic redevelopment		19,404,300
Urban county congestion		7,952,000

		For Fiscal Year Ending Sept. 30, 2003
Rural county primary	$	7,952,000
GROSS APPROPRIATION	$	42,848,300
Appropriated from:		
Special revenue funds:		
Economic development fund	$	42,848,300
State general fund/general purpose	$	0

Bureau of aeronautics.

Sec. 114. BUREAU OF AERONAUTICS

Full-time equated classified positions	56.0	
Administration—56.0 FTE positions	$	5,530,600
Air service program		300,000
GROSS APPROPRIATION	$	5,830,600
Appropriated from:		
Special revenue funds:		
State aeronautics fund		5,830,600
State general fund/general purpose	$	0

Bureau of urban and public transportation.

Sec. 115. BUREAU OF URBAN AND PUBLIC TRANSPORTATION

Full-time equated classified positions	104.0	
Administration—104.0 FTE positions	$	8,725,400
GROSS APPROPRIATION	$	8,725,400
Appropriated from:		
Special revenue funds:		
Comprehensive transportation fund		6,953,900
Michigan transportation fund		1,771,500
State general fund/general purpose	$	0

Bus transit division: statutory operating.

Sec. 116. BUS TRANSIT DIVISION: STATUTORY OPERATING

Local bus operating	$	160,000,000
Nonurban operating/capital		10,300,000
GROSS APPROPRIATION	$	170,300,000
Appropriated from:		
Federal revenues:		
DOT, federal transit act		10,100,000
Special revenue funds:		
Comprehensive transportation fund		160,000,000
Local funds		200,000
State general fund/general purpose	$	0

Intercity passenger and freight.

Sec. 117. INTERCITY PASSENGER AND FREIGHT

Freight property management	$	1,500,000
Detroit/Wayne County port authority		500,000
Intercity bus equipment		3,000,000
Rail passenger service		11,300,000

		For Fiscal Year Ending Sept. 30, 2003
Freight preservation and development	$	5,692,900
Rail infrastructure loan program		100,000
Intercity bus service development		2,850,000
Marine passenger service		800,000
Terminal development		2,884,800
GROSS APPROPRIATION	$	28,627,700
Appropriated from:		
Federal revenues:		
DOT, federal transit act		1,500,000
DOT-FRA, local rail service assistance		100,000
DOT-FRA, rail passenger/HSGT		3,000,000
Special revenue funds:		
Rail preservation fund		2,000,000
Intercity bus equipment fund		1,000,000
Comprehensive transportation fund		20,977,700
Local funds		50,000
State general fund/general purpose	$	0

Public transportation development.

Sec. 118. PUBLIC TRANSPORTATION DEVELOPMENT

Specialized services	$	3,939,500
Municipal credit program		2,000,000
Bus capital		48,849,500
Ride sharing		330,700
Van pooling		195,000
Bus property management		50,000
Service development and new technology		1,550,000
Planning grants		80,000
Audit settlements		150,000
Regional service coordination		500,000
Work first initiative		5,850,000
GROSS APPROPRIATION	$	63,494,700
Appropriated from:		
Federal revenues:		
DOT, federal transit act		35,950,000
Special revenue funds:		
Comprehensive transportation fund		26,994,700
Local funds		550,000
State general fund/general purpose	$	0

PART 2

PROVISIONS CONCERNING APPROPRIATIONS

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. Pursuant to section 30 of article IX of the state constitution of 1963, total state spending from state resources under part 1 for fiscal year 2002-2003 is $2,132,205,400.00

and state spending from state resources to be paid to local units of government for fiscal year 2002-2003 is $1,176,250,300.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

DEPARTMENT OF TRANSPORTATION		
Local grant program	$	33,000,000
Economic development fund		23,444,000
Grants to cities and villages		333,396,100
Grants to county road commissions		597,971,700
Critical bridge fund		5,750,000
Grants to regional planning councils		488,800
Local bus operating		160,000,000
Bus capital		14,549,500
Marine passenger service		800,000
Detroit/Wayne County port authority		500,000
Local ride sharing operating grants		330,700
Planning grants		80,000
Municipal credit program		2,000,000
Specialized services		3,939,500
Total payments to local units of government	$	1,176,250,300

Appropriations subject to §§ 18.1101 to 18.1594.

Sec. 202. The appropriations authorized under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

Definitions.

Sec. 203. As used in this act:

(a) "CTF" means comprehensive transportation fund.

(b) "Department" means the department of transportation.

(c) "DOT" means the United States department of transportation.

(d) "DOT-FHWA" means DOT, federal highway administration.

(e) "DOT-FRA" means DOT, federal railroad administration.

(f) "DOT-FRA, rail passenger/HSGT" means DOT, federal railroad administration, high-speed ground transportation.

(g) "EDF" means economic development fund.

(h) "FTE" means full-time equated.

(i) "MTF" means Michigan transportation fund.

(j) "RIF" means recreation improvement fund.

(k) "SAF" means state aeronautics fund.

(*l*) "STF" means state trunkline fund.

Billing by department of civil service.

Sec. 204. The department of civil service shall bill departments and agencies at the end of the first fiscal quarter for the 1% charge authorized by section 5 of article XI of the state constitution of 1963. Payments shall be made for the total amount of the billing by the end of the second fiscal quarter.

Hiring freeze; exceptions.

Sec. 205. (1) A hiring freeze is imposed on the state classified civil service. State departments and agencies are prohibited from hiring any new full-time state classified civil service employees and prohibited from filling any vacant state classified civil service positions. This hiring freeze does not apply to internal transfers of classified employees from 1 position to another within a department.

(2) The state budget director shall grant exceptions to this hiring freeze when the state budget director believes that the hiring freeze will result in rendering a state department or agency unable to deliver basic services, causes loss of revenue to the state, would result in the inability of the state to receive federal funds, or would necessitate additional expenditures that exceed any savings from maintaining a vacancy. The state budget director shall report by the thirtieth of each month to the chairpersons of the senate and house of representatives standing committees on appropriations the number of exceptions to the hiring freeze approved during the previous month and the reasons to justify the exception.

Contingency funds; availability for expenditure.

Sec. 206. (1) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $100,000,000.00 for federal contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(2) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $40,000,000.00 for state restricted contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(3) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $1,000,000.00 for local contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

(4) In addition to the funds appropriated in part 1, there is appropriated an amount not to exceed $1,000,000.00 for private contingency funds. These funds are not available for expenditure until they have been transferred to another line item in this act pursuant to section 393(2) of the management and budget act, 1984 PA 431, MCL 18.1393.

Privatization; project plan.

Sec. 207. At least 90 days before beginning any effort to privatize, the department shall submit a complete project plan to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies. The plan shall include the criteria under which the privatization initiative will be evaluated. The evaluation shall be completed and submitted to the appropriate senate and house of representatives appropriations subcommittees and the senate and house fiscal agencies within 30 months. As used in this section, "privatize" or "privatization" means the transfer of state highway maintenance functions or activities currently performed by department forces, or by boards of county road commissioners, county boards of commissioners, or local units of government under contract with the department, to private contractors.

Reporting requirements; use of Internet.

Sec. 208. Unless otherwise specified, the department shall use the Internet to fulfill the reporting requirements of this act. This may include transmission of reports via electronic mail to the recipients identified for each reporting requirement or it may

include placement of reports on an Internet or Intranet site. Quarterly, the department shall provide to the senate and house appropriations subcommittees, the state budget office, and the senate and house fiscal agencies an electronic and paper copy listing of the reports submitted during the most recent 3-month period along with the Internet or Intranet site of each report, if any.

Purchase of foreign goods or services.

Sec. 209. Funds appropriated in part 1 shall not be used for the purchase of foreign goods or services, or both, if competitively priced and of comparable quality American goods or services, or both, are available. The department shall give priority to the purchase of Michigan goods and services.

Businesses in deprived and depressed communities; contracts to provide services or supplies.

Sec. 210. The director of each department receiving appropriations in part 1 shall take all reasonable steps to ensure businesses in deprived and depressed communities compete for and perform contracts to provide services or supplies, or both. Each director shall strongly encourage firms with which the department contracts to subcontract with certified businesses in depressed and deprived communities for services, supplies, or both.

Receipt and retention of reports.

Sec. 211. The departments and state agencies receiving appropriations under this act shall receive and retain copies of all reports funded from appropriations in part 1. These departments and state agencies shall follow federal and state guidelines for short-term and long-term retention of these reports and records.

Information technology; user fees.

Sec. 259. From the funds appropriated in part 1 for information technology, the department shall pay user fees to the department of information technology for technology-related services and projects. The user fees shall be subject to provisions of an interagency agreement between the department and the department of information technology.

Information technology; designation as work projects; availability for expenditure.

Sec. 260. Amounts appropriated in part 1 for information technology may be designated as work projects and carried forward to support technology projects under the direction of the department of information technology. Funds designated in this manner are not available for expenditure until approved as work projects under section 451a of the management and budget act, 1984 PA 431, MCL 18.1451a.

DEPARTMENTAL SECTIONS

Permit fees; toll charge public hearing.

Sec. 301. (1) The department may establish a fee schedule and collect fees sufficient to cover the costs to issue the permits that the department is authorized by law to issue upon request, and for which fees are not otherwise stipulated by law. All permit fees are nonrefundable application fees and shall be credited to the state trunkline fund to recover the direct and indirect costs of receiving, reviewing, and processing the requests.

(2) A bridge authority shall hold 3 public hearings on a change in any toll charged by the authority at least 30 days before the toll change will become effective. Two of the hearings shall be held within 5 miles of the bridge over which the bridge authority has jurisdiction. One hearing shall be held in Lansing.

Report on money received from legislator's district.

Sec. 303. On request, the department shall provide to a legislator, in writing, a report on the amount of money to be received by each city and village and the county road commission of each county, that is included in whole or in part within the legislator's legislative district.

Bid documentation; disclosure.

Sec. 304. If, as a requirement of bidding on a highway project, the department requires a contractor to submit financial or proprietary documentation as to how the bid was calculated, that bid documentation shall be kept confidential and shall not be disclosed other than to a department representative without the contractor's written consent. The department may disclose the bid documentation if necessary to address or defend a claim by a contractor.

Public passenger transportation properties; tenants.

Sec. 305. The department may permit space on public passenger transportation properties to be occupied by public or private tenants on a competitive market rate basis. The department may require that revenue from the tenants be placed in an account to be used to pay the costs to maintain and improve the property.

Auditor general report.

Sec. 306. From the funds appropriated in part 1, the auditor general shall conduct an audit of charges to transportation funds by state departments. The auditor general shall prepare a detailed report, with recommendations and conclusions, including a list of services charged to transportation funds, the appropriateness of those charges, and the cost allocation methodologies used in determining the level of funding, and provide the report, upon request, to any member of the senate and house of representatives and to the senate and house fiscal agencies by March 1, 2003.

Highway construction projects; listing by county.

Sec. 307. Before February 1 of each year, the department will provide to the legislature, the state budget office, and the house and senate fiscal agencies its rolling 5-year plan listing by county or by county road commission all highway construction projects for the fiscal year and all expected projects for the ensuing fiscal years.

Compliance with contract specifications; acceptance and payment for work; report.

Sec. 308. The department and local road agencies that receive appropriations under this act shall pursue compliance with contract specifications for construction and maintenance of state highways and local roads and streets. Work shall not be accepted and paid for until it complies with contract requirements. Contractors with unsatisfactory performance ratings shall be restricted from future bidding through the prequalification process established by the department or a local road agency. The department, county road commissions, and cities and villages shall report to the house of representatives and senate appropriations subcommittees on transportation on their respective activities under this section.

Reduction of administrative costs; maximum funding.

Sec. 309. The department shall continue its efforts to reduce administrative costs and provide the maximum funding possible for construction projects.

Transportation commission meetings; agenda and approved minutes.

Sec. 310. The department shall provide in a timely manner copies of the agenda and approved minutes of monthly transportation commission meetings to the members of the house and senate appropriations subcommittees on transportation, the house and senate fiscal agencies, and the state budget director.

Federal advance construction program; use of funds on behalf of local government.

Sec. 311. The department shall not use funds appropriated under part 1 on behalf of a local governmental unit to pay the amount required for that local governmental unit to participate in the federal advance construction program.

State trunkline fund; carrying forward unencumbered and unexpended balance.

Sec. 312. At the close of the fiscal year ending September 30, 2003, any unencumbered and unexpended balance in the state trunkline fund shall remain in the state trunkline fund and shall carry forward and is appropriated for federal aid road and bridge programs for projects contained in the annual state transportation program.

State infrastructure bank program.

Sec. 313. (1) From funds appropriated in part 1, the department may increase a state infrastructure bank program and grant or loan funds in accordance with regulations of the state infrastructure bank program of the United States department of transportation. The state infrastructure bank is to be administered by the department for the purpose of providing a revolving, self-sustaining resource for financing transportation infrastructure projects.

(2) In addition to funds provided in subsection (1), money received by the state as federal grants, repayment of state infrastructure bank loans, or other reimbursement or revenue received by the state as a result of projects funded by the program and interest earned on that money shall be deposited in the revolving state infrastructure bank fund and shall be available for transportation infrastructure projects. At the close of the fiscal year, any funds remaining in the state infrastructure bank fund shall remain in the fund and be carried forward into the succeeding fiscal year.

Internal auditor; report.

Sec. 314. The department shall provide a report prepared by the department's internal auditor on the activities of the internal auditor for the prior fiscal year. This report shall include a listing of each audit or investigation performed by the internal auditor pursuant to sections 486(4) and 487 of the management and budget act, 1984 PA 431, MCL 18.1486 and 18.1487. The report shall identify the proportion of time spent on each of the statutory responsibilities listed in sections 485(4), 486(4), and 487 of the management and budget act, 1984 PA 431, MCL 18.1485, 18.1486, and 18.1487, and the time spent on all other activities performed in the internal audit function. The report shall be due biennially beginning on May 1, 2001 and shall be submitted to the governor, auditor general, the senate and house of representatives appropriations committees, the senate and house fiscal agencies, and the director.

State transportation commission; per diem payments.

Sec. 317. Funds appropriated in part 1 for state transportation commission per diem payments shall provide per diem payments of $100.00 to each of the 6 appointed members of the state transportation commission for all scheduled state transportation commission meetings.

Women- and minority-owned businesses.

Sec. 318. The department shall continue its program to increase the use of women- and minority-owned businesses in state and local road construction projects. This program shall comprise, at a minimum, outreach and education efforts to inform women- and minority-owned firms of department competitive bidding processes and requirements, and an assessment of the availability of surety for women- and minority-owned businesses. The department shall report by March 31, 2003 to the house of representatives and senate appropriations subcommittees on transportation and the house and senate fiscal agencies of its progress in complying with this section.

Rest area; signs.

Sec. 319. The department shall post signs at each rest area to identify the agency or contractor responsible for maintenance of the rest area. The signs shall include a department telephone number and shall indicate that unsafe or unclean conditions at the rest area may be reported to that telephone number.

Bridge inspector; filling vacant positions.

Sec. 322. Not later than January 1, 2003, the department shall fill all vacant bridge inspector positions. Not later than February 15, 2003, the department shall report to the senate and house of representatives appropriations subcommittees on transportation the number of full-time and part-time positions assigned to bridge inspection activities, the number of vacancies, and any plans to fill the vacancies.

Construction zone traffic enforcement.

Sec. 324. From the funds appropriated in part 1, up to $700,000.00 from the state trunkline fund shall be used for enhanced construction zone traffic law enforcement. The funding shall be used to reimburse law enforcement agencies for costs associated with construction zone traffic enforcement. The funding shall be provided based on approved memoranda of understanding between the department and participating law enforcement agencies.

Federal bridge funding under critical bridge program; notice to communities and agencies.

Sec. 328. The department shall issue a preliminary list of those bridges that are scheduled to receive federal bridge funds under the critical bridge program and shall notify those local communities and road agencies by December 31, 2002. The department shall issue a final list of those bridges that are scheduled to receive federal bridge funds under the critical bridge program and shall notify those local communities and road agencies scheduled to receive federal bridge funding under the critical bridge program no later than February 3, 2003.

Use of power sources; grants.

Sec. 334. The department shall pursue grants from federal or other sources to study the use of power sources other than gasoline or diesel fuel for the propulsion of motor vehicles.

Summer youth programs.

Sec. 335. The department shall work in collaboration with the family independence agency regarding the summer youth programs. The programs shall seek to employ inner city youth in street and highway beautification projects.

Noise abatement.

Sec. 349. The department shall develop a plan to implement the policy of the state transportation commission on noise abatement. The department shall report on its efforts to implement the commission's policy to the house and senate appropriations subcommittees on transportation and to the house and senate fiscal agencies on or before October 1, 2002.

Disadvantaged business enterprises; meeting.

Sec. 350. (1) The established overall disadvantaged business enterprise goal shall identify the relative availability of disadvantaged business enterprises based on evidence of ready, willing, and able disadvantaged business enterprises relative to all firms within the department's marketplace. The overall annual goal shall reflect the department's determination of the level of disadvantaged business enterprise participation which could be expected absent the effects of discrimination. The department's methodology to develop the overall disadvantaged business enterprise goal will be announced in electronic and print media to ensure broad public participation in the goal-setting process in accordance with 49 C.F.R. 26.45.

(2) The department shall work to coordinate a meeting prior to the annual construction season between the road construction industry and the Michigan minority business development council.

Sec. 351. From the funds appropriated in part 1, up to $1,500,000.00 shall be made available for additional lane closure incentives on the M-6/US-131 project for calendar year 2003. Funding may be provided from any excess funds available under the M-6 project.

All-season county road network; report.

Sec. 352. (1) Each county road commission, or in the case of a charter county with a population of 2,000,000 or more with an elected county executive that does not have a board of county road commissioners, the county executive, shall prepare, and present to the department, a map illustrating the all-season county road network under its jurisdiction. The county road commissions shall record this information on an official county highway map provided to them by the department. The department shall provide each county road commission with 3 official copies of their county road highway map on or before October 1, 2003.

(2) After compiling this information for all Michigan counties, the department shall prepare a report on the current all-season road network within the state. This report shall illustrate the current all-season road network under state and county control, identify contiguity gaps in this network, and suggest ways to improve connectivity on the current all-season network. This report shall be presented to the house and senate appropriations subcommittees on transportation, the house and senate transportation policy committees, and the house and senate fiscal agencies on or before October 1, 2004.

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Contractor payment process; review.

Sec. 353. The department shall review its contractor payment process and use its best efforts to ensure that all prime contractors are paid promptly. The department shall work to ensure that prime contractors are in compliance with special provision 109.10 regarding the prompt payment of subcontractors.

Sec. 355. The department in consultation with the department of environmental quality shall design and build at least 1 demonstration road preservation project using an asphalt pavement design mixture including recycled or scrap tires. For purposes of the demonstration, 1 of these projects may be constructed on a local road requiring repaving. The department shall report to the house and senate appropriations subcommittees on transportation and the house and senate fiscal agencies by March 1, 2003 on its findings.

Local federal and project review.

Sec. 357. Where possible, the department shall complete all necessary reviews and inspections required to let local federal aid projects within 120 days of the department's receipt of local federal aid project submittals. The department shall implement a system for monitoring the local federal aid project review process.

FEDERAL

Distribution of funds; recommendations.

Sec. 401. When the department receives authorization from the federal government to commit transportation funds pursuant to federal appropriations, it shall present to the senate and house of representatives appropriations transportation subcommittees and the senate and house fiscal agencies, the federal amounts and categories authorized and the department's recommendation for distribution of these funds. If a recommendation or recommendations are not disapproved within 30 business days by either the senate or house of representatives appropriations transportation subcommittee, then the recommendation or recommendations shall be considered as approved. If either the senate or house of representatives appropriations transportation subcommittee disapproves the proposed distribution, then the senate and house of representatives appropriations transportation subcommittees and the department shall hold a joint meeting on the issue to arrive at a final distribution. If no agreement is reached between the parties, the department's distribution shall stand.

Allocation of federal funds to local jurisdictions.

Sec. 402. (1) Twenty-three to twenty-seven percent of the DOT-FHWA, highway research, planning, and construction federal funds appropriated in part 1 shall be allocated to programs administered by local jurisdictions after deduction of the following:

(a) Funds that are specifically allocated at the federal level to the state or local jurisdictions.

(b) Funds allocated by the department to the state and to local jurisdictions through a competitive process.

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(2) Federal aid excluded from the calculation of funding allocated to programs administered by local jurisdictions in subsection (1) includes, but is not limited to, congestion mitigation and air quality funds, federal bridge funds, transportation enhancement funds, funds distributed at the discretion of the United States secretary of transportation, and congressionally designated funds.

(3) The funds shall be distributed to eligible local agencies for transportation purposes in a manner consistent with state and federal law.

(4) Federal aid to highways allocated to local jurisdictions in subsection (1) shall be distributed in a manner that produces a 25% average allocation of applicable funds to programs for local jurisdictions in each fiscal year through the fiscal year ending September 30, 2005. The average allocation of applicable federal aid to highway funds to programs for local jurisdictions shall be the average of the amount distributed to local jurisdictions under subsection (1) and similarly calculated distributions in each succeeding fiscal year.

(5) The allocation percentage described in subsection (1) shall be adjusted to reflect any voluntary agreements made by the department with local jurisdictions regarding the transfer of federal aid eligible roadways or the state buyout of local federal aid.

(6) The department shall not borrow against the critical bridge fund for the first 9 months of the fiscal year.

(7) The federal funds appropriated in part 1 for local federal aid and road and bridge construction, to eligible local road agencies, may be transferred through a voluntary buyout agreement made between eligible local road agencies.

I-94 in Kalamazoo county; expenditure for engineering and design.

Sec. 404. It is the intent of the legislature that $3,750,000.00 in federal high priority project funds designated in the transportation equity act for the 21st century, Public Law 105-178, 112 Stat. 107, to improve I-94 in Kalamazoo County be expended by the department for preliminary engineering and design work related to rehabilitation and capacity improvements to I-94 between US-131 and Sprinkle Road in Kalamazoo County.

Sec. 405. Of the funds appropriated in part 1 for the critical bridge program, $24,000,000.00 in federal highway bridge replacement and rehabilitation program funds are allocated to the critical bridge fund for the purpose of repairing or replacing bridges in the local off-system categories and local on-system categories. These funds shall be excluded from calculation of funding allocated to programs administered by local jurisdictions required in section 402.

MICHIGAN TRANSPORTATION FUND

Money received under motor carrier act; disposition.

Sec. 501. The money received under the motor carrier act, 1933 PA 254, MCL 475.1 to 479.43, and not appropriated to the department of consumer and industry services or the department of state police is deposited in the Michigan transportation fund.

Audit by department of treasury.

Sec. 502. The department of treasury shall perform audits and make investigations of the disposition of all state funds received by county road commissions or county boards of commissioners, as applicable, and cities and villages for transportation purposes to

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determine compliance with the terms and conditions of 1951 PA 51, MCL 247.651 to 247.675. County road commissions or county boards of commissioners, as applicable, and cities and villages shall make available to the department of treasury the pertinent records for the audit.

Economic development and critical bridge programs; carrying forward funds; interest earnings; diversion.

Sec. 503. (1) The funds appropriated in part 1 for the economic development and critical bridge programs shall not lapse at the end of the fiscal year but shall carry forward each fiscal year for the purposes for which appropriated in accordance with 1987 PA 231, MCL 247.901 to 247.913, and section 11b of 1951 PA 51, MCL 247.661b.

(2) Interest earned in the department of transportation economic development fund and critical bridge fund shall remain in the respective funds and shall be allocated to the respective programs based on actual interest earned at the end of each fiscal year.

(3) The department of transportation economic development fund and critical bridge fund may receive and expend federal, local, or private funds or restricted source funds such as interest earnings for projects that are consistent with the programmatic mission of the respective funds in addition to funds appropriated in part 1.

(4) None of the funds statutorily dedicated to the transportation economic development fund and critical bridge fund shall be diverted to other projects.

Distribution of funds from Michigan transportation fund; contracts; report; billings.

Sec. 504. (1) Funds from the Michigan transportation fund (MTF) shall be distributed to the comprehensive transportation fund (CTF), the economic development fund (EDF), the recreational improvement fund (RIF), and the state trunkline fund (STF), in accordance with this act and part 711 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.71101 to 324.71108, and may only be used as specified in this act, 1951 PA 51, MCL 247.651 to 247.675, and part 711 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.71101 to 324.71108.

(2) The amounts appropriated and transferred to various state agencies from part 1 shall be expended from the transportation funds pursuant to annual contracts between the department and state agencies providing tax and fee collection and other services applicable to transportation funds. The contracts shall be executed prior to the transfer of these funds. The contracts shall provide, but are not limited to, the following data applicable to each state agency:

(a) Estimated costs to be recovered from transportation funds.

(b) Description of services financed with transportation funds.

(c) Detailed cost allocation methods that are appropriate to the type of services being provided and the activities financed with transportation funds.

(3) At the close of each fiscal year and before April 1, each state agency receiving an interdepartment and statutory contract from the department shall submit a written report to the department, the state budget director, and the house and senate fiscal agencies stating by spending authorization account the amount of estimated funds contracted with the department, the amount of funds expended, and the amount of funds returned to the transportation funds. A copy of the report shall be submitted to the auditor general and the report shall be subject to audit by the auditor general.

(4) In addition to subsection (2), the department is authorized to receive billings from other state agencies that provide transportation-related services and to make payments

from the Michigan transportation fund, comprehensive transportation fund, economic development fund, state aeronautics fund, and state trunkline fund as determined by the department based on allowable expenditures and verification by the department.

Specialty and commemorative license plates; reports.

Sec. 505. (1) Of the amount appropriated in part 1 from the Michigan transportation fund to the department of state, $186,600.00 represents the additional cost of issuing specialized license plates for veterans and national guard members, as included in sections 803i, 803j, 803k, and 803*l* of the Michigan vehicle code, 1949 PA 300, MCL 257.803i, 257.803j, 257.803k, and 257.803*l*, and $187,600.00 represents the additional cost of issuing generic license plates for nonprofit fraternal or public service organizations, as included in section 803m of the Michigan vehicle code, 1949 PA 300, MCL 257.803m.

(2) In addition, commemorative and specialty license plate fee revenue collected by the department of state and deposited into the Michigan transportation fund is authorized for expenditure by the department of state up to the amount of revenue collected, but not to exceed $2,147,300.00 for commemorative plates and $3,915,000.00 for specialty plates. These amounts are appropriated to the department of state in part 1 to administer the commemorative and specialty license plate programs pursuant to section 225 of the Michigan vehicle code, 1949 PA 300, MCL 257.225.

(3) The department of state shall prepare an annual report on the number of, and the additional costs associated with, these license plate programs to the department, the state budget director, the house and senate fiscal agencies, and the chairpersons of the house of representatives and senate appropriations subcommittees on transportation.

(4) Any unspent funds based on these annual reports shall lapse to the Michigan transportation fund and be distributed in accordance with 1951 PA 51, MCL 247.651 to 247.675.

Removal of tree or vegetation on county right-of-way.

Sec. 506. From the funds appropriated in part 1 for county road commissions, no county road commission shall pay any fee to the state department of natural resources to cut down and/or remove any tree or vegetation on any county right-of-way property.

Services provided by other state departments; alternative funding.

Sec. 507. It is the intent of the legislature to reduce the level of funding for grants from state-restricted transportation funds to other state departments. The department shall recommend alternative funding methods for services provided by other state departments, other than interdepartmental grants from state-restricted transportation funds. The department shall report its recommendations to the house and senate appropriations subcommittees on transportation and to the house and senate fiscal agencies by February 1, 2003.

STATE TRUNKLINE FUND

Warranties.

Sec. 601. The department shall work with the road construction industry to develop performance and road construction warranties for construction contracts. The development of warranties shall include warranties on materials, workmanship, performance criteria, and design/build projects. The department will report by September 30, 2003 to the house of representatives and senate appropriations subcommittees on transportation, the state budget office, and the house and senate fiscal agencies on the status of efforts to develop performance and road construction warranties.

Use of manufactured pipe; standards.

Sec. 602. If the department uses manufactured pipe for road construction drainage, the department shall require that pipe used under certain load-bearing conditions beneath the roadway meet the standards established by the American society for testing and materials (ASTM) or American association of state highway and transportation officials (AASHTO). The department may also use the mandrel test for manufactured pipe 60 days after installation and provide a summary of the results of these inspections to the house of representatives and senate appropriations subcommittees on transportation and house and senate fiscal agencies.

Traffic congestion; use as criteria for determining priority.

Sec. 603. It is the intent of the legislature that the department shall use traffic congestion as 1 of the criteria in determining the priorities for designating which roads shall be remediated in its 5-year road plan, which must be submitted on or before February 1, 2003. Criteria for evaluating traffic congestion shall include, but not be limited to, coordination with local, county, and regional planning, improvement in traffic operations, improvement in physical roadway conditions, accident reduction, and coordination with area public transportation planning.

Pedestrian crossings.

Sec. 607. Funding shall be made available for the remediation of unsafe pedestrian crossings on state highways. Funds from this appropriation may be expended only as matching funds for up to 50% of project cost with additional project funding to be provided by local units of government or through private contributions. Selected projects shall require the approval of the transportation commission. Maintenance of pedestrian overpasses constructed from funds made available through this appropriation shall be the responsibility of a local unit of government or public or private institutions of higher education.

Truck inspection stations.

Sec. 608. From the amounts appropriated in part 1 for forest roads from the transportation economic development fund in the fiscal year ending September 30, 2003, $40,000.00 shall be used for the purpose of establishing 2 additional truck inspection stations. The department shall work directly with representatives of the timber industry to educate truck drivers on the use of the stations. The department shall report on the status of this program.

Removal of animal remains.

Sec. 610. It is the intent of the legislature that the department have as a priority the removal of dead deer and other large animal remains from the traveled portion and shoulder of state highways. The department, and counties that perform state highway maintenance under contract, shall remove animal remains, wherever practicable, away from the traveled portion and shoulder of state highways.

Sec. 611. From the funds appropriated in part 1, funding from the state trunkline fund shall be used to provide for an east-west all-season road through Barry County.

Sec. 612. From the funds appropriated in part 1, the department shall conduct a feasibility study regarding the construction of a northbound ramp at I-675 and Washington

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avenue in the city of Saginaw. The study shall be completed and the findings communicated to the senate and house of representatives appropriations subcommittees on transportation and the senate and house fiscal agencies by February 1, 2003.

Sec. 613. From the funds appropriated in part 1, the department shall conduct a feasibility study regarding the construction of a full interchange between exits 212 and 215 on I-75 in Ogemaw County at M-30. The study shall be completed and the findings communicated to the senate and house of representatives appropriations subcommittees on transportation and the senate and house fiscal agencies by February 1, 2003.

Sec. 614. From the funds appropriated in part 1, the department shall install a traffic light at Vance Road and M-37 in Grand Traverse County.

Sec. 615. From the funds appropriated in part 1, the department shall conduct a feasibility study regarding the construction of an interchange on I-96 at Sternberg Road in Muskegon County. The study shall be completed and the findings communicated to the senate and house of representatives appropriations subcommittees on transportation and the senate and house fiscal agencies by February 1, 2003.

Sec. 616. From the funds appropriated in part 1, the department shall conduct a study regarding traffic conditions on M-104 in Ottawa County between I-96 and Spring Lake. The study shall consider highway improvements to increase traffic safety. The study shall be completed and the findings communicated to the senate and house of representatives appropriations subcommittees on transportation and the senate and house fiscal agencies by February 1, 2003.

Sec. 617. From the funds appropriated in part 1, the department shall conduct a feasibility study regarding the construction of a full interchange at the intersection of M-48 and I-75 in Chippewa County. The study shall be completed and the findings communicated to the senate and house of representatives appropriations subcommittees on transportation and the senate and house fiscal agencies by February 1, 2003.

Sec. 618. The department shall select alternative II, as identified in the draft environmental impact statement for the US-127 west interchange portion of the I-94 freeway modernization project in Jackson County.

COMPREHENSIVE TRANSPORTATION FUND

Intercity bus equipment.

Sec. 701. Money that is received by the state as a lease payment for state-owned intercity bus equipment is not money to be deposited in the comprehensive transportation fund under section 10b of 1951 PA 51, MCL 247.660b, but is money that is deposited in an intercity bus equipment fund for appropriation for the purchase and repair of intercity bus equipment. Proceeds received by the state from the sale of intercity bus equipment are deposited in an intercity bus equipment fund for appropriation for the purchase and repair of intercity bus equipment. Security deposits from the lease of state-owned intercity bus

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equipment not returned to the lessee of the equipment under terms of the lease agreement are deposited in an intercity bus equipment fund for appropriation for the repair of intercity bus equipment.

Rail or water freight projects.

Sec. 702. Money that is received by the state as repayment for loans made for rail or water freight capital projects, and as a result of the sale of property or equipment used or projected to be used for rail or water freight projects shall be deposited in the fund created by section 17 of the state transportation preservation act of 1976, 1976 PA 295, MCL 474.67.

Abandonment of line; notification from railroad company.

Sec. 703. After receiving notification from a railroad company pursuant to section 8 of the state transportation preservation act of 1976, 1976 PA 295, MCL 474.58, the department shall immediately notify the house of representatives and senate appropriations subcommittees on transportation and the state budget office that the railroad company has filed with the appropriate governmental agencies for abandonment of a line.

High-speed rail program.

Sec. 704. The department shall submit a report to both the house and senate appropriations subcommittees on transportation and the house and senate fiscal agencies by March 1 of each year outlining its efforts to develop a high-speed rail program as well as efforts to obtain funding for this purpose. The report shall include recommendations on self-sustaining revenue sources to increase awareness and include efforts to increase ridership.

Rail infrastructure loan program.

Sec. 705. From the funds appropriated in part 1, $100,000.00 is allocated for a rail infrastructure loan program. The program shall provide noninterest-bearing loans for rail infrastructure improvements. The department shall evaluate loan applications according to the relative merit of the project in conjunction with program goals. The transportation commission shall approve the loans. The loans shall fund not more than 90% of the rail portion of project costs, and the loan repayment period shall not exceed 10 years. Local governments, railroads, and current or potential users of freight railroad services are eligible applicants. At the end of the fiscal year, unexpended funds shall remain in the rail infrastructure loan program and shall be available to be allocated for the purposes of the program in the succeeding fiscal year. Money that is received by this state as repayment for rail infrastructure loans made pursuant to this program shall remain within the rail infrastructure loan program and shall be allocated for the purposes of the program. The state's total contribution to the rail infrastructure loan program shall not exceed $15,000,000.00.

Operations assessment; report by Detroit/Wayne county port authority.

Sec. 706. The Detroit/Wayne County port authority shall issue a complete operations assessment and a financial disclosure statement. The operations assessment shall include operational goals for the next 5 years and recommendations to improve land acquisition and development efficiency. The report shall be completed and submitted to the house of representatives and senate appropriations subcommittees on transportation, the state budget office, and the house and senate fiscal agencies by February 15, 2003.

Grants to certain agencies providing public transportation services.

Sec. 707. For the fiscal year ending September 30, 2003, each eligible authority and each eligible governmental agency which provides public transportation services in urbanized areas with a Michigan population of less than or equal to 100,000 and nonurbanized areas under section 5311 of title 49 of the United States Code, 49 U.S.C. 5311, shall receive a grant of up to 60% of its eligible operating expenses. Each eligible authority and each eligible government agency which provides public transportation services in urbanized areas with a Michigan population of greater than 100,000 under section 5307 of title 49 of the United States Code, 49 U.S.C. 5307, shall receive a grant of up to 50% of its eligible operating expenses.

Private intercity bus carriers; minimum charge for state buses.

Sec. 708. If funds appropriated in part 1 are used to provide state-owned or state-leased buses to private intercity bus carriers, the department shall charge not less than $1,000.00 per bus per year for their use.

Essential corridor; bus routes.

Sec. 709. (1) The following bus routes are designated as an essential corridor in Michigan:

Between St. Ignace and Escanaba	US-2
Between Escanaba and Duluth	US-2 through Ironwood to the state line
Between Calumet and Escanaba	US-41
Between Escanaba and Milwaukee	US-41 through Menominee to the state line
Between St. Ignace and Sault Ste. Marie	I-75
Between Detroit and Chicago	I-94 from Detroit to the state line
Between Detroit and Muskegon	I-96
Between Grand Rapids, Holland, and Benton Harbor	I-196 to I-94
Between Muskegon and Grand Rapids	US-31, I-96
Between Detroit and Bay City	I-75
Between Bay City and Mount Pleasant	US-10, M-20
Between Jackson and Traverse City	US-127, US-27, I-75, Grayling, Gaylord, M-72 to Traverse City
Between Jackson and Indianapolis	I-69, I-94 to the state line through Albion, Marshall, and Coldwater
Between Houghton Lake and Cadillac	M-55 and M-66
Between Detroit and Toledo	I-75 to the state line
Between the Indiana state line and Traverse City	US-31 and I-196
Between Detroit and Port Huron	I-375 and I-94
Between Toledo and Bay City	US-23, I-75, and I-675, I-75
Between Bay City and Chicago	I-75, Flint, I-69, I-94, Battle Creek, I-94 to the state line
Between Flint and Lansing	I-69, M-21, Owosso, M-52, I-69
Between Bay City and St. Ignace	I-75, US-23

Between Grand Rapids and St. Ignace	US-131, Cadillac, M-115, Mesick, M-37 to Traverse City, US-31, Acme, M-72, Kalkaska, US-131, Boyne Falls, M-75, Walloon Lake, US-131, Petoskey, US-31, I-75, St. Ignace
Between Kalamazoo and Grand Rapids	US-131

(2) Any changes to the essential corridor list in subsection (1) shall be approved by the house and senate appropriations subcommittees on transportation.

(3) No entity shall receive operating assistance for a scheduled regular route service which is competing with another private or public carrier over the same route.

Duplication of existing routes.

Sec. 710. Whenever possible, the department shall work with the local transit agencies to avoid establishing new routes that duplicate existing routes served by intercity carriers when providing services under regional transportation service programs. It is preferable that private intercity carriers be provided an opportunity to bid by local public transit agencies on services funded through the regional transportation service program.

Rail service between Grand Rapids and Chicago and between Port Huron and Chicago.

Sec. 711. (1) From the funds appropriated in part 1 from the comprehensive transportation fund for rail passenger service, the department shall negotiate with a rail carrier to provide rail service between Grand Rapids and Chicago and between Port Huron and Chicago on a 7-day basis, consistent with the other provisions of this section.

(2) The department shall work with the rail carrier, local communities, and the federal government to increase marketing efforts to promote awareness of rail passenger service, to increase ridership, to reduce operating subsidies in conjunction with the federal phaseout of operating subsidies, to maximize the revenue of the rail passenger lines in Michigan, and to improve on-time performance. The department shall submit a report to both the house and senate appropriations committees and the house and senate fiscal agencies by January 1, 2003, that provides a 5-year history on services, ridership, and subsidies.

(3) Future state support for the service between Grand Rapids and Chicago and Port Huron and Chicago is dependent on the department's ability to provide a plan and a contract for services that increase ridership and revenue, reduce operating costs, and improve on-time performance. The department shall include a section in the report required in subsection (2) detailing efforts to reduce the dependence on state operating subsidies and projected operating expenses for the next 2 years, and recommending service alternatives, for the Grand Rapids to Chicago service and the Port Huron to Chicago service.

(4) Any state subsidy shall only provide for the direct operating costs in Michigan and shall not exceed $5,700,000.00 for the service between Port Huron and Chicago and Grand Rapids and Chicago.

(5) The rail carrier shall, as a condition to receiving a state operating subsidy, establish a system to monitor, collect, and resolve customer complaints and shall make the information available to the department, the house and senate appropriations subcommittees on transportation, and to the house and senate fiscal agencies.

(6) If the chosen rail carrier is Amtrak, the department shall require Amtrak to provide information to the department to identify direct and indirect operating costs prior to receiving any state funding. Any state subsidy shall only provide for the direct operating costs in Michigan.

Demand-response services.

Sec. 714. The department, in cooperation with local transit agencies, shall work to ensure that demand-response services are provided throughout Michigan. The department shall continue to work with local units of government to address the unmet transit needs in Michigan.

Comprehensive transportation fund; closing balance; transfer request.

Sec. 715. (1) On or before January 27, 2003, the department, together with the house and senate fiscal agencies and the department of management and budget, shall estimate the unreserved and unencumbered closing balance of the comprehensive transportation fund (CTF) for the fiscal year ending September 30, 2002. The estimate shall consider lapsed appropriations from the CTF and revised estimates of state restricted transportation revenue.

(2) On or before February 3, 2003, the department shall request a legislative transfer in accordance with section 393 of the management and budget act, 1984 PA 431, MCL 18.1393, to appropriate any estimated unreserved and unencumbered CTF fund balance in excess of $1,000,000.00. The appropriations included in the transfer request shall be in accordance with the statutory requirements of 1951 PA 51, MCL 247.651 to 247.675, with priority given to local bus operating grants. At the same time the department makes its transfer request, the department shall submit copies of the transfer request to the house of representatives and senate appropriations subcommittees on transportation and the house and senate fiscal agencies.

Grade separations.

Sec. 719. The department may provide advances to local road authorities from the rail grade crossing account pursuant to section 11(1)(g) of 1951 PA 51, MCL 247.661, for the construction of grade separations. Money that is received by the state as a repayment of the advance, including interest on the advance, shall be returned to the rail grade crossing account and be available for the local grade crossing program for advances for the construction of grade separations pursuant to section 11(1)(g) of 1951 PA 51, MCL 247.661.

Bus acquisition capital grants.

Sec. 721. For federal transit administration bus acquisition capital grants matched with CTF funds appropriated in part 1, transit agencies shall have 4 years from the federal approval date to carry out their projects. Contract line items unobligated 4 years after the federal approval date may be matched with CTF funds only up to 15% in the fifth and subsequent years. "Unobligated" means any line item in the contract that is not committed to a third party or purchase order. A waiver shall be granted by the department for an additional year with documented justification from the transit agency accompanied by a resolution from the board or authority seeking a waiver. If a transit agency does not carry out a line item activity in a specific authorization and the transit agency requests funds in a new authorization for that same activity, the line item shall be matched at up to 15%. This section applies only to bus acquisition capital grants. Lapsed funds under this section shall remain in the CTF.

Job access reverse commute grants.

Sec. 722. From the funds appropriated in part 1 for the work first initiative from the CTF, sufficient funds shall be used as a match for job access reverse commute grants for local transit agencies.

Lansing to Detroit rail service.

Sec. 723. From funds appropriated in part 1 for rail passenger service, up to $1,000,000.00 is appropriated to provide a 20% match for federal funds for capital improvements to facilitate a Lansing to Detroit rail passenger service. This is a 1-time appropriation for community outreach, preliminary engineering, environmental clearance, and design plans only, and no funds from this appropriation shall be used for operating assistance on a Lansing to Detroit rail service. This appropriation is not to be construed as a commitment of operating funds by the legislature. It is the intent of the legislature that funds for ongoing operating costs of a Lansing to Detroit rail service be provided by local units of government within the Lansing to Detroit rail service area. Funds not expended for preliminary engineering, environmental clearance, and design plans shall be returned to the fund from which the appropriation was made.

Southwest Detroit intermodal rail freight facility.

Sec. 724. Funds from the appropriations in part 1 shall not be used for any expansion of an intermodal rail freight facility in southwest Detroit, outside of existing railroad property, prior to the completion of an environmental impact statement.

Detroit area regional transportation authority; start-up costs.

Sec. 725. Within 90 days of enactment of House Bill No. 5467 of the 91st Legislature, the department shall report to the house and senate appropriations committees on the estimated start-up costs associated with the Detroit area regional transportation authority established by House Bill No. 5467 of the 91st Legislature.

AERONAUTICS FUND

State aeronautics fund; lapse.

Sec. 801. At the close of the fiscal year ending September 30, 2003, any unobligated and unexpended balance in the state aeronautics fund created in the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208, shall lapse to the state aeronautics fund and be appropriated by the legislature in the immediately succeeding fiscal year.

Sec. 803. (1) From the funds appropriated in section 114, the department shall establish an aeronautics safety officer position to coordinate safety functions between the depart ment, the department of natural resources, and the department of state police. It is the intent of the legislature that the safety officer position is jointly funded by the 3 departments in equal shares.

(2) In addition to the funds appropriated in section 113, the department is authorized to expend funds received from the department of natural resources and the department of state police that are intended to support the aeronautics safety officer position established in subsection (1).

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Comprehensive transportation fund debt service; funds transfer; condition.

Sec. 805. State aeronautics funds appropriated in part 1 for airport safety and protection plan debt service are transferred to the comprehensive transportation fund and are appropriated for the purpose of reimbursing comprehensive transportation fund debt service obligations for the airport safety and protection plan program. This appropriation does not take effect unless House Bill No. 4454 of the 91st Legislature is enacted into law on or before September 30, 2002.

Fire protection grants to local units of government.

Sec. 901. In addition to the amounts appropriated in part 1, $7,421,000.00 from the state liquor purchase revolving fund is appropriated to the Michigan department of transportation for transfer to the department of consumer and industry services for fire protection grants to local units of government to be distributed in accordance with 1977 PA 289, MCL 141.951 to 141.956.

This act is ordered to take immediate effect.
Approved September 30, 2002.
Filed with Secretary of State September 30, 2002.

[No. 562]

(SB 1323)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 2803, 2834, 2835, 2848, 2888, and 20161 (MCL 333.2803, 333.2834, 333.2835, 333.2848, 333.2888, and 333.20161), section 2835 as amended by 1999 PA 207 and section 20161 as amended by 2002 PA 303.

The People of the State of Michigan enact:

333.2803 Definitions; D to F.

Sec. 2803. (1) "Dead body" means a human body or fetus, or a part of a dead human body or fetus, in a condition from which it may reasonably be concluded that death has occurred.

(2) "Fetal death" means the death of a fetus which has completed at least 20 weeks of gestation or weighs at least 400 grams. The definition shall conform in all other respects as closely as possible to the definition recommended by the federal agency responsible for vital statistics.

(3) "File" means to present a certificate, report, or other record to the local registrar provided for in this part for registration by the state registrar.

(4) "Final disposition" means the burial, cremation, or other disposition of a dead human body or fetus.

333.2834 Report of fetal death; time, form, and manner; prohibited information; report if dead fetus delivered in or outside institution; notice to medical examiner; investigation and report; use and disposition of confidential statistical reports; disclosure identifying biological parents prohibited; incorporation of records into system of vital statistics; certificate of stillbirth.

Sec. 2834. (1) A fetal death occurring in this state, as defined by section 2803, shall be reported to the state registrar within 5 days after delivery. The state registrar shall prescribe the form and manner for reporting fetal deaths.

(2) The reporting form shall not contain the name of the biological parents, common identifiers such as social security or drivers license numbers or other information identifiers that would make it possible to identify in any manner or in any circumstances the biological parents of the fetus. A state agency shall not compare data in an information system file with data in another computer system which would result in identifying in any way a woman or father involved in a fetal death. Statistical information which may reveal the identity of the biological parents involved in a fetal death shall not be maintained. This subsection does not apply after June 1, 2003.

(3) If a dead fetus is delivered in an institution, the individual in charge of the institution or his or her authorized representative shall prepare and file the report.

(4) If a dead fetus is delivered outside an institution, the physician in attendance shall prepare and file the report.

(5) If a fetal death occurs without medical attendance at or after the delivery or if inquiry is required by the medical examiner, the attendant, mother, or other person having knowledge of the fetal death shall notify the medical examiner who shall investigate the cause and prepare and file the report.

(6) The reports required under this section and filed before June 1, 2003 are confidential statistical reports to be used only for medical and health purposes and shall not be incorporated into the permanent official records of the system of vital statistics. A schedule for the disposition of these reports shall be provided for by the department. The department or any employee of the department shall not disclose to any person outside the department the reports or the contents of the reports required by this section and filed before June 1, 2003 in any manner or fashion so as to permit the person or entity to whom the report is disclosed to identify in any way the biological parents.

(7) The reports required under this section and filed on or after June 1, 2003 are permanent vital records documents and shall be incorporated into the system of vital statistics as described in section 2805. Access to a fetal death report or information contained on a fetal death report shall be the same as to a live birth record in accordance with sections 2882, 2883, and 2888.

(8) With information provided to the department under subsection (7), the department shall create a certificate of stillbirth which shall conform as nearly as possible to recognized national standardized forms and shall include, but not be limited to, the following information:

(a) The name of the fetus, if it was given a name by the parent or parents.

(b) The number of weeks of gestation completed.

(c) The date of delivery and weight at the time of delivery.

(d) The name of the parent or parents.

(e) The name of the health facility in which the fetus was delivered or the name of the health professional in attendance if the delivery was outside a health facility.

333.2835 "Abortion" and "physical complication" defined; report of abortion; form, transmittal, and contents of report; prohibited information; destruction of reports; annual statistical report; use of statistical reports; prohibited disclosures; violation; penalty.

Sec. 2835. (1) As used in this section and section 2837:

(a) "Abortion" means that term as defined in section 17015.

(b) "Physical complication" means a physical condition occurring during or after an abortion that, under generally accepted standards of medical practice, requires medical attention. Physical complication includes, but is not limited to, infection, hemorrhage, cervical laceration, or perforation of the uterus.

(2) A physician who performs an abortion shall report the performance of that procedure to the department on forms prescribed and provided by the department. A physician shall transmit a report required under this subsection to the director within 7 days after the performance of the abortion.

(3) Each report of an abortion required under subsection (2) shall contain only the following information and no other information:

(a) The age of the woman at the time of the abortion.

(b) The marital status of the woman at the time of the abortion.

(c) The race of the woman.

(d) The city or township, county, and state in which the woman resided at the time of the abortion.

(e) The location and type of facility in which the abortion was performed.

(f) The source of referral to the physician performing the abortion.

(g) The number of previous pregnancies carried to term.

(h) The number of previous pregnancies ending in spontaneous abortion.

(i) The number of previous pregnancies terminated by abortion.

(j) The method used before the abortion to confirm the pregnancy, the period of gestation in weeks of the present pregnancy, and the first day of the last menstrual period.

(k) The method used to perform the abortion.

(*l*) The weight of the embryo or fetus, if determinable.

(m) Whether the fetus showed evidence of life when separated, expelled, or removed from the woman.

(n) The date of performance of the abortion.

(o) The method and source of payment for the abortion.

(p) A physical complication or death resulting from the abortion and observed by the physician or reported to the physician or his or her agent before the report required under subsection (2) is transmitted to the director.

(q) The physician's signature and his or her state license number.

(4) The report required under subsection (2) shall not contain the name of the woman, common identifiers such as her social security number or motor vehicle operator's license number or other information or identifiers that would make it possible to identify in any manner or under any circumstances an individual who has obtained or seeks to obtain an abortion. A state agency shall not compare data in an electronic or other information system file with data in another electronic or other information system that would result in identifying in any manner or under any circumstances an individual obtaining or seeking to obtain an abortion. Statistical information that may reveal the identity of a woman obtaining or seeking to obtain an abortion shall not be maintained.

(5) The department shall destroy each individual report required by this section and each copy of the report after retaining the report for 5 years after the date the report is received.

(6) The department shall make available annually in aggregate a statistical report summarizing the information submitted in each individual report required by this section. The department shall specifically summarize aggregate data regarding all of the following in the annual statistical report:

(a) The period of gestation in 4-week intervals from 5 weeks through 28 weeks.

(b) Abortions performed on women aged 17 and under.

(c) Physical complications reported under subsection (3)(o) and section 2837.

(7) The reports required under this section are statistical reports to be used only for medical and health purposes and shall not be incorporated into the permanent official records of the system of vital statistics.

(8) The department or an employee of the department shall not disclose to a person or entity outside the department the reports or the contents of the reports required by this section in a manner or fashion so as to permit the person or entity to whom the report is disclosed to identify in any way the person who is the subject of the report.

(9) A person who discloses confidential identifying information in violation of this section, section 2834(6), or section 2837 is guilty of a felony punishable by imprisonment for not more than 3 years, or a fine of not more than $5,000.00, or both.

333.2848 Authorization for final disposition of dead body or fetus; time; form; retention of permit; cremation; moving body; permit issued by other state.

Sec. 2848. (1) Except as provided in sections 2844 and 2845, a funeral director or person acting as a funeral director, who first assumes custody of a dead body, not later than 72 hours after death or the finding of a dead body and before final disposition of the body, shall obtain authorization for the final disposition. The authorization for final

disposition of a dead body shall be issued on a form prescribed by the state registrar and signed by the local registrar or the state registrar.

(2) Before final disposition of a dead fetus, irrespective of the duration of pregnancy, the funeral director or person assuming responsibility for the final disposition of the fetus shall obtain from the parents, or parent in case of an unmarried mother, an authorization for final disposition on a form prescribed and furnished or approved by the state registrar. The authorization may allow final disposition to be by a funeral director, the individual in charge of the institution where the fetus was delivered, or an institution or agency authorized to accept donated bodies or fetuses under this code. After final disposition, the funeral director, the individual in charge of the institution, or other person making the final disposition shall retain the permit for not less than 7 years.

(3) If final disposition is by cremation, the medical examiner of the county in which death occurred shall sign the authorization for final disposition.

(4) A body may be moved from the place of death to be prepared for final disposition with the consent of the physician or county medical examiner who certifies the cause of death.

(5) A permit for disposition issued under the law of another state that accompanies a dead body or dead fetus brought into this state is authorization for final disposition of the dead body or dead fetus in this state.

333.2888 Inspection of vital records, disclosure of information, and issuance of copies; procedures; appeal to state registrar.

Sec. 2888. (1) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the system of vital statistics, a person or governmental entity shall not permit inspection of, disclose information contained in vital records, or copy or issue a copy of all or part of a record except as authorized by this part, by rule, or by order of a court of competent jurisdiction. Vital records and information or any part of the information contained in a vital record is not subject to the provisions of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Procedures shall provide for adequate standards of security and confidentiality of vital records.

(2) The department may establish procedures for the disclosure of information contained in vital records for research purposes.

(3) An appeal from a decision of a custodian of permanent local records refusing to disclose information, or to permit inspection of or copying of records under the authority of this section and procedures adopted under section 2896, shall be made to the state registrar, whose decision is binding on the local custodian of permanent local records.

333.20161 Fees for health facility and agency licenses and certificates of need; surcharge; fee for provisional license or temporary permit; fee to recover cost of proficiency evaluation samples; fee for reissuance of clinical laboratory license; cost of licensure activities; application fee for waiver under § 333.21564; travel expenses; fees for licensure or renewal under part 209; deposit of fees; use of quality assurance assessment fee; earmarking "medicaid" defined.

Sec. 20161. (1) The department shall assess fees for health facility and agency licenses and certificates of need on an annual basis as provided in this article. Except as otherwise provided in this article, fees shall be paid in accordance with the following fee schedule:

(a) Freestanding surgical outpatient facilities.....	$238.00 per facility.
(b) Hospitals	$8.28 per licensed bed.

(c) Nursing homes, county medical care facilities, and hospital long-term care units	$2.20 per licensed bed.
(d) Homes for the aged	$6.27 per licensed bed.
(e) Clinical laboratories	$475.00 per laboratory.
(f) Hospice residences	$200.00 per license survey; and $20.00 per licensed bed.
(g) Subject to subsection (13), quality assurance assessment fee for nongovernmentally owned nursing homes and hospital long-term care units	an amount resulting in not more than a 7% increase in aggregate medicaid nursing home and hospital long-term care unit payment rates, net of assessments, above the rates that were in effect on April 1, 2002.
(h) Subject to subsection (14), quality assurance assessment fee for hospitals	at a rate that generates funds not more than the maximum allowable under the federal matching requirements, after consideration for the amounts in subsection (14)(a) and (k).

(2) If a hospital requests the department to conduct a certification survey for purposes of title XVIII or title XIX of the social security act, the hospital shall pay a license fee surcharge of $23.00 per bed. As used in this subsection, "title XVIII" and "title XIX" mean those terms as defined in section 20155.

(3) The base fee for a certificate of need is $750.00 for each application. For a project requiring a projected capital expenditure of more than $150,000.00 but less than $1,500,000.00, an additional fee of $2,000.00 shall be added to the base fee. For a project requiring a projected capital expenditure of $1,500,000.00 or more, an additional fee of $3,500.00 shall be added to the base fee.

(4) If licensure is for more than 1 year, the fees described in subsection (1) are multiplied by the number of years for which the license is issued, and the total amount of the fees shall be collected in the year in which the license is issued.

(5) Fees described in this section are payable to the department at the time an application for a license, permit, or certificate is submitted. If an application for a license, permit, or certificate is denied or if a license, permit, or certificate is revoked before its expiration date, the department shall not refund fees paid to the department.

(6) The fee for a provisional license or temporary permit is the same as for a license. A license may be issued at the expiration date of a temporary permit without an additional fee for the balance of the period for which the fee was paid if the requirements for licensure are met.

(7) The department may charge a fee to recover the cost of purchase or production and distribution of proficiency evaluation samples that are supplied to clinical laboratories pursuant to section 20521(3).

(8) In addition to the fees imposed under subsection (1), a clinical laboratory shall submit a fee of $25.00 to the department for each reissuance during the licensure period of the clinical laboratory's license.

(9) Except for the licensure of clinical laboratories, not more than half the annual cost of licensure activities as determined by the department shall be provided by license fees.

(10) The application fee for a waiver under section 21564 is $200.00 plus $40.00 per hour for the professional services and travel expenses directly related to processing the application. The travel expenses shall be calculated in accordance with the state standardized travel regulations of the department of management and budget in effect at the time of the travel.

(11) An applicant for licensure or renewal of licensure under part 209 shall pay the applicable fees set forth in part 209.

(12) The fees collected under this section shall be deposited in the state treasury, to the credit of the general fund.

(13) The quality assurance assessment fee collected under subsection (1)(g) and all federal matching funds attributed to that fee shall be used only for the following purposes and under the following specific circumstances:

(a) The quality assurance assessment fee and all federal matching funds attributed to that fee shall be used to maintain the increased per diem medicaid reimbursement rate increases as provided for in subdivision (e). Only licensed nursing homes and hospital long-term care units that are assessed the quality assurance assessment fee and participate in the medicaid program are eligible for increased per diem medicaid reimbursement rates under this subdivision.

(b) The quality assurance assessment fee shall be implemented on the effective date of the amendatory act that added this subsection.

(c) The quality assurance assessment fee is based on the number of licensed nursing home beds and the number of licensed hospital long-term care unit beds in existence on July 1 of each year, shall be assessed upon implementation pursuant to subdivision (b) and subsequently on October 1 of each following year, and is payable on a quarterly basis, the first payment due 90 days after the date the fee is assessed.

(d) Beginning October 1, 2007, the department shall no longer assess or collect the quality assurance assessment fee or apply for federal matching funds.

(e) Upon implementation pursuant to subdivision (b), the department of community health shall increase the per diem nursing home medicaid reimbursement rates for the balance of that year. For each subsequent year in which the quality assurance assessment fee is assessed and collected, the department of community health shall maintain the medicaid nursing home reimbursement payment increase financed by the quality assurance assessment fee.

(f) The department of community health shall implement this section in a manner that complies with federal requirements necessary to assure that the quality assurance assessment fee qualifies for federal matching funds.

(g) If a nursing home or a hospital long-term care unit fails to pay the assessment required by subsection (1)(g), the department of community health may assess the nursing home or hospital long-term care unit a penalty of 5% of the assessment for each month

that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department of community health may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(h) The medicaid nursing home quality assurance assessment fund is established in the state treasury. The department of community health shall deposit the revenue raised through the quality assurance assessment fee with the state treasurer for deposit in the medicaid nursing home quality assurance assessment fund.

(i) Neither the department of consumer and industry services nor the department of community health shall implement this subsection in a manner that conflicts with 42 U.S.C. 1396b(w).

(j) The quality assurance assessment fee collected under subsection (1)(g) shall be prorated on a quarterly basis for any licensed beds added to or subtracted from a nursing home or hospital long-term care unit since the immediately preceding July 1. Any adjustments in payments are due on the next quarterly installment due date.

(k) In each fiscal year governed by this subsection, medicaid reimbursement rates shall not be reduced below the medicaid reimbursement rates in effect on April 1, 2002 as a direct result of the quality assurance assessment fee collected under subsection (1)(g).

(*l*) The amounts listed in this subdivision are appropriated for the department of community health, subject to the conditions set forth in this subsection, for the fiscal year ending September 30, 2003:

MEDICAL SERVICES		
Long-term care services	$	1,469,003,900
Gross appropriation	$	1,469,003,900
Appropriated from:		
Federal revenues:		
Total federal revenues		814,122,200
Special revenue funds:		
Medicaid quality assurance assessment		44,829,000
Total local revenues		8,445,100
State general fund/general purpose	$	601,607,600

(14) The quality assurance dedication is an earmarked assessment fee collected under subsection (1)(h). That fee and all federal matching funds attributed to that fee shall be used only for the following purposes and under the following specific circumstances:

(a) Part of the quality assurance assessment fee shall be used to maintain the increased medicaid reimbursement rate increases as provided for in subdivision (d). A portion of the funds collected from the quality assurance assessment fee may be used to offset any reduction to existing intergovernmental transfer programs with public hospitals that may result from implementation of the enhanced medicaid payments financed by the quality assurance assessment fee. Any portion of the funds collected from the quality assurance assessment fee reduced because of existing intergovernmental transfer programs shall be used to finance medicaid hospital appropriations.

(b) The quality assurance assessment fee shall be implemented on the effective date of the amendatory act that added this subsection.

(c) The quality assurance assessment fee shall be assessed on all net patient revenue, before deduction of expenses, less medicare net revenue, as reported in the most recently available medicare cost report and is payable on a quarterly basis, the first payment due 90 days after the date the fee is assessed. As used in this subdivision, "medicare net revenue" includes medicare payments and amounts collected for coinsurance and deductibles.

(d) Upon implementation pursuant to subdivision (b), the department of community health shall increase the hospital medicaid reimbursement rates for the balance of that year. For each subsequent year in which the quality assurance assessment fee is assessed and collected, the department of community health shall maintain the hospital medicaid reimbursement rate increase financed by the quality assurance assessment fees.

(e) The department of community health shall implement this section in a manner that complies with federal requirements necessary to assure that the quality assurance assessment fee qualifies for federal matching funds.

(f) If a hospital fails to pay the assessment required by subsection (1)(h), the department of community health may assess the hospital a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department of community health may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(g) The hospital quality assurance assessment fund is established in the state treasury. The department of community health shall deposit the revenue raised through the quality assurance assessment fee with the state treasurer for deposit in the hospital quality assurance assessment fund.

(h) In each fiscal year governed by this subsection, the quality assurance assessment fee shall only be collected and expended if medicaid hospital inpatient DRG and outpatient reimbursement rates and disproportionate share hospital and graduate medical education payments are not below the level of rates and payments in effect on April 1, 2002 as a direct result of the quality assurance assessment fee collected under subsection (1)(h), except as provided in subdivision (j).

(i) The amounts listed in this subdivision are appropriated for the department of community health, subject to the conditions set forth in this subsection, for the fiscal year ending September 30, 2003:

MEDICAL SERVICES		
Hospital services and therapy	$	149,200,000
Gross appropriation	$	149,200,000
Appropriated from:		
Federal revenues:		
Total federal revenues		82,686,800
Special revenue funds:		
Medicaid quality assurance assessment		66,513,500
Total local revenues		0
State general fund/general purpose	$	0

(j) The quality assurance assessment fee collected under subsection (1)(h) shall no longer be assessed or collected after September 30, 2004, or in the event that the quality assurance assessment fee is not eligible for federal matching funds. Any portion of the quality assurance assessment collected from a hospital that is not eligible for federal matching funds shall be returned to the hospital.

(k) In fiscal year 2002-2003, $18,900,000.00 of the quality assurance assessment fee shall be deposited into the general fund.

(15) As used in this section, "medicaid" means that term as defined in section 22207.

This act is ordered to take immediate effect.
Approved October 1, 2002.
Filed with Secretary of State October 1, 2002.

[No. 563]

(HB 5637)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.1100) by adding section 85.

The People of the State of Michigan enact:

250.1085 "Korean War Veterans Memorial Highway".

Sec. 85. That portion of highway M-82 beginning at the city of Newaygo in Newaygo county and extending east to Howard City in Montcalm county shall be named the "Korean War Veterans Memorial Highway".

This act is ordered to take immediate effect.
Approved October 1, 2002.
Filed with Secretary of State October 2, 2002.

[No. 564]

(HB 6008)

AN ACT to amend 1971 PA 174, entitled "An act to create the office of child support; and to prescribe certain powers and duties of the office, certain public and private agencies, and certain employers and former employers," by amending sections 1, 3, and 9 (MCL 400.231, 400.233, and 400.239), section 1 as amended and section 9 as added by 1999 PA 161 and section 3 as amended by 1998 PA 112, and by adding section 10.

The People of the State of Michigan enact:

400.231 Definitions.

Sec. 1. As used in this act:

(a) "Account" means any of the following:

(*i*) A demand deposit account.

(*ii*) A draft account.

(*iii*) A checking account.

(*iv*) A negotiable order of withdrawal account.

(*v*) A share account.

(*vi*) A savings account.

(*vii*) A time savings account.

(*viii*) A mutual fund account.

(*ix*) A securities brokerage account.

(*x*) A money market account.

(*xi*) A retail investment account.

(b) "Account" does not mean any of the following:

(*i*) A trust.

(*ii*) An annuity.

(*iii*) A qualified individual retirement account.

(*iv*) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(*v*) A pension or retirement plan.

(*vi*) An insurance policy.

(c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact an account holder.

(d) "Adult responsible for the child" means a parent, relative who has physically cared for the child, putative father, or current or former guardian of a child, including an emancipated or adult child.

(e) "Current employment" means employment within 1 year before a friend of the court request for information.

(f) "Department" means the family independence agency.

(g) "Financial asset" means stock, a bond, a money market fund, a deposit, an account, or a similar instrument.

(h) "Financial institution" means any of the following:

(*i*) A state or national bank.

(*ii*) A state or federally chartered savings and loan association.

(*iii*) A state or federally chartered savings bank.

(*iv*) A state or federally chartered credit union.

(*v*) An insurance company.

(*vi*) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(*vii*) An entity regulated by the securities and exchange commission that collects funds from the public.

(*viii*) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(*ix*) An entity that collects funds from the public.

(i) "Office" means the office of child support.

(j) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, 1982 PA 294, MCL 552.502. The term "friend of the court case", when used in a provision of this act, is not effective until on and after the effective date of section 5a of the friend of the court act, MCL 552.505a.

(k) "Payer", "recipient of support", "source of income", and "support" mean those terms as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

(*l*) "State disbursement unit" or "SDU" means the entity established in section 6 for centralized state receipt and disbursement of support and fees.

(m) "Title IV-D" means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

400.233 Office of child support; duties.

Sec. 3. The office shall do all of the following:

(a) Serve as a state agency authorized to administer title IV-D.

(b) Assist a governmental agency or department in locating an adult responsible for the child for any of the following purposes:

(*i*) To establish parentage.

(*ii*) To establish, set the amount of, modify, or enforce support obligations.

(*iii*) To disburse support receipts.

(*iv*) To make or enforce child custody or parenting time orders.

(c) Coordinate activity on a state level in a search for an adult responsible for the child.

(d) Obtain information that directly relates to the identity or location of an adult responsible for the child.

(e) Serve as the information agency as provided in the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183, and uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(f) Develop guidelines for coordinating activities of a governmental department, board, commission, bureau, agency, or council, or a public or private agency, in providing information necessary for the location of an adult responsible for the child.

(g) Develop, administer, and coordinate with the state and federal departments of treasury a procedure for offsetting the state tax refunds and federal income tax refunds of a parent who is obligated to support a child and who owes past due support. The procedure shall include a guideline that the office submit to the state department of treasury, not later than November 15 of each year, all requests for the offset of state tax refunds claimed on returns filed or to be filed for that tax year.

(h) Develop and implement a statewide information system to facilitate the establishment and enforcement of child support obligations.

(i) Publicize through regular and frequent, nonsexist public service announcements the availability of support establishment and enforcement services.

(j) Develop and implement in cooperation with financial institutions a data matching and lien and levy system to identify assets of and to facilitate the collection of support from the assets of individuals who have an account at a financial institution and who are obligated to pay support as provided in this act.

(k) Provide discovery and support for support enforcement activities as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(*l*) Have in effect safeguards against the unauthorized use or disclosure of case record information that are designed to protect the privacy rights of the parties as specified in sections 454 and 454a of title IV-D, 42 U.S.C. 654 and 654a, and that are consistent with the use and disclosure standards provided under section 64 of the social welfare act, 1939 PA 280, MCL 400.64.

(m) As provided in section 10 for friend of the court cases, centralize administrative enforcement remedies and develop and implement a centralized enforcement program to facilitate the collection of support.

400.239 Transition to centralized receipt and disbursement of support and fees.

Sec. 9. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 7, and modifications to that schedule as the department considers necessary.

400.240 Centralized enforcement.

Sec. 10. (1) Based on criteria established by the office and the state court administrative office, the office may centralize administrative enforcement procedures for services provided under title IV-D. The office may also centralize enforcement activities for friend of the court cases based on criteria established by the office and the state court administrative office. The criteria for centralizing enforcement activities for a friend of the court case shall require, at a minimum, both of the following:

(a) That support enforcement measures undertaken by the office of the friend of the court have been unsuccessful, including, but not limited to, a lack of regular and substantial payments against the arrearage.

(b) That the arrearage is equal to or greater than the amount of support payable either for 12 months or, if the recipient of support requests centralization of enforcement activities, for 6 months.

(2) Each office of the friend of the court shall provide the office with information necessary for the office to identify cases eligible for centralized enforcement, as well as case information necessary for the office to pursue enforcement remedies.

(3) The office's centralized enforcement may include, but is not limited to, 1 or more of the following:

(a) An enforcement remedy available under the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(b) Contracting with a public or private collection agency. Except upon the request of the recipient of support, an additional fee shall not be charged to the recipient of support for collection services by any public or private collection agency contracting under this subdivision.

(c) Contracting with a public or private locator service.

(d) Publishing a delinquent payer's name.

(e) A local or regional agreement with a law enforcement agency or prosecutor.

(4) The office shall notify the custodial parent in each friend of the court case that the office selects for centralized enforcement that the parent's case has been selected.

(5) The office shall develop a system to track each friend of the court case selected for centralized enforcement so that the office of the friend of the court from which the case is selected can be identified. The office shall process collections resulting from centralized enforcement through the SDU and, for the purpose of child support incentive calculations, shall credit those collections to the office of the friend of the court identified with the case. In consultation with the state court administrative office, the office shall establish policies and procedures for expenses related to enforcement activities under this act.

(6) This section does not limit the office's ability to enter into agreements for child support enforcement with an office of the friend of the court, law enforcement agency, prosecutor, government unit, or private entity as that ability existed on the effective date of this section.

(7) Within 1 year after the effective date of this section and within 1 year after the deadline for the previous report, the office shall submit an annual report to the legislature regarding friend of the court cases assigned to a private collection agency for support collection under a contract with the office. The report shall include at least all of the following for each private collection agency that was assigned friend of the court cases for support collection:

(a) Total number of friend of the court cases assigned.

(b) Total number of those friend of the court cases in which a support payment was received.

(c) Total support collected for those friend of the court cases.

(d) Total support due for those friend of the court cases.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2002.

Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

[No. 565]

(HB 6004)

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 2, 25a, 25b, and 28 (MCL 552.602, 552.625a, 552.625b, and 552.628), section 2 as amended by 1999 PA 160 and sections 25a and 25b as added and section 28 as amended by 1998 PA 334, and by adding sections 5c, 25c, 25d, 25e, 25f, 25g, 25h, and 25i.

The People of the State of Michigan enact:

552.602 Definitions.

Sec. 2. As used in this act:

(a) "Account" means any of the following:

(*i*) A demand deposit account.

(*ii*) A draft account.

(*iii*) A checking account.

(*iv*) A negotiable order of withdrawal account.

(*v*) A share account.

(*vi*) A savings account.

(*vii*) A time savings account.

(*viii*) A mutual fund account.

(*ix*) A securities brokerage account.

(*x*) A money market account.

(*xi*) A retail investment account.

(b) "Account" does not mean any of the following:

(*i*) A trust.

(*ii*) An annuity.

(*iii*) A qualified individual retirement account.

(*iv*) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(*v*) A pension or retirement plan.

(*vi*) An insurance policy.

(c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact the account holder.

(d) "Cash" means money or the equivalent of money, such as a money order, cashier's check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.

(e) "Custody or parenting time order violation" means an individual's act or failure to act that interferes with a parent's right to interact with his or her child in the time, place, and manner established in the order that governs custody or parenting time between the parent and the child and to which the individual accused of interfering is subject.

(f) "Department" means the family independence agency.

(g) "Domestic relations matter" means a circuit court proceeding as to child custody or parenting time, or child or spousal support, that arises out of litigation under a statute of this state, including, but not limited to, the following:

(*i*) 1846 RS 84, MCL 552.1 to 552.45.

(*ii*) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(*iii*) Child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(*iv*) 1968 PA 293, MCL 722.1 to 722.6.

(*v*) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(*vi*) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(*vii*) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(h) "Driver's license" means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

(i) "Employer" means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.

(j) "Financial asset" means a deposit, account, money market fund, stock, bond, or similar instrument.

(k) "Financial institution" means any of the following:

(*i*) A state or national bank.

(*ii*) A state or federally chartered savings and loan association.

(*iii*) A state or federally chartered savings bank.

(*iv*) A state or federally chartered credit union.

(*v*) An insurance company.

(*vi*) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(*vii*) An entity regulated by the securities and exchange commission that collects funds from the public.

(*viii*) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(*ix*) Another entity that collects funds from the public.

(*l*) "Friend of the court act" means 1982 PA 294, MCL 552.501 to 552.535.

(m) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, MCL 552.502. The term "friend of the court case", when used in a provision of this act, is not effective until on and after the effective date of section 5a of the friend of the court act, MCL 552.505a.

(n) "Income" means any of the following:

(*i*) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers.

(*ii*) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker's compensation.

(*iii*) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.

(o) "Insurer" means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:

(*i*) Public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(*ii*) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(*iii*) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(p) "Medical assistance" means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(q) "Occupational license" means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that

allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.

(r) "Office of child support" means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(s) "Office of the friend of the court" means an agency created in section 3 of the friend of the court act, MCL 552.503.

(t) "Order of income withholding" means an order entered by the circuit court providing for the withholding of a payer's income to enforce a support order under this act.

(u) "Payer" means an individual who is ordered by the circuit court to pay support.

(v) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(w) "Plan administrator" means that term as used in relation to a group health plan under section 609 of part 6 of subtitle B of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act.

(x) "Political subdivision" means a county, city, village, township, educational institution, school district, or special district or authority of the state or of a local unit of government.

(y) "Recipient of support" means the following:

(*i*) The spouse, if the support order orders spousal support.

(*ii*) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(*iii*) The department, if support has been assigned to that department.

(z) "Recreational or sporting license" means a hunting, fishing, or fur harvester's license issued under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, but does not include a commercial fishing license or permit issued under part 473 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.47301 to 324.47362.

(aa) "Referee" means a person who is designated as a referee under the friend of the court act.

(bb) "Source of income" means an employer or successor employer or another individual or entity that owes or will owe income to the payer.

(cc) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(dd) "State friend of the court bureau" means that bureau as created in the state court administrative office under section 19 of the friend of the court act, MCL 552.519.

(ee) "Support" means all of the following:

(*i*) The payment of money for a child or a spouse ordered by the circuit court, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(*ii*) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.

(*iii*) A surcharge accumulated under section 3a.

(ff) "Support order" means an order entered by the circuit court for the payment of support, whether or not a sum certain.

(gg) "Title IV-D" means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

(hh) "Title IV-D agency" means the agency in this state performing the functions under title IV-D and includes a person performing those functions under contract including an office of the friend of the court or a prosecuting attorney.

(ii) "Work activity" means any of the following:

(*i*) Unsubsidized employment.

(*ii*) Subsidized private sector employment.

(*iii*) Subsidized public sector employment.

(*iv*) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available.

(*v*) On-the-job training.

(*vi*) Referral to and participation in the work first program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.

(*vii*) Community service programs.

(*viii*) Vocational educational training, not to exceed 12 months with respect to an individual.

(*ix*) Job skills training directly related to employment.

(*x*) Education directly related to employment, in the case of an individual who has not received a high school diploma or a certificate of high school equivalency.

(*xi*) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of an individual who has not completed secondary school or received such a certificate.

(*xii*) The provisions of child care services to an individual who is participating in a community service program.

552.605c Support order; monthly amounts; conversion; proration; applicability of excess payment against arrearage.

Sec. 5c. (1) All support orders shall be stated in monthly amounts payable on the first of each month in advance. A support obligation not paid by the last day of the month in which it accrues is past due. If a support order does not state the amount of support as a monthly amount, the support amount stated in the order shall be converted to a monthly amount using the formula established by the state court administrative office.

(2) If payments under a support order are being made in the amount required, through income withholding, pursuant to an installment payment order, or otherwise, and there are no preexisting arrearages, the friend of the court shall not consider the payer as having an arrearage if a periodic temporary arrearage is created based upon the conversion of the monthly support order to an income withholding order or other payment schedule and which results from a divergence between the cycle of payments under the income withholding or payment schedule and the cycle of charges.

(3) If a support order takes effect on other than the first day of a month, the monthly amount is prorated based on the daily amount for that month. A monthly support order amount shall be prorated for the last month in which the order is in effect.

(4) If the title IV-D agency receives a support payment that, at the time of its receipt, exceeds a payer's support amount payable plus an amount payable under an arrearage payment schedule, the title IV-D agency shall apply the excess against the payer's total arrearage accrued under all support orders under which the payer is obligated. If a balance remains after application against the total arrearage, the title IV-D agency shall do 1 of the following:

(a) If the payer designates the balance as additional support, immediately disburse that amount to the recipient of support.

(b) If, at the time the payment is received, the payer is obligated under a support order for a future support payment and the balance is less than or equal to the monthly support order amount, retain the balance and disburse it to the recipient of support immediately when the amount is payable as support.

(c) If, at the time the payment is received, the payer is not obligated for a future support payment, or the payer is obligated under a support order for a future support payment but the balance is greater than the monthly support order amount, return the balance to the payer.

552.625a Lien; creation; effect; full faith and credit to liens created in other states; priority; notice.

Sec. 25a. (1) The amount of past due support that accrues under a judgment as provided in section 3 or under the law of another state constitutes a lien in favor of the recipient of support against the real and personal property of a payer, other than financial assets pledged to a financial institution as collateral or financial assets to which a financial institution has a prior right of setoff or other lien. The lien is effective at the time that the support is due and unpaid and shall continue until the amount of past due support is paid in full or the lien is terminated by the IV-D agency.

(2) Liens that arise in other states shall be accorded full faith and credit when the requirements of section 25b or 25c are met.

(3) A lien created under subsection (1) is subordinate to a prior perfected lien. All liens created under subsection (1) and described in subsection (2) have equal priority.

(4) Before a lien is perfected or levied under this act, the title IV-D agency shall send a notice to the payer subject to the support order informing the payer of the imposition of liens by operation of law and that the payer's real and personal property can be encumbered or seized if an arrearage accrues in an amount that exceeds the amount of periodic support payments payable under the payer's support order for the time period specified in this act.

(5) The title IV-D agency or another person required to provide notice under this section or sections 25b to 25i shall provide notice by paper, unless the person to be notified agrees to notice by other means. The title IV-D agency or other person providing notice under this section or sections 25b to 25i shall complete and preserve proof of service of the notice in a form substantially conforming to the requirements for proof of service under the Michigan court rules.

552.625b Remedy as cumulative; lien; perfection; notice; review procedures; enforcement; termination; disclosure of information.

Sec. 25b. (1) A remedy provided by this section is cumulative and does not affect the availability of another remedy under this act or other law.

(2) Except for a financial asset to which section 25c applies, the title IV-D agency may perfect a lien created under section 25a upon the real or personal property of the payer

when an arrearage has accrued in an amount that exceeds 2 times the monthly amount of periodic support payments payable under the payer's support order.

(3) If the arrearage under subsection (2) is reached and the title IV-D agency has determined that the delinquent payer holds real or personal property, other than a financial asset to which section 25c applies, the title IV-D agency may perfect the lien. The title IV-D agency shall perfect a lien on property to which this section applies in the same manner in which another lien on property of the same type is perfected.

(4) The title IV-D agency shall notify the payer when the title IV-D agency has perfected a lien against real or personal property of the payer. The notice shall be sent by ordinary mail to the payer's last known address, and a copy of the notice shall be sent by ordinary mail to the recipient of support. A notice under this subsection shall include all of the following:

(a) The amount of the arrearage.

(b) That a lien is in effect on the real or personal property of the payer.

(c) That the property is subject to seizure unless the payer responds by paying the arrearage or requesting a review within 21 days after the date of mailing the notice.

(d) That, at the review, the payer may object to the lien and to proposed action based on a mistake of fact concerning the overdue support amount or the payer's identity.

(e) That, if the payer believes that the amount of support ordered should be modified because of a change in circumstances, the payer may file a petition with the court for modification of the support order.

(5) Within 21 days after the date on which the notice described in subsection (4) is mailed to a payer, the payer may request a review on the lien and the proposed action. If the payer requests a review under this subsection, the title IV-D agency shall conduct the review within 14 days after the date of the request.

(6) If, at the review, the payer establishes that the lien is not proper because of a mistake of fact, the title IV-D agency shall terminate the lien and, within 7 days, notify the applicable entity that the lien is terminated.

(7) If the payer fails to request a review, to appear for a review, or to establish a mistake of fact, the title IV-D agency may collect the arrearage by levy upon any property belonging to the payer as provided in this section. The title IV-D agency shall notify the payer at the review or by written notice of its intent to levy.

(8) To enforce a lien on real property or personal property, the title IV-D agency may sell the real property in the manner provided by law for the judicial foreclosure of mortgage liens; apply to the circuit court for an order to execute the judgment, to appoint a receiver of the real and personal property subject to the lien, and to order the property and its income to be applied to the amount of the judgment; or take any other appropriate action to enforce the judgment. The title IV-D agency shall mail a copy of orders under this subsection to the payer and recipient of support at his or her last known address.

(9) A payer may request that the title IV-D agency terminate a lien against the real and personal property of the payer on the basis that the payer is no longer in arrears. If the payer is no longer in arrears, the title IV-D agency shall terminate the lien in accordance with law.

(10) An entity is not liable under any federal or state law to any person for any disclosure of information to the title IV-D agency under this section or for any other action taken in good faith to comply with the requirements of this section.

552.625c Remedy as cumulative; payer's financial assets held by financial institution; notice of lien and levy; form; notice of withdrawal; release of assets.

Sec. 25c. (1) A remedy provided by this section is cumulative and does not affect the availability of another remedy under this act or other law.

(2) If a payer's financial assets held by a financial institution are subject to a lien under section 25a and an arrearage has accrued in an amount that exceeds 2 times the monthly amount of periodic support payments payable under the payer's support order, the title IV-D agency may levy against the payer's financial assets held by a financial institution. To levy against a payer's financial assets, the title IV-D agency shall serve the financial institution holding the financial assets with a notice of the lien and levy, directing the financial institution to freeze the payer's financial assets held by the financial institution.

(3) The office of child support, in consultation with the state court administrative office, shall create the form that is required for the notice to a financial institution under subsection (2). The form shall include, or provide for inclusion of, at least all of the following:

(a) The levy amount.

(b) Information that enables the financial institution to link the payer with his or her financial assets and to notify the payer.

(c) Information on how to contact the title IV-D agency.

(d) Statements setting forth the rights and responsibilities of the financial institution and payer.

(4) A title IV-D agency may withdraw a levy under this section at any time before the circuit court considers or hears the matter in an action filed under section 25f. The title IV-D agency shall give notice of the withdrawal to the payer and financial institution. Upon receiving notice of a withdrawal of a levy, the financial institution shall release the payer's financial assets by the close of business on 1 of the following days:

(a) If the notice is received before noon, the first business day after the business day on which the notice is received.

(b) If the notice is received at noon or later, the second business day after the business day on which the notice is received.

552.625d Obligation or liability of financial institutions; limitations.

Sec. 25d. (1) A financial institution incurs no obligation or liability to a depositor, account holder, or other person arising from the furnishing of information under sections 25c to 25i or from the failure to disclose to a depositor, account holder, or other person that the person's name as a person with an interest in the financial assets was included in the information provided.

(2) A financial institution incurs no obligation or liability to the title IV-D agency or another person for an error or omission made in good faith compliance with sections 25c to 25i.

(3) A financial institution incurs no obligation or liability for blocking, freezing, placing a hold upon, forwarding, or otherwise dealing with a person's financial assets in response to a lien or levy imposed or information provided under sections 25c to 25i.

(4) A financial institution is not obligated to block, freeze, place a hold upon, forward, or otherwise deal with a person's financial assets until served with the notice of levy in accordance with section 25c. A financial institution that forwards financial assets to the

title IV-D agency in response to a levy under section 25c is discharged from any obligation or liability to the depositor, account holder, or other person with an interest in the financial assets that are forwarded to the title IV-D agency.

552.625e Freeze of payer's financial assets; execution; notice.

Sec. 25e. (1) When a financial institution receives a notice of levy on a payer's financial assets held by the financial institution under section 25c, the financial institution shall freeze those financial assets. If the payer's financial assets held by a financial institution exceed the levy amount, the financial institution shall freeze those financial assets up to the levy amount. A financial institution shall execute the freeze of a payer's financial assets under this section by the close of business on 1 of the following days:

(a) If the notice is received before noon, the first business day after the business day on which the notice is received.

(b) If the notice is received at noon or later, the second business day after the business day on which the notice is received.

(2) After complying with subsection (1), a financial institution shall give notice of that compliance to the title IV-D agency, the payer, and each other person with an interest in the financial assets as shown in the financial institution's records. A financial institution's notice to a payer under this subsection shall include a copy of the title IV-D agency notice to the financial institution.

552.625f Levy on financial assets; challenge; procedures.

Sec. 25f. (1) A payer whose financial assets are levied on under section 25c or a person with an interest in those assets may challenge the levy by submitting a written challenge with the title IV-D agency at the location specified in the title IV-D agency notice. A payer or other person with an interest must submit a written challenge under this section within 21 days after the financial institution sends the payer a copy of the title IV-D agency notice as required by section 25e. A challenge to a levy under section 25c is governed by this act and is not subject to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. A payer or other person with an interest who submits a challenge under this subsection may withdraw the challenge at any time by giving notice of the withdrawal to the title IV-D agency.

(2) If the title IV-D agency receives a written challenge from a payer or other person with an interest within the time limit required by subsection (1), the title IV-D agency shall notify the financial institution about the challenge and, within 7 days, shall review the case with the challenger. The title IV-D agency shall consider only a mistake in the payer's identity or in the amount of the payer's past due support, or another mistake of fact, as cause to release or modify the levy. If the title IV-D agency determines that a mistake of fact occurred, the title IV-D agency shall do 1 of the following:

(a) If the mistake is the payer's identity or that the payer does not owe past due support in an amount equal to or greater than 2 times the payer's monthly support amount under a support order, notify the financial institution and the payer that the levy is released.

(b) If the payer does owe past due support in an amount equal to or greater than 2 times the payer's monthly support amount under a support order, but the amount in the notice to levy is more than the payer owes, notify the payer of the corrected amount.

(c) If the mistake concerns a fact other than those described in subdivisions (a) and (b), take action appropriate to the mistake.

(3) If the title IV-D agency finds no mistake of fact, the title IV-D agency shall notify the payer or other person with an interest of that finding.

(4) If the payer or other person with an interest disagrees with the title IV-D agency review determination under this section, the payer or other person with an interest may challenge the levy under section 25c by filing an action in the circuit court that issued a support order that is an underlying basis for the levy. A payer or other person with an interest must file an action under this subsection within 21 days after the title IV-D agency sends notice of its review determination and shall give the title IV-D agency notice of the action.

(5) If an action is not filed in the circuit court within the time limit required by subsection (4), the title IV-D agency shall notify the financial institution, directing the financial institution to act in accordance with the title IV-D agency review determination under this section. If an action is filed in the circuit court within the time limit prescribed in subsection (4), the title IV-D agency shall notify the financial institution, directing the financial institution to act in accordance with the court decision.

552.625g Forwarding money by financial institution.

Sec. 25g. (1) A financial institution that receives a notice of levy under section 25c shall forward money in the amount of past due support as stated in the notice, or in the corrected amount if notified of a corrected amount, to the state disbursement unit, along with information necessary to identify the payer as required by the notice.

(2) A financial institution shall forward money as required by subsection (1) no sooner than the next day and no later than the seventh day after 1 of the following takes place:

(a) The financial institution notifies the payer and the title IV-D agency that the payer's financial assets are frozen as required by section 25e and has not received, within 28 days after the day on which the financial institution sent the notices, a notice from the title IV-D agency that the payer or another person with an interest in the financial assets has submitted a challenge to the levy under section 25f.

(b) The financial institution receives, within the time limit prescribed in subdivision (a), a notice from the title IV-D agency that the payer or another person with an interest in the financial assets submitted a challenge to the levy and receives the subsequent title IV-D agency notice required by section 25f, directing the financial institution to act in accordance with either the title IV-D agency review determination or the circuit court decision.

(3) If, in order to forward sufficient money to the SDU, the financial institution must convert 1 or more financial assets to cash, the financial institution shall execute the conversion, assessing a resulting fee or other cost or penalty against the payer. If the payer's financial assets are insufficient to pay the past due support amount plus resulting fees and other costs or penalties, the financial institution may deduct the fees, costs, and penalties before forwarding the balance of the money.

552.625h Circuit court review.

Sec. 25h. (1) If an action is filed in circuit court within the time limit prescribed in section 25f, the circuit court shall review the matter de novo. The action is governed by this section and the Michigan court rules. The circuit court review is not limited to mistakes of fact.

(2) All of the following apply in an action governed by this section:

(a) The circuit court shall only address the issues of the propriety of the levy and whether the levy amount is correct.

(b) The circuit court shall not admit evidence or consider an issue that is related to custody, parenting time, or the amount of support under a support order unless that evidence is related to the levy against a payer's financial assets.

(c) The circuit court shall not modify a support order. A court finding regarding a monthly or past due support amount does not modify the underlying support order.

552.625i Return of forwarded money to payer; reimbursement of fee, cost, or penalty; interest; allocations.

Sec. 25i. (1) If, after a financial institution forwards money to the state disbursement unit, all of the forwarded money is returned to the payer due to a mistake of fact or court order, the title IV-D agency shall reimburse the payer for a fee, cost, or penalty that the financial institution assessed against the payer under section 25g. In addition, the IV-D agency shall compensate the payer for the amount of interest that the financial assets would have earned had they not been converted and forwarded to the SDU, to the extent that the interest can be determined with a reasonable degree of certainty.

(2) If the total amount of past due support the payer owes under all support orders subject to levy under section 25c is more than the amount of money a financial institution forwards the SDU under section 25g, the SDU shall allocate the money among those support orders by multiplying the total amount of money forwarded by the percentages arrived at by dividing the past due support amount under each of those support orders by the total of the past due support amounts under all of those support orders.

552.628 Order to suspend payer's occupational, driver's, or recreational or sporting license; petition by office of friend of the court; circumstances; notice to payer.

Sec. 28. (1) For a friend of the court case, the office of the friend of the court may petition the court for an order to suspend a payer's occupational license, driver's license, or recreational or sporting license, or any combination of the licenses, if all of the following circumstances are true:

(a) An arrearage has accrued in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

(b) The payer holds an occupational license, driver's license, or recreational or sporting license or the payer's occupation requires an occupational license.

(c) An order of income withholding is not applicable or has been unsuccessful in assuring regular payments on the support obligation and regular payments on the arrearage.

(2) An office of the friend of the court shall not file a petition as authorized under subsection (1) unless the office sends the payer a notice that includes all of the following information:

(a) The amount of the arrearage.

(b) That the payer's occupational license, driver's license, or recreational or sporting license, or any combination of the licenses, may be subject to an order of suspension.

(c) That the suspension order will be entered and sent to the licensing agency unless the payer responds by paying the arrearage or requesting a hearing within 21 days after the date of mailing the notice.

(d) That, at the hearing, the payer may do either of the following:

(*i*) Object to the proposed suspension based on a mistake of fact concerning the overdue support amount or the payer's identity.

(*ii*) Suggest to the court a schedule for the payment of the arrearage.

(e) That, if the payer believes that the amount of support ordered should be modified due to a change in circumstances, the payer may file a petition with the court for modification of the support order.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 6012 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

Compiler's note: House Bill No. 6012, referred to in enacting section 2, was filed with the Secretary of State October 3, 2002, and became P.A. 2002, No. 572, Eff. Dec. 1, 2002.

[No. 566]

(HB 6005)

AN ACT to amend 1969 PA 317, entitled "An act to revise and consolidate the laws relating to worker's disability compensation; to increase the administrative efficiency of the adjudicative processes of the worker's compensation system; to improve the qualifications of the persons having adjudicative functions within the worker's compensation system; to prescribe certain powers and duties; to create the board of worker's compensation magistrates and the worker's compensation appellate commission; to create certain other boards; to provide certain procedures for the resolution of claims, including mediation and arbitration; to prescribe certain benefits for persons suffering a personal injury under the act; to prescribe certain limitations on obtaining benefits under the act; to create, and provide for the transfer of, certain funds; to prescribe certain fees; to prescribe certain remedies and penalties; to repeal certain parts of this act on specific dates; and to repeal certain acts and parts of acts," by amending section 230 (MCL 418.230), as amended by 2000 PA 396.

The People of the State of Michigan enact:

418.230 Confidential records; exceptions; power of court to subpoena records not limited; definition.

Sec. 230. (1) Except as otherwise provided in this section, the following records are confidential and exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:

(a) Records submitted by an individual employer or a group of employers to the bureau in support of an application for self-insured status in the manner provided in section 611.

(b) Information concerning the injury of and benefits paid to an individual worker. This includes, but is not limited to, all forms, records, and reports filed with or maintained by the bureau concerning the injury of or benefits paid to a worker.

(c) Worker's disability compensation insurance policy information submitted to the bureau by an individual employer or group of employers in accordance with section 615 or a notice of issuance of a policy submitted to the bureau by an insurer in accordance with section 625.

(2) The bureau may release, disclose, or publish information described in subsection (1) under the following circumstances:

(a) In the case of subsection (1)(a), (b), or (c), the bureau may disclose or publish aggregate information for statistical or research purposes so long as it is disclosed or published in such a way that the confidentiality of information concerning individual workers and the financial records of individual employers or self-insured employers or insurers is protected. The bureau may also release individual records to a recognized academic or scholarly institution for research purposes if it is provided with sufficient assurance that the outside individual or agency will preserve the confidentiality of information concerning individual workers and the financial records of individual self-insured employers.

(b) In the case of subsection (1)(b), the bureau may release information to another governmental agency if the governmental agency provides the bureau with sufficient assurance that it will preserve the confidentiality of the information. The other agency may use this information to determine the eligibility of an individual for benefits provided or regulated by that agency. The bureau or another agency may disclose the information if it determines that the individual is receiving benefits to which he or she is not entitled as the result of receiving more than 1 benefit at the same time.

(c) Except as otherwise provided, information disclosed in accordance with subdivision (a) or (b) shall continue to be exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(d) In the case of subsection (1)(b), the bureau may release individual records to a nonprofit health care corporation, as defined in section 105 of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1105, for the sole purpose of determining financial liability for the payment of benefits provided by the corporation. Any information provided to the nonprofit health care corporation shall be confidential, as provided in section 406 of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1406. In a dispute over who assumes liability for the payment of benefits for a particular claim, the nonprofit health care corporation shall initiate payment of benefits pending resolution of the dispute.

(e) In the case of subsection (1)(c), in response to a request that pertains to a specific employer and includes the employer's address and the date of injury of the claim for which the information is requested, the bureau may disclose the name and address of the insurer that, according to the records of the bureau, provided coverage on the date of injury, but shall not disclose the effective date or expiration date of the policy.

(3) The confidentiality provided for in subsection (1) does not apply to records maintained by the bureau that are part of or directly related to a contested case. For the purposes of this subsection, a matter shall be considered a contested case when it is the subject of a request for a formal hearing before the director or an application filed in accordance with section 847.

(4) Any employee is entitled to inspect and obtain a copy of any record maintained by the bureau concerning himself or herself. Any employer is entitled to inspect and obtain a copy of any record maintained by the bureau concerning itself.

(5) The confidentiality provided for in subsection (1)(a) does not apply to the records of a self-insured employer that becomes unable to pay benefits under this act due to insolvency or declaration of bankruptcy.

(6) This section does not limit the power of a court of law to subpoena records relevant to a matter pending before it.

(7) Notwithstanding this section, the bureau shall release information to the IV-D agency in accordance with section 4 of the office of child support act, 1971 PA 174, MCL 400.231 to 400.239. As used in this subsection, "IV-D agency" means that term as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2002.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

[No. 567]

(HB 6006)

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 2, 31, 32, 33, and 35 (MCL 552.602, 552.631, 552.632, 552.633, and 552.635), section 2 as amended by 1999 PA 160, sections 31 and 32 as amended by 2000 PA 442, and sections 33 and 35 as amended by 1998 PA 334.

The People of the State of Michigan enact:

552.602 Definitions.

Sec. 2. As used in this act:

(a) "Account" means any of the following:

(*i*) A demand deposit account.

(*ii*) A draft account.

(*iii*) A checking account.

(*iv*) A negotiable order of withdrawal account.

(*v*) A share account.

(*vi*) A savings account.

(*vii*) A time savings account.

(*viii*) A mutual fund account.

(*ix*) A securities brokerage account.

(*x*) A money market account.

(*xi*) A retail investment account.

(b) "Account" does not mean any of the following:

(*i*) A trust.

(*ii*) An annuity.

(*iii*) A qualified individual retirement account.

(*iv*) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(*v*) A pension or retirement plan.

(*vi*) An insurance policy.

(c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact the account holder.

(d) "Cash" means money or the equivalent of money, such as a money order, cashier's check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.

(e) "Custody or parenting time order violation" means an individual's act or failure to act that interferes with a parent's right to interact with his or her child in the time, place, and manner established in the order that governs custody or parenting time between the parent and the child and to which the individual accused of interfering is subject.

(f) "Department" means the family independence agency.

(g) "Domestic relations matter" means a circuit court proceeding as to child custody or parenting time, or child or spousal support, that arises out of litigation under a statute of this state, including, but not limited to, the following:

(*i*) 1846 RS 84, MCL 552.1 to 552.45.

(*ii*) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(*iii*) Child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(*iv*) 1968 PA 293, MCL 722.1 to 722.6.

(*v*) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(*vi*) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(*vii*) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(h) "Driver's license" means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

(i) "Employer" means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.

(j) "Financial asset" means a deposit, account, money market fund, stock, bond, or similar instrument.

(k) "Financial institution" means any of the following:

(*i*) A state or national bank.

(*ii*) A state or federally chartered savings and loan association.

(*iii*) A state or federally chartered savings bank.

(*iv*) A state or federally chartered credit union.

(*v*) An insurance company.

(*vi*) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(*vii*) An entity regulated by the securities and exchange commission that collects funds from the public.

(*viii*) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(*ix*) Another entity that collects funds from the public.

(*l*) "Friend of the court act" means 1982 PA 294, MCL 552.501 to 552.535.

(m) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, MCL 552.502. The term "friend of the court case", when used in a provision of this act, is not effective until on and after the effective date of section 5a of the friend of the court act, MCL 552.505a.

(n) "Income" means any of the following:

(*i*) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers.

(*ii*) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker's compensation.

(*iii*) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.

(o) "Insurer" means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:

(*i*) Public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(*ii*) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(*iii*) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(p) "Medical assistance" means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(q) "Occupational license" means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.

(r) "Office of child support" means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(s) "Office of the friend of the court" means an agency created in section 3 of the friend of the court act, MCL 552.503.

(t) "Order of income withholding" means an order entered by the circuit court providing for the withholding of a payer's income to enforce a support order under this act.

(u) "Payer" means an individual who is ordered by the circuit court to pay support.

(v) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(w) "Plan administrator" means that term as used in relation to a group health plan under section 609 of part 6 of subtitle B of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act.

(x) "Political subdivision" means a county, city, village, township, educational institution, school district, or special district or authority of the state or of a local unit of government.

(y) "Recipient of support" means the following:

(*i*) The spouse, if the support order orders spousal support.

(*ii*) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(*iii*) The department, if support has been assigned to that department.

(z) "Recreational or sporting license" means a hunting, fishing, or fur harvester's license issued under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, but does not include a commercial fishing license or permit issued under part 473 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.47301 to 324.47362.

(aa) "Referee" means a person who is designated as a referee under the friend of the court act.

(bb) "Source of income" means an employer or successor employer or another individual or entity that owes or will owe income to the payer.

(cc) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(dd) "State friend of the court bureau" means that bureau as created in the state court administrative office under section 19 of the friend of the court act, MCL 552.519.

(ee) "Support" means all of the following:

(*i*) The payment of money for a child or a spouse ordered by the circuit court, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(*ii*) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.

(*iii*) A surcharge accumulated under section 3a.

(ff) "Support order" means an order entered by the circuit court for the payment of support, whether or not a sum certain.

(gg) "Title IV-D" means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

(hh) "Title IV-D agency" means the agency in this state performing the functions under title IV-D and includes a person performing those functions under contract including an office of the friend of the court or a prosecuting attorney.

(ii) "Work activity" means any of the following:

(*i*) Unsubsidized employment.

(*ii*) Subsidized private sector employment.

(*iii*) Subsidized public sector employment.

(*iv*) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available.

(*v*) On-the-job training.

(*vi*) Referral to and participation in the work first program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.

(*vii*) Community service programs.

(*viii*) Vocational educational training, not to exceed 12 months with respect to an individual.

(*ix*) Job skills training directly related to employment.

(*x*) Education directly related to employment, in the case of an individual who has not received a high school diploma or a certificate of high school equivalency.

(*xi*) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of an individual who has not completed secondary school or received such a certificate.

(*xii*) The provisions of child care services to an individual who is participating in a community service program.

552.631 Failure or refusal to obey and perform support order; civil contempt proceeding; failure to appear; bench warrant; bond or cash deposit; payment and disposition of costs.

Sec. 31. (1) If a person is ordered to pay support under a support order and fails or refuses to obey and perform the order, and if an order of income withholding is inapplicable or unsuccessful, a recipient of support or the office of the friend of the court may commence a civil contempt proceeding by filing in the circuit court a petition for an order to show cause why the delinquent payer should not be held in contempt. If the payer fails to appear in response to an order to show cause, the court shall do 1 or more of the following:

(a) Find the payer in contempt for failure to appear.

(b) Find the payer in contempt for the reasons stated in the motion for the show cause hearing.

(c) Apply an enforcement remedy authorized under this act or the friend of the court act for the nonpayment of support.

(d) Issue a bench warrant for the payer's arrest requiring that the payer be brought before the court without unnecessary delay for further proceedings in connection with the show cause or contempt proceedings.

(e) Adjourn the hearing.

(f) Dismiss the order to show cause if the court determines that the payer is not in contempt.

(2) In a bench warrant issued under this section, the court shall decree that the payer is subject to arrest if apprehended or detained anywhere in this state and shall require that, upon arrest, unless the payer deposits a cash performance bond in the manner required by section 32, the payer shall remain in custody until the time of the hearing. The court shall specify in the bench warrant the cash performance bond amount. The court shall set the cash performance bond at not less than $500.00 or 25% of the arrearage, whichever is greater. At its own discretion, the court may set the cash performance bond at an amount up to 100% of the arrearage and add to the amount of the required deposit the amount of the costs the court may require under subsection (3).

(3) If the court issues a bench warrant under this section, except for good cause shown on the record, the court shall order the payer to pay the costs related to the hearing, issuance of the warrant, arrest, and further hearings. Those costs and costs ordered for failure to appear under section 32 or 44 shall be transmitted to the county treasurer for distribution as required in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530.

552.632 Payer arrested under bench warrant; cash performance bond; hearing on order to show cause; form of bond receipt; failure to appear; transmission and deposit of bond; setting aside contempt finding.

Sec. 32. (1) If a bench warrant was issued and the payer is arrested in the county that issued the warrant or another county in this state, the payer shall remain in custody until there is a hearing or the payer posts an adequate cash performance bond. If the payer cannot post the cash performance bond in the amount stated in the bench warrant, the payer is entitled to a hearing within 48 hours, excluding weekends and holidays. The issues to be considered at a hearing required under this subsection are limited to the payer's answer to the order to show cause and, if the payer was found in contempt, to further proceedings related to the payer's contempt. If the hearing is not held as provided in this subsection, the court shall review, based on criteria prescribed in the Michigan court rules, the amount of the cash performance bond to determine an amount that will ensure the payer's appearance and shall set a date for a hearing to be held under subsection (4) within the time limit prescribed in the Michigan court rules.

(2) The officer receiving a cash performance bond under subsection (1) shall give to the arrested payer a receipt for the cash performance bond on a form substantially as follows:

"Date_____

Received from _____ (referred to in this receipt as "the payer") to assure the performance of the payer's support obligation. The payer shall appear for hearing at a date noticed to the payer by the court at the following address:

_____

(address furnished by the payer for receipt of notice)

The hearing is for the payer to answer the show cause order and, if the payer was found in contempt, to further proceedings related to the payer's contempt.

If the payer fails to appear at the time and place indicated in the court's notice, fails to submit to the jurisdiction of the court, and fails to abide by an order of the court, the cash performance bond shall be transmitted to the friend of the court or to the state disbursement unit for payment of the arrearage to the recipient of support and of costs to the court. If the payer appears at the time and place indicated above and the court determines that the payer owes an arrearage under the support order that is the basis of

the order to show cause or owes costs to the court, the cash performance bond deposited shall be transmitted to the office of the friend of the court or to the state disbursement unit for payment of the arrearage to the recipient of support and of costs to the court. By depositing the cash performance bond with the officer and accepting this receipt, the recipient of this receipt waives a claim to the money under the cash performance bond following its transmittal to the friend of the court or to the SDU.

_____

Officer:_____Dept.:_____".

(3) The officer receiving a cash performance bond shall in turn deposit the bond received under this section with the clerk of the court that issued the bench warrant. If the payer deposits a cash performance bond under this section, the date for a hearing to be held under subsection (4) shall be set within the time limit prescribed in the Michigan court rules.

(4) At a hearing held after a payer deposits a cash performance bond, the issues to be considered are limited to the payer's answer to the order to show cause and, if the payer was found in contempt, to further proceedings related to the payer's contempt. On the basis of the hearing, the court by order shall determine how much of the cash performance bond deposited under this section is to be transmitted to the friend of the court or to the SDU for payment to 1 or more recipients of support and to the county treasurer for distribution as provided in section 31. The balance, if any, shall be returned to the person who posted the cash performance bond on the payer's behalf.

(5) If the payer fails to appear as required, the court shall order the cash performance bond forfeited and transmit the bond to the friend of the court or to the SDU for payment to 1 or more recipients of support and to the county treasurer for distribution as provided in section 31. In addition, the court may again issue a bench warrant for the further appearance of the payer as provided in section 31.

(6) The court may set aside a finding of contempt under section 31 if the court finds, based on the hearing under this section, that the payer is in compliance with the court's order or for other good cause shown.

552.633 Finding payer in contempt; presumption; proof of currently available resources; orders; noncompliance with arrearage payment schedule; suspension of license.

Sec. 33. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and if the court is satisfied that the payer has the capacity to pay out of currently available resources all or some portion of the amount due under the support order. In the absence of proofs to the contrary introduced by the payer, the court shall presume that the payer has currently available resources equal to 4 weeks of payments under the support order. The court shall not find that the payer has currently available resources of more than 4 weeks of payments without proof of those resources by the office of the friend of the court or the recipient of support. Upon finding a payer in contempt of court under this section, the court may immediately enter an order doing 1 or more of the following:

(a) Committing the payer to the county jail.

(b) Committing the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to go to and return from his or her place of employment.

(c) Committing the payer to a penal or correctional facility in this state that is not operated by the state department of corrections.

(d) If the payer holds an occupational license, driver's license, or recreational or sporting license, conditioning a suspension of the payer's license, or any combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

(e) Ordering the payer to participate in a work activity. This subdivision does not alter the court's authority to include provisions in an order issued under this section concerning a payer's employment or his or her seeking of employment as that authority exists on August 10, 1998.

(f) If available within the court's jurisdiction, order the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(2) If the court enters an order under subsection (1)(d) and the payer fails to comply with the arrearage payment schedule, after notice and opportunity for a hearing, the court shall order suspension of the payer's license or licenses with respect to which the order under subsection (1)(d) was entered and shall proceed under section 30.

552.635 Finding payer in contempt; orders; release from county jail of unemployed payer who finds employment; noncompliance with arrearage payment schedule; suspension of license.

Sec. 35. (1) The court may find a payer in contempt if the court finds that the payer is in arrears and if the court is satisfied that by the exercise of diligence the payer could have the capacity to pay all or some portion of the amount due under the support order and that the payer fails or refuses to do so.

(2) Upon finding a payer in contempt of court under this section, the court may immediately enter an order doing 1 or more of the following:

(a) Committing the payer to the county jail with the privilege of leaving the jail during the hours the court determines, and under the supervision the court considers, necessary for the purpose of allowing the payer to go to and return from his or her place of employment or, if the person wishes to seek employment, to seek employment.

(b) If the payer holds an occupational license, driver's license, or recreational or sporting license, conditioning a suspension of the payer's license, or any combination of the licenses, upon noncompliance with an order for payment of the arrearage in 1 or more scheduled installments of a sum certain. A court shall not order the sanction authorized by this subdivision unless the court finds that the payer has accrued an arrearage of support payments in an amount greater than the amount of periodic support payments payable for 2 months under the payer's support order.

(c) Ordering the payer to participate in a work activity. This subdivision does not alter the court's authority to include provisions in an order issued under this section concerning a payer's employment or his or her seeking of employment as that authority exists on August 10, 1998.

(d) If available within the court's jurisdiction, order the payer to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(3) Notwithstanding the length of commitment imposed under this section, the court may release a payer who is unemployed when committed to a county jail under this section and who finds employment if either of the following applies:

(a) The payer is self-employed, completes 2 consecutive weeks at his or her employment, and makes a support payment as required by the court.

(b) The payer is employed and completes 2 consecutive weeks at his or her employment and an order of income withholding is effective.

(4) If the court enters an order under subsection (2)(b) and the payer fails to comply with the arrearage payment schedule, after notice and an opportunity for a hearing, the court shall order suspension of the payer's license or licenses with respect to which the order under subsection (2)(b) was entered and shall proceed under section 30.

Effective date.

Enacting section 1. This amendatory act takes effect June 1, 2003.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

[No. 568]

(HB 6007)

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 2, 41, 42, 44, and 45 (MCL 552.602, 552.641, 552.642, 552.644, and 552.645), section 2 as amended by 1999 PA 160, sections 41 and 42 as amended by 1996 PA 25, and sections 44 and 45 as amended by 1998 PA 334, and by adding section 42a.

The People of the State of Michigan enact:

552.602 Definitions.

Sec. 2. As used in this act:

(a) "Account" means any of the following:

(*i*) A demand deposit account.

(*ii*) A draft account.

(*iii*) A checking account.

(*iv*) A negotiable order of withdrawal account.

(*v*) A share account.

(*vi*) A savings account.

(*vii*) A time savings account.

(*viii*) A mutual fund account.

(*ix*) A securities brokerage account.

(*x*) A money market account.

(*xi*) A retail investment account.

(b) "Account" does not mean any of the following:

(*i*) A trust.

(*ii*) An annuity.

(*iii*) A qualified individual retirement account.

(*iv*) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(*v*) A pension or retirement plan.

(*vi*) An insurance policy.

(c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact the account holder.

(d) "Cash" means money or the equivalent of money, such as a money order, cashier's check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.

(e) "Custody or parenting time order violation" means an individual's act or failure to act that interferes with a parent's right to interact with his or her child in the time, place, and manner established in the order that governs custody or parenting time between the parent and the child and to which the individual accused of interfering is subject.

(f) "Department" means the family independence agency.

(g) "Domestic relations matter" means a circuit court proceeding as to child custody or parenting time, or child or spousal support, that arises out of litigation under a statute of this state, including, but not limited to, the following:

(*i*) 1846 RS 84, MCL 552.1 to 552.45.

(*ii*) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(*iii*) Child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(*iv*) 1968 PA 293, MCL 722.1 to 722.6.

(*v*) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(*vi*) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(*vii*) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(h) "Driver's license" means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

(i) "Employer" means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.

(j) "Financial asset" means a deposit, account, money market fund, stock, bond, or similar instrument.

(k) "Financial institution" means any of the following:

(*i*) A state or national bank.

(*ii*) A state or federally chartered savings and loan association.

(*iii*) A state or federally chartered savings bank.

(*iv*) A state or federally chartered credit union.

(*v*) An insurance company.

(*vi*) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(*vii*) An entity regulated by the securities and exchange commission that collects funds from the public.

(*viii*) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(*ix*) Another entity that collects funds from the public.

(*l*) "Friend of the court act" means 1982 PA 294, MCL 552.501 to 552.535.

(m) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, MCL 552.502. The term "friend of the court case", when used in a provision of this act, is not effective until on and after the effective date of section 5a of the friend of the court act, MCL 552.505a.

(n) "Income" means any of the following:

(*i*) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers.

(*ii*) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker's compensation.

(*iii*) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.

(o) "Insurer" means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:

(*i*) Public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(*ii*) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(*iii*) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(p) "Medical assistance" means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(q) "Occupational license" means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.

(r) "Office of child support" means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(s) "Office of the friend of the court" means an agency created in section 3 of the friend of the court act, MCL 552.503.

(t) "Order of income withholding" means an order entered by the circuit court providing for the withholding of a payer's income to enforce a support order under this act.

(u) "Payer" means an individual who is ordered by the circuit court to pay support.

(v) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(w) "Plan administrator" means that term as used in relation to a group health plan under section 609 of part 6 of subtitle B of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act.

(x) "Political subdivision" means a county, city, village, township, educational institution, school district, or special district or authority of the state or of a local unit of government.

(y) "Recipient of support" means the following:

(*i*) The spouse, if the support order orders spousal support.

(*ii*) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(*iii*) The department, if support has been assigned to that department.

(z) "Recreational or sporting license" means a hunting, fishing, or fur harvester's license issued under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, but does not include a commercial fishing license or permit issued under part 473 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.47301 to 324.47362.

(aa) "Referee" means a person who is designated as a referee under the friend of the court act.

(bb) "Source of income" means an employer or successor employer or another individual or entity that owes or will owe income to the payer.

(cc) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(dd) "State friend of the court bureau" means that bureau as created in the state court administrative office under section 19 of the friend of the court act, MCL 552.519.

(ee) "Support" means all of the following:

(*i*) The payment of money for a child or a spouse ordered by the circuit court, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(*ii*) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.

(*iii*) A surcharge accumulated under section 3a.

(ff) "Support order" means an order entered by the circuit court for the payment of support, whether or not a sum certain.

(gg) "Title IV-D" means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

(hh) "Title IV-D agency" means the agency in this state performing the functions under title IV-D and includes a person performing those functions under contract including an office of the friend of the court or a prosecuting attorney.

(ii) "Work activity" means any of the following:

(*i*) Unsubsidized employment.

(*ii*) Subsidized private sector employment.

(*iii*) Subsidized public sector employment.

(*iv*) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available.

(*v*) On-the-job training.

(*vi*) Referral to and participation in the work first program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.

(*vii*) Community service programs.

(*viii*) Vocational educational training, not to exceed 12 months with respect to an individual.

(*ix*) Job skills training directly related to employment.

(*x*) Education directly related to employment, in the case of an individual who has not received a high school diploma or a certificate of high school equivalency.

(*xi*) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of an individual who has not completed secondary school or received such a certificate.

(*xii*) The provisions of child care services to an individual who is participating in a community service program.

552.641 Complaint alleging custody or parenting time order violation; duties of friend of court; declining to respond to violation; circumstances; compliance with § 552.519.

Sec. 41. (1) For a friend of the court case, a friend of the court shall do 1 or more of the following in response to an alleged custody or parenting time order violation stated in a complaint submitted under section 11b of the friend of the court act, MCL 552.511b:

(a) Apply a makeup parenting time policy established under section 42.

(b) Commence civil contempt proceedings under section 44.

(c) File a motion with the court under section 17d of the friend of the court act, MCL 552.517d, for a modification of existing parenting time provisions to ensure parenting time, unless contrary to the best interests of the child.

(d) Schedule mediation subject to section 13 of the friend of the court act, MCL 552.513.

(e) Schedule a joint meeting subject to section 42a.

(2) Notwithstanding the requirement of subsection (1), the office of the friend of the court may decline to respond to an alleged custody or parenting time order violation under any of the following circumstances:

(a) The party submitting the complaint has previously submitted 2 or more complaints alleging custody or parenting time order violations that were found to be unwarranted, costs were assessed against the party because a complaint was found to be unwarranted, and the party has not paid those costs.

(b) The alleged custody or parenting time order violation occurred more than 56 days before the complaint is submitted.

(c) The custody or parenting time order does not include an enforceable provision that is relevant to the custody or parenting time order violation alleged in the complaint.

(3) This section shall be implemented in compliance with the guidelines developed as required in section 19 of the friend of the court act, MCL 552.519.

552.642 Makeup parenting time policy; establishment; approval; provisions of policy; notice; response; procedures.

Sec. 42. (1) Each circuit shall establish a makeup parenting time policy under which a parent who has been wrongfully denied parenting time is able to make up the parenting time at a later date. The policy does not apply until it is approved by the chief circuit judge. A makeup parenting time policy established under this section shall provide all of the following:

(a) That makeup parenting time shall be at least the same type and duration of parenting time as the parenting time that was denied, including, but not limited to, weekend parenting time for weekend parenting time, holiday parenting time for holiday parenting time, weekday parenting time for weekday parenting time, and summer parenting time for summer parenting time.

(b) That makeup parenting time shall be taken within 1 year after the wrongfully denied parenting time was to have occurred.

(c) That the wrongfully denied parent shall choose the time of the makeup parenting time.

(d) That the wrongfully denied parent shall notify both the office of the friend of the court and the other parent in writing not less than 1 week before making use of makeup weekend or weekday parenting time or not less than 28 days before making use of makeup holiday or summer parenting time.

(2) If wrongfully denied parenting time is alleged and the friend of the court determines that action should be taken, the office of the friend of the court shall send each party a notice containing the following statement in boldfaced type of not less than 12 points:

"FAILURE TO RESPOND IN WRITING TO THE OFFICE OF THE FRIEND OF THE COURT WITHIN 21 DAYS AFTER THIS NOTICE WAS SENT SHALL BE CONSIDERED AS AN AGREEMENT THAT PARENTING TIME WAS WRONGFULLY DENIED AND THAT THE MAKEUP PARENTING TIME POLICY ESTABLISHED BY THE COURT WILL BE APPLIED.".

(3) If a party to the parenting time order does not respond in writing to the office of the friend of the court, within 21 days after the office sends the notice required under subsection (2), to contest the application of the makeup parenting time policy, the office of the friend of the court shall notify each party that the makeup parenting time policy applies. If a party makes a timely response to contest the application of the makeup parenting time policy, the office of the friend of the court shall utilize a procedure authorized under section 41 other than the application of the makeup parenting time policy.

552.642a Joint meeting.

Sec. 42a. (1) A joint meeting scheduled by the office of the friend of the court under section 41 and procedures following a joint meeting are governed by this section.

(2) A joint meeting may take place in person or by means of telecommunications equipment.

(3) Only an individual who completes the training program described in section 19(3)(b) of the friend of the court act, 1982 PA 294, MCL 552.519, shall conduct a joint meeting. At the beginning of a joint meeting, the individual conducting the joint meeting shall do the following:

(a) Advise the parties that the purpose of the meeting is for the parties to reach an accommodation.

(b) Advise the parties that the individual may recommend an order that the court may issue to resolve the dispute.

(4) At the conclusion of a joint meeting, the individual conducting the joint meeting shall do 1 of the following:

(a) If the parties reach an accommodation, record the accommodation in writing and provide a copy to each party.

(b) Submit an order to the court stating the individual's recommendation for resolving the dispute.

(5) If the individual conducting a joint meeting submits a recommended order to the court under subsection (4), the individual shall send a notice to each party who participated in the joint meeting that includes all of the following:

(a) A copy of the recommended order.

(b) Notice that the court may issue the recommended order resolving the dispute unless a party objects to the order within 21 days after the notice is sent.

(c) The place where and time when a written objection can be submitted.

(d) Notice that a party may waive the 21-day objection period by returning a signed copy of the recommendation.

(6) If a party files a written objection within the 21-day limit, the office shall set a court hearing, before a judge or referee, to resolve the dispute. If a party fails to file a written objection within the 21-day limit, the office shall submit the proposed order to the court for entry if the court approves it.

(7) If a hearing under subsection (6) is held before a referee, either party is entitled to a de novo hearing before a judge as provided in section 7 of the friend of the court act, MCL 552.507.

552.644 Civil contempt proceeding to resolve dispute concerning parenting time of minor child; commencement by office of friend of court; notice; finding of violation; powers of court; duration of commitment; release; bench warrant; sanction for bad faith; judgment; payment of costs.

Sec. 44. (1) If the office of the friend of the court determines that a procedure for resolving a parenting time dispute authorized under section 41 other than a civil contempt proceeding is unsuccessful in resolving a parenting time dispute, the office of the friend of the court shall commence a civil contempt proceeding to resolve a dispute concerning parenting time with a minor child by filing with the circuit court a petition for an order to show cause why either parent who has violated a parenting time order should not be held

in contempt. The office of the friend of the court shall notify the parent who is the subject of the petition. The notice shall include at least all of the following:

(a) A list of each possible sanction if the parent is found in contempt.

(b) The right of the parent to a hearing on a proposed modification of parenting time if requested within 21 days after the date of the notice, as provided in section 45.

(2) If the court finds that either parent has violated a parenting time order without good cause, the court shall find that parent in contempt and may do 1 or more of the following:

(a) Require additional terms and conditions consistent with the court's parenting time order.

(b) After notice to both parties and a hearing, if requested by a party, on a proposed modification of parenting time, modify the parenting time order to meet the best interests of the child.

(c) Order that makeup parenting time be provided for the wrongfully denied parent to take the place of wrongfully denied parenting time.

(d) Order the parent to pay a fine of not more than $100.00.

(e) Commit the parent to the county jail.

(f) Commit the parent to the county jail with the privilege of leaving the jail during the hours the court determines necessary, and under the supervision the court considers necessary, for the purpose of allowing the parent to go to and return from his or her place of employment.

(g) If the parent holds an occupational license, driver's license, or recreational or sporting license, condition the suspension of the license, or any combination of the licenses, upon noncompliance with an order for makeup and ongoing parenting time.

(h) If available within the court's jurisdiction, order the parent to participate in a community corrections program established as provided in the community corrections act, 1988 PA 511, MCL 791.401 to 791.414.

(3) The court shall state on the record the reason the court is not ordering a sanction listed in subsection (2)(a) to (h). For the purpose of subsection (2), "good cause" includes, but is not limited to, consideration of the safety of a child or party who is governed by the parenting time order.

(4) A commitment under subsection (2)(e) or (f) shall not exceed 45 days for the first finding of contempt or 90 days for each subsequent finding of contempt. A parent committed under subsection (2)(e) or (f) shall be released if the court has reasonable cause to believe that the parent will comply with the parenting time order.

(5) If a parent fails to appear in response to an order to show cause, the court may issue a bench warrant requiring that the parent be brought before the court without unnecessary delay to show cause why the parent should not be held in contempt. Except for good cause shown on the record, the court shall further order the parent to pay the costs of the hearing, the issuance of the warrant, the arrest, and further hearings, which costs shall be transmitted to the county treasurer for distribution as provided in section 31.

(6) If the court finds that a party to a parenting time dispute has acted in bad faith, the court shall order the party to pay a sanction of not more than $250.00 for the first time the party is found to have acted in bad faith, not more than $500.00 for the second time, and not more than $1,000.00 for the third or a subsequent time. A sanction ordered under this subsection shall be deposited in the friend of the court fund created in section 2530 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2530, and shall be used to fund services that are not title IV-D services.

(7) A fine ordered under subsection (2), costs ordered under subsection (5), or a sanction ordered under subsection (6) becomes a judgment at the time they are ordered.

(8) If the court finds that a party to a parenting time dispute has acted in bad faith, the court shall order the party to pay the other party's costs.

552.645 Finding of contempt for noncompliance with makeup and ongoing parenting time schedule; suspension of license; agreement; rescission of suspension order; sending copy to licensing agency; hearing to show cause; hearing on modification of parenting time.

Sec. 45. (1) If the court enters an order under section 44(2)(g) and the parent fails to comply with the makeup and ongoing parenting time schedule, the court shall find the parent in contempt and, after notice and an opportunity for a hearing, may order suspension of the parent's license or licenses with respect to which the order under section 44(2)(g) was entered and proceed under section 30.

(2) After entry of a suspension order under subsection (1), a parent may agree to a makeup parenting time schedule. The court may order a makeup parenting time schedule if the parent demonstrates a good faith effort to comply with the parenting time order. If the court orders a makeup parenting time schedule, the court shall enter an order rescinding the suspension order that is effective as provided in section 4 of the regulated occupation support enforcement act, 1996 PA 236, MCL 338.3434, section 321c of the Michigan vehicle code, 1949 PA 300, MCL 257.321c, or section 43559 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.43559. Within 7 business days after entry of the order rescinding the suspension order, the office of the friend of the court shall send a copy of the order rescinding the suspension order to the licensing agency.

(3) Within 21 days after the date of the notice under section 44, a parent who is notified of a petition to show cause under section 44 may request a hearing on a proposed modification of parenting time. The court shall hold the requested hearing unless the parenting time dispute is resolved by other means. The court shall combine the hearing prescribed by this subsection with the hearing on the order to show cause unless the court finds for good cause shown on the record that the hearings should be held separately. If the court finds that the hearings should be held separately, the hearing on a proposed modification of parenting time shall be held before the hearing on the order to show cause.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2002.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

[No. 569]

(HB 6009)

AN ACT to amend 1982 PA 294, entitled "An act to revise and consolidate the laws relating to the friend of the court; to provide for the appointment or removal of the friend of the court; to create the office of the friend of the court; to establish the rights, powers, and duties of the friend of the court and the office of the friend of the court; to establish a state friend of the court bureau and to provide the powers and duties of the bureau; to

prescribe powers and duties of the circuit court and of certain state and local agencies and officers; to establish friend of the court citizen advisory committees; to prescribe certain duties of certain employers and former employers; and to repeal acts and parts of acts," by amending sections 17d and 19 (MCL 552.517d and 552.519), section 17d as amended by 1996 PA 144 and section 19 as amended by 2001 PA 193, and by adding sections 11a and 11b.

The People of the State of Michigan enact:

552.511a Payment of health care expense; complaint; sending copy of complaint and notice to parent; objection; hearing.

Sec. 11a. (1) A complaint seeking enforcement for payment of a health care expense must include information showing that all of the following conditions have been met:

(a) The parent against whom the complaint is directed is obligated to pay the child's uninsured health care expenses, a demand for payment of the uninsured portion was made to that parent within 28 days after the insurers' final payment or denial of coverage, and that parent did not pay the uninsured portion within 28 days after the demand.

(b) The complaint is submitted to the office on or before any of the following:

(*i*) One year after the expense was incurred.

(*ii*) Six months after the insurers' final payment or denial of coverage for the expense, if all measures necessary to submit a claim for the health care expense to all insurers that might be obligated to pay the expense were completed within 2 months after the expense was incurred.

(*iii*) Six months after a parent defaults in paying for the health care expense as required under a written agreement, signed by both parents, that lists the specific bills covered by the agreement, states the amount to be paid in total, and sets forth the schedule for the payment of that amount, whether by installments or otherwise.

(2) If an office receives a complaint that meets the requirements of subsection (1), the office shall send a copy of the complaint to the parent who is named in the complaint as obligated to pay the child's uninsured health care expenses. The office shall include with the copy of the complaint sent to that parent a notice advising the parent of the provisions of subsection (3).

(3) If, within 21 days after the complaint and notice are sent to a parent under subsection (2), the parent does not file with the office a written objection to the complaint, the amount of the health care expense stated in the complaint becomes a support arrearage and is subject to any enforcement process available to collect a support arrearage. If the parent files a written objection within the 21-day time limit, the office shall set a court hearing, before a judge or referee, to resolve the complaint.

552.511b Custody or parenting time order violations; complaint; sending copy of complaint to individual accused of interfering; action.

Sec. 11b. (1) An office shall initiate enforcement under the support and parenting time enforcement act if the office receives a written complaint that states specific facts constituting a custody or parenting time order violation. Upon request of a parent who has the right to interact with his or her child under a custody or parenting time order, an office shall assist the parent in preparing a complaint under this subsection.

(2) Within 14 days after an office receives a complaint under subsection (1), the office shall send a copy of the complaint to the individual accused of interfering and to each other party to the custody or parenting time order.

(3) If, in the opinion of the office, the facts as stated in the complaint allege a custody or parenting time order violation that can be addressed by taking an action authorized

under section 41 of the support and parenting time enforcement act, MCL 552.641, the office shall proceed under section 41 of the support and parenting time enforcement act, MCL 552.641.

552.517d Motion for modification of parenting time order.

Sec. 17d. (1) After a final judgment containing a parenting time order is entered in a domestic relations matter for which there is an open friend of the court case, if there is an unresolved dispute as to parenting time, the office may file a motion with the court for a modification of the parenting time order. The office shall send each party to the parenting time order notice of the filing of the motion. With a motion filed and each notice sent under this subsection, the office shall include the following:

(a) Subject to subsection (2), a written report and recommendation.

(b) Either as a separate document or in the motion document under a separate heading, a notice, in not less than 12-point, boldfaced type, that states substantially the following:

"A party may object to the office of the friend of the court's recommendation for modification of the parenting time order. If a party does not object to the recommendation within 21 days after this notice was sent to the party, the office of the friend of the court may submit to the court a parenting time order that incorporates the recommendation.".

(2) The office shall prepare a written report and recommendation required for subsection (1) after making an evaluation that is commensurate with the scope of the unresolved dispute as to parenting time.

(3) If, within 21 days after the notice under subsection (1) is sent to each party, no party objects to the recommendation for modification of the parenting time order, the office may submit an order, incorporating the recommendation, to the court for the court's adoption. If a party objects within the 21 days, the motion for modification of the parenting time order shall be noticed for a hearing before a judge or referee.

(4) At a hearing on a motion filed under this section, the judge or referee may admit a statement of fact in the office's report or recommendation as evidence to prove a fact relevant to the proceeding, but only if all parties stipulate to or no party objects to the admission of the statement of fact and no other evidence is presented concerning the fact to be proved.

552.519 State friend of the court bureau; creation; supervision and direction; main office; duties; state advisory committee; report or recommendation; reimbursement for expenses; meetings; assistance.

Sec. 19. (1) The state friend of the court bureau is created within the state court administrative office, under the supervision and direction of the supreme court.

(2) The bureau shall have its main office in Lansing.

(3) The bureau shall do all of the following:

(a) Develop and recommend guidelines for conduct, operations, and procedures of the office and its employees, including, but not limited to, the following:

(*i*) Case load and staffing standards for employees who perform domestic relations mediation functions, investigation and recommendation functions, referee functions, enforcement functions, and clerical functions.

(*ii*) Orientation programs for clients of the office.

(*iii*) Public educational programs regarding domestic relations law and community resources, including financial and other counseling, and employment opportunities.

(*iv*) Procedural changes in response to the type of grievances received by an office.

(*v*) Model pamphlets and procedural forms, which shall be distributed to each office.

(*vi*) A formula to be used in establishing and modifying a child support amount and health care obligation. The formula shall be based upon the needs of the child and the actual resources of each parent. The formula shall establish a minimum threshold for modification of a child support amount. The formula shall consider the child care and dependent health care coverage costs of each parent. The formula shall include guidelines for setting and administratively adjusting the amount of periodic payments for overdue support, including guidelines for adjustment of arrearage payment schedules when the current support obligation for a child terminates and the payer owes overdue support.

(b) Provide training programs for the friend of the court, domestic relations mediators, and employees of the office to better enable them to carry out the duties described in this act and supreme court rules. After September 30, 2002, the training programs shall include training in the dynamics of domestic violence and in handling domestic relations matters that have a history of domestic violence.

(c) Gather and monitor relevant statistics.

(d) Annually issue a report containing a detailed summary of the types of grievances received by each office, and whether the grievances are resolved or outstanding. The report shall be transmitted to the legislature and to each office and shall be made available to the public. The annual report required by this subdivision shall include, but is not limited to, all of the following:

(*i*) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of each citizen advisory committee during the preceding year.

(*ii*) An evaluative summary, supplemented by applicable quantitative data, of the activities and functioning of the aggregate of all citizen advisory committees in the state during the preceding year.

(*iii*) An identification of problems that impede the efficiency of the activities and functioning of the citizen advisory committees and the satisfaction of the users of the committees' services.

(e) Develop and recommend guidelines to be used by an office in determining whether or not parenting time has been wrongfully denied by the custodial parent.

(f) Develop standards and procedures for the transfer of part or all of the responsibilities for a case from one office to another in situations considered appropriate by the bureau.

(g) Certify domestic relations mediation training programs as provided in section 13.

(h) Establish a 9-person state advisory committee, serving without compensation except as provided in subsection (4), composed of the following members, each of whom is a member of a citizen advisory committee:

(*i*) Three public members who have had contact with an office of the friend of the court.

(*ii*) Three attorneys who are members of the state bar of Michigan and whose practices are primarily domestic relations law. Not more than 1 attorney may be a circuit court judge.

(*iii*) Three human service professionals who provide family counseling.

(i) Cooperate with the office of child support in developing and implementing a statewide information system as provided in the office of child support act, 1971 PA 174, MCL 400.231 to 400.240.

(j) Develop and make available guidelines to assist the office of the friend of the court in determining the appropriateness in individual cases of the following:

(*i*) Imposing a lien or requiring the posting of a bond, security, or other guarantee to secure the payment of support.

(*ii*) Implementing the offset of a delinquent payer's state income tax refund.

(k) Develop and provide the office of the friend of the court with all of the following:

(*i*) Form motions, responses, and orders for use by an individual in requesting the court to modify his or her child support, custody, or parenting time order, or in responding to a motion for modification without the assistance of legal counsel.

(*ii*) Instructions on preparing and filing the forms, instructions on service of process, and instructions on scheduling a support, custody, or parenting time modification hearing.

(*l*) Develop guidelines for, and encourage the use of, plain language within the office of the friend of the court including, but not limited to, the use of plain language in forms and instructions within the office and in statements of account provided as required in section 9.

(m) In consultation with the domestic violence prevention and treatment board created in section 2 of 1978 PA 389, MCL 400.1502, develop guidelines for the implementation of section 41 of the support and parenting time enforcement act, MCL 552.641, that take into consideration at least all of the following regarding the parties and each child involved in a dispute governed by section 41 of the support and parenting time enforcement act, MCL 552.641:

(*i*) Domestic violence.

(*ii*) Safety of the parties and child.

(*iii*) Uneven bargaining positions of the parties.

(4) The state advisory committee established under subsection (3)(h) shall advise the bureau in the performance of its duties under this section. The bureau shall make a state advisory committee report or recommendation available to the public. State advisory committee members shall be reimbursed for their expenses for mileage, meals, and, if necessary, lodging, under the schedule for reimbursement established annually by the legislature. A state advisory committee meeting is open to the public. A member of the public attending a state advisory committee meeting shall be given a reasonable opportunity to address the committee on any issue under consideration by the committee. If a vote is to be taken by the state advisory committee, the opportunity to address the committee shall be given before the vote is taken.

(5) The bureau may call upon each office of the friend of the court for assistance in performing the duties imposed in this section.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 6011 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

Compiler's note: House Bill No. 6011, referred to in enacting section 2, was filed with the Secretary of State October 3, 2002, and became P.A. 2002, No. 571, Eff. June 1, 2003.

[No. 570]

(HB 6010)

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 2 (MCL 552.602), as amended by 1999 PA 160, and by adding section 5d.

The People of the State of Michigan enact:

552.602 Definitions.

Sec. 2. As used in this act:

(a) "Account" means any of the following:

(*i*) A demand deposit account.

(*ii*) A draft account.

(*iii*) A checking account.

(*iv*) A negotiable order of withdrawal account.

(*v*) A share account.

(*vi*) A savings account.

(*vii*) A time savings account.

(*viii*) A mutual fund account.

(*ix*) A securities brokerage account.

(*x*) A money market account.

(*xi*) A retail investment account.

(b) "Account" does not mean any of the following:

(*i*) A trust.

(*ii*) An annuity.

(*iii*) A qualified individual retirement account.

(*iv*) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(*v*) A pension or retirement plan.

(*vi*) An insurance policy.

(c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact the account holder.

(d) "Cash" means money or the equivalent of money, such as a money order, cashier's check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.

(e) "Custody or parenting time order violation" means an individual's act or failure to act that interferes with a parent's right to interact with his or her child in the time, place,

and manner established in the order that governs custody or parenting time between the parent and the child and to which the individual accused of interfering is subject.

(f) "Department" means the family independence agency.

(g) "Domestic relations matter" means a circuit court proceeding as to child custody or parenting time, or child or spousal support, that arises out of litigation under a statute of this state, including, but not limited to, the following:

(*i*) 1846 RS 84, MCL 552.1 to 552.45.

(*ii*) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(*iii*) Child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(*iv*) 1968 PA 293, MCL 722.1 to 722.6.

(*v*) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(*vi*) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(*vii*) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(h) "Driver's license" means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

(i) "Employer" means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.

(j) "Financial asset" means a deposit, account, money market fund, stock, bond, or similar instrument.

(k) "Financial institution" means any of the following:

(*i*) A state or national bank.

(*ii*) A state or federally chartered savings and loan association.

(*iii*) A state or federally chartered savings bank.

(*iv*) A state or federally chartered credit union.

(*v*) An insurance company.

(*vi*) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(*vii*) An entity regulated by the securities and exchange commission that collects funds from the public.

(*viii*) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(*ix*) Another entity that collects funds from the public.

(*l*) "Friend of the court act" means 1982 PA 294, MCL 552.501 to 552.535.

(m) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, MCL 552.502. The term "friend of the court case", when used in a provision of this act, is not effective until on and after the effective date of section 5a of the friend of the court act, MCL 552.505a.

(n) "Income" means any of the following:

(*i*) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers.

(*ii*) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker's compensation.

(*iii*) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.

(o) "Insurer" means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:

(*i*) Public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(*ii*) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(*iii*) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(p) "Medical assistance" means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(q) "Occupational license" means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.

(r) "Office of child support" means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(s) "Office of the friend of the court" means an agency created in section 3 of the friend of the court act, MCL 552.503.

(t) "Order of income withholding" means an order entered by the circuit court providing for the withholding of a payer's income to enforce a support order under this act.

(u) "Payer" means an individual who is ordered by the circuit court to pay support.

(v) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(w) "Plan administrator" means that term as used in relation to a group health plan under section 609 of part 6 of subtitle B of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act.

(x) "Political subdivision" means a county, city, village, township, educational institution, school district, or special district or authority of the state or of a local unit of government.

(y) "Recipient of support" means the following:

(*i*) The spouse, if the support order orders spousal support.

(*ii*) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(*iii*) The department, if support has been assigned to that department.

(z) "Recreational or sporting license" means a hunting, fishing, or fur harvester's license issued under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, but does not include a commercial fishing license or permit issued under part 473 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.47301 to 324.47362.

(aa) "Referee" means a person who is designated as a referee under the friend of the court act.

(bb) "Source of income" means an employer or successor employer or another individual or entity that owes or will owe income to the payer.

(cc) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(dd) "State friend of the court bureau" means that bureau as created in the state court administrative office under section 19 of the friend of the court act, MCL 552.519.

(ee) "Support" means all of the following:

(*i*) The payment of money for a child or a spouse ordered by the circuit court, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(*ii*) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.

(*iii*) A surcharge accumulated under section 3a.

(ff) "Support order" means an order entered by the circuit court for the payment of support, whether or not a sum certain.

(gg) "Title IV-D" means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

(hh) "Title IV-D agency" means the agency in this state performing the functions under title IV-D and includes a person performing those functions under contract including an office of the friend of the court or a prosecuting attorney.

(ii) "Work activity" means any of the following:

(*i*) Unsubsidized employment.

(*ii*) Subsidized private sector employment.

(*iii*) Subsidized public sector employment.

(*iv*) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available.

(*v*) On-the-job training.

(*vi*) Referral to and participation in the work first program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.

(*vii*) Community service programs.

(*viii*) Vocational educational training, not to exceed 12 months with respect to an individual.

(*ix*) Job skills training directly related to employment.

(*x*) Education directly related to employment, in the case of an individual who has not received a high school diploma or a certificate of high school equivalency.

(*xi*) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of an individual who has not completed secondary school or received such a certificate.

(*xii*) The provisions of child care services to an individual who is participating in a community service program.

552.605d Support order; provisions; assignment, redirection, or abatement of support payment; notice.

Sec. 5d. (1) On and after the effective date of the amendatory act that added this section, each support order the court enters or modifies shall include substantially the following provisions:

(a) If a child for whom support is payable under the order is under the state's jurisdiction and is placed in foster care, support payable under the order is assigned to the department.

(b) For a friend of the court case, substantially the following statements:

(*i*) "The office of the friend of the court may consider the person legally responsible for the actual care, support, and maintenance of a child for whom support is ordered as the recipient of support for the child and may redirect support paid for that child to that recipient of support, subject to the procedures prescribed in section 5d of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605d.".

(*ii*) "If the payer resides full-time with a child for whom support is payable under this order, support for that child abates in accordance with policies established by the state friend of the court bureau and subject to the procedures prescribed in section 5d of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605d.".

(2) If it is a friend of the court case, a support order that was entered before the effective date of the amendatory act that added this section shall be considered to include, by operation of law, the provisions stated in subsection (1).

(3) If a child for whom support is payable under the order is under the state's jurisdiction and is placed in foster care, support payable under the order is assigned to the department. An assignment of support to the department as required by this subsection has priority over a redirection of support authorized by this section.

(4) Subject to subsection (5), for a friend of the court case, the office of the friend of the court may consider the person legally responsible for the actual care, support, and maintenance of a child for whom support is ordered as the recipient of support for the child and may redirect support paid for that child to that recipient of support. Subject to subsection (5), the office of the friend of the court shall abate support under a support order that is payable as support for a child who resides full-time with the payer, in accordance with policies established by the state friend of the court bureau.

(5) A party to a support order may object to redirection or abatement of support under this section. Support shall not be redirected or abated under this section until 21 days after the office of the friend of the court notifies each party of the proposed action, advising the party of the right to object. If a party objects within 21 days after the notification, support shall not be redirected or abated under this section. After an objection, the office of the friend of the court shall review the support order under section 17 of the friend of the court act, 1982 PA 294, MCL 522.517, or shall notify each party that the party may file a motion to modify support.

(6) The state friend of the court bureau may implement policies to assist offices of the friend of the court in determining when an office of the friend of the court should give notice of a proposed redirection or abatement of support under this section.

Effective date.

Enacting section 1. This amendatory act takes effect June 1, 2003.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

[No. 571]

(HB 6011)

AN ACT to amend 1982 PA 294, entitled "An act to revise and consolidate the laws relating to the friend of the court; to provide for the appointment or removal of the friend of the court; to create the office of the friend of the court; to establish the rights, powers, and duties of the friend of the court and the office of the friend of the court; to establish a state friend of the court bureau and to provide the powers and duties of the bureau; to prescribe powers and duties of the circuit court and of certain state and local agencies and officers; to establish friend of the court citizen advisory committees; to prescribe certain duties of certain employers and former employers; and to repeal acts and parts of acts," by amending sections 2, 2a, 5, 9, 11, 13, 15, 17, 17b, 17c, and 26 (MCL 552.502, 552.502a, 552.505, 552.509, 552.511, 552.513, 552.515, 552.517, 552.517b, 552.517c, and 552.526), section 2 as amended by 1998 PA 63, sections 2a and 9 as amended by 1999 PA 150, section 5 as amended by 1996 PA 365, section 11 as amended by 1996 PA 266, section 13 as amended by 1996 PA 144, section 17 as amended and sections 17b and 17c as added by 1994 PA 37, and section 26 as amended by 1996 PA 366, and by adding section 5a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

552.502 Definitions; B to I.

Sec. 2. As used in this act:

(a) "Bureau" means the state friend of the court bureau created in section 19.

(b) "Centralizing enforcement" means the process authorized under section 10 of the office of the child support act, 1971 PA 174, MCL 400.231 to 400.240.

(c) "Chief judge" means the following:

(*i*) The circuit judge in a judicial circuit having only 1 circuit judge.

(*ii*) Except in the county of Wayne, the chief judge of the circuit court in a judicial circuit having 2 or more circuit judges.

(*iii*) In the county of Wayne, the executive chief judge of the circuit court in the third judicial circuit.

(d) "Citizen advisory committee" means a citizen friend of the court advisory committee established as provided in section 4.

(e) "Consumer reporting agency" means a person that, for monetary fees or dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and that uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. As used in this subdivision, "consumer report" means that term as defined in section 603 of the fair credit reporting act, title VI of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1681a.

(f) "County board" means the county board of commissioners in the county served by the office. If a judicial circuit includes more than 1 county, action required to be taken by the county board means action by the county boards of commissioners for all counties composing that circuit.

(g) "Court" means the circuit court.

(h) "Current employment" means employment within 1 year before a friend of the court request for information.

(i) "Custody or parenting time order violation" means an individual's act or failure to act that interferes with a parent's right to interact with his or her child in the time, place, and manner established in the order that governs custody or parenting time between the parent and the child and to which the individual accused of interfering is subject.

(j) "Department" means the family independence agency.

(k) "Domestic relations matter" means a circuit court proceeding as to child custody or parenting time, or child or spousal support, that arises out of litigation under a statute of this state, including, but not limited to, the following:

(*i*) 1846 RS 84, MCL 552.1 to 552.45.

(*ii*) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(*iii*) Child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(*iv*) 1968 PA 293, MCL 722.1 to 722.6.

(*v*) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(*vi*) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(*vii*) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(*l*) "Domestic relations mediation" means a process by which the parties are assisted by a domestic relations mediator in voluntarily formulating an agreement to resolve a dispute concerning child custody or parenting time that arises from a domestic relations matter.

(m) "Friend of the court" means the person serving under section 21(1) or appointed under section 23 as the head of the office of the friend of the court.

(n) "Friend of the court case" means a domestic relations matter that an office establishes as a friend of the court case as required under section 5a. The term "friend of the court case", when used in a provision of this act, is not effective until on and after the effective date of section 5a.

(o) "Income" means that term as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

552.502a Definitions; M to T.

Sec. 2a. As used in this act:

(a) "Medical assistance" means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(b) "Office" and "office of the friend of the court" mean an agency created in section 3.

(c) "Payer" means a person ordered by the circuit court to pay support.

(d) "Public assistance" means cash assistance provided under the social welfare act, 1939 PA 280, 400.1 to 400.119b.

(e) "Recipient of support" means the following:

(*i*) The spouse, if the support order orders spousal support.

(*ii*) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(*iii*) The family independence agency, if support has been assigned to that department.

(f) "State advisory committee" means the committee established by the bureau under section 19.

(g) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(h) "Support" means all of the following:

(*i*) The payment of money for a child or a spouse ordered by the circuit court, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(*ii*) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.

(*iii*) A surcharge accumulated under section 3a of the support and parenting time enforcement act, MCL 552.603a.

(i) "Support and parenting time enforcement act" means 1982 PA 295, MCL 552.601 to 552.650.

(j) "Support order" means an order entered by the circuit court for the payment of support in a sum certain, whether in the form of a lump sum or a periodic payment.

(k) "Title IV-D" means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

(*l*) "Title IV-D agency" means that term as defined in section 2 of the support and parenting time enforcement act, MCL 552.602.

552.505 Duties of friend of the court; failure of party to attend scheduled meeting.

Sec. 5. (1) Each office of the friend of the court has the following duties:

(a) To inform each party to the domestic relations matter that, unless 1 of the parties is required to participate in the title IV-D child support program, they may choose not to have the office of the friend of the court administer and enforce obligations that may be imposed in the domestic relations matter.

(b) To inform each party to the domestic relations matter that, unless 1 of the parties is required to participate in the title IV-D child support program, they may direct the office of the friend of the court to close the friend of the court case that was opened in their domestic relations matter.

(c) To provide an informational pamphlet, in accordance with the model pamphlet developed by the bureau, to each party to a domestic relations matter. The informational

pamphlet shall explain the procedures of the court and the office; the duties of the office; the rights and responsibilities of the parties, including notification that each party to the dispute has the right to meet with the individual investigating the dispute before that individual makes a recommendation regarding the dispute; the availability of and procedures used in domestic relations mediation; the availability of human services in the community; the availability of joint custody as described in section 6a of the child custody act of 1970, 1970 PA 91, MCL 722.26a; and how to file a grievance regarding the office. The informational pamphlet shall be provided as soon as possible after the filing of a complaint or other initiating pleading. Upon request, a party shall receive an oral explanation of the informational pamphlet from the office.

(d) To make available to an individual form motions, responses, and orders for requesting the court to modify the individual's child support, custody, or parenting time order, or for responding to a motion for such a modification, without assistance of legal counsel. The office shall make available instructions on preparing and filing each of those forms and instructions on service of process and on scheduling a modification hearing.

(e) To inform the parties of the availability of domestic relations mediation if there is a dispute as to child custody or parenting time.

(f) To inform the parents of the availability of joint custody as described in section 6a of the child custody act of 1970, 1970 PA 91, MCL 722.26a, if there is a dispute between the parents as to child custody.

(g) To investigate all relevant facts, and to make a written report and recommendation to the parties and to the court regarding child custody or parenting time, or both, if there is a dispute as to child custody or parenting time, or both, and domestic relations mediation is refused by either party or is unsuccessful, or if ordered to do so by the court. The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. If requested by a party, an investigation shall include a meeting with the party. A written report and recommendation regarding child custody or parenting time, or both, shall be based upon the factors enumerated in the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(h) To investigate all relevant facts and to make a written report and recommendation to the parties and their attorneys and to the court regarding child support, if ordered to do so by the court. The written report and recommendation shall be placed in the court file. The investigation may include reports and evaluations by outside persons or agencies if requested by the parties or the court, and shall include documentation of alleged facts, if practicable. If requested by a party, an investigation shall include a meeting with the party. The child support formula developed by the bureau under section 19 shall be used as a guideline in recommending child support. The written report shall include the support amount determined by application of the child support formula and all factual assumptions upon which that support amount is based. If the office of the friend of the court determines from the facts of the case that application of the child support formula would be unjust or inappropriate, the written report shall also include all of the following:

(*i*) An alternative support recommendation.

(*ii*) All factual assumptions upon which the alternative support recommendation is based, if applicable.

(*iii*) How the alternative support recommendation deviates from the child support formula.

(*iv*) The reasons for the alternative support recommendation.

(2) If a party who requests a meeting during an investigation fails to attend the scheduled meeting without good cause, the investigation may be completed without a meeting with that party.

552.505a Open friend of the court case; closure.

Sec. 5a. (1) Except as required by this section, an office of the friend of the court shall open and maintain a friend of the court case for a domestic relations matter. If there is an open friend of the court case for a domestic relations matter, the office of the friend of the court shall administer and enforce the obligations of the parties to the friend of the court case as provided in this act. If there is not an open friend of the court case for a domestic relations matter, the office of the friend of the court shall not administer or enforce an obligation of a party to the domestic relations matter.

(2) The parties to a domestic relations matter are not required to have a friend of the court case opened or maintained for their domestic relations matter. With their initial pleadings, the parties to a domestic relations matter may file a motion for the court to order the office of the friend of the court not to open a friend of the court case for the domestic relations matter. If the parties to a domestic relations matter file a motion under this subsection, the court shall issue that order unless the court determines 1 or more of the following:

(a) A party to the domestic relations matter is eligible for title IV-D services because of the party's current or past receipt of public assistance.

(b) A party to the domestic relations matter applies for title IV-D services.

(c) A party to the domestic relations matter requests that the office of the friend of the court open and maintain a friend of the court case for the domestic relations matter, even though the party may not be eligible for title IV-D services because the domestic relations matter involves, by way of example and not limitation, only spousal support, child custody, parenting time, or child custody and parenting time.

(d) There exists in the domestic relations matter evidence of domestic violence or uneven bargaining positions and evidence that a party to the domestic relations matter has chosen not to apply for title IV-D services against the best interest of either the party or the party's child.

(e) The parties have not filed with the court a document, signed by each party, that includes a list of the friend of the court services and an acknowledgment that the parties are choosing to do without those services.

(3) If a friend of the court case is not opened for a domestic relations matter, the parties to the domestic relations matter have full responsibility for administration and enforcement of the obligations imposed in the domestic relations matter.

(4) The parties to a friend of the court case may file a motion for the court to order the office of the friend of the court to close their friend of the court case. The court shall issue an order that the office of the friend of the court shall close the friend of the court case unless the court determines 1 or more of the following:

(a) A party to the friend of the court case objects.

(b) A party to the friend of the court case is eligible for title IV-D services because the party is receiving public assistance.

(c) A party to the friend of the court case is eligible for title IV-D services because the party received public assistance and an arrearage is owed to the governmental entity that provided the public assistance.

(d) The friend of the court case record shows that, within the previous 12 months, a child support arrearage or custody or parenting time order violation has occurred in the case.

(e) Within the previous 12 months, a party to the friend of the court case has reopened a friend of the court case.

(f) There exists in the friend of the court case evidence of domestic violence or uneven bargaining positions and evidence that a party to the friend of the court case has chosen to close the case against the best interest of either the party or the party's child.

(g) The parties have not filed with the court a document, signed by each party, that includes a list of the friend of the court services and an acknowledgment that the parties are choosing to do without those services.

(5) The closure of a friend of the court case does not release a party from the party's obligations imposed in the underlying domestic relations matter. The parties to a closed friend of the court case assume full responsibility for administration and enforcement of obligations imposed in the underlying domestic relations matter.

(6) If a party to the underlying domestic relations matter wants to ensure that child support payments made after a friend of the court case is closed will be taken into account in any possible future office of the friend of the court enforcement action, the child support payments must be made through the SDU. If the parties choose to continue to have child support payments made through the SDU, the office of the friend of the court shall not close its friend of the court case until each party provides the SDU with the information necessary to process the child support payments required in the underlying domestic relations matter.

(7) If a party to a domestic relations matter for which there is not an open friend of the court case applies for services from the office of the friend of the court or applies for public assistance, the office of the friend of the court shall open or reopen a friend of the court case. If the office of the friend of the court opens or reopens a friend of the court case as required by this subsection, the court shall issue an order in that domestic relations matter that contains the provisions required by this act and by the support and parenting time enforcement act for a friend of the court case.

(8) If the parties to a domestic relations matter file a motion under subsection (2) or (4), the friend of the court shall advise the parties in writing as to the services that the office of the friend of the court is not required to provide. The state court administrative office shall develop and make available a form for use by an office of the friend of the court under this subsection and a document for use by parties to a domestic relations matter under subsection (2) or (4).

552.509 Duties of office regarding support payments; transition to state disbursement unit; providing statement of account to parties; initiating and carrying out proceedings to enforce order entered in domestic relations matter; enforcement orders entered in other state.

Sec. 9. (1) Except as otherwise provided in subsections (2) and (3) or in the order or judgment, after a support order is entered in a friend of the court case, the office shall receive each payment and service fee under the support order; shall, not less than once each month, record each support payment due, paid, and past due; and shall disburse each support payment to the recipient of support within 14 days after the office receives each payment or within the federally mandated time frame, whichever is shorter.

(2) An office shall receive support order and service fee payments, and shall disburse support, as required by subsection (1) until the state disbursement unit implements support and fee receipt and disbursement for the cases administered by that office. At the family independence agency's direction and in cooperation with the SDU, an office shall continue support and fee receipt and support disbursement to facilitate the transition of that responsibility to the SDU as directed in, and in accordance with the transition schedule developed as required by, the office of child support act, 1971 PA 174, MCL 400.231 to 400.240.

(3) After SDU support and fee receipt and disbursement is implemented in a circuit court circuit, the office for that court may accept a support payment made in cash or by cashier's check or money order. If the office accepts such a payment, the office shall transmit the payment to the SDU and shall inform the payer of the SDU's location and the requirement to make payments through the SDU.

(4) Promptly after November 3, 1999, each office shall establish and maintain the support order and account records necessary to enforce support orders and necessary to record obligations, support and fee receipt and disbursement, and related payments. Each office shall provide the SDU with access to those records and shall assist the SDU to resolve support and fee receipt and disbursement problems related to inadequate identifying information.

(5) The office shall provide annually to each party, without charge, 1 statement of account upon request. Additional statements of account shall be provided at a reasonable fee sufficient to pay for the cost of reproduction. Statements provided under this subsection are in addition to statements provided for administrative and judicial hearings.

(6) The office shall initiate and carry out proceedings to enforce an order in a friend of the court case regarding custody, parenting time, health care coverage, or support in accordance with this act, the support and parenting time enforcement act, and supreme court rules.

(7) Upon request of a child support agency of another state, the office shall initiate and carry out certain proceedings to enforce support orders entered in the other state without the need to register the order as a friend of the court case in this state. The order shall be enforced using automated administrative enforcement actions authorized under the support and parenting time enforcement act.

552.511 Initiating enforcement of support order and custody or parenting time order; procedure; arrearage.

Sec. 11. (1) Each office shall initiate 1 or more support enforcement measures under the support and parenting time enforcement act when 1 of the following applies:

(a) Except as otherwise provided in this subdivision, the arrearage under the support order is equal to or greater than the monthly amount of support payable under the order. If the support order was entered ex parte, an office shall not initiate enforcement under this subdivision until the office receives a copy of proof of service for the order and at least 1 month has elapsed since the date of service. An office is not required to initiate enforcement under this subdivision if 1 or more of the following circumstances exist:

(*i*) Despite the existence of the arrearage, an order of income withholding is effective and payment is being made under the order of income withholding in the amount required under the order.

(*ii*) Despite the existence of the arrearage and even though an order of income withholding is not effective, payment is being made in the amount required under the order.

(*iii*) One or more support enforcement measures have been initiated and an objection to 1 or more of those measures has not been resolved.

(b) A parent fails to obtain or maintain health care coverage for the parent's child as ordered by the court. The office shall initiate enforcement under this subdivision at the following times:

(*i*) Within 60 days after the entry of a support order containing health care coverage provisions.

(*ii*) When a review is conducted as provided in section 17.

(*iii*) Concurrent with enforcement initiated by the office under subdivision (a).

(*iv*) Upon receipt of a written complaint from a party.

(*v*) Upon receipt of a written complaint from the department if the child for whose benefit health care coverage is ordered is a recipient of public assistance or medical assistance.

(c) A person legally responsible for the actual care of a child incurs an uninsured health care expense and submits to the office a written complaint that meets the requirements of section 11a.

(2) An arrearage amount that arises at the moment a court issues an order imposing or modifying support, because the order relates back to a petition or motion filing date, shall not be considered as an arrearage for the purpose of initiating support enforcement measures, centralizing enforcement, or other action required or authorized in response to a support arrearage under this act or the support and parenting time enforcement act, unless the payer fails to become current with the court ordered support payments within 2 months after entry of the order imposing or modifying support.

552.513 Domestic relations mediation; services; agreement; consent order; confidentiality of communications; minimum qualifications of mediator.

Sec. 13. (1) The office shall provide, either directly or by contract, domestic relations mediation to assist the parties in settling voluntarily a dispute concerning child custody or parenting time that arises in a friend of the court case. Parties shall not be required to meet with a domestic relations mediator. The service may be provided directly by the office only if such a service is in place on July 1, 1983, if the service is not available from a private source, or if the court can demonstrate that providing the service within the friend of the court office is cost beneficial. Any expansion of existing services provided by the court on July 1, 1983 shall be provided by an individual meeting the domestic relations mediator minimum qualifications listed under subsection (4).

(2) If an agreement is reached by the parties through domestic relations mediation, a consent order incorporating the agreement shall be prepared by an employee of the office who is a member of the state bar of Michigan; under section 22, by a member of the state bar of Michigan; or by the attorney for 1 of the parties. The consent order shall be provided to, and shall be entered by, the court.

(3) Except as provided in subsection (2), a communication between a domestic relations mediator and a party to a domestic relations mediation is confidential. The secrecy of the communication shall be preserved inviolate as a privileged communication. The communication shall not be admitted in evidence in any proceedings. The same protection shall be given to communications between the parties in the presence of the mediator.

(4) A domestic relations mediator who performs mediation under this act shall have all of the following minimum qualifications:

(a) One or more of the following:

(*i*) A license or a limited license to engage in the practice of psychology under parts 161 and 182 of the public health code, 1978 PA 368, MCL 333.16101 to 333.16349 and 333.18201 to 333.18237, or a master's degree in counseling, social work, or marriage and family counseling; and successful completion of the training program provided by the

bureau under section 19(3)(b).

(*ii*) Not less than 5 years of experience in family counseling, preferably in a setting related to the areas of responsibility of the friend of the court and preferably to reflect the ethnic population to be served, and successful completion of the training program provided by the bureau under section 19(3)(b).

(*iii*) A graduate degree in a behavioral science and successful completion of a domestic relations mediation training program certified by the bureau with not less than 40 hours of classroom instruction and 250 hours of practical experience working under the direction of a person who has successfully completed a program certified by the bureau.

(*iv*) Membership in the state bar of Michigan and successful completion of the training program provided by the bureau under section 19(3)(b).

(b) Knowledge of the court system of this state and the procedures used in domestic relations matters.

(c) Knowledge of other resources in the community to which the parties to a domestic relations matter can be referred for assistance.

(d) Knowledge of child development, clinical issues relating to children, the effects of divorce on children, and child custody research.

552.515 Performance by mediator of certain functions involving party prohibited.

Sec. 15. An employee of the office who performs domestic relations mediation in a friend of the court case involving a particular party shall not perform referee functions, investigation and recommendation functions, or enforcement functions as to any domestic relations matter involving that party.

552.517 Review of child support order after final judgment; notices and conduct of review; modification order; certain determinations requiring report; contents of report; petition for modification; scheduling of hearing; objection to determination of no change in order; petition to require dependent health care coverage; costs.

Sec. 17. (1) After a final judgment containing a child support order has been entered in a friend of the court case, the office shall periodically review the order, as follows:

(a) If a child is being supported in whole or in part by public assistance, not less than once each 24 months unless both of the following apply:

(*i*) The office receives notice from the department that good cause exists not to proceed with support action.

(*ii*) Neither party has requested a review.

(b) At the initiative of the office, if there are reasonable grounds to believe that the amount of child support awarded in the judgment should be modified or that dependent health care coverage is available and the support order should be modified to include an order for health care coverage. Reasonable grounds to review an order under this subdivision include temporary or permanent changes in the physical custody of a child that the court has not ordered, increased or decreased need of the child, probable access by an employed parent to dependent health care coverage, or changed financial conditions of a recipient or a payer of child support including, but not limited to, application for or receipt of public assistance, unemployment compensation, or worker's compensation.

(c) Upon receipt of a written request from either party. Within 15 days after receipt of the review request, the office shall determine whether the order is due for review. The

office is not required to investigate more than 1 request received from a party each 24 months.

(d) If a child is receiving medical assistance, not less than once each 24 months unless either of the following applies:

(*i*) The order requires provision of health care coverage for the child and neither party has requested a review.

(*ii*) The office receives notice from the department that good cause exists not to proceed with support action and neither party has requested a review.

(e) If requested by the initiating state for a recipient of services in that state under title IV-D, not less than once each 24 months. Within 15 days after receipt of a review request, the office shall determine whether an order is due for review.

(2) Within 180 days after determining that a review is required under subsection (1), the office shall send notices as provided in section 17b(2) and (3), conduct a review, and obtain a modification of the order if appropriate.

(3) The office shall use the child support formula developed by the bureau under section 19 in calculating the child support award. If the office determines from the facts of the case that application of the child support formula would be unjust or inappropriate, or that income should not be based on actual income earned by the parties, the office shall prepare a written report that includes all of the following:

(a) The support amount, based on actual income earned by the parties, determined by application of the child support formula and all factual assumptions upon which that support amount is based.

(b) An alternative support recommendation and all factual assumptions upon which the alternative support recommendation is based.

(c) How the alternative support recommendation deviates from the child support formula.

(d) The reasons for the alternative support recommendation.

(e) All evidence known to the friend of the court that the individual is or is not able to earn the income imputed to him or her.

(4) The office shall petition the court if modification is determined to be necessary under subsection (3) unless either of the following applies:

(a) The difference between the existing and projected child support award is within the minimum threshold for modification of a child support amount as established by the formula.

(b) The court previously determined that application of the formula was unjust or inappropriate and the office determines under subsection (3) that the facts of the case and the reasons and amount of the prior deviation remain unchanged.

(5) A petition for modification may be made at the same time the parties are provided with notice under section 17b(3). A hearing held on a proposed modification shall be scheduled no earlier than 30 days after the date of the notice provided for in section 17b(3).

(6) If the office determines there should be no change in the order and a party objects to the determination in writing to the office within 30 days after the date of the notice provided for in section 17b(3), the office shall schedule a hearing before the court.

(7) If a support order lacks provisions for health care coverage, the office shall petition the court for a modification to require that 1 or both parents obtain or maintain health care coverage for the benefit of each child who is subject to the support order if either of

the following is true:

(a) Either parent has health care coverage available, as a benefit of employment, for the benefit of the child at a reasonable cost.

(b) Either parent is self-employed, maintains health care coverage for himself or herself, and can obtain health care coverage for the benefit of the child at a reasonable cost.

(8) The office shall determine the costs to each parent for dependent health care coverage and child care costs and shall disclose those costs in the report under section 17b(4).

552.517b Review of order; notice of right to request; notice of review; notice of increase or decrease in amount of child support, modification to order health care, or determination of no change in order; availability of documents.

Sec. 17b. (1) Each party subject to a child support order shall be notified of the right to request a review of the order as provided in section 17, and the place and manner in which to make the request. For a friend of the court case, the notice shall be provided by the office or, pursuant to court rule, by the plaintiff, using the informational pamphlet required under section 5. The notice shall be sent to the party's last known address.

(2) The office shall notify each party of a review of a child support order under section 17 at least 30 days before the review is conducted. The notice shall request income, expense, or other information as needed from the party to conduct the review and shall specify the date by which that information is due. The notice shall be sent to each party to his or her last known address.

(3) After a review of a child support order has been conducted, the office shall notify each party of a proposed increase or decrease in the amount of child support, a proposed modification to order health care coverage, or a determination that there should be no change in the order. Notice of an increase or decrease in child support or a modification to order health care coverage can be provided by or with a copy of the petition for modification. The notice shall also inform the parties of both of the following:

(a) That the party may object to the proposed modification or determination that there should be no change in the order at a hearing before a referee or the court.

(b) The time, place, and manner in which to raise objections.

(4) The office shall make available to each party and his or her attorney a copy of the written report, transcript, recommendation, and supporting documents or a summary of supporting documents prepared or used by the office under section 17 before the court modifies a support order.

552.517c Review of support order in another state; procedures.

Sec. 17c. (1) If Michigan is the initiating state in an interstate friend of the court case involving child support, the office shall determine whether a review of a support order in another state is appropriate in accordance with section 17 and is appropriate based upon the residence and jurisdiction of the parties.

(2) If the office determines that a review of a support order in another state is appropriate, the office shall obtain income, expense, and other information needed to conduct the review from the requesting party or recipient of public assistance or medical assistance.

(3) The office shall initiate a request for a review within 20 calendar days after receipt of the information requested under subsection (2).

(4) The office shall forward to a party who resides in Michigan a copy of each notice issued by the responding state in conjunction with the review and modification of a support order, which notice is sent to the office for distribution.

552.526 Grievance procedure; records; public access to report of grievances; powers and duties of citizen advisory committee.

Sec. 26. (1) A party to a friend of the court case who has a grievance concerning office operations or employees shall utilize the following grievance procedure:

(a) File the grievance, in writing, with the appropriate friend of the court office. The office shall cause the grievance to be investigated and decided as soon as practicable. Within 30 days after a grievance is filed, the office shall respond to the grievance or issue a statement to the party filing the grievance stating the reason a response is not possible within that time.

(b) A party who is not satisfied with the decision of the office under subdivision (a) may file a further grievance, in writing, with the chief judge. The chief judge shall cause the grievance to be investigated and decided as soon as practicable. Within 30 days after a grievance is filed, the court shall respond to the grievance or issue a statement to the party filing the grievance stating the reason a response is not possible within that time.

(2) Each office shall maintain a record of grievances received and a record of whether the grievance is decided or outstanding. The record shall be transmitted not less than biannually to the bureau. Each office shall provide public access to the report of grievances prepared by the bureau under section 19.

(3) In addition to the grievance procedure provided in subsection (1), a party to a friend of the court case who has a grievance concerning office operations may file, at any time during the proceedings, the grievance in writing with the appropriate citizen advisory committee. In its discretion, the citizen advisory committee shall conduct a review or investigation of, or hold a formal or informal hearing on, a grievance submitted to the committee. The citizen advisory committee may delegate its responsibility under this subsection to subcommittees appointed as provided in section 4a.

(4) In addition to action taken under subsection (3), the citizen advisory committee shall establish a procedure for randomly selecting grievances submitted directly to the office of the friend of the court. The citizen advisory committee shall review the response of the office to these grievances and report its findings to the court and the county board, either immediately or in the committee's annual report.

(5) The citizen advisory committee shall examine the grievances filed with the friend of the court under this section and shall review or investigate each grievance that alleges that a decision was made based on gender rather than the best interests of the child.

(6) If a citizen advisory committee reviews or investigates a grievance, the committee shall respond to the grievance as soon as practicable.

(7) A grievance filed under subsection (3) is limited to office operations, and the citizen advisory committee shall inform an individual who files with the committee a grievance that concerns an office employee or a court or office decision or recommendation regarding a specific case that such a matter is not a proper subject for a grievance.

Repeal of § 552.517a.

Enacting section 1. Section 17a of the friend of the court act, 1982 PA 294, MCL 552.517a, is repealed.

Effective date.

Enacting section 2. (1) Sections 2, 2a, 5, 9, 11, 13, 15, 17, 17b, 17c, and 26 of the friend of the court act, MCL 552.502, 552.502a, 552.505, 552.509, 552.511, 552.513, 552.515, 552.517, 552.517b, 552.517c, and 552.526, as amended by this amendatory act, take effect June 1, 2003.

(2) Section 5a of the friend of the court act, MCL 552.505a, as added by this amendatory act, takes effect December 1, 2002.

Conditional effective date.

Enacting section 3. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 6008.

(b) House Bill No. 6009.

(c) House Bill No. 6010.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

Compiler's note: The bills referred to in enacting section 3 were enacted into law as follows:
House Bill No. 6008 was filed with the Secretary of State October 3, 2002, and became P.A. 2002, No. 564, Eff. Mar. 31, 2003.
House Bill No. 6009 was filed with the Secretary of State October 3, 2002, and became P.A. 2002, No. 569, Eff. Dec. 1, 2002.
House Bill No. 6010 was filed with the Secretary of State October 3, 2002, and became P.A. 2002, No. 570, Eff. June 1, 2003.

[No. 572]

(HB 6012)

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending sections 2, 3, 3a, 4, 5a, 7, 10, 17, 19, 24, 24a, and 26 (MCL 552.602, 552.603, 552.603a, 552.604, 552.605a, 552.607, 552.610, 552.617, 552.619, 552.624, 552.624a, and 552.626), section 2 as amended by 1999 PA 160, sections 3 and 26 as amended and section 5a as added by 2001 PA 106, section 3a as amended by 1996 PA 120, sections 4, 7, 17, and 19 as amended and section 24a as added by 1998 PA 334, and section 24 as added by 1985 PA 210.

The People of the State of Michigan enact:

552.602 Definitions.

Sec. 2. As used in this act:

(a) "Account" means any of the following:

(*i*) A demand deposit account.

(*ii*) A draft account.

(*iii*) A checking account.

(*iv*) A negotiable order of withdrawal account.

(*v*) A share account.

(*vi*) A savings account.

(*vii*) A time savings account.

(*viii*) A mutual fund account.

(*ix*) A securities brokerage account.

(*x*) A money market account.

(*xi*) A retail investment account.

(b) "Account" does not mean any of the following:

(*i*) A trust.

(*ii*) An annuity.

(*iii*) A qualified individual retirement account.

(*iv*) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(*v*) A pension or retirement plan.

(*vi*) An insurance policy.

(c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact the account holder.

(d) "Cash" means money or the equivalent of money, such as a money order, cashier's check, or negotiable check or a payment by debit or credit card, which equivalent is accepted as cash by the agency accepting the payment.

(e) "Custody or parenting time order violation" means an individual's act or failure to act that interferes with a parent's right to interact with his or her child in the time, place, and manner established in the order that governs custody or parenting time between the parent and the child and to which the individual accused of interfering is subject.

(f) "Department" means the family independence agency.

(g) "Domestic relations matter" means a circuit court proceeding as to child custody or parenting time, or child or spousal support, that arises out of litigation under a statute of this state, including, but not limited to, the following:

(*i*) 1846 RS 84, MCL 552.1 to 552.45.

(*ii*) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(*iii*) Child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31.

(*iv*) 1968 PA 293, MCL 722.1 to 722.6.

(*v*) The paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(*vi*) Revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(*vii*) Uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(h) "Driver's license" means license as that term is defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25.

(i) "Employer" means an individual, sole proprietorship, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that hires and pays an individual for his or her services.

(j) "Financial asset" means a deposit, account, money market fund, stock, bond, or similar instrument.

(k) "Financial institution" means any of the following:

(*i*) A state or national bank.

(*ii*) A state or federally chartered savings and loan association.

(*iii*) A state or federally chartered savings bank.

(*iv*) A state or federally chartered credit union.

(*v*) An insurance company.

(*vi*) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(*vii*) An entity regulated by the securities and exchange commission that collects funds from the public.

(*viii*) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(*ix*) Another entity that collects funds from the public.

(*l*) "Friend of the court act" means 1982 PA 294, MCL 552.501 to 552.535.

(m) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, MCL 552.502. The term "friend of the court case", when used in a provision of this act, is not effective until on and after the effective date of section 5a of the friend of the court act, MCL 552.505a.

(n) "Income" means any of the following:

(*i*) Commissions, earnings, salaries, wages, and other income due or to be due in the future to an individual from his or her employer and successor employers.

(*ii*) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker's compensation.

(*iii*) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.

(o) "Insurer" means an insurer, health maintenance organization, health care corporation, or other group, plan, or entity that provides health care coverage in accordance with any of the following acts:

(*i*) Public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(*ii*) The insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(*iii*) The nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(p) "Medical assistance" means medical assistance as established under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(q) "Occupational license" means a certificate, registration, or license issued by a state department, bureau, or agency that has regulatory authority over an individual that

allows an individual to legally engage in a regulated occupation or that allows the individual to use a specific title in the practice of an occupation, profession, or vocation.

(r) "Office of child support" means the office of child support established in section 2 of the office of child support act, 1971 PA 174, MCL 400.232.

(s) "Office of the friend of the court" means an agency created in section 3 of the friend of the court act, MCL 552.503.

(t) "Order of income withholding" means an order entered by the circuit court providing for the withholding of a payer's income to enforce a support order under this act.

(u) "Payer" means an individual who is ordered by the circuit court to pay support.

(v) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

(w) "Plan administrator" means that term as used in relation to a group health plan under section 609 of part 6 of subtitle B of title I of the employee retirement income security act of 1974, Public Law 93-406, 29 U.S.C. 1169, if the health care coverage plan of the individual who is responsible for providing a child with health care coverage is subject to that act.

(x) "Political subdivision" means a county, city, village, township, educational institution, school district, or special district or authority of the state or of a local unit of government.

(y) "Recipient of support" means the following:

(*i*) The spouse, if the support order orders spousal support.

(*ii*) The custodial parent or guardian, if the support order orders support for a minor child or a child who is 18 years of age or older.

(*iii*) The department, if support has been assigned to that department.

(z) "Recreational or sporting license" means a hunting, fishing, or fur harvester's license issued under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, but does not include a commercial fishing license or permit issued under part 473 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.47301 to 324.47362.

(aa) "Referee" means a person who is designated as a referee under the friend of the court act.

(bb) "Source of income" means an employer or successor employer or another individual or entity that owes or will owe income to the payer.

(cc) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(dd) "State friend of the court bureau" means that bureau as created in the state court administrative office under section 19 of the friend of the court act, MCL 552.519.

(ee) "Support" means all of the following:

(*i*) The payment of money for a child or a spouse ordered by the circuit court, whether the order is embodied in an interim, temporary, permanent, or modified order or judgment. Support may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses.

(*ii*) The payment of money ordered by the circuit court under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the necessary expenses incurred by or for the mother in connection with her confinement, for other expenses in connection with the pregnancy of the mother, or for the repayment of genetic testing expenses.

(*iii*) A surcharge accumulated under section 3a.

(ff) "Support order" means an order entered by the circuit court for the payment of support, whether or not a sum certain.

(gg) "Title IV-D" means part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

(hh) "Title IV-D agency" means the agency in this state performing the functions under title IV-D and includes a person performing those functions under contract including an office of the friend of the court or a prosecuting attorney.

(ii) "Work activity" means any of the following:

(*i*) Unsubsidized employment.

(*ii*) Subsidized private sector employment.

(*iii*) Subsidized public sector employment.

(*iv*) Work experience, including work associated with the refurbishing of publicly assisted housing, if sufficient private sector employment is not available.

(*v*) On-the-job training.

(*vi*) Referral to and participation in the work first program prescribed in the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or other job search and job readiness assistance.

(*vii*) Community service programs.

(*viii*) Vocational educational training, not to exceed 12 months with respect to an individual.

(*ix*) Job skills training directly related to employment.

(*x*) Education directly related to employment, in the case of an individual who has not received a high school diploma or a certificate of high school equivalency.

(*xi*) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of an individual who has not completed secondary school or received such a certificate.

(*xii*) The provisions of child care services to an individual who is participating in a community service program.

552.603 Support order; enforcement.

Sec. 3. (1) A support order issued by a court of this state shall be enforced as provided in this act.

(2) Except as otherwise provided in this section, a support order that is part of a judgment or is an order in a domestic relations matter is a judgment on and after the date the support amount is due as prescribed in section 5c, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. Retroactive modification of a support payment due under a support order is permissible with respect to a period during which there is pending a petition for modification, but only from the date that notice of the petition was given to the payer or recipient of support.

(3) This section does not apply to an ex parte interim support order or a temporary support order entered under supreme court rule.

(4) The office of the friend of the court shall make available to a payer or payee the forms and instructions described in section 5 of the friend of the court act, MCL 552.505.

(5) This section does not prohibit a court approved agreement between the parties to retroactively modify a support order. This section does not limit other enforcement remedies available under this or another act.

(6) Every support order that is part of a judgment issued by a court of this state or that is an order in a domestic relations matter shall include all of the following:

(a) Substantially the following statement: "Except as otherwise provided in section 3 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.603, a support order that is part of a judgment or that is an order in a domestic relations matter as defined in section 2 of the friend of the court act, 1982 PA 294, MCL 552.502, is a judgment on and after the date each support payment is due, with the full force, effect, and attributes of a judgment of this state, and is not, on and after the date it is due, subject to retroactive modification. A surcharge will be added to support amounts that are past due as provided in section 3a of the support and parenting time enforcement act, 1982 PA 295, MCL 552.603a.".

(b) Notice informing the payer of the imposition of liens by operation of law and that the payer's real and personal property can be encumbered or seized if an arrearage accrues in an amount greater than the amount of periodic support payments payable under the payer's support order for the time period specified in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(7) Each support order that is an order in a friend of the court case shall include all of the following:

(a) A requirement that, within 21 days after the payer or payee changes his or her residential or mailing address, that individual report the new address and his or her telephone number in writing to the friend of the court.

(b) A requirement that both the payer and payee notify the office of the friend of the court if he or she holds an occupational license and if he or she holds a driver's license.

(c) The name, address, and telephone number of the payer's and payee's current sources of income.

(d) A requirement that both the payer and payee inform the office of the friend of the court of his or her social security number and driver's license number. The requirement of this subdivision to provide a social security number with the information does not apply to a payer or payee who demonstrates he or she is exempt under law from obtaining a social security number or to a payer or payee who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The court shall inform the payer and payee of this possible exemption.

(e) Notice that an order for dependent health care coverage takes effect immediately and will be sent to the parent's current and subsequent employers and insurers if appropriate. The notice shall inform the parent that he or she may contest the action by requesting a review or hearing concerning availability of health care coverage at a reasonable cost.

(8) A support order shall not accrue interest.

552.603a Support payment; addition of past due rate; application.

Sec. 3a. (1) For a friend of the court case, as of January 1 and July 1 of each year, a surcharge calculated at an 8% annual rate shall be added to support payments that are past due as of those dates. The amount shown as due and owing on the records of the friend of the court as of January 1 and July 1 of each year shall be reduced by an amount equal to 1 month's support for purposes of assessing the surcharge. A surcharge under

this subsection shall not be added to support ordered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, for the time period to the date of the support order.

(2) Upon receiving money for payment of support, the friend of the court shall apply the amount received first to current support and then to any support arrearage including any surcharges imposed under this section.

552.604 Support order to provide for order of income withholding; order of income withholding by operation of law; notice; effective date of order.

Sec. 4. (1) After July 1, 1983, each support order entered or modified by the circuit court shall provide for an order of income withholding.

(2) Each support order entered by the circuit court on or before July 1, 1983 shall be considered to provide for an order of income withholding by operation of law, and income withholding shall be implemented under the same circumstances and enforced in the same manner as in the case of orders of income withholding required by subsection (1). The office of the friend of the court shall send notice of the provisions of this subsection by ordinary mail to each payer under a support order entered by the circuit court on or before July 1, 1983 to whom this subsection applies.

(3) An order of income withholding in a support order including consideration of any abatements of support entered or modified after December 31, 1990, shall take effect immediately unless 1 of the following applies:

(a) The court finds, upon notice and hearing, that there is good cause for the order of income withholding not to take effect immediately. For purposes of this subdivision, a finding of good cause shall be based on at least all of the following:

(*i*) A written and specific finding by the court why immediate income withholding would not be in the child's best interests.

(*ii*) Proof of timely payment of previously ordered support, if applicable.

(*iii*) For a friend of the court case, an agreement by the payer that he or she shall keep the office of the friend of the court informed of both of the following:

(A) The name, address, and telephone number of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurer; the policy, certificate, or contract number; and the names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(b) The parties enter into a written agreement that is reviewed and entered in the record by the court that provides for all of the following:

(*i*) The order of income withholding shall not take effect immediately.

(*ii*) An alternative payment arrangement.

(*iii*) For a friend of the court case, that the payer shall keep the office of the friend of the court informed of both of the following:

(A) The name, address, and telephone number of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurer; the policy, certificate, or contract number; and names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(4) Except as otherwise provided in subsection (3)(a) or (b), an order of income withholding in an ex parte interim support order shall take effect after the expiration of 21 days after the order has been served on the opposite party unless the opposite party files a written objection to the ex parte interim support order during that 21-day period.

(5) An order of income withholding that does not take effect immediately as provided in this section shall take effect when the requirement of section 7 is met.

(6) The court for cause or at the request of the payer may order the withholding of income to take effect immediately.

(7) An order of income withholding in a support order entered on or before December 31, 1990 shall take effect when the requirement of section 7 is met.

552.605a Information to be provided to office of the friend of the court; health care coverage; bond.

Sec. 5a. (1) For a friend of the court case, a child support order entered or modified by the court shall provide that each party shall keep the office of the friend of the court informed of both of the following:

(a) The name and address of his or her current source of income.

(b) Health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurance company, nonprofit health care corporation, or health maintenance organization; the policy, certificate, or contract number; and the names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(2) If a child support order is entered, the court shall require that 1 or both parents obtain or maintain health care coverage that is available to them at a reasonable cost, as a benefit of employment, for the benefit of the minor children of the parties and, subject to section 5b, for the benefit of the parties' children who are not minor children. If a parent is self-employed and maintains health care coverage, the court shall require the parent to obtain or maintain dependent coverage for the benefit of the minor children of the parties and, subject to section 5b, for the benefit of the parties' children who are not minor children, if available at a reasonable cost.

(3) A court may require either parent to file a bond with 1 or more sufficient sureties, in a sum to be fixed by the court, guaranteeing payment of child support.

552.607 Notice of arrearage to payer; contents; sending copy of notice to recipient; request for hearing; delaying order of income withholding; time of hearing; de novo hearing; consolidation of hearings; completion of proceedings.

Sec. 7. (1) For a friend of the court case, if the arrearage under a support order reaches the arrearage amount that requires the initiation of 1 or more support enforcement measures as provided in section 11 of the friend of the court act, MCL 552.511, the office of the friend of the court immediately shall send notice of the arrearage to the payer by ordinary mail to his or her last known address. The notice to the payer shall contain the following information:

(a) The amount of the arrearage.

(b) That the payer's income is subject to income withholding and the amount to be withheld.

(c) That income withholding will be applied to current and subsequent employers and periods of employment and other sources of income.

(d) That the order of income withholding is effective and notice to withhold income will be sent to the payer's source of income.

(e) That the payer may request a hearing within 21 days after the date of the notice to contest the withholding, but only on the grounds that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer.

(f) That if the hearing is held before a referee, the payer has a right to a de novo hearing before a circuit court judge.

(g) That if the payer believes that the amount of support should be modified due to a change in circumstances, the payer may file a petition with the court for modification of the support order.

(2) A copy of the notice provided for in subsection (1) shall be sent by ordinary mail to each recipient of support.

(3) A payer to whom notice is sent under subsection (1), within 21 days after the date on which the notice was sent, may request a hearing on the grounds that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer.

(4) A referee or circuit judge shall hold a hearing requested under this section within 14 days after the date of the request. If at the hearing the payer establishes that the withholding is not proper because of a mistake of fact concerning the amount of current or overdue support or the identity of the payer, the referee or circuit judge may direct that the order of income withholding be rescinded until such time as the referee or judge determines.

(5) If the hearing provided under subsection (4) is held before a referee, either party may request a de novo hearing as provided in section 7 of the friend of the court act, MCL 552.507.

(6) If a petition for modification of the support order is filed by or on behalf of a payer and is pending at the date scheduled for a hearing under subsection (4), the court may consolidate the hearing under subsection (4) and a hearing on the petition for modification.

(7) All proceedings under this section shall be completed within 45 days after the date that notice was sent under subsection (1), unless otherwise permitted by the court upon a showing of good cause.

552.610 Payer to give friend of court name and address of employer.

Sec. 10. For a friend of the court case, the payer shall give to the office of the friend of the court at the time the order of income withholding is issued the name and address of his or her employer. The payer shall immediately give to the office of the friend of the court notice of the name and address of any subsequent employer.

552.617 Notice of support modification; changing amount assigned or withheld.

Sec. 17. For a friend of the court case, if the court orders a modification in support and an order of income withholding has been entered under this act, the office of the friend of the court shall give to a source of income to which notice of income withholding was sent under section 11 a notice of the modification by ordinary mail or by electronic means as agreed by the source of income and the office of the friend of the court. The amount assigned or withheld shall be changed to conform with the court ordered modification 7 days after receipt of the notice of modification.

552.619 Modifying support order to exclude support for child of whom payer awarded sole custody; suspension or termination of order of income withholding; circumstances prohibiting written agreement; effectiveness of order of income withholding; refund of money improperly withheld.

Sec. 19. (1) If the court awards to the payer sole custody of a child for whom the payer has been previously ordered to pay support and a previously accumulated arrearage under the support order for that child does not exist, the court shall modify any existing support order to exclude support ordered to be paid by that payer for that particular child. If an existing support order does not provide for support to any other child of whom the payer does not have custody, for support to a former spouse, or for payments of confinement or pregnancy expenses, the court shall terminate the order of income withholding as soon as any previously accumulated arrearage has been paid.

(2) The office of the friend of the court shall suspend or terminate an order of income withholding under any of the following circumstances:

(a) The location of the child and custodial parent cannot be determined for a period of 60 days or more, and the friend of the court case is being closed.

(b) The court determines that there is no further support obligation.

(c) When otherwise determined by the court, upon a showing of good cause, and if the court determines that such suspension or termination is not contrary to the best interests of the child. In making a determination under this subdivision, the court may consider the previous payment record of the payer, evidence of the payer's intent to make regular and timely support payments, and any other factors considered relevant by the court. However, the payment of arrearages under the support order shall not be the sole reason for termination of an order of income withholding.

(d) The parties enter into a written agreement that is reviewed and entered in the record by the court that provides for all of the following:

(*i*) The order of income withholding shall be suspended.

(*ii*) An alternative payment arrangement.

(*iii*) For a friend of the court case, the payer shall keep the office of the friend of the court informed of both of the following:

(A) The name and address of his or her current source of income.

(B) Any health care coverage that is available to him or her as a benefit of employment or that is maintained by him or her; the name of the insurance company, health care organization, or health maintenance organization; the policy, certificate, or contract number; and names and birth dates of the persons for whose benefit he or she maintains health care coverage under the policy, certificate, or contract.

(3) The parties shall not enter into a written agreement under subsection (2)(d) if either of the following circumstances exists:

(a) There is a support arrearage.

(b) An order of income withholding was previously suspended or terminated and subsequently implemented due to the payer's failure to pay support.

(4) If a written agreement is entered into under subsection (2)(d), the order of income withholding shall take effect when an arrearage in support payments as agreed to under the written agreement reaches the arrearage amount that would require the initiation of 1 or more support enforcement measures if the case were a friend of the court case, as provided in section 11 of the friend of the court act, MCL 552.511.

(5) The court may suspend or terminate an order of income withholding if the custodial parent moves out of the state without court authorization.

(6) The office of the friend of the court shall promptly refund money that has been improperly withheld.

552.624 Offset proceedings against delinquent payer's tax refunds.

Sec. 24. For a friend of the court case, if a support arrearage has accrued, the office of the friend of the court may request the office of child support to initiate offset proceedings against the delinquent payer's state tax refunds and federal income tax refunds as provided in section 3a of the office of child support act, 1971 PA 174, MCL 400.233a.

552.624a Proceedings to set aside transfer of title or ownership of property without fair consideration.

Sec. 24a. For a friend of the court case, if a support arrearage has accrued and there is reason to believe the payer transferred title or ownership of real or personal property without fair consideration, the title IV-D agency shall initiate proceedings to have the transfer set aside as provided in the uniform fraudulent transfer act, 1998 PA 434, MCL 566.31 to 566.43, or obtain a settlement in the form of full payment of the arrearage or in periodic repayments as is possible in the best interest of the recipient of support.

552.626 Notice of income withholding; failure of parent to obtain or maintain health care coverage for child; duties of friend of the court.

Sec. 26. (1) For a friend of the court case, within 2 business days after a new hire report is entered into the state directory of new hires, as created under section 453A of title IV-D, 42 U.S.C. 653a, or a payer's or parent's employer is otherwise identified, the office shall, when appropriate, provide the new employer with a notice of income withholding or a notice of the order for dependent health care coverage, or both, on behalf of a payer who is subject to income withholding or a parent or payer who is required to provide dependent health care coverage.

(2) If an order for dependent health care coverage was entered before September 30, 2001, the office shall, at the time notice of the order is sent to the employer under subsection (1), provide the payer or parent with instructions on how to request a review or hearing to contest the availability of dependent health care coverage at a reasonable cost.

(3) Notwithstanding subsection (2), if a parent fails to obtain or maintain health care coverage for the parent's child as ordered by the court, the office of the friend of the court shall, as applicable, do either of the following:

(a) Petition the court for an order to show cause why the parent should not be held in contempt for failure to obtain or maintain dependent health care coverage that is available at a reasonable cost.

(b) Send notice of noncompliance to the parent. The notice shall contain all of the following information:

(*i*) That the office will notify the parent's employer to deduct premiums for, and to notify the insurer or plan administrator to enroll the child in, dependent health care coverage unless the parent does either of the following within 21 days after mailing of the notice:

(A) Submits written proof to the friend of the court of the child's enrollment in a health care coverage plan.

(B) Requests a hearing to determine the availability or reasonable cost of the health care coverage.

(*ii*) That the order for dependent health care coverage will be applied to current and subsequent employers and periods of employment.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 6004 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

Compiler's note: House Bill No. 6004, referred to in enacting section 2, was filed with the Secretary of State October 3, 2002, and became P.A. 2002, No. 565, Eff. Dec. 1, 2002.

[No. 573]

(HB 6017)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," (MCL 400.1 to 400.119b) by adding section 43b.

The People of the State of Michigan enact:

400.43b Office of inspector general; establishment as criminal justice agency; duties.

Sec. 43b. An office of inspector general is established as a criminal justice agency in the family independence agency. The primary duty of the inspector general is to investigate cases of alleged fraud within the department. The inspector general shall also perform the following activities:

(a) Investigate fraud, waste, and abuse in the programs administered by the family independence agency.

(b) Make referrals for prosecution and disposition of appropriate cases as determined by the inspector general.

(c) Review administrative policies, practices, and procedures.

(d) Make recommendations to improve program integrity and accountability.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2002.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

[No. 574]

(HB 6020)

AN ACT to amend 1966 PA 138, entitled "An act to confer jurisdiction upon the circuit courts to order and enforce the payment of money for the support, in certain cases, of parents having physical custody of minor children or children who have reached the age of majority and of minor children or children who have reached the age of majority by noncustodial parents; to provide for the termination of the effectiveness of the orders; and to provide for the payment of fees and assessment of costs in those cases," by amending the title and sections 2 and 8a (MCL 552.452 and 552.458a), the title as amended by 1990 PA 237, section 2 as amended by 2001 PA 111, and section 8a as added by 1999 PA 158.

The People of the State of Michigan enact:

TITLE

An act to confer jurisdiction upon the circuit courts to order and enforce the payment of money for the support, in certain cases, of parents having physical custody of minor children or children who have reached the age of majority and of minor children or children who have reached the age of majority by noncustodial parents and to enter orders governing custody and parenting time for those children; to provide for the termination of the effectiveness of the support orders; and to provide for the payment of fees and assessment of costs in those cases.

552.452 Hearing; order; contents; burden of proving lack of ability to provide support; amount; enforcement of order; custody and parenting time.

Sec. 2. (1) Upon the hearing of the complaint, in the manner of a motion, the court may enter an order as it determines proper for the support of the petitioner and the minor child or children of the parties as prescribed in section 5 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605. The order shall provide that payment shall be made to the friend of the court or the state disbursement unit. If the parent complained of opposes the entry of the order upon the ground that he or she is without sufficient financial ability to provide necessary shelter, food, care, clothing, and other support for his or her spouse and child or children, the burden of proving this lack of ability is on the parent against whom the complaint is made. The order shall state in separate paragraphs

the amount of support for the petitioner until the further order of the court, and the amount of support for each child until each child reaches 18 years of age or until the further order of the court. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support for the child after the child reaches 18 years of age, or until the further order of the court.

(2) A support order entered under this section is enforceable as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650. If this act contains a specific provision regarding the contents or enforcement of a child support order that conflicts with a provision in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650, this act controls in regard to that provision.

(3) If there is no dispute regarding a child's custody, the court shall include in an order for support issued under this act specific provisions governing custody of and parenting time for the child in accordance with the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31. If there is a dispute regarding custody of and parenting time for the child, the court shall include in an order for support issued under this act specific temporary provisions governing custody of and parenting time for the child. Pending a hearing on or other resolution of the dispute, the court may refer the matter to the office of the friend of the court for a written report and recommendation as provided in section 5 of the friend of the court act, 1982 PA 294, MCL 552.505. In a dispute regarding custody of and parenting time for a child, the prosecuting attorney is not required to represent either party regarding the dispute.

552.458a Transition to centralized receipt and disbursement of support and fees.

Sec. 8a. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 7 of the office of child support act, 1971 PA 174, MCL 400.237, and modifications to that schedule as the department considers necessary.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2002.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

[No. 575]

(HB 5896)

AN ACT to amend 1986 PA 281, entitled "An act to encourage local development to prevent conditions of unemployment and promote economic growth; to provide for the establishment of local development finance authorities and to prescribe their powers and duties; to provide for the creation of a board to govern an authority and to prescribe its powers and duties; to provide for the creation and implementation of development plans; to authorize the acquisition and disposal of interests in real and personal property; to permit the issuance of bonds and other evidences of indebtedness by an authority; to

prescribe powers and duties of certain public entities and state officers and agencies; to reimburse authorities for certain losses of tax increment revenues; and to authorize and permit the use of tax increment financing," by amending section 12a (MCL 125.2162a), as added by 2000 PA 248.

The People of the State of Michigan enact:

125.2162a Designation as certified technology park; application to Michigan economic development corporation; agreement.

Sec. 12a. (1) A municipality that has created an authority may apply to the Michigan economic development corporation for designation of all or a portion of the authority district as a certified technology park and to enter into an agreement governing the terms and conditions of the designation. The form of the application shall be in a form specified by the Michigan economic development corporation and shall include information the Michigan economic development corporation determines necessary to make the determinations required under this section.

(2) After receipt of an application, the Michigan economic development corporation may designate, pursuant to an agreement entered into under subsection (3), a certified technology park that is determined by the Michigan economic development corporation to satisfy 1 or more of the following criteria based on the application:

(a) A demonstration of significant support from an institution of higher education or a private research-based institute located within the proximity of the proposed certified technology park, as evidenced by, but not limited to, the following types of support:

(*i*) Grants of preferences for access to and commercialization of intellectual property.

(*ii*) Access to laboratory and other facilities owned by or under control of the institution of higher education or private research-based institute.

(*iii*) Donations of services.

(*iv*) Access to telecommunication facilities and other infrastructure.

(*v*) Financial commitments.

(*vi*) Access to faculty, staff, and students.

(*vii*) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(b) A demonstration of a significant commitment on behalf of the institution of higher education or private research-based institute to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(c) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(d) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(*i*) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(*ii*) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(*iii*) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(e) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(*i*) A commitment to new business formation.

(*ii*) The clustering of businesses, technology, and research.

(*iii*) The opportunity for and costs of development of properties under common ownership or control.

(*iv*) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(*v*) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(f) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain eligible property as defined by section 2(p)(*iii*) and (*v*).

(3) An authority and a municipality that incorporated the authority may enter into an agreement with the Michigan economic development corporation establishing the terms and conditions governing the certified technology park. Upon designation of the certified technology park pursuant to the terms of the agreement, the subsequent failure of any party to comply with the terms of the agreement shall not result in the termination or rescission of the designation of the area as a certified technology park. The agreement shall include, but is not limited to, the following provisions:

(a) A description of the area to be included within the certified technology park.

(b) Covenants and restrictions, if any, upon all or a portion of the properties contained within the certified technology park and terms of enforcement of any covenants or restrictions.

(c) The financial commitments of any party to the agreement and of any owner or developer of property within the certified technology park.

(d) The terms of any commitment required from an institution of higher education or private research-based institute for support of the operations and activities at eligible properties within the certified technology park.

(e) The terms of enforcement of the agreement, which may include the definition of events of default, cure periods, legal and equitable remedies and rights, and penalties and damages, actual or liquidated, upon the occurrence of an event of default.

(f) The public facilities to be developed for the certified technology park.

(g) The costs approved for public facilities under section 2(aa).

(4) If the Michigan economic development corporation has determined that a sale price or rental value at below market rate will assist in increasing employment or private investment in the certified technology park, the authority and municipality have authority to determine the sale price or rental value for public facilities owned or developed by the authority and municipality in the certified technology park at below market rate.

(5) If public facilities developed pursuant to an agreement entered into under this section are conveyed or leased at less than fair market value or at below market rates, the terms of the conveyance or lease shall include legal and equitable remedies and rights to assure the public facilities are used as eligible property. Legal and equitable remedies and rights may include penalties and actual or liquidated damages.

(6) An agreement designating a certified technology park may not be made after December 31, 2002, but any agreement made on or before December 31, 2002 may be amended after that date.

(7) The Michigan economic development corporation shall market the certified technology parks and the certified business parks. The Michigan economic development corporation and an authority may contract with each other or any third party for these marketing services.

(8) Except as otherwise provided in subsection (9), the Michigan economic development corporation shall not designate more than 10 certified technology parks. For purposes of this subsection only, 2 certified technology parks located in a county that contains a city with a population of more than 750,000, shall be counted as 1 certified technology park. Not more than 7 of the certified technology parks designated under this section may not include a firm commitment from at least 1 business engaged in a high technology activity creating a significant number of jobs.

(9) The Michigan economic development corporation may designate an additional 5 certified technology parks after November 1, 2002. The Michigan economic development corporation shall not accept applications for the additional certified technology parks under this subsection until after November 1, 2002.

(10) The Michigan economic development corporation shall give priority to applications that include new business activity.

(11) For an authority established by 2 or more municipalities under sections 3(2) and 4(7), each municipality in which the authority district is located by a majority vote of the members of its governing body may make a limited tax pledge to support the authority's tax increment bonds issued under section 14 or, if authorized by the voters of the municipality, may pledge its full faith and credit for the payment of the principal of and interest on the bonds. The municipalities that have made a pledge to support the authority's tax increment bonds may approve by resolution an agreement among themselves establishing obligations each may have to the other party or parties to the agreement for reimbursement of all or any portion of a payment made by a municipality related to its pledge to support the authority's tax increment bonds.

(12) Not including certified technology parks designated under subsection (8), but for certified technology parks designated under subsection (9) only, this state shall do all of the following:

(a) Reimburse intermediate school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after the effective date of the amendatory act that added this subdivision.

(b) Reimburse local school districts each year for all tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation after the effective date of the amendatory act that added this subdivision.

(c) Reimburse the school aid fund from funds other than those appropriated in section 11 of the state school aid act of 1979, 1979 PA 94, MCL 388.1611, for an amount equal to the reimbursement calculations under subdivisions (a) and (b) and for all revenue lost that was captured by an authority for a certified technology park designated by the Michigan

economic development corporation after the effective date of the amendatory act that added this subdivision. Foundation allowances calculated under section 20 of the state school aid act of 1979, 1979 PA 94, MCL 388.1620, shall not be reduced as a result of tax revenue lost that was captured by an authority for a certified technology park designated by the Michigan economic development corporation under subsection (9) after the effective date of the amendatory act that added this subdivision.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

[No. 576]

(HB 4147)

AN ACT to amend 1947 PA 359, entitled "An act to authorize the incorporation of charter townships; to provide a municipal charter therefor; to prescribe the powers and functions thereof; and to prescribe penalties and provide remedies," by amending section 31 (MCL 42.31).

The People of the State of Michigan enact:

42.31 Local or public improvements; approval; determination of necessity; special assessments; bonds.

Sec. 31. Each charter township may make local or public improvements by paving streets that are not a part of the county highway system, laying curbs and gutters, installing elevated structures for foot travel over highways within the township with the written approval of the director of the state transportation department if the highways are state highways or with the written approval of the board of county road commissioners if the highways are county roads, laying sidewalks, installing solid waste disposal systems, steam generation and distribution, paving streets that are a part of the county highway system with the consent of and according to specifications of the county road commission, laying storm and sanitary sewers and separating storm water drainage and footing drains from sanitary sewers on privately owned property for a public purpose, installing water systems, and installing street and highway lighting systems, and further may maintain or operate these improvements. The township board of each charter township may determine the necessity of the local or public improvement and may determine that the whole or any part of the expense of the local or public improvement shall be defrayed by special assessment upon lands abutting upon and adjacent to or otherwise benefited by the improvement. A special assessment under this section shall be made in all respects as provided for the making of special assessments under 1954 PA 188, MCL 41.721 to 41.738. Each charter township may borrow money and issue bonds therefor in anticipation of the payment of special assessments, which may be an obligation of the special assessment district or may be both an obligation of the special assessment district and a general obligation of the township. Bonds issued under this act shall be issued in accordance with 1954 PA 188, MCL 41.721 to 41.738.

This act is ordered to take immediate efffect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

[No. 577]

(HB 4080)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 540e (MCL 750.540e), as amended by 1988 PA 395.

The People of the State of Michigan enact:

750.540e Malicious use of service provided by telecommunications service provider.

Sec. 540e. (1) A person is guilty of a misdemeanor who maliciously uses any service provided by a telecommunications service provider with intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy another person, or to disturb the peace and quiet of another person by any of the following:

(a) Threatening physical harm or damage to any person or property in the course of a conversation or message through the use of a telecommunications service or device.

(b) Falsely and deliberately reporting by message through the use of a telecommunications service or device that a person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime or an accident.

(c) Deliberately refusing or failing to disengage a connection between a telecommunications device and another telecommunications device or between a telecommunications device and other equipment provided for the transmission of messages through the use of a telecommunications service or device.

(d) Using vulgar, indecent, obscene, or offensive language or suggesting any lewd or lascivious act in the course of a conversation or message through the use of a telecommunications service or device.

(e) Repeatedly initiating a telephone call and, without speaking, deliberately hanging up or breaking the telephone connection as or after the telephone call is answered.

(f) Making an unsolicited commercial telephone call that is received between the hours of 9 p.m. and 9 a.m. For the purpose of this subdivision, "an unsolicited commercial telephone call" means a call made by a person or recording device, on behalf of a person, corporation, or other entity, soliciting business or contributions.

(g) Deliberately engaging or causing to engage the use of a telecommunications service or device of another person in a repetitive manner that causes interruption in telecommunications service or prevents the person from utilizing his or her telecommunications service or device.

(2) A person violating this section may be imprisoned for not more than 6 months or fined not more than $1,000.00, or both. An offense is committed under this section if the communication either originates or terminates in this state and may be prosecuted at the place of origination or termination.

(3) As used in this section, "telecommunications", "telecommunications service", and "telecommunications device" mean those terms as defined in section 540c.

Effective date.

Enacting section 1. This amendatory act takes effect November 1, 2002.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

[No. 578]

(HB 4599)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding part 172.

The People of the State of Michigan enact:

PART 172. MERCURY THERMOMETERS

324.17201 Definitions.

Sec. 17201. As used in this part:

(a) "Manufacturer" means a person that produces, imports, or distributes mercury thermometers in this state.

(b) "Mercury fever thermometer" means a mercury thermometer used for measuring body temperature.

(c) "Mercury thermometer" means a product or component, other than a dry cell battery, of a product used for measuring temperature that contains mercury or a mercury compound intentionally added to the product or component.

324.17202 Mercury thermometer; sale, offer for sale, or offer for promotional purposes.

Sec. 17202. (1) Except as provided in subsection (2), beginning on January 1, 2003, a person shall not sell, offer for sale, or offer for promotional purposes a mercury thermometer in this state or for use in this state. This subsection does not apply if the mercury thermometer is sold or offered for either of the following:

(a) A use for which a mercury thermometer is required by state or federal statute, regulation, or administrative rule.

(b) Pharmaceutical research purposes.

(2) Beginning on January 1, 2003, a person shall not sell, offer for sale, or offer for promotional purposes a mercury fever thermometer in this state or for use in this state, except by prescription. A manufacturer of mercury fever thermometers shall supply clear instructions on the careful handling of the thermometer to avoid breakage and proper cleanup should a breakage occur with each mercury fever thermometer sold by prescription.

324.17203 Enforcement; violation as misdemeanor; penalty.

Sec. 17203. (1) The department of environmental quality shall enforce this part.

(2) A person who violates this part is guilty of a misdemeanor punishable by imprisonment for not more than 60 days or a fine of not more than $1,000.00, or both, plus the costs of prosecution.

This act is ordered to take immediate effect.
Approved October 3, 2002.
Filed with Secretary of State October 3, 2002.

[No. 579]

(SB 593)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 15 (MCL 205.65), as amended by 1993 PA 325.

The People of the State of Michigan enact:

205.65 Certificate of dissolution or withdrawal; personal liability of officers.

Sec. 15. (1) A domestic corporation or a foreign corporation authorized to transact business in this state that submits a certificate of dissolution or requests a certificate of withdrawal from this state shall request a certificate from the department stating that taxes are not due under section 27a of 1941 PA 122, MCL 205.27a, not more than 60 days after submitting the certificate of dissolution or requesting the certificate of withdrawal. A corporation that does not request a certificate stating that taxes are not due is subject to the same penalties under section 24 of 1941 PA 122, MCL 205.24, that a taxpayer would be subject to for failure to file a return.

(2) If a corporation licensed under this act fails for any reason to file the required returns or to pay the tax due, any of its officers having control, or supervision of, or charged with the responsibility for making the returns and payments is personally liable for the failure. The dissolution of a corporation does not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The sum due for the liability may be assessed and collected as provided in sections 23 and 24 of 1941 PA 122, MCL 205.23 and 205.24.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 595 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved October 10, 2002.
Filed with Secretary of State October 14, 2002.

Compiler's note: Senate Bill No. 595, referred to in enacting section 1, was filed with the Secretary of State October 14, 2002, and became P.A. 2002, No. 581, Imd. Eff. Oct. 14, 2002.

[No. 580]

(SB 594)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 5 (MCL 205.95), as amended by 2002 PA 255.

The People of the State of Michigan enact:

205.95 Registration requirements; seller to collect tax from consumer; foreign corporations; dissolution or withdrawal of corporation; election of lessor on payment of taxes.

Sec. 5. (1) Except as otherwise provided in this subsection, a person engaged in the business of selling tangible personal property for storage, use, or other consumption in this state shall register with the department and give the name and address of each agent operating in this state, the location of all distribution or sales houses or offices or other places of business in this state, and any other information that the department requires relevant to the enforcement of this act. However, a seller holding a sales tax license obtained under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, is not required to separately register with the department under this act. Every seller shall collect the tax imposed by this act from the consumer.

(2) The corporation, securities, and land development bureau of the department of consumer and industry services shall not issue to any foreign corporation engaged in the business of selling tangible personal property a certificate of authority to do business in this state or approve and file the proposed articles of incorporation submitted to it by any domestic corporation authorizing or permitting that corporation to conduct any business of selling tangible personal property unless the corporation submits with the application for the certificate of authority or proposed articles of incorporation an application for registration of the corporation under this act or an application for a sales tax license under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78. The application shall be transmitted to the department by the corporation, securities, and land development bureau.

(3) A domestic corporation or a foreign corporation authorized to transact business in this state that submits a certificate of dissolution or requests a certificate of withdrawal from this state shall request a certificate from the department stating that taxes are not due under section 27a of 1941 PA 122, MCL 205.27a, not more than 60 days after submitting the certificate of dissolution or requesting the certificate of withdrawal. A corporation that does not request a certificate stating that taxes are not due is subject to the same penalties under section 24 of 1941 PA 122, MCL 205.24, that a taxpayer would be subject to for failure to file a return.

(4) A lessor may elect to pay use tax on receipts from the rental or lease of the tangible personal property in lieu of payment of sales or use tax on the full cost of the property at the time it is acquired. For tax years that begin after December 31, 2001, in order to make a valid election under this subsection, a lessor of tangible personal property that is an aircraft shall obtain a use tax registration by the earlier of the date set for the first payment of use tax under the lease or rental agreement or 90 days after the lessor first brings the aircraft into this state.

This act is ordered to take immediate effect.
Approved October 10, 2002.
Filed with Secretary of State October 14, 2002.

[No. 581]

(SB 595)

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," by amending section 451 (MCL 206.451), as amended by 1987 PA 254.

The People of the State of Michigan enact:

206.451 Certificate of dissolution or withdrawal until taxes paid; payment of taxes as condition to closing of estate.

Sec. 451. (1) A domestic corporation or a foreign corporation authorized to transact business in this state that submits a certificate of dissolution or requests a certificate of withdrawal from this state shall request a certificate from the department stating that taxes are not due under section 27a of 1941 PA 122, MCL 205.27a, not more than 60 days after submitting the certificate of dissolution or requesting the certificate of withdrawal. A corporation that does not request a certificate stating that taxes are not due is subject to the same penalties under section 24 of 1941 PA 122, MCL 205.24, that a taxpayer would be subject to for failure to file a return.

(2) An estate of a person subject to tax under this act shall not be closed without the payment of the tax levied by this act, both in respect to the liability of the estate and decedent prior to his or her death.

This act is ordered to take immediate effect.
Approved October 10, 2002.
Filed with Secretary of State October 14, 2002.

[No. 582]

(SB 1020)

AN ACT to amend 1917 PA 74, entitled "An act to fix standards for climax baskets for grapes and other fruits and vegetables, and to fix standards for baskets and other containers for small fruits, berries, and vegetables, and to punish violations of the same," by amending section 4 (MCL 290.134).

The People of the State of Michigan enact:

290.134 Examination and test; compliance; determination by department.

Sec. 4. The examination and test of climax baskets, baskets, or other containers for small fruits, berries, and vegetables, for the purpose of determining whether those

baskets or other containers comply with the provisions of this act shall be made by the department of agriculture.

This act is ordered to take immediate effect.
Approved October 10, 2002.
Filed with Secretary of State October 14, 2002.

[No. 583]

(HB 6041)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 760.1 to 777.69) by adding section 6d to chapter V.

The People of the State of Michigan enact:

CHAPTER V

765.6d Release on bail; waiver of extradition.

Sec. 6d. (1) Except as provided in subsection (2), the court may require an individual to sign a written waiver of extradition to this state before releasing the individual on bail under this chapter. If the individual fails to sign the waiver, the court may consider the failure in determining the amount of bail to be posted by the individual.

(2) The court shall require an individual charged with a crime for which bail may be denied under section 15 of article I of the state constitution of 1963 to sign a written waiver of extradition to this state before releasing the individual on bail under this chapter.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 6042 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved October 10, 2002.
Filed with Secretary of State October 14, 2002.

Compiler's note: House Bill No. 6042, referred to in enacting section 2, was filed with the Secretary of State October 14, 2002, and became P.A. 2002, No. 584, Eff. Jan. 1, 2003.

[No. 584]

(HB 6042)

AN ACT to amend 1937 PA 144, entitled "An act relative to and to make uniform the procedure on interstate extradition; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending sections 6, 15, 16, 18, and 25 (MCL 780.6, 780.15, 780.16, 780.18, and 780.25) and by adding section 23a.

The People of the State of Michigan enact:

780.6 Governor's warrant; issuance; recitation of facts; revocation of bail.

Sec. 6. If the governor decides that the demand should be complied with, he or she shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person who the governor determines is fit to entrust with the execution of the warrant. The warrant shall substantially recite the facts necessary to the validity of its issuance. If the person was released on bail, the court shall immediately revoke bail and shall not release the person on bail but shall detain the person subject only to habeas corpus review.

780.15 Bail; type of cases; condition of bond.

Sec. 15. Unless the offense with which the prisoner is charged is shown to be an offense punishable by death, by life imprisonment, or by imprisonment for 20 years or more under the laws of the state in which it was committed or is for escaping from custody or confinement, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in an amount that, after reviewing the person's criminal history, the judge or magistrate considers proper, conditioned for the person's appearance before the court at a time specified in the bond, and for the person's surrender, to be arrested upon the warrant of the governor of this state.

780.16 Discharge or recommitment of accused; additional periods; limitation.

Sec. 16. If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge the accused or may recommit the accused for additional periods not to exceed a total extension of 60 days, or a judge or magistrate may again take bail for the accused's appearance and surrender, as provided in section 15, but within a period not to exceed 60 days after the date of any new bond.

780.18 Persons under criminal prosecution in state; applicability of restrictions on commitment.

Sec. 18. If a criminal prosecution has been instituted against a person under the laws of this state and is still pending, the governor may surrender the person on demand of the executive authority of another state or hold the person until he or she has been tried and discharged or convicted and punished in this state. If a criminal prosecution has been instituted under the laws of this state against a person charged under section 13, the restrictions on the length of commitment specified in sections 14 and 16 are not applicable during the period that the criminal prosecution is pending in this state.

780.23a Extradition costs; payment.

Sec. 23a. The court may order an individual who is extradited to this state for committing a crime and who is convicted of a crime to pay the actual and reasonable costs of that extradition, including, but not limited to, all of the following:

(a) Transportation costs.

(b) The salaries or wages of law enforcement and prosecution personnel, including overtime pay, for processing the extradition and returning the individual to this state.

780.25 Written waiver of extradition proceedings.

Sec. 25. Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his or her bail, probation, or parole may waive the issuance and service of the warrant provided for in sections 6 and 7 and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing that states that he or she consents to return to the demanding state. However, before the waiver is executed or subscribed by the person, the judge shall inform the person of his or her rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 9.

When a person's consent has been duly executed, it shall promptly be forwarded to and filed in the office of the governor of this state. The judge shall direct the officer having the person in custody to promptly deliver the person to the accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to that agent or agents a copy of the person's consent.

If a waiver is executed, the judge shall remand the person to custody without bail. The order shall direct the officer having the person in custody to deliver the person to the duly authorized agent of the demanding state together with a copy of the order and the waiver.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 6041 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 10, 2002.

Filed with Secretary of State October 14, 2002.

Compiler's note: House Bill No. 6041, referred to in enacting section 2, was filed with the Secretary of State October 14, 2002, and became P.A. 2002, No. 583, Eff. Jan. 1, 2003.

[No. 585]

(SB 1086)

AN ACT to amend 1954 PA 188, entitled "An act to provide for the making of certain improvements by townships; to provide for paying for the improvements by the issuance of bonds; to provide for the levying of taxes; to provide for assessing the whole or a part of the cost of improvements against property benefited; and to provide for the issuance of bonds in anticipation of the collection of special assessments and for the obligation of the township on the bonds," by amending section 2 (MCL 41.722), as amended by 1995 PA 139.

The People of the State of Michigan enact:

41.722 Types of improvements authorized; approval; conditions.

Sec. 2. (1) The following improvements may be made under this act:

(a) The construction, improvement, and maintenance of storm or sanitary sewers or the improvement and maintenance of, but not the construction of new or expanded, combined storm and sanitary sewer systems.

(b) The construction, improvement, and maintenance of water systems.

(c) The construction, improvement, and maintenance of public roads.

(d) The acquisition, improvement, and maintenance of public parks.

(e) The construction, improvement, and maintenance of elevated structures for foot travel over roads in the township.

(f) The collection and disposal of garbage and rubbish.

(g) The construction, maintenance, and improvement of bicycle paths.

(h) The construction, maintenance, and improvement of erosion control structures or dikes.

(i) The planting, maintenance, and removal of trees.

(j) The installation, improvement, and maintenance of lighting systems.

(k) The construction, improvement, and maintenance of sidewalks.

(*l*) The eradication or control of aquatic weeds and plants.

(m) The construction, improvement, and maintenance of private roads.

(n) The construction, improvement, and maintenance of a lake, pond, river, stream, lagoon, or other body of water or of an improvement to the body of water. This subdivision includes, but is not limited to, dredging.

(o) The construction, improvement, and maintenance of dams and other structures that retain the waters of this state for recreational purposes.

(p) The construction, improvement, and maintenance of sound attenuation walls, pavement, or other sound mitigation treatments unless a written objection is filed in the same manner as provided under section 3 by the record owners of land constituting more than 20% of the total area in the proposed special assessment district. If a written objection is filed, then the township board shall not proceed with the improvement until a petition signed by the record owners of land constituting more than 50% of the total land area in the special assessment district as finally established is filed with the board.

(2) A road under the jurisdiction of either the state transportation department or the board of county road commissioners shall not be improved under this act without the written approval of the state transportation department or the board of county road

commissioners. As a condition to the granting of approval, the state transportation department or the board of county road commissioners may require 1 or more of the following:

(a) That all engineering with respect to the improvement be performed by the state transportation department or the board of county road commissioners.

(b) That all construction, including the awarding of contracts for construction, in connection with the improvement be pursuant to the specifications of the state transportation department or the board of county road commissioners.

(c) That the cost of the engineering and supervision be paid to the state transportation department or the board of county road commissioners from the funds of the special assessment district.

(3) A lake, pond, river, stream, lagoon, or other body of water under the jurisdiction of a county drain commissioner shall not be improved under this act without the written approval of the county drain commissioner of the county in which the lake, pond, river, stream, lagoon, or other body of water is located.

This act is ordered to take immediate effect.
Approved October 10, 2002.
Filed with Secretary of State October 14, 2002.

[No. 586]

(HB 6054)

AN ACT to amend 1999 PA 94, entitled "An act to create the Michigan merit award scholarship trust fund; to create the Michigan merit award scholarship board and prescribe the powers and duties of the board; and to provide for the Michigan merit award scholarship program," by amending section 5 (MCL 390.1455).

The People of the State of Michigan enact:

390.1455 Disbursement of funds.

Sec. 5. Upon appropriation by the legislature, the board shall authorize disbursement of funds from the trust fund for 1 or more of the following purposes:

(a) Michigan merit award scholarships under this act.

(b) Expenses properly incurred by the commission in carrying out its powers and duties.

(c) Costs associated with the development, preparation, distribution, and scoring of the assessment test and any costs associated with dissemination of results of the assessment test.

(d) Funding of the tuition incentive program as described in section 310 of 1998 PA 271 or a successor to that program.

(e) Funding of the Michigan nursing scholarship program as described in the Michigan nursing scholarship act.

(f) Other expenditures as determined by law.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 793 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved October 14, 2002.
Filed with Secretary of State October 15, 2002.

Compiler's note: Senate Bill No. 793, referred to in enacting section 1, was filed with the Secretary of State October 17, 2002, and became P.A. 2002, No. 591, Imd. Eff. Oct. 17, 2002.

[No. 587]

(SB 1315)

AN ACT to amend 1996 PA 376, entitled "An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials," by amending section 8a (MCL 125.2688a), as amended by 2002 PA 512.

The People of the State of Michigan enact:

125.2688a Additional renaissance zones; designation; property located in alternative energy zone; "eligible pharmaceutical company" defined.

Sec. 8a. (1) Except as provided in subsections (2), (3), and (4), the board shall not designate more than 9 additional renaissance zones within this state under this section. Not more than 6 of the renaissance zones shall be located in urban areas and not more than 5 of the renaissance zones shall be located in rural areas. For purposes of determining whether a renaissance zone is located in an urban area or rural area under this section, if any part of a renaissance zone is located within an urban area, the entire renaissance zone shall be considered to be located in an urban area.

(2) The board of the Michigan strategic fund described in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004, may designate not more than 5 additional renaissance zones within this state in 1 or more cities, villages, or townships if that city, village, or township or combination of cities, villages, or townships consents to the creation of a renaissance zone within their boundaries. The board of the Michigan strategic fund may designate not more than 1 of the 5 additional renaissance zones described in this subsection as an alternative energy zone. An alternative energy zone shall promote and increase the research, development, and manufacturing of alternative energy technology as that term is defined in the Michigan next energy authority act. An alternative energy zone shall have a duration of renaissance zone status for a period not to exceed 20 years as determined by the board of the Michigan strategic fund. Not later than 18 months after the effective date of the amendatory act that added subsection (6), the board of the Michigan strategic fund may designate not more than 1 of the 5 additional renaissance zones described in this subsection as a pharmaceutical renaissance zone. A pharmaceutical

renaissance zone shall promote and increase the research, development, and manufacturing of pharmaceutical products of an eligible pharmaceutical company.

(3) In addition to the not more than 9 additional renaissance zones described in subsection (1), the board may designate additional renaissance zones within this state in 1 or more qualified local governmental units if that qualified local governmental unit or units contain a military installation that was operated by the United States department of defense and was closed in 1977 or after 1990.

(4) Land owned by a county or the qualified local governmental unit or units adjacent to a zone as described in subsection (3) may be included in this zone.

(5) Notwithstanding any other provision of this act, property located in the alternative energy zone that is classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, and that the authority, with the concurrence of the assessor of the local tax collecting unit, determines is not used to directly promote and increase the research, development, and manufacturing of alternative energy technology is not eligible for any exemption, deduction, or credit under section 9.

(6) As used in this section, "eligible pharmaceutical company" means a company that meets all of the following criteria:

(a) Is engaged primarily in manufacturing, research and development, and sale of pharmaceuticals.

(b) Has not less than 8,500 employees located in this state, all of whom are located within a 100-mile radius of each other.

(c) Of the total number of employees located in this state, has not less than 5,000 engaged primarily in research and development of pharmaceuticals.

This act is ordered to take immediate effect.
Approved October 16, 2002.
Filed with Secretary of State October 16, 2002.

[No. 588]

(HB 6073)

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," (MCL 208.1 to 208.145) by adding section 39f.

The People of the State of Michigan enact:

208.39f Tax credit; taxpayer pharmaceutical based business activity.

Sec. 39f. (1) For tax years that begin after December 31, 2002, an eligible taxpayer may claim a credit against the tax imposed by this act equal to 6-1/2% of the excess of qualified research expenses paid in the tax year that relate to the eligible taxpayer's pharmaceutical based business activity in this state over the average qualified research

expenses that relate to the eligible taxpayer's pharmaceutical based business activity in this state paid during the 3 immediately preceding tax years.

(2) The amount of a credit for any tax year under subsection (1) shall not exceed 200% of the eligible taxpayer's average qualified research expenses that relate to the taxpayer's pharmaceutical based business activity in this state for the 3 immediately preceding tax years.

(3) If the credit allowed under this section for the tax year and any unused carry-forward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded but may be carried forward as an offset to the tax liability in subsequent tax years for 7 tax years or until the excess credit is used up, whichever occurs first.

(4) A member of an affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall determine the credit allowed under this section on a consolidated basis.

(5) An eligible taxpayer may assign all or a portion of a credit allowed under this section. A credit assignment under this subsection is irrevocable and shall be made in the tax year in which qualified research expenses are paid. An eligible taxpayer may claim a portion of the credit and assign a portion of the remaining credit amount. However, the eligible taxpayer shall not assign in any tax year more than 40% of the total amount of the credit allowed for that year. If the eligible taxpayer both claims and assigns portions of the credit, the eligible taxpayer shall claim the portion it claims in the tax year in which the qualified research expenses are paid. An assignee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. The credit assignment under this subsection shall be made on a form prescribed by the department. The eligible taxpayer shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made. The assignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year.

(6) The total of all credits allowed under this section shall not exceed $10,000,000.00 for any 1 tax year.

(7) As used in this section:

(a) "Eligible taxpayer" means a company that meets all of the following criteria within 18 months after the effective date of the amendatory act that added this section:

(*i*) Is engaged primarily in manufacturing, research and development, and sale of pharmaceuticals.

(*ii*) Has not less than 8,500 employees located in this state. The primary places of employment for all the employees required under this subparagraph shall be located within a 100-mile radius of each other.

(*iii*) Of the total number of employees located in this state, has not less than 5,000 engaged primarily in research and development of pharmaceuticals.

(b) "Qualified research expenses" means that term as defined in section 41 of the internal revenue code.

This act is ordered to take immediate effect.

Approved October 16, 2002.

Filed with Secretary of State October 16, 2002.

[No. 589]

(SB 554)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 100c (MCL 330.1100c), as added by 1995 PA 290.

The People of the State of Michigan enact:

330.1100c Definitions; P to R.

Sec. 100c. (1) "Peace officer" means an officer of the department of state police or of a law enforcement agency of a county, township, city, or village who is responsible for the prevention and detection of crime and enforcement of the criminal laws of this state. For the purposes of sections 408 and 427, peace officer also includes an officer of the United States secret service with the officer's consent and a police officer of the veterans' administration medical center reservation.

(2) "Peer review" means a process, including the review process required under section 143a, in which mental health professionals of a state facility, licensed hospital, or community mental health services program evaluate the clinical competence of staff and the quality and appropriateness of care provided to recipients. These evaluations are confidential in accordance with section 748(9) and are based on criteria established by the facility or community mental health services program itself, the accepted standards of the mental health professions, and the department of community health.

(3) "Person requiring treatment" means an individual who meets the criteria described in section 401.

(4) "Physician" means an individual licensed by the state to engage in the practice of medicine or osteopathic medicine and surgery under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(5) "Primary consumer" means an individual who has received or is receiving services from the department or a community mental health services program or services from the private sector equivalent to those offered by the department or a community mental health services program.

(6) "Priority" means preference for and dedication of a major proportion of resources to specified populations or services. Priority does not mean serving or funding the specified populations or services to the exclusion of other populations or services.

(7) "Protective custody" means the temporary custody of an individual by a peace officer with or without the individual's consent for the purpose of protecting that individual's health and safety, or the health and safety of the public, and for the purpose of transporting the individual under section 408 or 427 if the individual appears, in the judgment of the peace officer, to be a person requiring treatment or is a person requiring treatment. Protective custody is civil in nature and is not to be construed as an arrest.

(8) "Psychiatric partial hospitalization program" means a nonresidential treatment program that provides psychiatric, psychological, social, occupational, nursing, music therapy, and therapeutic recreational services under the supervision of a physician to adults diagnosed as having serious mental illness or minors diagnosed as having serious emotional disturbance who do not require 24-hour continuous mental health care, and that is affiliated with a psychiatric hospital or psychiatric unit to which clients may be transferred if they need inpatient psychiatric care.

(9) "Psychiatric unit" means a unit of a general hospital that provides inpatient services for individuals with serious mental illness or serious emotional disturbance. As used in this subsection, "general hospital" means a hospital as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(10) "Psychiatrist" means 1 or more of the following:

(a) A physician who has completed a residency program in psychiatry approved by the accreditation council for graduate medical education or the American osteopathic association, or who has completed 12 months of psychiatric rotation and is enrolled in an approved residency program as described in this subsection.

(b) A psychiatrist employed by or under contract with the department or a community mental health services program on March 28, 1996.

(c) A physician who devotes a substantial portion of his or her time to the practice of psychiatry and is approved by the director.

(11) "Psychologist" means an individual licensed to engage in the practice of psychology under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, who devotes a substantial portion of his or her time to the diagnosis and treatment of individuals with serious mental illness, serious emotional disturbance, or developmental disability.

(12) "Recipient" means an individual who receives mental health services from the department, a community mental health services program, or a facility or from a provider that is under contract with the department or a community mental health services program.

(13) "Recipient rights advisory committee" means a committee of a community mental health services program board appointed under section 757 or a recipient rights advisory committee appointed by a licensed hospital under section 758.

(14) "Regional entity" means an entity established under section 204b to provide specialty services and supports.

(15) "Resident" means an individual who receives services in a facility.

(16) "Responsible mental health agency" means the hospital, center, or community mental health services program that has primary responsibility for the recipient's care or for the delivery of services or supports to that recipient.

(17) "Rule" means a rule promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 555 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved October 17, 2002.
Filed with Secretary of State October 17, 2002.

Compiler's note: Senate Bill No. 555, referred to in enacting section 1, was filed with the Secretary of State October 17, 2002, and became P.A. 2002, No. 594, Imd. Eff. Oct. 17, 2002.

[No. 590]

(SB 1119)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 16621 (MCL 333.16621), as amended by 2000 PA 160.

The People of the State of Michigan enact:

333.16621 Michigan board of dentistry; creation; appointment and qualifications of members; meetings; voting.

Sec. 16621. (1) The Michigan board of dentistry is created in the department. Subject to subsection (2), the board consists of the following 19 voting members who meet the requirements of part 161:

(a) Eight dentists. Subject to subsection (3), 1 or more of the dentists appointed under this subdivision may have a health profession specialty certification issued under section 16608.

(b) Subject to subsection (3), 2 dentists who have been issued a health profession specialty certification under section 16608.

(c) Four dental hygienists.

(d) Two dental assistants.

(e) Three public members.

(2) A dentist, dental hygienist, public member, or other individual who is a member of the board on July 14, 2000 may serve out his or her term.

(3) The board meeting dates and times shall be concurred in by a vote of not less than 13 board members. One member of the board shall be a dentist who is a dental school faculty member.

(4) A board member licensed to practice as a dental hygienist or a dental assistant votes as an equal member of the board in all matters except those designated in section 16148(1) or (2) that apply only to dentists and not to dental hygienists or dental assistants.

This act is ordered to take immediate effect.
Approved October 17, 2002.
Filed with Secretary of State October 17, 2002.

[No. 591]

(SB 793)

AN ACT to establish an educational scholarship program for eligible resident students enrolled in certain nursing programs; to prescribe conditions for repayment of the scholarships; to provide for the administration of the Michigan nursing scholarship program; and to prescribe certain powers and duties of certain state officers, agencies, and departments.

The People of the State of Michigan enact:

390.1181 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan nursing scholarship act".

390.1182 Definitions.

Sec. 2. As used in this act:

(a) "Authority" means the Michigan higher education assistance authority created by 1960 PA 77, MCL 390.951 to 390.961.

(b) "Eligible costs" means tuition and fees charged by an eligible institution; related costs for room, board, books, supplies, transportation, or day care; and other costs determined by the authority.

(c) "Eligible employment" means a registered nurse or licensed practical nurse providing full-time nursing care, or part-time nursing care if section 7 applies, in a ward, emergency department, emergency room, operating room, or trauma center of a hospital licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, in a nursing home or hospice licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, in a health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, that provides nonemergency health care to patients without receiving compensation for providing that nonemergency health care, or in a clinic or other health care program operated by a local health department that provides 1 or more required services under part 24 of the public health code, 1978 PA 368, MCL 333.2401 to 333.2498, or as an employee of a home health care agency providing home patient care.

(d) "Eligible institution" means a degree or certificate granting public or independent nonprofit college or university, junior college, or community college in this state.

(e) "Licensed practical nurse" means an individual licensed to engage in the practice of nursing as a licensed practical nurse as defined in section 17201 of the public health code, 1978 PA 368, MCL 333.17201.

(f) "Nursing program" means a program for the training of individuals to become registered nurses or licensed practical nurses operated in this state by an eligible institution and approved by the Michigan board of nursing.

(g) "Registered professional nurse" means that term as defined in section 17201 of the public health code, 1978 PA 368, MCL 333.17201.

390.1183 Michigan nursing scholarship program; creation; administration; duties of authority.

Sec. 3. The Michigan nursing scholarship program is created, to be administered by the authority. The authority shall do all of the following:

(a) Award scholarships to eligible students pursuant to this act.

(b) Develop a scholarship agreement to be entered into by a scholarship recipient and the authority that contains the terms of a scholarship made under this act and the rights and obligations of the scholarship recipient and the authority.

(c) Collect repayment of scholarships if required under section 7.

(d) Conduct periodic audits of scholarship recipients to ensure compliance with the terms of the scholarship agreement and take necessary steps to enforce the terms of the scholarship agreement.

(e) Publicize the Michigan nursing scholarship program and recruit qualifying students to participate in the Michigan nursing scholarship program.

(f) Promulgate rules, as necessary to implement this act, pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The rules may include additional standards of eligibility for students to receive scholarships under this act.

390.1184 Scholarship award; criteria.

Sec. 4. The authority may award a scholarship under this act to an individual determined by the authority to meet all of the following eligibility criteria:

(a) Is a United States citizen or permanent resident of the United States.

(b) Has resided continuously in this state for the 12 months immediately preceding the date of his or her application and is not a resident of any other state.

(c) Is enrolled or has been accepted into a nursing program.

(d) Has signed a written scholarship agreement with the authority stating the individual's intention to pursue nursing as a career and to serve in eligible employment in this state for not less than 1 of the following periods:

(*i*) One year if the individual received scholarship assistance under this act in 1 academic year of full-time enrollment in a nursing program.

(*ii*) Two years if the individual received scholarship assistance under this act in 2 academic years of full-time enrollment in a nursing program.

(*iii*) Three years if the individual received scholarship assistance under this act in 3 academic years of full-time enrollment in a nursing program.

(*iv*) Four years if the individual received scholarship assistance under this act in 4 academic years of full-time enrollment in a nursing program.

(e) Is in compliance with this act and the rules promulgated under this act.

(f) Has not been convicted of a felony involving an assault, physical injury, or death.

(g) Meets any other standards established in rules promulgated by the authority under section 3.

390.1185 Scholarship amount; determination; limitation.

Sec. 5. (1) Subject to subsection (2), each scholarship recipient shall receive a $4,000.00 scholarship for 1 academic year of full-time enrollment, or a partial scholarship for part-time enrollment, in a nursing program. The authority shall determine the amount of a partial scholarship by multiplying $4,000.00 by the number of credit hours for which a student enrolls in an academic year, and dividing the product by 30 if the nursing program uses semester credits or by 45 if the nursing program uses term credits.

(2) A scholarship described in subsection (1) shall not exceed an amount equal to the recipient's eligible costs minus any other grants or scholarships the recipient receives in any academic year in a nursing program.

(3) An individual shall not receive scholarship assistance for more than 4 academic years.

390.1186 Duration of payments.

Sec. 6. Recipients of scholarship assistance under this act shall continue to receive scholarship payments only during periods that the authority finds that the recipient is both of the following:

(a) Enrolled as a full-time or part-time student in a nursing program.

(b) Maintaining satisfactory progress as determined by the eligible institution.

390.1187 Agreement; provisions; disclosure of terms and conditions; noncompliance; deferred or excused repayment.

Sec. 7. (1) An individual shall not receive a scholarship under this act unless he or she enters into a written agreement with the authority, in which he or she agrees to all of the following:

(a) To obtain a license from this state as a registered professional nurse or licensed practical nurse within 1 year after completing the nursing program for which the scholarship was awarded.

(b) Beginning within 1 year after completing the nursing program for which the scholarship was awarded, to serve for the period of eligible employment applicable to the individual under section 4(d) in this state.

(c) To provide the authority evidence of compliance with section 6 as required by the authority.

(d) Except as provided in subsection (4), (5), (6), or (7), if the conditions in subdivisions (a) and (b) are not satisfied, to repay all or part of a scholarship award received under this act plus interest and, if applicable, reasonable collection fees, in compliance with rules promulgated by the authority.

(2) The agreement described in subsection (1) must fully disclose the terms and conditions under which scholarship assistance under this act is provided and under which repayment may be required. The agreement must include a description of both of the following:

(a) The appeals procedures established by the authority under which a recipient may appeal a determination of noncompliance with any provision under this act.

(b) The procedures under which a recipient of assistance received under this act who serves in eligible employment in this state for less than the period required under subsection (1) may have the repayment requirements extended under subsection (4) or excused under subsection (5), (6), or (7).

(3) The authority shall require recipients found by the authority to be in noncompliance with the agreement entered into under this section to repay the scholarship awards received, plus interest, but in no event at an interest rate higher than the rate applicable to other student loans guaranteed by the authority in that time period and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the authority by rule.

(4) A recipient is not in violation of the agreement entered into pursuant to subsection (1) and any repayment obligation is deferred during any period in which the recipient meets 1 of the following:

(a) Is pursuing a full-time course of study related to the field of nursing at an eligible institution.

(b) Is serving as a member of the armed services of the United States for a period of 3 years or less.

(c) Is temporarily totally disabled for a period of 3 years or less, as established by sworn affidavit of a qualified physician.

(d) Satisfies the provisions of any other repayment exceptions prescribed by the authority by rule.

(5) A recipient is not in violation of the agreement entered into pursuant to subsection (1), and the recipient may be excused from repayment of any scholarship assistance received under this act, if the recipient is employed providing part-time nursing care and all of the following are met:

(a) The department by rule has established a minimum average number of hours per week a recipient must be employed providing nursing care to qualify as providing part-time nursing care for the purposes of this subsection, and the recipient meets this requirement.

(b) The recipient is engaged in eligible employment in this state.

(c) The recipient provides part-time nursing care for not less than 1 of the following periods:

(*i*) Two years if the recipient received a $4,000.00 scholarship under this act for 1 academic year of full-time enrollment in a nursing program. If the recipient received a partial scholarship for 1 academic year of part-time enrollment, this 2-year time period is reduced to a time period determined by multiplying 2 years by a fraction, the numerator of which is the dollar amount of the partial scholarship and the denominator of which is $4,000.00.

(*ii*) Four years if the recipient received two $4,000.00 scholarships under this act for 2 academic years of full-time enrollment in a nursing program. If the recipient received partial scholarships for 2 academic years of part-time enrollment, this 4-year time period is reduced to a time period determined by multiplying 4 years by a fraction, the numerator of which is the dollar amount of the partial scholarships and the denominator of which is $8,000.00.

(*iii*) Six years if the recipient received three $4,000.00 scholarships under this act for 3 academic years of full-time enrollment in a nursing program. If the recipient received partial scholarships for 3 academic years of part-time enrollment, this 6-year time period is reduced to a time period determined by multiplying 6 years by a fraction, the numerator of which is the dollar amount of the partial scholarships and the denominator of which is $12,000.00.

(*iv*) Eight years if the recipient received four $4,000.00 scholarships under this act for 4 academic years of full-time enrollment in a nursing program. If the recipient received partial scholarships for 4 academic years of part-time enrollment, this 8-year time period is reduced to a time period determined by multiplying 8 years by a fraction, the numerator of which is the dollar amount of the partial scholarships and the denominator of which is $16,000.00.

(6) A recipient is not in violation of the agreement entered into pursuant to subsection (1), and the recipient may be excused from repayment of any scholarship assistance received under this act, if the recipient meets both of the following:

(a) Received 1 or more partial scholarships under this act for part-time enrollment in a nursing program.

(b) Is engaged in full-time, eligible employment in this state for not less than 1 of the following time periods:

(*i*) If the recipient received a partial scholarship for 1 academic year of part-time enrollment, a time period determined by multiplying 1 year by a fraction, the numerator

of which is the dollar amount of the partial scholarship and the denominator of which is $4,000.00.

(*ii*) If the recipient received partial scholarships for 2 academic years of part-time enrollment, a time period determined by multiplying 2 years by a fraction, the numerator of which is the dollar amount of the partial scholarships and the denominator of which is $8,000.00.

(*iii*) If the recipient received partial scholarships for 3 academic years of part-time enrollment, a time period determined by multiplying 3 years by a fraction, the numerator of which is the dollar amount of the partial scholarships and the denominator of which is $12,000.00.

(*iv*) If the recipient received partial scholarships for 4 academic years of part-time enrollment, a time period determined by multiplying 4 years by a fraction, the numerator of which is the dollar amount of the partial scholarships and the denominator of which is $16,000.00.

(7) A recipient is excused from repayment of any scholarship assistance received under this act if the recipient becomes permanently and totally disabled as established by sworn affidavit of a qualified physician or dies or if circumstances occur that the authority considers as a compelling reason to excuse repayment.

390.1188 Restricted account; reversion.

Sec. 8. (1) The department of treasury shall establish and administer a restricted account in the general fund for the Michigan nursing scholarship program. The department of treasury shall credit to the account money appropriated from the Michigan merit award trust fund established in section 3 of the Michigan merit award scholarship act, 1999 PA 94, MCL 390.1453, or received from any other source including, but not limited to, amounts repaid to the authority on scholarships awarded under this act and earnings in the account. The department of treasury shall use the money in the account only to provide money to the authority for scholarships awarded under this act.

(2) Money in the account at the end of a fiscal year shall not revert to the general fund but shall be carried over in the account to the next fiscal year.

390.1189 Report.

Sec. 9. Not later than November 1, the authority shall annually submit a report to the state budget director, the house and senate appropriation subcommittees on higher education, and the house and senate fiscal agencies for the preceding fiscal year on the nursing scholarship program. The report shall include, but is not limited to, the number of full and partial scholarships, the total dollar amount of scholarships awarded, the type of eligible institutions in which the scholarship recipients enrolled, and the number of scholarships, if any, for which students have incurred a repayment obligation under section 7(3).

Conditional effective date.

Enacting section 1. This act does not take effect unless House Bill No. 6054 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 17, 2002.

Filed with Secretary of State October 17, 2002.

Compiler's note: House Bill No. 6054, referred to in enacting section 1, was filed with the Secretary of State October 15, 2002, and became P.A. 2002, No. 586, Eff. Oct. 17, 2002.

[No. 592]

(SB 562)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," (MCL 380.1 to 380.1852) by adding section 1279a.

The People of the State of Michigan enact:

380.1279a Report of irregularities; notice to school district or public school academy.

Sec. 1279a. If the department of treasury has reason to suspect that there are irregularities in a school district's or public school academy's administration of, or preparation of pupils for, a Michigan educational assessment program (MEAP) test, the department of treasury shall not report the suspected irregularities to any person or entity not involved in the scoring or administration of the test before notifying the school district or public school academy of the suspected irregularities and allowing at least 5 business days for school officials to respond.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5049 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved October 17, 2002.
Filed with Secretary of State October 17, 2002.

Compiler's note: House Bill No. 5049, referred to in enacting section 1, was filed with the Secretary of State December 23, 2002, and became P.A. 2002, No. 640, Imd. Eff. Dec. 23, 2002.

[No. 593]

(SB 1316)

AN ACT to create and provide for the operation of the Michigan next energy authority; to provide for the powers and duties of the authority; to promote alternative energy technology and economic growth; and to exempt property of an authority from tax.

The People of the State of Michigan enact:

207.821 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan next energy authority act".

207.822 Definitions.

Sec. 2. As used in this act:

(a) "Advanced battery cell" means a rechargeable battery cell with a specific energy of not less than 80 watt hours per kilogram.

(b) "Alternative energy marine propulsion system" means an onboard propulsion system or detachable outboard propulsion system for a watercraft that is powered by a fuel cell energy system, photovoltaic energy system, or advanced battery cell energy system and that is the singular propulsion system for the watercraft. Alternative energy marine propulsion system does not include battery powered motors designed to assist in the propulsion of the watercraft during fishing or other recreational use.

(c) "Alternative energy system" means the small-scale generation or release of energy from 1 or any combination of the following types of energy systems:

(*i*) A fuel cell energy system.

(*ii*) A photovoltaic energy system.

(*iii*) A solar-thermal energy system.

(*iv*) A wind energy system.

(*v*) A CHP energy system.

(*vi*) A microturbine energy system.

(*vii*) A miniturbine energy system.

(*viii*) A Stirling cycle energy system.

(*ix*) A battery cell energy system.

(*x*) A clean fuel energy system.

(*xi*) An electricity storage system.

(d) "Alternative energy technology" means equipment, component parts, materials, electronic devices, testing equipment, and related systems that are solely related to the following:

(*i*) The storage or generation of hydrogen for use in an alternative energy system.

(*ii*) The process of generating and putting into a usable form the energy generated by an alternative energy system. Alternative energy technology does not include those component parts of an alternative energy system that are required regardless of the energy source.

(*iii*) A microgrid. As used in this subparagraph, "microgrid" means the lines, wires, and controls to connect 2 or more alternative energy systems.

(e) "Alternative energy technology business" means a business engaged solely in the research, development, or manufacturing of alternative energy technology.

(f) "Alternative energy vehicle" means a motor vehicle manufactured by an original equipment manufacturer that fully warrants and certifies that the motor vehicle meets federal motor vehicle safety standards for its class of vehicles as defined by the Michigan

vehicle code, 1949 PA 300, MCL 257.1 to 257.923, and certifies that the motor vehicle meets local emissions standards, that is propelled by an alternative energy system. Alternative energy vehicle includes the following:

(*i*) An alternative fueled vehicle. As used in this subparagraph, "alternative fueled vehicle" means a motor vehicle that can only be powered by a clean fuel energy system and can only be fueled by a clean fuel.

(*ii*) A fuel cell vehicle. As used in this subparagraph, "fuel cell vehicle" means a motor vehicle powered solely by a fuel cell energy system.

(*iii*) An electric vehicle. As used in this subparagraph, "electric vehicle" means a motor vehicle powered solely by a battery cell energy system.

(*iv*) A hybrid vehicle. As used in this subparagraph, "hybrid vehicle" means a motor vehicle that can only be powered by 2 or more alternative energy systems.

(*v*) A solar vehicle. As used in this subparagraph, "solar vehicle" means a motor vehicle powered solely by a photovoltaic energy system.

(*vi*) A hybrid electric vehicle. As used in this subparagraph, "hybrid electric vehicle" means a motor vehicle powered by an integrated propulsion system consisting of an electric motor and combustion engine. Hybrid electric vehicle does not include a retrofitted conventional diesel or gasoline engine. A hybrid electric vehicle obtains the power necessary to propel the motor vehicle from a combustion engine and 1 of the following:

(A) A battery cell energy system.

(B) A fuel cell energy system.

(C) A photovoltaic energy system.

(g) "Alternative energy zone" means a renaissance zone designated as an alternative energy zone by the board of the Michigan strategic fund under section 8a of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2688a.

(h) "Authority" means the Michigan next energy authority created under section 3.

(i) "Battery cell" means a closed electrochemical system that converts chemical energy from oxidation and reduction reactions directly into electric energy without combustion and without external fuel and consists of an anode, a cathode, and an electrolyte.

(j) "Battery cell energy system" means 1 or more battery cells and an inverter or other power conditioning unit used to perform 1 or more of the following functions:

(*i*) Propel a motor vehicle or an alternative energy marine propulsion system.

(*ii*) Provide electricity that is distributed within a dwelling or other structure.

(*iii*) Provide electricity to operate a portable electronic device including, but not limited to, a laptop computer, a personal digital assistant, or a cell phone. For purposes of this subparagraph only, a battery cell energy system shall only use advanced battery cells.

(k) "Board" means the governing body of an authority under section 4.

(*l*) "CHP energy system" means an integrated unit that generates power and either cools, heats, or controls humidity in a building or provides heating, drying, or chilling for an industrial process that includes and is limited to both of the following:

(*i*) An absorption chiller, a desiccant dehumidifier, or heat recovery equipment.

(*ii*) One of the following:

(A) An internal combustion engine, an external combustion engine, a microturbine, or a miniturbine, fueled solely by a clean fuel.

(B) A fuel cell energy system.

(m) "Clean fuel" means 1 or more of the following:

(*i*) Methane.

(*ii*) Natural gas.

(*iii*) Methanol neat or methanol blends containing at least 85% methanol.

(*iv*) Denatured ethanol neat or ethanol blends containing at least 85% ethanol.

(*v*) Compressed natural gas.

(*vi*) Liquefied natural gas.

(*vii*) Liquefied petroleum gas.

(*viii*) Hydrogen.

(n) "Clean fuel energy system" means a device that is designed and used solely for the purpose of generating power from a clean fuel. Clean fuel energy system does not include a conventional gasoline or diesel fuel engine or a retrofitted conventional diesel or gasoline engine.

(o) "Department" means the department of management and budget.

(p) "Electricity storage device" means a device, including a capacitor, that directly stores electrical energy without conversion to an intermediary medium.

(q) "Electricity storage system" means 1 or more electricity storage devices and inverters or other power conditioning equipment.

(r) "Fuel cell energy system" means 1 or more fuel cells or fuel cell stacks and an inverter or other power conditioning unit. A fuel cell energy system may also include a fuel processor. As used in this subdivision:

(*i*) "Fuel cell" means an electrochemical device that uses an external fuel and continuously converts the energy released from the oxidation of fuel by oxygen directly into electricity without combustion and consists of an anode, a cathode, and an electrolyte.

(*ii*) "Fuel cell stack" means an assembly of fuel cells.

(*iii*) "Fuel processor" means a device that converts a fuel, including, but not limited to, methanol, natural gas, or gasoline, into a hydrogen rich gas, without combustion for use in a fuel cell.

(s) "Microturbine energy system" means a system that generates electricity, composed of a compressor, combustor, turbine, and generator, fueled solely by a clean fuel with a capacity of not more than 250 kilowatts. A microturbine energy system may include an alternator and shall include a recuperator if the use of the recuperator increases the efficiency of the energy system.

(t) "Miniturbine energy system" means a system that generates electricity, composed of a compressor, combustor, turbine, and generator, fueled solely by a clean fuel with a capacity of not more than 2 megawatts. A miniturbine energy system may also include an alternator and a recuperator.

(u) "Person" means an individual, partnership, corporation, limited liability company, association, governmental entity, or other legal entity.

(v) "Photovoltaic energy system" means a solar energy device composed of 1 or more photovoltaic cells or photovoltaic modules and an inverter or other power conditioning unit. A photovoltaic system may also include batteries for power storage or an electricity storage device. As used in this subdivision:

(*i*) "Photovoltaic cell" means an integrated device consisting of layers of semiconductor materials and electrical contacts capable of converting incident light directly into electricity.

(*ii*) "Photovoltaic module" means an assembly of photovoltaic cells.

(w) "Small-scale" means a single energy system with a generating capacity of not more than 2 megawatts or an integrated energy system with a generating capacity of not more than 10 megawatts.

(x) "Solar thermal energy system" means an integrated unit consisting of a sunlight collection device, a system containing a heat transfer fluid to receive the collected sunlight, and heat exchangers to transfer the solar energy to a thermal storage tank to heat or cool spaces or water or to generate electricity.

(y) "Stirling cycle energy system" means a closed-cycle, regenerative heat engine that is fueled solely by a clean fuel and uses an external combustion process, heat exchangers, pistons, a regenerator, and a confined working gas, such as hydrogen or helium, to convert heat into mechanical energy. A Stirling cycle energy system may also include a generator to generate electricity.

(z) "Wind energy system" means an integrated unit consisting of a wind turbine composed of a rotor, an electrical generator, a control system, an inverter or other power conditioning unit, and a tower, which uses moving air to produce power.

207.823 Michigan next energy authority; creation; powers and duties; contract; records and accounts.

Sec. 3. (1) There is created by this act a public body corporate and politic known as the Michigan next energy authority. The authority shall be located within the department.

(2) The authority shall exercise its prescribed statutory powers, duties, and functions independently of the director of the department. The budgeting, procurement, and related administrative functions of the authority shall be performed under the direction and supervision of the director of the department.

(3) The authority may contract with the department for the purpose of maintaining the rights and interests of the authority.

(4) The accounts of the authority may be subject to annual financial audits by the state auditor general. Records of the authority shall be maintained according to generally accepted accounting principles.

207.824 Powers and duties of board.

Sec. 4. (1) An authority created under this act is governed by a board consisting of the members of the authority under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(2) The board shall organize and adopt its own policies, procedures, schedule of regular meetings, and a regular meeting date, place, and time. The board shall conduct all business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of each meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(4) A board may act only by resolution. A majority of the members of the board then in office, or of any committee of the board, shall constitute a quorum for the transaction of business.

(5) The board may employ legal and technical experts, private consultants, accountants, and other agents or employees for rendering professional and technical assistance and advice as may be necessary. The authority shall determine the qualifications, duties, and compensation of those it employs.

207.825 Powers and duties of authority.

Sec. 5. (1) Except as otherwise provided in this act, the authority may do all things necessary to implement the purposes of this act, including, but not limited to, all of the following:

(a) Adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal and alter the seal at the pleasure of the board.

(c) Sue and be sued in its own name and plead and be impleaded.

(d) Solicit and accept gifts, grants, loans, and other assistance from any person or the federal, the state, or a local government or any agency of the federal, the state, or a local government or participate in any other way in any federal, state, or local government program.

(e) Research and publish studies, investigations, surveys, and findings on the development and use of alternative energy technology.

(f) Promote the research, development, and manufacturing of alternative energy technology.

(g) Do all other things necessary to promote and increase the research, development, and manufacturing of alternative energy technology and to otherwise achieve the objectives and purposes of the authority.

(2) The authority shall certify all of the following personal property and shall provide proof of certification to the assessor of the local tax collecting unit in which the following personal property is located:

(a) Alternative energy marine propulsion systems, alternative energy systems, and alternative energy vehicles that meet both of the following requirements:

(*i*) Were not previously subject to the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(*ii*) Were not previously exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, except for personal property exempt under section 9c or 9i of the general property tax act, 1893 PA 206, MCL 211.9c and 211.9i.

(b) Tangible personal property of a business that is an alternative energy technology business that meets both of the following requirements:

(*i*) Was not previously subject to the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(*ii*) Was not previously exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, except for personal property exempt under section 9c or 9i of the general property tax act, 1893 PA 206, MCL 211.9c and 211.9i.

(c) Tangible personal property of a business that is not an alternative energy technology business that is used solely for the purpose of researching, developing, or manufacturing an alternative energy technology that meets both of the following requirements:

(*i*) Was not previously subject to the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(*ii*) Was not previously exempt from the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, except for personal property exempt under section 9c or 9i of the general property tax act, 1893 PA 206, MCL 211.9c and 211.9i.

(3) The authority shall certify and provide proof of certification of the following business entities:

(a) An alternative energy technology business. The authority shall provide proof of certification to the assessor of the local tax collecting unit in which the alternative energy technology business is located.

(b) A taxpayer as an eligible taxpayer for the purposes of claiming the credit under section 39e(2) of the single business tax act, 1975 PA 228, MCL 208.39e.

(4) The authority shall certify and provide proof of certification of the qualified business activity of a taxpayer eligible under subsection (3)(b). As used in this subsection, "qualified business activity" means that term as defined in section 39e of the single business tax act, 1975 PA 228, MCL 208.39e.

(5) The authority shall not operate an alternative energy technology business or otherwise engage in the manufacturing of any commercial products.

207.826 Tax exemption.

Sec. 6. The authority created under this act shall be exempt from and shall not be required to pay taxes on property, both real and personal, belonging to the authority, which is used for a public purpose. Property of the authority is public property devoted to an essential public and governmental function and purpose.

207.827 Construction of act.

Sec. 7. This act shall be construed liberally to effectuate the legislative intent and its purposes. All powers granted shall be cumulative and not exclusive and shall be broadly interpreted to effectuate the intent and purposes and not as a limitation of powers.

This act is ordered to take immediate effect.
Approved October 17, 2002.
Filed with Secretary of State October 17, 2002.

[No. 594]

(SB 555)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," (MCL 330.1001 to 330.2106) by adding section 204b.

The People of the State of Michigan enact:

330.1204b Regional entity.

Sec. 204b. (1) A combination of community mental health organizations or authorities may establish a regional entity by adopting bylaws that satisfy the requirements of this

section. A community mental health agency may combine with a community mental health organization or authority to establish a regional entity if the board of commissioners of the county or counties represented by the community mental health agency adopts bylaws that satisfy the requirements of this section. All of the following shall be stated in the bylaws establishing the regional entity:

(a) The purpose and power to be exercised by the regional entity to carry out the provisions of this act, including the manner by which the purpose shall be accomplished or the power shall be exercised.

(b) The manner in which a community mental health services program will participate in governing the regional entity, including, but not limited to, all of the following:

(*i*) Whether a community mental health services program that subsequently participates in the regional entity may participate in governing activities.

(*ii*) The circumstances under which a participating community mental health services program may withdraw from the regional entity and the notice required for that withdrawal.

(*iii*) The process for designating the regional entity's officers and the method of selecting the officers. This process shall include appointing a fiscal officer who shall receive, deposit, invest, and disburse the regional entity's funds in the manner authorized by the bylaws or the regional entity's governing body. A fiscal officer may hold another office or other employment with the regional entity or a participating community mental health services program.

(c) The manner in which the regional entity's assets and liabilities shall be allocated to each participating community mental health services program, including, at a minimum, all of the following:

(*i*) The manner for equitably providing for, obtaining, and allocating revenues derived from a federal or state grant or loan, a gift, bequest, grant, or loan from a private source, or an insurance payment or service fee.

(*ii*) The method or formula for equitably allocating and financing the regional entity's capital and operating costs, payments to reserve funds authorized by law, and payments of principal and interest on obligations.

(*iii*) The method for allocating any of the regional entity's other assets.

(*iv*) The manner in which, after the completion of its purpose as specified in the regional entity's bylaws, any surplus funds shall be returned to the participating community mental health services programs.

(d) The manner in which a participating community mental health services program's special fund account created under section 226a shall be allocated.

(e) A process providing for strict accountability of all funds and the manner in which reports, including an annual independent audit of all the regional entity's receipts and disbursements, shall be prepared and presented.

(f) The manner in which the regional entity shall enter into contracts including a contract involving the acquisition, ownership, custody, operation, maintenance, lease, or sale of real or personal property and the disposition, division, or distribution of property acquired through the execution of the contract.

(g) The manner for adjudicating a dispute or disagreement among participating community mental health services programs.

(h) The effect of a participating community mental health service program's failure to pay its designated share of the regional entity's costs and expenses, and the rights of the other participating community mental health services programs as a result of that failure.

(i) The process and vote required to amend the bylaws.

(j) Any other necessary and proper matter agreed to by the participating community mental health services programs.

(2) Except as otherwise stated in the bylaws, a regional entity has all of the following powers:

(a) The power, privilege, or authority that the participating community mental health services programs share in common and may exercise separately under this act, whether or not that power, privilege, or authority is specified in the bylaws establishing the regional entity.

(b) The power to contract with the state to serve as the medicaid specialty service prepaid health plan for the designated service areas of the participating community mental health services programs.

(c) The power to accept funds, grants, gifts, or services from the federal government or a federal agency, the state or a state department, agency, instrumentality, or political subdivision, or any other governmental unit whether or not that governmental unit participates in the regional entity, and from a private or civic source.

(d) The power to enter into a contract with a participating community mental health service program for any service to be performed for, by, or from the participating community mental health services program.

(e) The power to create a risk pool and take other action as necessary to reduce the risk that a participating community mental health services program otherwise bears individually.

(3) A regional entity established under this section is a public governmental entity separate from the county, authority, or organization that establishes it.

(4) All the privileges and immunity from liability and exemptions from laws, ordinances, and rules provided under section 205(3)(b) to county community mental health service programs and their board members, officers, and administrators, and county elected officials and employees of county government are retained by a regional entity created under this section and the regional entity's board members, officers, agents, and employees.

(5) A regional entity shall provide an annual report of its activities to each participating community mental health services program.

(6) The regional entity's bylaws shall be filed with the clerk of each county in which a participating community mental health services program is located and with the secretary of state, before the bylaws take effect.

(7) If a regional entity assumes the duties of a participating community mental health services program or contracts with a private individual or entity to assume the duties of a participating community mental health services program, the regional entity shall comply with all of the following:

(a) The manner of employing, compensating, transferring, or discharging necessary personnel is subject to the provisions of the applicable civil service and merit systems and the following restrictions:

(*i*) An employee of a regional entity is a public employee.

(*ii*) A regional entity and its employees are subject to 1947 PA 336, MCL 423.201 to 423.217.

(b) At the time a regional entity is established under this section, the employees of the participating community mental health services program who are transferred to the

regional entity and appointed as employees shall retain all the rights and benefits for 1 year. If at the time a regional entity is established under this section a participating community mental health services program ceases to operate, the employees of the participating community mental health services program shall be transferred to the regional entity and appointed as employees who shall retain all the rights and benefits for 1 year. An employee of the regional entity shall not, by reason of the transfer, be placed in a worse position for a period of 1 year with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or another benefit that the employee had as an employee of the participating community mental health services program. A transferred employee's accrued benefits or credits shall not be diminished by reason of the transfer.

(c) If a participating community mental health services program was the designated employer or participated in the development of a collective bargaining agreement, the regional entity assumes and is bound by the existing collective bargaining agreement. Establishing a regional entity does not adversely affect existing rights or obligations contained in the existing collective bargaining agreement. For the purposes of this subsection, "participation in the development of a collective bargaining agreement" means that a representative of the participating community mental health services program actively participated in bargaining sessions with the employer representative and union or was consulted during the bargaining process.

This act is ordered to take immediate effect.
Approved October 17, 2002.
Filed with Secretary of State October 17, 2002.

[No. 595]

(SB 556)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 226 (MCL 330.1226), as amended by 2000 PA 273.

The People of the State of Michigan enact:

330.1226 Board; powers and duties; appointment of executive director.

Sec. 226. (1) The board of a community mental health services program shall do all of the following:

(a) Annually conduct a needs assessment to determine the mental health needs of the residents of the county or counties it represents and identify public and nonpublic services

necessary to meet those needs. Information and data concerning the mental health needs of individuals with developmental disability, serious mental illness, and serious emotional disturbance shall be reported to the department in accordance with procedures and at a time established by the department, along with plans to meet identified needs. It is the responsibility of the community mental health services program to involve the public and private providers of mental health services located in the county or counties served by the community mental health program in this assessment and service identification process. The needs assessment shall include information gathered from all appropriate sources, including community mental health waiting list data and school districts providing special education services.

(b) Annually review and submit to the department a needs assessment report, annual plan, and request for new funds for the community mental health services program. The standard format and documentation of the needs assessment, annual plan, and request for new funds shall be specified by the department.

(c) In the case of a county community mental health agency, obtain approval of its needs assessment, annual plan and budget, and request for new funds from the board of commissioners of each participating county before submission of the plan to the department. In the case of a community mental health organization, provide a copy of its needs assessment, annual plan, request for new funds, and any other document specified in accordance with the terms and conditions of the organization's inter-local agreement to the board of commissioners of each county creating the organization. In the case of a community mental health authority, provide a copy of its needs assessment, annual plan, and request for new funds to the board of commissioners of each county creating the authority.

(d) Submit the needs assessment, annual plan, and request for new funds to the department by the date specified by the department. The submission constitutes the community mental health services program's official application for new state funds.

(e) Provide and advertise a public hearing on the needs assessment, annual plan, and request for new funds before providing them to the county board of commissioners.

(f) Submit to each board of commissioners for their approval an annual request for county funds to support the program. The request shall be in the form and at the time determined by the board or boards of commissioners.

(g) Annually approve the community mental health services program's operating budget for the year.

(h) Take those actions it considers necessary and appropriate to secure private, federal, and other public funds to help support the community mental health services program.

(i) Approve and authorize all contracts for the provision of services.

(j) Review and evaluate the quality, effectiveness, and efficiency of services being provided by the community mental health services program. The board shall identify specific performance criteria and standards to be used in the review and evaluation. These shall be in writing and available for public inspection upon request.

(k) Subject to subsection (3), appoint an executive director of the community mental health services program who meets the standards of training and experience established by the department.

(*l*) Establish general policy guidelines within which the executive director shall execute the community mental health services program.

(m) Require the executive director to select a physician, a registered professional nurse with a specialty certification issued under section 17210 of the public health code, 1978 PA 368, MCL 333.17210, or a licensed psychologist to advise the executive director on treatment issues.

(2) A community mental health services program may do all of the following:

(a) Establish demonstration projects allowing the executive director to do 1 or both of the following:

(*i*) Issue a voucher to a recipient in accordance with the recipient's plan of services developed by the community mental health services program.

(*ii*) Provide funding for the purpose of establishing revolving loans to assist recipients of public mental health services to acquire or maintain affordable housing. Funding under this subparagraph shall only be provided through an agreement with a nonprofit fiduciary.

(b) Carry forward any surplus of revenue over expenditures under a capitated managed care system. Capitated payments under a managed care system are not subject to cost settlement provisions of section 236.

(c) Carry forward the operating margin up to 5% of the community mental health services program's state share of the operating budget for the fiscal years ending September 30, 2000, 2001, 2002, 2003, and 2004. As used in this subdivision, "operating margin" means the excess of state revenue over state expenditures for a single fiscal year exclusive of capitated payments under a managed care system. In the case of a community mental health authority, this carryforward is in addition to the reserve accounts described in section 205(4)(h).

(d) Pursue, develop, and establish partnerships with private individuals or organizations to provide mental health services.

(e) Share the costs or risks, or both, of managing and providing publicly funded mental health services with other community mental health services programs through participation in risk pooling arrangements, reinsurance agreements, and other joint or cooperative arrangements as permitted by law.

(3) In the case of a county community mental health agency, the initial appointment by the board of an individual as executive director is effective unless rejected by a 2/3 vote of the county board of commissioners within 15 calendar days.

This act is ordered to take immediate effect.
Approved October 17, 2002.
Filed with Secretary of State October 17, 2002.

[No. 596]

(SB 557)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," by amending section 222 (MCL 330.1222), as amended by 1995 PA 290.

The People of the State of Michigan enact:

330.1222 Board; composition; residence of members; exclusions; approval of contract; exception; size of board in excess of § 330.1212; compliance.

Sec. 222. (1) The composition of a community mental health services board shall be representative of providers of mental health services, recipients or primary consumers of mental health services, agencies and occupations having a working involvement with mental health services, and the general public. At least 1/3 of the membership shall be primary consumers or family members, and of that 1/3 at least 2 members shall be primary consumers. All board members shall be 18 years of age or older.

(2) Not more than 4 members of a board may be county commissioners, except that if a board represents 5 or more counties, the number of county commissioners who may serve on the board may equal the number of counties represented on the board, and the total of 12 board memberships shall be increased by the number of county commissioners serving on the board that exceeds 4. Not more than half of the total board members may be state, county, or local public officials. For purposes of this section, public officials are defined as individuals serving in an elected or appointed public office or employed more than 20 hours per week by an agency of federal, state, city, or local government.

(3) A board member shall have his or her primary place of residence in the county he or she represents.

(4) An individual shall not be appointed to and shall not serve on a board if he or she is 1 or more of the following:

(a) Employed by the department or the community mental health services program.

(b) A party to a contract with the community mental health services program or administering or benefiting financially from a contract with the community mental health services program, except for a party to a contract between a community mental health services program and a regional entity or a separate legal or an administrative entity created by 2 or more community mental health services programs under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.

(c) Serving in a policy-making position with an agency under contract with the community mental health services program, except for an individual serving in a policy-making position with a joint board or commission established under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, or a regional entity to provide community mental health services.

(5) If a board member is an employee or independent contractor in other than a policy-making position with an agency with which the board is considering entering into a contract, the contract shall not be approved unless all of the following requirements are met:

(a) The board member shall promptly disclose his or her interest in the contract to the board.

(b) The contract shall be approved by a vote of not less than 2/3 of the membership of the board in an open meeting without the vote of the board member in question.

(c) The official minutes of the meeting at which the contract is approved contains the details of the contract including, but not limited to, names of all parties and the terms of the contract and the nature of the board member's interest in the contract.

(6) Subsection (5) does not apply to a board member who is an employee or independent contractor in other than a policy-making position with a joint board or commission established under 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, a separate legal or administrative entity established under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501

to 124.512, a combination of municipal corporations joined under 1951 PA 35, MCL 124.1 to 124.13, or a regional entity to provide community mental health services.

(7) In order to meet the requirement under subsection (1) related to the appointment of primary consumers and family members without terminating the appointment of a board member serving on the effective date of this subsection, the size of a board may exceed the size prescribed in section 212. A board that is different in size than that prescribed in section 212 shall be brought into compliance within 3 years after the appointment of the additional board members.

This act is ordered to take immediate effect.
Approved December 3, 2002.
Filed with Secretary of State December 3, 2002.

[No. 597]

(SB 1337)

AN ACT to amend 1974 PA 258, entitled "An act to codify, revise, consolidate, and classify the laws relating to mental health; to prescribe the powers and duties of certain state and local agencies and officials and certain private agencies and individuals; to regulate certain agencies and facilities providing mental health services; to provide for certain charges and fees; to establish civil admission procedures for individuals with mental illness or developmental disability; to establish guardianship procedures for individuals with developmental disability; to establish procedures regarding individuals with mental illness or developmental disability who are in the criminal justice system; to provide for penalties and remedies; and to repeal acts and parts of acts," (MCL 330.1001 to 330.2106) by adding section 232b.

The People of the State of Michigan enact:

330.1232b Specialty prepaid health plans.

Sec. 232b. (1) The department shall establish standards for community mental health services programs designated as specialty prepaid health plans under the medicaid managed care program described in section 109f of the social welfare act, 1939 PA 280, MCL 400.109f. The standards established under this section shall reference applicable federal regulations related to medicaid managed care programs and specify additional state requirements for specialty prepaid health plans. The standards established under this section shall be published in a departmental bulletin or by an updating insert to a departmental manual.

(2) As a condition for contracting and for receiving payment under the medicaid managed care program, a community mental health services program designated as a specialty prepaid health plan shall certify both of the following:

(a) That the program is in substantial compliance with the standards promulgated by the department and with applicable federal regulations.

(b) That the program has established policies and procedures to monitor compliance with the standards promulgated by the department and with applicable federal regulations and to ensure program integrity.

(3) The department shall conduct an annual review of all community mental health services programs designated as specialty prepaid health plans to verify the declarations made by the community mental health services program and to monitor compliance with the standards promulgated for specialty prepaid health plans and with applicable federal

regulations. The annual review process established under this section shall be published in a departmental bulletin or by an updating insert to a departmental manual.

(4) The department may conduct separate reviews of a specialty prepaid health plan in response to beneficiary complaints, financial status considerations, or health and safety concerns.

(5) Contracts with specialty prepaid health plans shall indicate the sanctions that the department may invoke if it makes a determination that a specialty prepaid health plan is not in substantial compliance with promulgated standards and with established federal regulations, that the specialty prepaid health plan has misrepresented or falsified information reported to the state or to the federal government, or that the specialty prepaid health plan has failed substantially to provide necessary covered services to recipients under the terms of the contract. Sanctions may include intermediate actions including, but not limited to, a monetary penalty imposed on the administrative and management operation of the specialty prepaid health plan, imposition of temporary state management of a community mental health services program operating as a specialty prepaid health plan, or termination of the department's medicaid managed care contract with the community mental health services program.

(6) Before imposing a sanction on a community mental health services program that is operating as a specialty prepaid health plan, the department shall provide that specialty prepaid health plan with timely written notice that explains both of the following:

(a) The basis and nature of the sanction.

(b) The opportunity for a hearing to contest or dispute the department's findings and intended sanction, prior to the imposition of the sanction. A hearing under this section is subject to the provisions governing a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, unless otherwise agreed to in the specialty prepaid health plan contract.

This act is ordered to take immediate effect.
Approved December 3, 2002.
Filed with Secretary of State December 3, 2002.

[No. 598]

(SB 3)

AN ACT to amend 1947 PA 179, entitled "An act to provide for the incorporation of certain municipal authorities for the collection or disposal, or both, of garbage or rubbish, or both, and for the operation of a dog pound; and to prescribe the powers, rights and duties thereof," (MCL 123.301 to 123.310) by adding section 11.

The People of the State of Michigan enact:

123.311 Entering or extending contract, obligation, bond, or note; sale or transfer of property; determination of current market value; withdrawal of member from qualified authority; payment; dissolution of authority; payment of environmental activities; distribution of assets; articles of incorporation; definitions.

Sec. 11. (1) After the effective date of the 2002 amendatory act that added this section, a qualified authority shall not enter into or extend any contract, obligation, bond, or note

that has, or as extended would have, a termination date after the termination date of the authority's most recently approved contract under section 5(1), unless the contract, obligation, bond, or note or extension thereof, is approved by all members.

(2) Within 90 days after a qualified authority decides to sell or transfer real property located within the territory of a member or former member, the member or former member may exercise the right of first refusal to purchase the real property at a price not less than the greater of the real property's current market value or the highest price offered for the real property in an arm's length, bona fide offer by a third party. The current market value of such real property shall be determined by an appraiser acceptable to the authority and the interested member. Any dispute regarding a determination of current market value shall be resolved by independent arbitration.

(3) Unless its withdrawal would cause an impairment of any contract, a member may withdraw from a qualified authority if all of the following requirements are met:

(a) The legislative body of the member adopts a resolution stating that the authority is no longer effectively serving the member's needs and declaring its decision to withdraw from the authority on a date specified in the resolution.

(b) The withdrawal date specified in the resolution under subdivision (a) is not either of the following:

(*i*) Less than 60 days after the date the resolution is adopted.

(*ii*) Within 1 year before the termination date of the authority's most recently approved contract under section 5(1) unless the filings required by subdivision (c) are made more than 1 year before the specified withdrawal date.

(c) The clerk of the member promptly files a certified copy of the resolution adopted under subdivision (a) with the authority and the secretary of state.

(4) By the withdrawal date, the withdrawing member, at its option, either shall pay to the authority the amount of the withdrawing member's fair share of the negative equity of the authority, if any, determined as of the withdrawal date, or shall provide the authority with a bond or other independent, insured guarantee that any such amount will be paid not later than 30 days after the expiration date of the authority's most recently approved contract under section 5(1). This subsection does not relieve the withdrawing member from either of the following:

(a) The member's fair share of any obligation to reimburse the authority following the member's withdrawal for any environmental liabilities subsequently incurred by the authority, to the extent that the environmental liabilities result from the authority's disposal of the withdrawn former member's municipal solid waste, recyclable materials, or yard waste.

(b) The member's payment of any money damages, owed on account of its or the authority's default under a contract under section 6 if the default and damages result directly and solely from the member's withdrawal and are necessary to prevent an impairment of the contract. If 2 or more members withdraw, they are jointly liable for damages under this subdivision.

(c) The member's fair share of any obligation to reimburse the authority following the member's withdrawal for liability incurred by the authority as a result of litigation or arbitration proceedings that were initiated before the date of withdrawal, or litigation or arbitration involving a cause of action arising before the date of withdrawal, if the total amount of the member's fair share of the obligation cannot be exactly determined by the date of withdrawal.

(5) At the option of the authority, by the withdrawal date, the authority shall pay to the withdrawing member the withdrawing member's fair share of the equity of the authority, determined as of the withdrawal date, or shall provide the withdrawing member with a bond or other independent, insured guarantee that such amount will be paid no later than 30 days after the expiration date of the authority's most recently approved contract under section 5(1). If an authority elects to provide such a bond or other guarantee, the withdrawn former member may direct the bonding company or guarantor at any time thereafter to pay from the bond or other guarantee any obligation or liability owed to the authority by the withdrawn former member, including, but not limited to, an obligation described in subsection (4)(a) or (b).

(6) Unless it would cause an impairment of an authority contract under section 6, a qualified authority shall dissolve if both of the following requirements are met:

(a) The legislative bodies of 60% of the members, weighted by the percentage of recent waste delivery, each adopt a resolution stating that the authority is no longer effectively serving the public good for which it was created and directing that the authority be dissolved pursuant to this subsection and subsections (7) to (9).

(b) The clerk of each member whose legislative body adopts a resolution under subdivision (a) promptly files a certified copy of the resolution with the authority and the secretary of state.

(7) Within 6 months after the requirements of subsection (6) are met, the qualified authority shall establish a mechanism to manage and pay for environmental activities required under existing law and cease the activities described in section 1 for which it was incorporated. Within 6 months after ceasing activities described in section 1, the authority shall settle its accounts, including, but not limited to, all vested or accrued employee benefits, employment contracts, collective bargaining agreements, and unemployment compensation, and, subject to subsection (2), shall sell all of its property. In addition, the authority shall establish a mechanism for handling future environmental liabilities. A qualified authority with respect to which the requirements of subsection (6) have been met and a new authority incorporated under subsection (10) may agree to the assignment of contracts from the qualified authority to the new authority.

(8) After the requirements of subsection (7) are met, the qualified authority shall distribute to each member that member's fair share of the authority's remaining assets.

(9) Upon distribution of the qualified authority's assets under subsection (8), both of the following apply:

(a) The authority is dissolved.

(b) All liabilities of each member and former member of the authority are terminated, except for both of the following:

(*i*) Any environmental liabilities attributed to the authority to the extent that the environmental liabilities result from the authority's disposal of the member's or former member's fair share of municipal solid waste, recyclable materials, or yard waste.

(*ii*) The member's fair share of any obligation to reimburse the authority following the dissolution for liability incurred by the authority as a result of litigation or arbitration proceedings that were initiated before the date of dissolution, or litigation or arbitration involving a cause of action arising before the date of dissolution, if the total amount of the member's fair share of the obligation cannot be exactly determined by the time the requirements of subsection (7) are met.

(10) Subsections (6) to (9) do not prevent the incorporation of a new authority by some or all of the members or former members of an authority with respect to which the requirements of subsection (6) have been met.

(11) If, after the effective date of the amendatory act that added this section, a qualified authority is incorporated or amends its articles of incorporation, the qualified authority shall include in its articles the provisions of subsections (3) to (9).

(12) As used in this act:

(a) "Appraiser" means an individual licensed under article 26 of the occupational code, 1980 PA 299, MCL 339.2601 to 339.2637.

(b) "Authority" means an authority incorporated under this act.

(c) "Corrective action" means that term as defined in section 11502 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11502.

(d) "Environmental liabilities" means the costs of landfill closure and postclosure obligations, the costs of corrective action, response activity costs, and fines, penalties, or damages required or assessed by the state under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(e) "Equity of the authority" means the total fund equity of the authority excluding contributions of capital attributed to the clean Michigan initiative bond fund as set forth in an audit conducted for this purpose except that liabilities shall be reduced by any estimated liabilities that were included in determining total fund equity.

(f) "Former member" means a member that has withdrawn from a qualified authority under this section or a prior member of a qualified authority that has been dissolved under this section.

(g) "Impairment", in reference to an authority contract, means a material default in the contract that cannot be cured by the payment of monetary damages.

(h) "Member" means a municipality that incorporated a qualified authority under section 1 or that became part of a qualified authority under section 7 and that has not withdrawn from the authority under this section.

(i) "Member's fair share" means the percentage determined by taking the tonnage of municipal solid waste, recyclable materials, and yard waste contributed by the member and disposed of by the authority since its incorporation and dividing that amount by the tonnage of municipal solid waste, recyclable materials, and yard waste contributed by all members and disposed of by the authority since its incorporation, as determined, in the event of a dispute, by statutory and binding arbitration.

(j) "Percentage of recent waste delivery" means the amount of municipal solid waste, recyclable materials, and yard waste generated within a particular member's territory and disposed of by the authority during the latest full calendar year for which the authority disposed of such materials or waste generated within the territory of that member, divided by the sum of such amounts for all members, as determined, in the event of a dispute, by independent arbitration.

(k) "Qualified authority" means an authority that as of the effective date of this section or thereafter is composed of 10 or more members and has a population residing within its territory of 250,000 or more.

(*l*) "Response activity costs" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

This act is ordered to take immediate effect.
Approved December 13, 2002.
Filed with Secretary of State December 16, 2002.

[No. 599]

(HB 5552)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 17401, 17431, and 17432 (MCL 333.17401, 333.17431, and 333.17432), sections 17401 and 17432 as amended by 1997 PA 151 and section 17431 as amended by 1994 PA 234.

The People of the State of Michigan enact:

333.17401 Definitions; principles of construction.

Sec. 17401. (1) As used in this part:

(a) "Optometrist" means an individual licensed under this article to engage in the practice of optometry.

(b) "Practice of optometry" means 1 or more of the following, but does not include the performance of invasive procedures:

(*i*) The examination of the human eye to ascertain the presence of defects or abnormal conditions that may be corrected, remedied, or relieved, or the effects of which may be corrected, remedied, or relieved by the use of lenses, prisms, or other mechanical devices.

(*ii*) The employment of objective or subjective physical means to determine the accommodative or refractive conditions or the range of powers of vision or muscular equilibrium of the human eye.

(*iii*) The adaptation or the adjustment of the lenses or prisms or the use of therapeutic pharmaceutical agents to correct, remedy, or relieve a defect or abnormal condition or to correct, remedy, or relieve the effect of a defect or abnormal condition of the human eye.

(*iv*) The examination of the human eye for contact lenses and the fitting or insertion of contact lenses to the human eye.

(*v*) The employment of objective or subjective means, including diagnostic pharmaceutical agents by an optometrist who meets the requirements of section 17412, for the examination of the human eye for the purpose of ascertaining a departure from the normal, measuring of powers of vision, and adapting lenses for the aid of those powers.

(c) "Diagnostic pharmaceutical agent" means a topically administered prescription drug or other topically administered drug used for the purpose of investigating, analyzing, and diagnosing a defect or abnormal condition of the human eye or ocular adnexa.

(d) "Therapeutic pharmaceutical agent" means 1 or more of the following:

(*i*) A topically administered prescription drug or other topically administered drug used for the purpose of investigating, analyzing, diagnosing, correcting, remedying, or relieving a defect or abnormal condition of the anterior segment of the human eye or for the purpose of correcting, remedying, or relieving the effects of a defect or abnormal condition of the anterior segment of the human eye.

(*ii*) A topically or orally administered antiglaucoma drug.

(*iii*) An orally administered prescription drug or other orally administered drug used for the purpose of investigating, analyzing, diagnosing, correcting, remedying, or relieving a defect or abnormal condition of the anterior segment of the human eye and adnexa or for the purpose of investigating, analyzing, diagnosing, correcting, remedying, or relieving the effects of a defect or abnormal condition of the anterior segment of the human eye and adnexa that is administered by an optometrist who has completed 50% of the continuing education hours required for renewal of a license in the category of pharmacological management of ocular conditions.

(e) "Drug" means that term as defined in section 17703, but does not include a controlled substance as defined in section 7104 and included in schedule 2 under section 7214, an oral cortical steroid, or a prescription drug. However, drug does include a controlled substance included in schedules 3, 4, and 5 under sections 7216, 7218, and 7220, respectively, and dihydrocodeinone combination drugs.

(f) "Prescription drug" means that term as defined in section 17708, but does not include a controlled substance as defined in section 7104 and included in schedule 2 under section 7214 or an oral cortical steroid. However, prescription drug does include a controlled substance included in schedules 3, 4, and 5 under sections 7216, 7218, and 7220, respectively, and dihydrocodeinone combination drugs.

(g) "Physician" means that term as defined in section 17001 or 17501.

(h) "Invasive procedures" means all of the following:

(*i*) The use of lasers other than for observation.

(*ii*) The use of ionizing radiation.

(*iii*) The use of therapeutic ultrasound.

(*iv*) The administration of medication by injection.

(*v*) Procedures that include an incision.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.17431 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 17431. (1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 2 years immediately preceding the application for renewal the licensee has attended an education program approved by the board and totaling not less than 40 hours in subjects related to the practice of optometry and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the education program required under subsection (1) an appropriate number of hours or courses in pain and symptom management.

333.17432 Duties of optometrist upon determining symptoms evidencing disease; conditions requiring consultation with physician for further diagnosis and treatment; diagnosis and treatment of glaucoma.

Sec. 17432. (1) Whether or not diagnostic pharmaceutical agents or therapeutic pharmaceutical agents have been used, if an optometrist determines from interviewing or examining a patient, using judgment and that degree of skill, care, knowledge, and attention ordinarily possessed and exercised by optometrists in good standing under like circumstances, that there are present in that patient signs or symptoms that may be evidence of disease that the optometrist is not authorized to treat under this part, then the optometrist shall do both of the following:

(a) Promptly advise that patient to seek evaluation by an appropriate physician for diagnosis and possible treatment.

(b) Not attempt to treat the condition by the use of diagnostic pharmaceutical agents, therapeutic pharmaceutical agents, or any other means.

(2) Subject to subsections (3) and (4), if an optometrist treats a patient for a condition or disease that the optometrist is authorized to treat under this part, and if that condition or disease may be related to a nonlocalized or systemic condition or disease or does not demonstrate adequate clinical progress as a result of the treatment, the optometrist shall consult an appropriate physician for further diagnosis and possible treatment and to determine if the condition or disease is related to a nonlocalized or systemic condition or disease.

(3) When a diagnosis of glaucoma is made and treatment has begun, the treating optometrist shall consult an appropriate physician for further diagnosis and possible treatment if the condition does not demonstrate adequate clinical progress as a result of the treatment.

(4) If an optometrist diagnoses that a patient has acute glaucoma, the optometrist shall, as soon as possible, consult a physician for further diagnosis and possible treatment.

This act is ordered to take immediate effect.
Approved December 13, 2002.
Filed with Secretary of State December 16, 2002.

[No. 600]

(SB 686)

AN ACT to amend 1967 PA 270, entitled "An act to provide for the release of certain information or data relating to health care research or education, health care entities, practitioners, or professions, or certain governmentally funded programs; to limit the liability with respect to the release of certain information or data; and to safeguard the confidential character of certain information or data," by amending section 1 (MCL 331.531), as amended by 1998 PA 59.

The People of the State of Michigan enact:

331.531 Providing information or data to review entity regarding physical condition, psychological condition, health care of person, or qualifications of provider; "review entity" defined; liability; disciplinary actions to be reported to department of consumer and industry services.

Sec. 1. (1) A person, organization, or entity may provide to a review entity information or data relating to the physical or psychological condition of a person, the necessity, appropriateness, or quality of health care rendered to a person, or the qualifications, competence, or performance of a health care provider.

(2) As used in this section, "review entity" means 1 of the following:

(a) A duly appointed peer review committee of 1 of the following:

(*i*) The state.

(*ii*) A state or county association of health care professionals.

(*iii*) A health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(*iv*) A health care association.

(*v*) A health care network, a health care organization, or a health care delivery system composed of health professionals licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, or composed of health facilities licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or both.

(*vi*) A health plan qualified under the program for medical assistance administered by the department of community health under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

(b) A professional standards review organization qualified under federal or state law.

(c) A foundation or organization acting pursuant to the approval of a state or county association of health care professionals.

(d) A state department or agency whose jurisdiction encompasses the information described in subsection (1).

(e) An organization established by a state association of hospitals or physicians, or both, that collects and verifies the authenticity of documents and other data concerning the qualifications, competence, or performance of licensed health care professionals and that acts as a health facility's agent pursuant to the health care quality improvement act of 1986, title IV of Public Law 99-660, 100 Stat. 3784.

(f) A professional corporation, limited liability partnership, or partnership consisting of 10 or more allopathic physicians, osteopathic physicians, or podiatric physicians and surgeons licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, who regularly practice peer review consistent with the requirements of article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(3) A person, organization, or entity is not civilly or criminally liable:

(a) For providing information or data pursuant to subsection (1).

(b) For an act or communication within its scope as a review entity.

(c) For releasing or publishing a record of the proceedings, or of the reports, findings, or conclusions of a review entity, subject to sections 2 and 3.

(4) The immunity from liability provided under subsection (3) does not apply to a person, organization, or entity that acts with malice.

(5) An entity described in subsection (2)(a)(*v*) or (*vi*) that employs, contracts with, or grants privileges to a health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, shall report each of the following to the department of consumer and industry services not more than 30 days after it occurs:

(a) Disciplinary action taken by the entity against a health professional licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, based on the health professional's professional competence, disciplinary action that results in a change of the health professional's employment status, or disciplinary action based on conduct that adversely affects the health professional's clinical privileges for a period of more than 15 days. As used in this subdivision, "adversely affects" means the reduction, restriction, suspension, revocation, denial, or failure to renew the clinical privileges of a health professional by an entity described in subsection (2)(a)(*v*) or (*vi*).

(b) Restriction or acceptance of the surrender of the clinical privileges of a health professional under either of the following circumstances:

(*i*) The health professional is under investigation by the entity.

(*ii*) There is an agreement in which the entity agrees not to conduct an investigation into the health professional's alleged professional incompetence or improper professional conduct.

(c) A case in which a health professional resigns or terminates a contract or whose contract is not renewed instead of the entity taking disciplinary action against the health professional.

(6) Upon request by another entity described in subsection (2) seeking a reference for purposes of changing or granting staff privileges, credentials, or employment, an entity described in subsection (2) that employs, contracts with, or grants privileges to health professionals licensed or registered under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, shall notify the requesting entity of any disciplinary or other action reportable under subsection (5) that it has taken against a health professional employed by, under contract to, or granted privileges by the entity.

(7) For the purpose of reporting disciplinary actions under subsection (5), an entity described in subsection (2)(a)(*v*) or (*vi*) shall include only the following in the information provided:

(a) The name of the health professional against whom disciplinary action has been taken.

(b) A description of the disciplinary action taken.

(c) The specific grounds for the disciplinary action taken.

(d) The date of the incident that is the basis for the disciplinary action.

(8) For the purpose of reporting disciplinary actions under subsection (6), an entity described in subsection (2) shall include in the report only the information described in subsection (7)(a) to (d).

This act is ordered to take immediate effect.
Approved December 13, 2002.
Filed with Secretary of State December 16, 2002.

[No. 601]

(HB 6256)

AN ACT to amend 1965 PA 232, entitled "An act relating to the marketing of agricultural commodities; to provide for marketing programs, agreements, referendums by producers, assessments on producers, and commodity committees; and to prescribe the functions of the department of agriculture relative thereto including powers of enforcement of this act; and to prescribe penalties," by amending the title and sections 2, 3, 4, 5, 7, 8, 9, 10, 11, 17, 19, 21, 22, 23, and 24 (MCL 290.652, 290.653, 290.654, 290.655, 290.657, 290.658, 290.659, 290.660, 290.661, 290.667, 290.669, 290.671, 290.672, 290.673, and 290.674), sections 2, 3, 5, 7, 9, 10, 21, and 22 as amended by 1996 PA 216, section 8 as amended by 1997 PA 20, and sections 19, 23, and 24 as amended by 1980 PA 196; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act relating to the marketing of agricultural commodities or agricultural commodity inputs; to provide for marketing and research programs, agreements, referendums by producers, assessments on producers, and commodity committees; and to prescribe certain functions of the department of agriculture relative thereto including powers of enforcement of this act; and to prescribe remedies and penalties.

290.652 Definitions.

Sec. 2. As used in this act:

(a) "Agricultural commodity" means all agricultural, aquacultural, silvicultural, horticultural, floricultural, or viticultural products, livestock or livestock products, Christmas trees, bees, maple syrup, honey, commercial fish or fish products, and seeds produced in this state, either in their natural state or as processed by the producer of the commodity. The kinds, types, and subtypes of products to be classed together as an agricultural commodity for the purposes of this act shall be determined on the basis of common usage and practice.

(b) "Agricultural commodity input" means an item used in the production, processing, or packaging of an agricultural commodity that is assessed by a specific marketing agreement. Agricultural commodity input does not include feed, fertilizer, and pesticides.

(c) "Committee" means the commodity committee or advisory board established under a marketing program.

(d) "Department" means the state department of agriculture.

(e) "Director" means the director of the department of agriculture.

(f) "Distributor" means a person engaged in selling, offering for sale, marketing, or distributing an agricultural commodity or agricultural commodity input that he or she has purchased or acquired from a producer or that the person is marketing on behalf of a producer, whether as owner, agent, employee, broker, or otherwise. Distributor does not include a retailer of an agricultural commodity except for either of the following:

(*i*) A retailer who purchases or acquires from or handles on behalf of a producer an agricultural commodity not previously subjected to regulations by the marketing program covering the agricultural commodity.

(*ii*) A retailer specifically identified by a marketing program that is subject to an assessment.

(g) "Financial institution" means a state or nationally chartered bank, member of the farm credit system, savings and loan association, savings bank, and credit union, whose deposits are insured by an agency of the United States government and that maintains a principal or branch office located in this state under the laws of this state or the United States.

(h) "Handler" means a person who takes title to and is engaged in the operation of packing, cleaning, drying, packaging, sizing, hauling, grading, selling, offering for sale, or marketing a marketable agricultural commodity or an agricultural commodity input in commercial quantities as defined in a marketing program, who as owner, agent, or otherwise, ships or causes an agricultural commodity or agricultural commodity input to be shipped.

(i) "Livestock" means that term as defined in section 5 of the animal industry act, 1988 PA 466, MCL 287.705.

(j) "Marketing agreement" means an agreement entered into, with the director, by producers, distributors, processors, or handlers pursuant to this act and binding only on those signing the agreement.

(k) "Marketing program" means a program established by order of the director pursuant to this act prescribing rules and regulations governing the marketing for processing, distributing, selling, or handling an agricultural commodity produced in this state or agricultural commodity input during a specified period and which the director determines would be in the public interest.

(*l*) "Processor" means a person engaged in canning, freezing, dehydrating, drying, fermenting, distilling, extracting, preserving, grinding, crushing, milling, or otherwise preserving or changing the form of an agricultural commodity for the purpose of marketing it.

(m) "Producer" means a person engaged in the business of producing, or causing to be produced for any market, an agricultural commodity or agricultural commodity input in quantity beyond that person's own family use, and having a value at first point of sale of more than $800.00 or of an amount as otherwise expressly provided for in a marketing program for the agricultural commodity or agricultural commodity input in any 1 growing and marketing season within the last 3 years.

290.653 Marketing agreements; provisions allowed; provisions required; substantial compliance.

Sec. 3. (1) Any marketing agreement or marketing program authorized under this act may contain 1 or more of the following:

(a) Provisions for establishing advertising and promotional programs.

(b) Provisions for establishing market development programs.

(c) Provisions for establishing and supporting research designed to improve or develop new agricultural commodities or agricultural commodity inputs and contribute to the effectiveness of the program.

(d) Provisions for development and dissemination of market information.

(e) Provision for accepting grants, royalties, license fees, interest, gifts, income, or other items of value that enhance the purpose of the marketing program or marketing agreement.

(f) Provision for contracting with organizations, agencies, or individuals to carry out the activities described in this act.

(g) Provisions for either or both of the following:

(*i*) Establishing standards for quality, purity, condition, size, or other accepted standards for that industry for agricultural commodities or agricultural commodity inputs sold as fresh, seed, or processed and standards for pack or container, or both, for agricultural commodities or agricultural commodity inputs sold for use as fresh, seed, or processed products.

(*ii*) Inspection and grading of the fresh, seed, or processed agricultural commodity or agricultural commodity input in accordance with the grading standards so established.

(h) Provision for determining the existence and extent of any surplus in any marketing period for any agricultural commodity or agricultural commodity input, or of any grade, size, or quality of any agricultural commodity or agricultural commodity input, and providing for handling and equitably sharing the cost of such surplus handling among the producers of the agricultural commodity or agricultural commodity input. Before provisions under this subdivision are included in any marketing program, particular attention shall be given to determining that Michigan producers affected by the provisions produce a sufficient proportion of the product covered by the provisions for the program to be effective in the particular market toward which the provisions would be applicable.

(i) Provision for payment of assessments for all usable products purchased from producers according to established grades.

(j) Provision for payment of assessments on agricultural commodity inputs.

(k) Provision for exemption of nonparticipating producers.

(*l*) Provision for the awarding of grants from money collected pursuant to this act. The grants may be awarded to organizations, agencies, or individuals with whom the committee has contracted for activities described in this section.

(2) A proposed marketing program shall include definition of terms, purpose, maximum rate of an assessment, method of collection of the assessment, and nominating procedures, qualifications, representation, and size of the committee as well as other provisions considered necessary by a committee. This subsection does not invalidate any marketing programs established under this act before the effective date of the amendatory act that added this sentence that are in substantial compliance with this act as determined by the director.

(3) A marketing agreement or marketing program that allows the committee to contract with organizations, agencies, governmental entities, institutions of higher education, individuals, or other legal entities in order to carry out the activities described in this act or allows the committee to award grants may provide in the marketing agreement or marketing program that the marketing program or marketing agreement be allowed to participate in the income or earnings of any royalties or license fees derived from the results of those activities. However, the marketing program or marketing agreement shall provide that the royalties or license fees be utilized only in the manner provided for in that marketing program or marketing agreement.

290.654 Inspection and grading; approved inspectors.

Sec. 4. For the purpose of this act, all inspection and grading shall be performed by or under the supervision of trained inspectors approved by the director or by inspectors supplied under cooperative agreement between the department and the United States department of agriculture.

290.655 Assessments to defray program and administrative costs; collection; maximum assessment to be specified; collection by processors, distributors, or handlers; disposition; trust fund; complaint; notice of due date; ability to borrow money; assessment for loans and interest.

Sec. 5. (a) Assessments shall be collected from each producer of a marketable agricultural commodity produced in this state and directly affected by a marketing program issued for the agricultural commodity to defray all program and administrative costs

except for nonparticipating producers as provided for under section 3(1)(k). Assessments shall be collected on agricultural commodity inputs in this state directly affected by a marketing program established for the agricultural commodity input in order to defray all marketing program and administrative costs. Subject to approval by the director, assessments may also be collected from either producers or distributors, or both, and manufacturers, of a marketable agricultural commodity produced in this state or an agricultural commodity input used in this state if the director determines that the unique nature of the agricultural commodity or agricultural commodity input or the industry structure warrants the assessment of both the producer and the distributors of the agricultural commodity or agricultural commodity input.

(b) Each marketing program shall specify the maximum assessment on an agricultural commodity or an agricultural commodity input and may provide for any other assessment mechanism as approved by the director to be collected to cover program and administrative costs.

(c) Pursuant to the marketing program and for convenience, the processors, distributors, or handlers of the agricultural commodity or agricultural commodity input may be required to collect and remit producer assessments to the committee at no cost to the marketing program unless the marketing program expressly provides for the payment of a reasonable fee for making the deduction and remittance.

In the case of a marketing program that provides for the imposition of an assessment, the processors, distributors, or handlers dealing with the producer shall collect the assessment from the producer by deducting the assessment from the gross amount owing to the producer and shall remit the assessment and data to the committee within a reasonable time period as established by the committee. A processor, distributor, or handler who fails to deduct or remit the assessment is liable to the committee for any assessments not deducted or remitted. If a processor, distributor, or handler is not involved at the first point of sale of an agricultural commodity or agricultural commodity input, or is not within this state and the assessment is not deducted and remitted, the producer shall remit the assessments to the committee on all sales of the agricultural commodity or agricultural commodity input, subject to a marketing program and within a time period specified by the committee.

(d) All assessments deducted or collected and held by a processor, distributor, or handler for over 92 days shall be deposited in a separate interest bearing escrow account held jointly with the marketing program committee and not commingled with other funds. Interest accrued in the escrow account shall be forwarded to the committee.

(e) All assessments collected or deducted shall be considered trust funds and be remitted quarterly or more frequently if required by the marketing program to the appropriate committee.

(f) A committee may file a written complaint with the director documenting that a processor, distributor, handler, or producer has failed to deduct or remit any assessment due to the committee pursuant to a marketing program. Upon receipt of such a complaint, the director shall conduct an investigation of the allegations. If, after investigation, the director finds that the processor, distributor, handler, or producer has failed to deduct or remit an assessment to the committee, the director shall request by certified mail the processor, distributor, handler, or producer to remit the assessment within 10 days after the director determines that a deduction or remittance was not made. In the case of the failure to deduct an assessment, the director shall compute the amount that reasonably should have been deducted and impose an assessment in that amount. If the assessment is not remitted within 30 days after the request or is not in compliance with a written

agreement for full payment, the director may file an action in a court of competent jurisdiction to collect the assessment. Venue in such an action is the place where the processor, distributor, handler, or producer has its primary place of business. In any action to recover an assessment under this subsection, if the director prevails, the court shall award to the director all costs and expenses in bringing the action, including, but not limited to, reasonable and actual attorney fees, court costs, and audit expenses. If the director does not prevail, he or she shall charge the committee for reasonable and actual attorney fees, court costs, and expenses incurred in bringing about the action.

(g) Each committee shall specify the date the assessment is due in the account of the marketing program on that production. Producers, processors, distributors, or handlers of the affected agricultural commodity or agricultural commodity input shall be given reasonable notice of the due date.

(h) A committee established pursuant to this act has the ability to borrow money in anticipation of the receipt of assessments if the following conditions are met:

(*i*) The loan will not be requested or authorized, or will not mature, within 90 days before a resubmittal or termination referendum for the marketing program.

(*ii*) The amount of the loan does not exceed 50% of the annual average assessment revenue during the previous 3 years. In the case of a marketing program that has been in existence for less than 3 years, the loan does not exceed 25% of the projected annual assessment revenue.

(*iii*) The loan repayment period does not exceed the life of the marketing program.

(*iv*) The loan has the prior written consent of the director. The director may request an audit of the committee by the auditor general before approving the loan.

(i) The director shall assess against the agricultural commodity input or the producers of the agricultural commodity all outstanding loans, including interest, approved under subsection (h) if the marketing program is inactive or is terminated.

290.657 Committee; establishment; appointment, qualifications, and terms of members; reapportionment of districts; expenses and per diem; duties and responsibilities; conducting business at public meeting; notice of meeting; availability of writings to public; exemption of certain information from freedom of information act.

Sec. 7. (1) A marketing program shall provide for the establishment of a committee to consist of an odd number of members which shall be not less than 5 and not more than 13.

(2) The members of the committee shall be appointed by the governor with the advice and consent of the senate from nominations received from the producers and handlers or processors of the agricultural commodity or agricultural commodity input for which the marketing program is established. Nominating procedures, qualifications, representation, term of office, and size of the committee shall be prescribed in the marketing program for which the committee is appointed. Each committee shall be composed of producers and handlers or processors who are directly affected by the marketing program in the proportion of representation as prescribed by the program. The term of office of a committee member is 3 years or until such time as his or her successor is appointed and qualified.

(3) The director or his or her representative shall serve as a nonvoting ex officio member. Additional nonvoting ex officio members may serve if approved for in a specific marketing program.

(4) A committee, with the advice and consent of the director and the commission of agriculture, may reapportion either the number of committee members or member

districts, or both. Reapportionment of the districts shall be on the basis of production or industry representation. The reapportionment may be commenced 30 days after the effective date of the amendatory act that added this subsection. Reapportionment of either members or districts shall not occur more often than twice in any 5-year period and shall not occur within 6 months before a referendum.

(5) After the reapportionment described in subsection (4), if the residence of a member of the committee falls outside of the district for which he or she serves on the committee and falls within the district for which another member serves on the committee, then both members shall continue to serve on the committee for a term equal to the remaining term of the member who served for the longest period of time. After the reapportionment described in subsection (4), if a district is created in which no member serving on the committee resides, then a member shall be selected in the manner as prescribed in each program. After a reapportionment or redistricting, a committee may temporarily have more members than prescribed in the marketing program until the expiration of the term of the longest serving member from that district.

(6) A member of a committee is entitled to reimbursement for actual expenses and a per diem payment to be set by the committee not to exceed the commission of agriculture rate while attending meetings of the committee or while engaged in the performance of official responsibilities delegated by the committee.

(7) The duties and responsibilities of a committee shall be prescribed in the order establishing the marketing program and to the extent applicable shall include the following duties and responsibilities:

(a) Developing procedures relating to the marketing program.

(b) Recommending amendments to the marketing program as are considered advisable.

(c) Preparing the estimated budget required for the proper operation of the marketing program.

(d) Developing methods for collecting and auditing the assessments.

(e) Collecting and assembling information and data necessary for proper administration of the marketing program.

(f) Performing other duties necessary for the operation of the marketing program as agreed upon with the director.

(8) The business which a committee may perform shall be conducted at a public meeting of the committee held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(9) Subject to section 10(b) and except as otherwise provided in this subsection, a writing prepared, owned, used, in the possession of, or retained by a committee in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Except for information regarding penalties levied under this act, information relating to specific assessments to a specific person under a marketing program as well as names and addresses of producers shall be exempt from disclosure to any other person or committee. This subsection does not prevent the director or the department from obtaining information necessary to confirm compliance with this act and does not prevent the director or the department from disclosing statistical information so long as that disclosure does not reveal specific assessments or production levels of any producer, handler, or processor.

290.658 Disposition of moneys or assets collected; expenditures.

Sec. 8. (1) Money, assets, or other items of value collected or received under this act, whether collected from assessments, received as grants or gifts, or earned from royalties

or license fees or derived from any activities performed by another organization, agency, or individual and conducted under a marketing program, are not state money and shall be deposited in a financial institution in this state. The money shall be allocated to the marketing program under which it is collected or received and shall be disbursed only for the necessary expenses incurred for the marketing program according to the rules established under the marketing program and for grants authorized under a marketing agreement or marketing program.

(2) Except as otherwise provided for in this subsection, all expenditures shall be audited by a certified public accountant at least annually and within 30 days after completion of the audit, the certified public accountant shall give copies of the audit to the members of the committee and the director. An activity and financial report shall be published annually and made available to interested parties. A committee with annual assets of $50,000.00 or less, based upon a 3-year average, shall be audited twice between referenda and shall have a financial review conducted in those years where it is not audited under this subsection.

290.659 Refunds.

Sec. 9. (1) Money remaining from the assessments collected under a marketing program may be refunded at the close of any marketing season upon a pro rata basis to all persons from whom assessments were collected. If the committee finds that the money may be necessary to defray the cost of operating a marketing program in succeeding marketing seasons, all or any portion of the money may be carried over into succeeding seasons.

(2) Upon termination of any marketing program, all money remaining and not required to defray the expenses of operating the marketing program shall be refunded on a pro rata basis to persons from whom assessments were collected. If the committee finds that the refundable amount is so small as to make impracticable the computation and refunding of the money, it may be used to defray the expenses incurred by the department in the formulation, adoption, administration, or enforcement of any subsequent marketing program for the commodity or for agricultural research for that commodity. In the case of money earned from royalties, license fees, or other assets that may be collected or received after termination of a marketing program, that money shall be allocated to any institution of higher education engaged in agricultural or nutritional research, as determined by the director.

290.660 Petition for program or amendment; notice; public hearing; decision by director; producers.

Sec. 10. (a) Whenever the director has received a petition signed by 25%, or 200, whichever is less, of the producers of an agricultural commodity regarding the adoption of a marketing program or amendments to an existing marketing program, he or she shall give notice of a public hearing on the proposed marketing program or the proposed amendments to an existing marketing program. After receiving a petition for the establishment of a marketing program, the director may appoint a temporary producer committee to develop the proposed marketing program to be considered at the public hearing.

(b) The director may require all handlers or processors of the agricultural commodity or distributors of the agricultural commodity input as individuals or through their trade associations to file with him or her within 30 days a report, properly certified, showing the correct names and addresses of all producers of the agricultural commodity from whom such handler, processor, or distributor received such agricultural commodity or agricultural commodity input in the marketing season next preceding the filing of such report. The director shall not make public or provide to anyone for private use the information

contained in the individual reports of handlers or processors filed with the director pursuant to this section.

(c) The director shall issue a decision within 45 days after the close of the hearing based upon his or her findings and deliver to all parties of record appearing at the hearing and any other interested parties upon the request of those interested parties, by mail or otherwise, copies of the findings and recommendation approving or disapproving of the proposed marketing program. The recommendation shall contain the text in full of any proposed marketing program or amendment of an existing marketing program. The recommendation shall be substantially within the purview of the notice of hearings and shall be supported by evidence taken at the hearing or by documents of which the director is authorized to take official notice.

290.661 Referendum to determine assent of producers and processors.

Sec. 11. (1) After recommending the adoption or amendment of a marketing program, the director shall determine by a referendum whether the affected producers assent to the proposed action. If provisions prescribed in section 3(1)(h) are part of the proposed marketing program, the director shall also determine by a referendum if processors assent to the proposed action. The director shall conduct the referendum within 45 days after the issuance of the recommendation. The affected producers shall be considered to have assented to the proposal if more than 50% by number of those voting representing more than 50% of the volume of the affected agricultural commodity produced by those voting assent to the proposal. The affected processors, if provisions prescribed in section 3(1)(h) are in the marketing program, shall be considered to have assented to the proposal if more than 50% by number of those voting representing more than 50% of the volume of the affected agricultural commodity processed by those voting assent to the proposal.

(2) A marketing program involving provisions prescribed in section 3(1)(h) shall not be instituted without assent of both the affected producers and the affected processors.

290.667 Marketing agreements with producers, handlers, and others; effective upon signing.

Sec. 17. (1) The director may enter into marketing agreements with producers, handlers, or other parties where such agreements will tend to supplement or aid in the accomplishment of the objectives of a marketing program.

(2) The execution of a marketing agreement does not affect the adoption, administration, or enforcement of any marketing program under this act. The director may hold a concurrent hearing upon a proposed marketing agreement and a proposed marketing program in the manner provided in this act, giving due notice and opportunity for hearing for a marketing agreement.

(3) When a marketing agreement is proposed for any agricultural commodity or agricultural commodity input, the director shall call a public hearing. The director's decision to enter into or not enter into a marketing agreement is subject to the same requirements for justification on the basis of factual evidence introduced at the hearing. A marketing agreement, if recommended by the director, shall become effective when signed by the director and the other parties to the agreement.

290.669 Action to enforce compliance; injunction; jurisdiction.

Sec. 19. The director may institute an action necessary to enforce compliance with this act, a rule promulgated under this act, or a marketing agreement or program adopted under this act and committed to his or her administration. In addition to any other remedy

provided by law, the director may apply for relief by injunction to protect the public interest without being compelled to allege or prove that an adequate remedy at law does not exist. The application may be made to a court of competent jurisdiction.

290.671 Referendum; requirements; exception; time period.

Sec. 21. (1) Except as otherwise provided in subsection (2), all marketing programs established under this act shall be resubmitted to a referendum of the producers during each fifth year of operation.

(2) A producer referendum under subsection (1) is not required for a marketing program if all the following circumstances exist:

(a) The agricultural commodity or agricultural commodity input subject to the marketing program is involved in a commodity checkoff program established pursuant to federal law.

(b) The federal commodity checkoff program involving the agricultural commodity provides for a mechanism for a producer referendum.

(c) The marketing program involving the agricultural commodity or agricultural commodity input is entirely financed by that federal commodity checkoff program.

(3) If the federal commodity checkoff is suspended or terminated, a marketing program established under this act shall conduct a referendum of the producers within 18 months after the suspension or termination.

290.672 Interest on unpaid assessment.

Sec. 22. If the assessment is not paid by the date specified by a committee as permitted under section 5(g), the unpaid assessment shall be subject to an interest charge of 1% per month.

290.673 Violations; penalties.

Sec. 23. (1) Except as provided in subsections (2) and (3), a person who violates this act is guilty of a misdemeanor punishable by a fine of up to $1,000.00 a day.

(2) A member of the board who intentionally violates section 7(8) shall be subject to the penalties prescribed in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) If the board arbitrarily and capriciously violates section 7(9), the board shall be subject to the penalties prescribed in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

290.674 Venue for prosecution of violation; enforcement; institution of prosecution for violation.

Sec. 24. (1) Except as provided in subsections (2) and (3), prosecution for violation of this act may be instituted in any county in which any of the defendants reside, or in which the violation was committed, or in which any of the defendants have a principal place of business. State and county law enforcement officers shall enforce this act.

(2) A prosecution for a violation of section 7(8) shall be instituted in the manner provided for in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(3) A prosecution for a violation of section 7(9) shall be instituted in the manner provided for in the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Repeal of § 290.665; repeal of R 285.301.1 to R 285.301.40.

Enacting section 1. (1) Section 15 of the agricultural commodities marketing act, 1965 PA 232, MCL 290.665, is repealed.

(2) R 285.301.1 to R 285.301.40 of the Michigan administrative code are repealed.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 602]

(HB 6428)

AN ACT to amend 1966 PA 28, entitled "An act to authorize the board of trustees of police and firemen or municipal employees retirement systems to increase benefits," by amending the title and sections 1 and 2 (MCL 38.571 and 38.572).

The People of the State of Michigan enact:

TITLE

An act to authorize the board of trustees of police and firemen retirement systems, municipal employees retirement systems, or county retirement systems to increase benefits.

38.571 Reserve fund; use of interest for medical, hospital, or nursing care for system member.

Sec. 1. The board of trustees with the approval of the governing body of the county, city, village, or township of any police and firemen retirement system, municipal employees retirement system, or county retirement system may use not more than 1/2 of the interest earned by any reserve fund in the system to contract for medical, hospital or nursing care for any person receiving benefits of the system. "Reserve fund" means the money contributed by the city, village, township, or county.

38.572 Computation of liability for regular interest; inclusions; exclusions.

Sec. 2. The amount of interest used according to the provisions of this act shall be included as interest and other earnings on the money of the retirement system in the computation of any city, village, township, or county liability for regular interest. These supplemental benefits shall not be considered an increase in the rate of retirement allowances to be paid. They shall be on a year-to-year basis and shall not create a liability for their continuance.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 603]

(HB 5403)

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on

certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending section 4 (MCL 208.4), as amended by 1999 PA 115.

The People of the State of Michigan enact:

208.4 Definitions; C, D.

Sec. 4. (1) "Casual transaction" means a transaction made or engaged in other than in the ordinary course of repeated and successive transactions of a like character, except that a transaction made or engaged in by a person that is incidental to that person's regular business activity is a business activity within the meaning of this act.

(2) "Commissioner" means the state commissioner of revenue.

(3) Except as otherwise provided in subsection (4), "compensation" means all wages, salaries, fees, bonuses, commissions, or other payments made in the taxable year on behalf of or for the benefit of employees, officers, or directors of the taxpayers. Compensation includes, but is not limited to, payments that are subject to or specifically exempt or excepted from withholding under sections 3401 to 3406 of the internal revenue code. Compensation also includes, on a cash or accrual basis consistent with the taxpayer's method of accounting for federal income tax purposes, payments to state and federal unemployment compensation funds, payments under the federal insurance contribution act and similar social insurance programs, payments, including self-insurance, for worker's compensation insurance, payments to individuals not currently working, payments to dependents and heirs of individuals because of current or former labor services rendered by those individuals, payments to a pension, retirement, or profit sharing plan, and payments for insurance for which employees are the beneficiaries, including payments under health and welfare and noninsured benefit plans and payments of fees for the administration of health and welfare and noninsured benefit plans. Compensation does not include any of the following:

(a) Discounts on the price of the taxpayer's merchandise or services sold to the taxpayer's employees, officers, or directors that are not available to other customers.

(b) Payments to an independent contractor.

(c) For tax years beginning after December 31, 1994, payments to state and federal unemployment compensation funds.

(d) For tax years beginning after December 31, 1994, the employer's portion of payments under the federal insurance contributions act, chapter 21 of subtitle C of the internal revenue code, 26 U.S.C. 3101 to 3128, the railroad retirement tax act, chapter 22 of subtitle C of the internal revenue code, 26 U.S.C. 3201 to 3233, and similar social insurance programs.

(e) For tax years beginning after December 31, 1994, payments, including self-insurance payments, for worker's compensation insurance or federal employers' liability act insurance pursuant to chapter 149, 35 Stat. 65, 45 U.S.C. 51 to 60.

(4) For tax years that begin after December 31, 2003, for purposes of determining compensation of a professional employer organization, compensation includes payments by the professional employer organization to the officers and employees of an entity whose employment operations are managed by the professional employer organization.

Compensation of the entity whose employment operations are managed by a professional employer organization does not include compensation paid by the professional employer organization to the officers and employees of the entity whose employment operations are managed by the professional employer organization. As used in this subsection, "professional employer organization" means an organization that provides the management and administration of the human resources and employer risk of another entity by contractually assuming substantial employer rights, responsibilities, and risk through a professional employer agreement that establishes an employer relationship with the leased officers or employees assigned to the other entity by doing all of the following:

(a) Maintaining the right of direction and control of employees' work, although this responsibility may be shared with the other entity.

(b) Paying wages and employment taxes of the employees out of its own accounts.

(c) Reporting, collecting, and depositing state and federal employment taxes for the employees.

(d) Retaining the right to hire and fire employees.

(5) "Department" means the revenue bureau of the department of treasury.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 604]

(SB 1356)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 2163a (MCL 600.2163a), as amended by 1998 PA 324.

The People of the State of Michigan enact:

600.2163a Definitions; prosecutions and proceedings to which section applicable; use of dolls or mannequins; support person; notice; videorecorded statement; special arrangements to protect welfare of witness; videotape deposition; section additional to other protections or procedures; violation as misdemeanor; penalty.

Sec. 2163a. (1) As used in this section:

(a) "Custodian of the videorecorded statement" means the family independence agency, investigating law enforcement agency, prosecuting attorney, or department of attorney general or another person designated under the county protocols established as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628.

(b) "Developmental disability" means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, except that, for the purposes of implementing this section, developmental disability includes only a condition that is attributable to a mental impairment or to a combination of mental and physical impairments and does not include a condition attributable to a physical impairment unaccompanied by a mental impairment.

(c) "Videorecorded statement" means a witness's statement taken by a custodian of the videorecorded statement as provided in subsection (5). Videorecorded statement does not include a videorecorded deposition taken as provided in subsections (17) and (18).

(d) "Witness" means an alleged victim of an offense listed under subsection (2) who is either of the following:

(*i*) A person under 16 years of age.

(*ii*) A person 16 years of age or older with a developmental disability.

(2) This section only applies to prosecutions and proceedings under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g, or under former section 136 or 136a of the Michigan penal code, 1931 PA 328.

(3) If pertinent, the witness shall be permitted the use of dolls or mannequins, including, but not limited to, anatomically correct dolls or mannequins, to assist the witness in testifying on direct and cross-examination.

(4) A witness who is called upon to testify shall be permitted to have a support person sit with, accompany, or be in close proximity to the witness during his or her testimony. A notice of intent to use a support person shall name the support person, identify the relationship the support person has with the witness, and give notice to all parties to the proceeding that the witness may request that the named support person sit with the witness when the witness is called upon to testify during any stage of the proceeding. The notice of intent to use a named support person shall be filed with the court and shall be served upon all parties to the proceeding. The court shall rule on a motion objecting to the use of a named support person before the date at which the witness desires to use the support person.

(5) A custodian of the videorecorded statement may take a witness's videorecorded statement before the normally scheduled date for the defendant's preliminary examination. The videorecorded statement shall state the date and time that the statement was taken; shall identify the persons present in the room and state whether they were present for the entire videorecording or only a portion of the videorecording; and shall show a time clock that is running during the taking of the videorecorded statement.

(6) A videorecorded statement may be considered in court proceedings only for 1 or more of the following:

(a) It may be admitted as evidence at all pretrial proceedings, except that it may not be introduced at the preliminary examination instead of the live testimony of the witness.

(b) It may be admitted for impeachment purposes.

(c) It may be considered by the court in determining the sentence.

(d) It may be used as a factual basis for a no contest plea or to supplement a guilty plea.

(7) In a videorecorded statement, the questioning of the witness should be full and complete; shall be in accordance with the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628; and, if

appropriate for the witness's developmental level, shall include, but is not limited to, all of the following areas:

(a) The time and date of the alleged offense or offenses.

(b) The location and area of the alleged offense or offenses.

(c) The relationship, if any, between the witness and the accused.

(d) The details of the offense or offenses.

(e) The names of any other persons known to the witness who may have personal knowledge of the alleged offense or offenses.

(8) A custodian of the videorecorded statement may release or consent to the release or use of a videorecorded statement or copies of a videorecorded statement to a law enforcement agency, an agency authorized to prosecute the criminal case to which the videorecorded statement relates, or an entity that is part of county protocols established under section 8 of the child protection law, 1975 PA 238, MCL 722.628. The defendant and, if represented, his or her attorney has the right to view and hear a videorecorded statement before the defendant's preliminary examination. Upon request, the prosecuting attorney shall provide the defendant and, if represented, his or her attorney with reasonable access and means to view and hear the videorecorded statement at a reasonable time before the defendant's pretrial or trial of the case. In preparation for a court proceeding and under protective conditions, including, but not limited to, a prohibition on the copying, release, display, or circulation of the videorecorded statement, the court may order that a copy of the videorecorded statement be given to the defense.

(9) If authorized by the prosecuting attorney in the county in which the videorecorded statement was taken, a videorecorded statement may be used for purposes of training the custodians of the videorecorded statement in that county on the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628.

(10) Except as provided in this section, an individual, including, but not limited to, a custodian of the videorecorded statement, the witness, or the witness's parent, guardian, guardian ad litem, or attorney, shall not release or consent to release a videorecorded statement or a copy of a videorecorded statement.

(11) A videorecorded statement that becomes part of the court record is subject to a protective order of the court for the purpose of protecting the privacy of the witness.

(12) A videorecorded statement shall not be copied or reproduced in any manner except as provided in this section. A videorecorded statement is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject to release under another statute, and is not subject to disclosure under the Michigan court rules governing discovery. This section does not prohibit the production or release of a transcript of a videorecorded statement.

(13) If, upon the motion of a party made before the preliminary examination, the court finds on the record that the special arrangements specified in subsection (14) are necessary to protect the welfare of the witness, the court shall order those special arrangements. In determining whether it is necessary to protect the welfare of the witness, the court shall consider all of the following:

(a) The age of the witness.

(b) The nature of the offense or offenses.

(c) The desire of the witness or the witness's family or guardian to have the testimony taken in a room closed to the public.

(14) If the court determines on the record that it is necessary to protect the welfare of the witness and grants the motion made under subsection (13), the court shall order both of the following:

(a) All persons not necessary to the proceeding shall be excluded during the witness's testimony from the courtroom where the preliminary examination is held. Upon request by any person and the payment of the appropriate fees, a transcript of the witness's testimony shall be made available.

(b) In order to protect the witness from directly viewing the defendant, the courtroom shall be arranged so that the defendant is seated as far from the witness stand as is reasonable and not directly in front of the witness stand. The defendant's position shall be located so as to allow the defendant to hear and see the witness and be able to communicate with his or her attorney.

(15) If upon the motion of a party made before trial the court finds on the record that the special arrangements specified in subsection (16) are necessary to protect the welfare of the witness, the court shall order those special arrangements. In determining whether it is necessary to protect the welfare of the witness, the court shall consider all of the following:

(a) The age of the witness.

(b) The nature of the offense or offenses.

(c) The desire of the witness or the witness's family or guardian to have the testimony taken in a room closed to the public.

(16) If the court determines on the record that it is necessary to protect the welfare of the witness and grants the motion made under subsection (15), the court shall order 1 or more of the following:

(a) All persons not necessary to the proceeding shall be excluded during the witness's testimony from the courtroom where the trial is held. The witness's testimony shall be broadcast by closed-circuit television to the public in another location out of sight of the witness.

(b) In order to protect the witness from directly viewing the defendant, the courtroom shall be arranged so that the defendant is seated as far from the witness stand as is reasonable and not directly in front of the witness stand. The defendant's position shall be the same for all witnesses and shall be located so as to allow the defendant to hear and see all witnesses and be able to communicate with his or her attorney.

(c) A questioner's stand or podium shall be used for all questioning of all witnesses by all parties and shall be located in front of the witness stand.

(17) If, upon the motion of a party or in the court's discretion, the court finds on the record that the witness is or will be psychologically or emotionally unable to testify at a court proceeding even with the benefit of the protections afforded the witness in subsections (3), (4), (14), and (16), the court shall order that a videorecorded deposition of a witness shall be taken to be admitted at a court proceeding instead of the witness's live testimony.

(18) For purposes of the videorecorded deposition under subsection (17), the witness's examination and cross-examination shall proceed in the same manner as if the witness testified at the court proceeding for which the videorecorded deposition is to be used, and the court shall order that the witness, during his or her testimony, shall not be confronted by the defendant but shall permit the defendant to hear the testimony of the witness and to consult with his or her attorney.

(19) This section is in addition to other protections or procedures afforded to a witness by law or court rule.

(20) A person who intentionally releases a videorecorded statement in violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1447 of the 91st Legislature is enacted into law.

Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

Compiler's note: Senate Bill No. 1447, referred to in enacting section 1, was filed with the Secretary of State December 23, 2002, and became P.A. 2002, No. 625, Eff. Mar. 31, 2003.

[No. 605]

(SB 1452)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 2529 and 8371 (MCL 600.2529 and 600.8371), section 2529 as amended by 2001 PA 202 and section 8371 as amended by 1996 PA 388.

The People of the State of Michigan enact:

600.2529 Fees paid to clerk of circuit court; sums held as payment in full; payment of fees to county treasurer; waiving or suspending fees; affidavit of indigency or inability to pay; report.

Sec. 2529. (1) In the circuit court, the following fees shall be paid to the clerk of the court:

(a) Before a civil action other than an action brought exclusively under section 2950, 2950a, or 2950h to 2950*l* is commenced, or before the filing of an application for superintending control or for an extraordinary writ, except the writ of habeas corpus, the party bringing the action or filing the application shall pay the sum of $100.00. The clerk at the end of each month shall transmit for each fee collected under this subdivision within the month, $18.75 to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670; $5.00 to the secretary of the Michigan legislative retirement system for deposit with the state treasurer in the retirement fund created by the Michigan legislative retirement system act, 1957 PA 261, MCL 38.1001 to 38.1080; $5.25 to the state treasurer for deposit in the general fund; $2.00 to the state treasurer to be credited to the community dispute

resolution fund created by the community dispute resolution act, 1988 PA 260, MCL 691.1551 to 691.1564; $11.00 to the county treasurer; and the balance of the filing fee to the state treasurer for deposit in the state court fund created in section 151a.

(b) Before the filing of a claim of appeal or motion for leave to appeal from the district court, probate court, a municipal court, or an administrative tribunal or agency, the sum of $100.00. For each fee collected under this subdivision, the clerk shall transmit $15.00 to the state treasurer for deposit in the state court fund created in section 151a.

(c) If a trial by jury is demanded, the party making the demand at the time shall pay the sum of $85.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The sum shall be taxed in favor of the party paying the fee, in case the party recovers a judgment for costs. For each fee collected under this subdivision, the clerk shall transmit $25.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d.

(d) Before entry of a final judgment in an action for divorce or separate maintenance in which minor children are involved, or the entry of a final judgment in a child custody dispute submitted to the circuit court as an original action, 1 of the following sums, which shall be deposited by the county treasurer as provided in section 2530:

(*i*) If the matter was contested or uncontested and was not submitted to domestic relations mediation or investigation by the friend of the court, $30.00.

(*ii*) If the matter was contested or uncontested and was submitted to domestic relations mediation, $50.00.

(*iii*) If the matter was contested or uncontested and the office of the friend of the court conducted an investigation and made a recommendation to the court, $70.00.

(e) Except as otherwise provided in this section, upon the filing of a motion the sum of $20.00. In conjunction with an action brought under section 2950 or 2950a, a motion fee shall not be collected for a motion to dismiss the petition, a motion to modify, rescind, or terminate a personal protection order, or a motion to show cause for a violation of a personal protection order. A motion fee shall not be collected for a motion to dismiss a proceeding to enforce a foreign protection order or a motion to show cause for a violation of a foreign protection order under sections 2950h to 2950*l*. For each fee collected under this subdivision, the clerk shall transmit $10.00 to the state treasurer for deposit in the state court fund created by section 151a.

(f) For services under the direction of the court that are not specifically provided for in this section relative to the receipt, safekeeping, or expending of money, or the purchasing, taking, or transferring of a security, or the collecting of interest on a security, the clerk shall receive the allowance and compensation from the parties as the court may consider just and shall direct by court order, after notice to the parties to be charged.

(g) Upon appeal to the court of appeals or the supreme court, the sum of $25.00.

(h) The sum of $15.00 as a service fee for each writ of garnishment, attachment, execution, or judgment debtor discovery subpoena issued.

(2) The sums paid as provided in this section shall be held to be in full for all clerk, entry, and judgment fees in an action from the commencement of the action to and including the issuance and return of the execution or other final process, and are taxable as costs.

(3) Except as otherwise provided in this section, the fees shall be paid over to the county treasurer as required by law.

(4) The court shall order any of the fees prescribed in this section waived or suspended, in whole or in part, upon a showing by affidavit of indigency or inability to pay.

(5) The clerk of the circuit court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, at the same time the clerk of the circuit court transmits the portion of the fees collected under this section to the executive secretary.

600.8371 Filing fees; disposition; waiver or suspension; exception; filing fee for civil action; fee in trial by jury; motion filing fees; report.

Sec. 8371. (1) In the district court, the fees prescribed in this section shall be paid to the clerk of the court.

(2) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $100.00 if the amount in controversy exceeds $10,000.00. For each fee collected under this subsection, the clerk shall transmit $2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, 1988 PA 260, MCL 691.1551 to 691.1564; $13.50 to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670; $21.50 to the treasurer of the district control unit in which the action was commenced; and shall transmit the balance to the state treasurer for deposit in the state court fund created by section 151a.

(3) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $52.00 if the amount in controversy exceeds $1,750.00 but does not exceed $10,000.00. For each fee collected under this subsection, the clerk shall transmit $2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, 1988 PA 260, MCL 691.1551 to 691.1564; $13.50 to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670; $16.50 to the treasurer of the district control unit in which the action was commenced; and shall transmit the balance to the state treasurer for deposit in the state court fund created by section 151a.

(4) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $32.00 if the amount in controversy exceeds $600.00 but does not exceed $1,750.00. For each fee collected under this subsection, the clerk shall transmit $2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, 1988 PA 260, MCL 691.1551 to 691.1564; $9.00 to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670; $11.00 to the treasurer of the district control unit in which the action was commenced; and shall transmit the balance to the state treasurer for deposit in the state court fund created by section 151a.

(5) Before a civil action is commenced in the district court, the party commencing the action shall pay to the clerk the sum of $17.00 if the amount in controversy does not exceed $600.00. For each fee collected under this subsection, the clerk shall transmit $2.00 to the state treasurer to be credited to the community dispute resolution fund created by the community dispute resolution act, 1988 PA 260, MCL 691.1551 to 691.1564; $4.50 to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670; $5.50 to the treasurer of the district control unit in which the action was commenced; and shall transmit the balance to the state treasurer for deposit in the state court fund created by section 151a.

(6) The judge shall order payment of any statutory fees waived or suspended, in whole or in part, upon a showing by affidavit of indigency or inability to pay.

(7) Neither this state nor a political subdivision of this state shall be required to pay a filing fee in a civil infraction action.

(8) Except for civil actions filed for relief under chapter 43, 57, or 84, if a civil action is filed for relief other than money damages, the filing fee shall be equal to the filing fee in actions for money damages in excess of $1,750.00 but not in excess of $10,000.00 as provided in subsection (3), and shall be transmitted in the same manner as a fee under subsection (3) is transmitted.

(9) If a trial by jury is demanded, the party making the demand at the time shall pay the sum of $50.00. Failure to pay the fee at the time the demand is made constitutes a waiver of the right to a jury trial. The sum shall be taxed in favor of the party paying the fee, in case the party recovers a judgment for costs. For each fee collected under this subsection, the clerk shall transmit $10.00 to the state treasurer for deposit in the juror compensation reimbursement fund created in section 151d.

(10) If the amount in controversy in a civil action exceeds $10,000.00, a sum of $20.00 shall be assessed for all motions filed in that civil action. For each fee collected under this subsection, the clerk shall transmit $10.00 to the state treasurer for deposit in the state court fund created in section 151a and the balance shall be transmitted to the treasurer of the district control unit for the district court in the district in which the action was commenced.

(11) The clerk of the district court shall prepare and submit a court filing fee report to the executive secretary of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, at the same time the clerk of the district court transmits the portion of the fees collected under this section to the executive secretary.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 1448.

(b) House Bill No. 4551.

(c) House Bill No. 4552.

(d) House Bill No. 4553.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 1448 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 739, Eff. Oct. 1, 2003.
House Bill No. 4551 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 740, Eff. Jan. 1, 2003.
House Bill No. 4552 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 741, Eff. Jan. 1, 2003.
House Bill No. 4553 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 742, Eff. Oct. 1, 2003.

[No. 606]

(SB 1422)

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public

officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending section 7 (MCL 208.7), as amended by 2001 PA 229.

The People of the State of Michigan enact:

208.7 Definitions; S; "gross receipts" defined.

Sec. 7. (1) As used in this act:

(a) "Sale" or "sales" means the amounts received by the taxpayer as consideration from the following:

(*i*) The transfer of title to, or possession of, property that is stock in trade or other property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the tax period or property held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business.

(*ii*) The performance of services, which constitute business activities other than those included in subparagraph (*i*), or from any combination of business activities described in this subparagraph and subparagraph (*i*).

(*iii*) The rental, lease, licensing, or use of tangible or intangible property which constitutes business activity.

(b) "Sale" or "sales" does not include dividends, interest, and royalties received by the taxpayer to the extent deducted from the taxpayer's tax base under section 9(7) but does include royalties, fees, or other payments or consideration not deducted from tax base under section 9(7) except those royalties paid to a franchisor as consideration for the use outside of this state of trade names, trademarks, and similar intangible property.

(2) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country, or political subdivision of any of the foregoing.

(3) "Gross receipts" means the entire amount received by the taxpayer from any activity whether in intrastate, interstate, or foreign commerce carried on for direct or indirect gain, benefit, or advantage to the taxpayer or to others except for the following:

(a) Proceeds from sales by a principal that the taxpayer collects in an agency capacity solely on behalf of the principal and delivers to the principal.

(b) Amounts received by the taxpayer as an agent solely on behalf of the principal that are expended by the taxpayer for any of the following:

(*i*) The performance of a service by a third party for the benefit of the principal that is required by law to be performed by a licensed person.

(*ii*) The performance of a service by a third party for the benefit of the principal that the taxpayer has not undertaken a contractual duty to perform.

(*iii*) Principal and interest under a mortgage loan or land contract, lease or rental payments, or taxes, utilities, or insurance premiums relating to real or personal property owned or leased by the principal.

(*iv*) A capital asset of a type that is, or under the internal revenue code will become, eligible for depreciation, amortization, or accelerated cost recovery by the principal for federal income tax purposes, or for real property owned or leased by the principal.

(*v*) Property not described under subparagraph (*iv*) purchased by the taxpayer on behalf of the principal and that the taxpayer does not take title to or use in the course of performing its contractual business activities.

(*vi*) Fees, taxes, assessments, levies, fines, penalties, or other payments established by law that are paid to a governmental entity and that are the legal obligation of the principal.

(c) Amounts that are excluded from gross income of a foreign corporation engaged in the international operation of aircraft under section 883(a) of the internal revenue code.

(d) Amounts received by an advertising agency used to acquire advertising media time, space, production, or talent on behalf of another person.

(e) Notwithstanding any other provision of this section, amounts received by a taxpayer that manages real property owned by the taxpayer's client that are deposited into a separate account kept in the name of the taxpayer's client and that are not reimbursements to the taxpayer and are not indirect payments for management services that the taxpayer provides to that client.

(f) Proceeds from the taxpayer's transfer of an account receivable if the sale that generated the account receivable was included in gross receipts for federal income tax purposes. This subdivision does not apply to a taxpayer that during the tax year both buys and sells any receivables.

(g) Proceeds from any of the following:

(*i*) The original issue of stock or equity instruments.

(*ii*) The original issue of debt instruments.

(h) Refunds from returned merchandise.

(i) Cash and in-kind discounts.

(j) Trade discounts.

(k) Federal, state, or local tax refunds.

(*l*) Security deposits.

(m) Payment of the principal portion of loans.

(n) Value of property received in a like-kind exchange.

(o) Proceeds from a sale, transaction, exchange, involuntary conversion, or other disposition of tangible, intangible, or real property that is a capital asset as defined in section 1221(a) of the internal revenue code or land that qualifies as property used in the trade or business as defined in section 1231(b) of the internal revenue code, less any gain from the disposition to the extent that gain is included in federal taxable income.

(p) The proceeds from a policy of insurance, a settlement of a claim, or a judgment in a civil action less any proceeds under this subdivision that are included in federal taxable income.

Effective date.

Enacting section 1. This amendatory act takes effect for tax years that begin on or after October 1, 2003.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 607]

(SB 1396)

AN ACT to amend 1993 PA 327, entitled "An act to provide for a tax upon the sale and distribution of tobacco products; to regulate and license manufacturers, wholesalers, secondary wholesalers, vending machine operators, unclassified acquirers, transportation companies, transporters, and retailers of tobacco products; to prescribe the powers and duties of the revenue division and the department of treasury in regard to tobacco products; to provide for the administration, collection, and disposition of the tax; to provide for the enforcement of this act; to provide for the appointment of special investigators as peace officers for the enforcement of this act; to prescribe penalties and provide remedies for the violation of this act; and to repeal acts and parts of acts," (MCL 205.421 to 205.436) by adding section 7b.

The People of the State of Michigan enact:

205.427b Bad debt; deduction; definition.

Sec. 7b. (1) Beginning January 1, 2003, a licensee may deduct the amount of bad debts from the tax levied under section 7. The amount deducted must be charged off as uncollectible on the books of the licensee. If a person pays all or part of a bad debt with respect to which a licensee claimed a deduction under this section, the licensee shall be liable for the amount of taxes deducted in connection with that portion of the debt for which payment is received and shall remit these taxes in his or her next payment to the department under section 7.

(2) Any claim for a bad debt deduction under this section shall be supported by all of the following:

(a) A copy of the original invoice.

(b) Evidence that the tobacco products described in the invoice were delivered to the person who ordered them.

(c) Evidence that the person who ordered and received the tobacco products did not pay the licensee for the tobacco products and that the licensee used reasonable collection practices in attempting to collect the debt.

(3) As used in this section, "bad debt" means the taxes attributable to any portion of a debt that is related to a sale of tobacco products subject to tax under section 7 that is not otherwise deductible or excludable, that has become worthless or uncollectible in the time period between the date when taxes accrue to the state for the licensee's preceding tax return and the date when taxes accrue to the state for the present return, and that is eligible to be claimed, or could be eligible to be claimed if the licensee kept accounts on an accrual basis, as a deduction pursuant to section 166 of the internal revenue code. A bad debt shall not include any interest on the wholesale price of a tobacco product, uncollectible amounts on property that remains in the possession of the licensee until the full purchase price is paid, expenses incurred in attempting to collect any account receivable or any portion of the debt recovered, any accounts receivable that have been sold to a third party for collection, and repossessed property.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 608]

(SB 1519)

AN ACT to amend 1992 PA 147, entitled "An act to provide for the development and rehabilitation of residential housing; to provide for the creation of neighborhood enterprise zones; to provide for obtaining neighborhood enterprise zone certificates for a period of time and to prescribe the contents of the certificates; to provide for the exemption of certain taxes; to provide for the levy and collection of a specific tax on the owner of certain facilities; and to prescribe the powers and duties of certain officers of the state and local governmental units," by amending section 4 (MCL 207.774), as amended by 2001 PA 93.

The People of the State of Michigan enact:

207.774 Neighborhood enterprise zone certificate; application; filing; manner and form; contents; effective date of certificate.

Sec. 4. (1) The owner or developer or prospective owner or developer of a proposed new facility or an owner or developer or prospective developer proposing to rehabilitate property located in a neighborhood enterprise zone may file an application for a neighborhood enterprise zone certificate with the clerk of the local governmental unit. The application shall be filed in the manner and form prescribed by the commission. Except as provided in subsection (2), the application shall be filed before a building permit is issued for the new construction or rehabilitation of the facility.

(2) An application may be filed after a building permit is issued only if 1 or more of the following apply:

(a) For the rehabilitation of a facility if the area in which the facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in the calendar year 1992 and if the building permit is issued for the rehabilitation before December 31, 1994 and after the date on which the area in which the facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit.

(b) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in calendar year 1992 or 1993 and if the building permit is issued for that new facility before December 31, 1995 and after January 1, 1993.

(c) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1997 and if the building permit is issued for that new facility on February 3, 1998.

(d) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1996 and if the building permit was issued for that facility on or before July 3, 2001.

(3) The application shall contain or be accompanied by all of the following:

(a) A general description of the new facility or proposed rehabilitated facility.

(b) The dimensions of the parcel on which the new facility or proposed rehabilitated facility is or is to be located.

(c) The general nature and extent of the construction to be undertaken.

(d) A time schedule for undertaking and completing the rehabilitation of property or the construction of the new facility.

(e) Any other information required by the local governmental unit.

(4) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(c), the effective date of the certificate shall be the first day of the tax year following the year the certificate is approved by the commission.

(5) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(d), the effective date of the certificate shall be January 1, 2001.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002

[No. 609]

(SB 1499)

AN ACT to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," by amending section 10d (MCL 460.10d), as added by 2000 PA 141.

The People of the State of Michigan enact:

460.10d Electric utility with 1,000,000 or more retail customers; rates; recovery of costs; utility using securitization financing; compliance with federal rules, regulations, and standards; security recovery factor; protective orders; definitions.

Sec. 10d. (1) Except as otherwise provided under subsection (3) or unless otherwise reduced by the commission under subsection (5), the commission shall establish the residential rates for each electric utility with 1,000,000 or more retail customers in this state as of May 1, 2000 that will result in a 5% rate reduction from the rates that were authorized or in effect on May 1, 2000. Notwithstanding any other provision of law or commission order, rates for each electric utility with 1,000,000 or more retail customers

established under this subsection become effective on June 5, 2000 and remain in effect until December 31, 2003 and all other electric retail rates of an electric utility with 1,000,000 or more retail customers authorized or in effect as of May 1, 2000 shall remain in effect until December 31, 2003.

(2) On and after December 31, 2003, rates for an electric utility with 1,000,000 or more retail customers in this state as of May 1, 2000 shall not be increased until the earlier of December 31, 2013 or until the commission determines, after notice and hearing, that the utility meets the market test under section 10f and has completed the transmission expansion provided for in the plan required under section 10v. The rates for commercial or manufacturing customers of an electric utility with 1,000,000 or more retail customers with annual peak demands of less than 15 kilowatts shall not be increased before January 1, 2005. There shall be no cost shifting from customers with capped rates to customers without capped rates as a result of this section. In no event shall residential rates be increased before January 1, 2006 above the rates established under subsection (1).

(3) Subsections (1) and (2) do not apply to rates or charges authorized by the commission under subsection (13).

(4) Beginning January 1, 2004, annual return of and on capital expenditures in excess of depreciation levels incurred during and before the time period described in subsection (2), and expenses incurred as a result of changes in taxes, laws, or other state or federal governmental actions incurred by electric utilities during the period described in subsection (2), shall be accrued and deferred for recovery. After notice and hearing, the commission shall determine the amount of reasonable and prudent costs, if any, to be recovered and the recovery period, which shall not exceed 5 years, and shall not commence until after the expiration of the period described in subsection (2).

(5) If the commission authorizes an electric utility to use securitization financing under section 10i, any savings resulting from securitization shall be used to reduce retail electric rates from those authorized or in effect as of May 1, 2000 as required under subsection (1). A rate reduction under this subsection shall not be less than the 5% required under subsection (1). The financing order may provide that a utility shall only issue securitization bonds in an amount equal to or less than requested by the utility, but the commission shall not preclude the issuance of an amount of securitization bonds sufficient to fund the rate reduction required under subsection (1).

(6) Except for savings assigned to the low-income and energy efficiency fund under subsection (7), securitization savings greater than those used to achieve the 5% rate reduction under subsection (1) shall be allocated by the commission to further rate reductions or to reduce the level of any charges authorized by the commission to recover an electric utility's stranded costs. The commission shall allocate approved securitization, transition, stranded, and other related charges and credits in a manner that does not result in a reallocation of cost responsibility among the different customer classes.

(7) If securitization savings exceed the amount needed to achieve a 5% rate reduction for all customers, then, for a period of 6 years, 100% of the excess savings, up to 2% of the electric utility's commercial and industrial revenues, shall be allocated to the low-income and energy efficiency fund administered by the commission. The commission shall establish standards for the use of the fund to provide shut-off and other protection for low-income customers and to promote energy efficiency by all customer classes. The commission shall issue a report to the legislature and the governor every 2 years regarding the effectiveness of the fund.

(8) Except as provided under subsection (3), until the end of the period described in subsection (2), the commission shall not authorize any fees or charges that will cause the residential rate reduction required under subsection (1) to be less than 5%.

(9) If an electric utility serving less than 1,000,000 retail customers in this state as of May 1, 2000 issues securitization bonds as allowed under this act, it shall have the same rights, duties, and obligations under this section as an electric utility serving 1,000,000 or more retail customers in this state as of May 1, 2000.

(10) The commission shall take the necessary steps to ensure that all electrical power generating facilities in this state comply with all rules, regulations, and standards of the federal environmental protection agency regarding mercury emissions.

(11) A covered utility may apply to the commission to recover enhanced security costs for an electric generating facility through a security recovery factor. If the commission action under subsection (13) is approval of a security recovery factor, the covered utility may recover those enhanced security costs.

(12) The commission shall require that notice of the application filed under subsection (11) be published by the covered utility within 30 days from the date the application was filed. The initial hearing by the commission shall be held within 20 days of the date the notice was published in newspapers of general circulation in the service territory of the covered utility.

(13) The commission may issue an order approving, rejecting, or modifying the security recovery factor. If the commission issues an order approving a security recovery factor, that order shall be issued within 120 days of the initial hearing required under subsection (12). In determining the security recovery factor, the commission shall only include costs that the commission determines are reasonable and prudent and that are jurisdictionally assigned to retail customers of the covered utility in this state. The costs included shall be net of any proceeds that have been or will be received from another source, including, but not limited to, any applicable insurance settlements received by the covered utility or any grants or other emergency relief from federal, state, or local governmental agencies for the purpose of defraying enhanced security costs. In its order, the commission shall designate a period for recovery of enhanced security costs, including a reasonable return on the unamortized balance, over a period not to exceed 5 years. The security recovery factor shall not be less than zero.

(14) Within 60 days of the effective date of the amendatory act that added this subsection, the commission shall by order prescribe the form for the filing of an application for a security recovery factor under subsection (11). If the commission or its designee determines that a filing is incomplete, it shall notify the covered utility within 10 days of the filing.

(15) Records or other information supplied by the covered utility in an application for recovery of security costs under subsection (11) that describe security measures, including, but not limited to, emergency response plans, risk planning documents, threat assessments, domestic preparedness strategies, and other plans for responding to acts of terrorism are not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall be treated as confidential by the commission.

(16) The commission shall issue protective orders as are necessary to protect the information found by the commission to be confidential under this section.

(17) As used in this section:

(a) "Act of terrorism" means a willful and deliberate act that is all of the following:

(*i*) An act that would be a violent felony under the laws of this state, whether or not committed in this state.

(*ii*) An act that the person knows or has reason to know is dangerous to human life.

(*iii*) An act that is intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion.

(b) "Covered utility" means an electric utility subject to the rate freeze provisions of subsection (1), the rate cap provisions of subsection (2), or the rate provisions of commission orders in case numbers U-11181-R and U-12204.

(c) "Enhanced security costs" means reasonable and prudent costs of new and enhanced security measures incurred before January 1, 2006 for an electric generating facility by a covered utility that are required by federal or state regulatory security requirements issued after September 11, 2001 or determined to be necessary by the commission to provide reasonable security from an act of terrorism. Enhanced security costs include increases in the cost of insurance that are attributable to an increased terror related risk and the costs of maintaining or restoring electric service as the result of an act of terrorism.

(d) "Security recovery factor" means an unbundled charge for all retail customers, except for customers of alternative electric suppliers, to recover enhanced security costs that have been approved by the commission.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 610]

(SB 1238)

AN ACT to amend 1905 PA 282, entitled "An act to provide for the assessment of the property, by whomsoever owned, operated or conducted, of railroad companies, union station and depot companies, telegraph companies, telephone companies, sleeping car companies, express companies, car loaning companies, stock car companies, refrigerator car companies, and fast freight companies, and all other companies owning, leasing, running or operating any freight, stock, refrigerator, or any other cars, not being exclusively the property of any railroad company paying taxes upon its rolling stock under the provisions of this act, over or upon the line or lines of any railroad or railroads in this state, and for the levy of taxes thereon by a state board of assessors, and for the collection of such taxes, and to repeal all acts or parts of acts contravening any of the provisions of this act," by amending sections 4, 5, and 9 (MCL 207.4, 207.5, and 207.9), sections 4 and 9 as amended by 1995 PA 257.

The People of the State of Michigan enact:

207.4 Annual assessment of property of certain rail transportation, telephone, and telegraph companies; reports.

Sec. 4. (1) The state board of assessors shall annually determine the true cash value and taxable value of property having a situs in this state of all of the following:

(a) Railroad companies.

(b) Union station and depot companies.

(c) Telegraph companies.

(d) Telephone companies.

(e) Sleeping car companies.

(f) Express companies.

(g) Car loaning companies.

(h) Stock car companies.

(i) Refrigerator car companies.

(j) Fast freight line companies.

(k) All other companies owning, leasing, running, or operating any freight, stock, refrigerator, or any other cars not the exclusive property of a railroad company paying taxes on its rolling stock under this act, over or on the line or lines of any railroad in this state.

(2) For tax years that begin after December 31, 2005, the state board of assessors shall annually determine the true cash value and taxable value of property having a situs in this state of telegraph companies and telephone companies in the same manners as property assessed under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(3) The property of a telegraph and telephone company with gross receipts within this state for a year ending December 31 of not more than $1,000.00 is exempt from taxation under this act.

(4) All telegraph and telephone companies doing business in this state shall make the report required under section 6.

207.5 Definitions.

Sec. 5. (1) As used in this act, "property" means 1 of the following:

(a) Except as otherwise provided in subdivision (b), all property, real or personal, belonging to the persons, corporations, companies, copartnerships, and associations subject to taxation under this act, including rights-of-way, road beds, stations, cars, rolling stock, tracks, wagons, horses, office furniture, telegraph and telephone poles, wires, conduits, switchboards, all other property used in carrying on their business and owned by them respectively, all other real and personal property, and all franchises. Franchises shall not be directly assessed, but shall be considered in determining the value of the other property. Property does not include, apply to, or subject to taxation property or real property owned and capable of being conveyed by the persons, corporations, companies, copartnerships, and associations subject to taxation under this act that is not actually occupied in the exercise of their franchises, or in use in the operation and conduct of their business.

(b) For telegraph companies and telephone companies only, for tax years that begin after December 31, 2005, only property that would be subject to the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, if that property were not subject to taxation under this act.

(2) Real property exempt from the tax levied under this act under subsection (1) is subject to taxation in the same manner, for the same purposes, to the same extent, and subject to the same conditions and limitations as other real property in the townships or municipalities in which that property is located.

(3) As used in this act, the terms "company", "corporation", "copartnership", "association", and "person" apply to and shall be construed as referring to the following:

(a) A railroad company, union station and depot company, telegraph company, telephone company, sleeping car company, express company, car loaning company, stock

car company, refrigerator or fast freight line company, or any other companies owning, leasing, running, or operating any freight cars, stock cars, refrigerator cars, or any other cars, not the exclusive property of a railroad company paying taxes upon its rolling stock under this act, over or upon the line or lines of any railroad or railroads in this state.

(b) A firm, joint stock association, copartnership, corporation, or other association or person engaged in carrying on any business, the tangible property of which is subject to taxation under this act.

(4) As used in this act, "property having a situs in this state," includes all of the following:

(a) Except as otherwise provided in subdivision (b), the property, real and personal, of the persons, corporations, companies, copartnerships, and associations subject to taxation under this act, owned, used, and occupied by them within this state, and also the proportion of their rolling stock, cars, and other property used partly within and partly outside of this state as provided in this act.

(b) For telegraph companies and telephone companies only, for tax years that begin after December 31, 2005, only the tangible property, real and personal, owned, used, and occupied by them within this state.

207.9 Assessment roll; contents; time; inspection of physical properties of public utilities; determination of true cash and taxable value; ocean routes; mileage adjustment.

Sec. 9. (1) Not later than May 15 in each year, the state board of assessors shall prepare an assessment roll upon which they shall set forth the true cash value and taxable value on the immediately preceding December 31 of all the property of the companies subject to taxation under this act. A determination of true cash value and taxable value is not final until reviewed as provided in this act. For the purpose of arriving at the true cash value and taxable value of the property on the assessment roll, the state board of assessors may personally inspect the property assessed, may consider the reports filed under this act or reports and returns filed in the office of any officer of this state or in the office of any other governmental agency, and any other evidence or information obtained or possessed by the state board of assessors.

(2) In determining the true cash value and taxable value of the property of a railroad, union station, and depot company that owns, leases, operates, or uses lines partly within or partly outside of this state, the state board of assessors shall consider the proportion of the number of miles of all track controlled or used by that company within this state to the entire mileage of all track controlled or used by that company both within and outside of this state. The state board of assessors shall also consider any other uniform factors that reflect a fair allocation of value to this state.

(3) For tax years that begin before January 1, 2006, in determining the true cash value and taxable value of the property of a telegraph company or telephone company that owns, leases, operates, or uses lines partly within and partly outside of this state, the state board of assessors shall only consider the proportion of the number of miles of telegraph or telephone lines controlled or used by that company within this state to the entire mileage of telegraph or telephone lines controlled or used by that company both within and outside of this state. The state board of assessors shall also consider any other uniform factors that reflect a fair allocation of value to this state.

(4) In determining the true cash value and taxable value of the property of an express company, the state board of assessors shall determine the actual value of the entire

amount of the capital stock and bonded indebtedness of that express company. From that amount, the state board of assessors shall determine and deduct the actual value of all real property owned by that express company, and the actual value of all personal property owned by that express company that is not used in the express business of that express company. The state board of assessors shall then divide the remaining amount by the total number of miles, as determined by the state board of assessors, of railroad, stage, water, and other routes over which the company did business to obtain the value per mile. The state board of assessors shall then multiply the value per mile by the total number of miles of the routes within this state, as determined by the state board of assessors. The state board of assessors shall then add to the product of that calculation the value of all real estate owned by that express company in this state, as determined by the state board of assessors. The sum of this calculation is the actual value of the property of that express company subject to assessment and taxation in this state.

(5) If the state board of assessors determines that the ocean routes of a company are so different in character from its other routes that the mileage basis of apportionment of the value of the entire property to be apportioned in this state would be unfair if the full mileage of the ocean routes were included, the state board of assessors may make an allowance for that company's ocean routes to bring those ocean routes to parity with that company's other routes. In making this determination, the state board of assessors shall consider the relative mileage values and earning capacities of the ocean routes and the other routes and shall require special reports of the character, mileage, earnings, and value of the ocean routes. The state board of assessors may exclude from its determination of aggregate mileage any ocean routes on which the express company fails to furnish the requisite reports, but no further penalty shall be imposed for the failure to report the mileage of ocean routes.

(6) If a company claims in writing that the mileage basis of apportionment of the value of the entire property to be attributed to this state is unfair, the state board of assessors shall make the apportionment that in its judgment is fair. In making that apportionment, the state board of assessors shall consider the mileage within and outside of this state, making any necessary allowance for ocean mileage as provided in this section.

(7) In determining the true cash value and taxable value of the property in this state of car loaning, stock car, refrigerator, fast freight lines, and other car companies, and other companies owning, leasing, running, or operating cars subject to taxation under this act, the state board of assessors shall consider the proportion of the aggregate car mileage made or run by the entire number of cars owned or operated by a company to the car mileage made or run by the entire number of cars owned or operated by that company within this state.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 611]

(SB 1438)

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and

agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 409, 411, and 2504 (MCL 339.409, 339.411, and 339.2504), section 409 as added by 1988 PA 463, section 411 as amended by 1989 PA 261, and section 2504 as amended by 1984 PA 413, and by adding section 2502a.

The People of the State of Michigan enact:

339.409 Payment of fee as condition to issuance of license and registration; amount; period for completion of requirements for licensure or registration; forfeiture of fees; effect of void application.

Sec. 409. (1) The department shall not issue a license or registration to a person who has completed the requirements for a license or registration or who seeks to renew a license or registration until the person has paid the license or registration fee.

(2) License and registration fees shall be prescribed on a per year basis. If licenses and registrations are established by rules promulgated by the department under section 202 as biennial or triennial renewals, the fee required shall be twice or 3 times, as appropriate, the per year amount.

(3) Unless otherwise provided by this act or rules promulgated under this act, all requirements for licensure or registration shall be completed by the applicant within 1 year after receipt of the application by the department or mailing of a notice of an incomplete application to the last known address on file with the department, whichever is later. If the requirements are not completed, the fees paid shall be forfeited to the department and the application shall be void. A person whose application has been determined to be void under this subsection shall submit a new application and fees and shall meet the standards in effect on the date of receipt by the department of the new application.

339.411 Failure to renew license or registration; lapse; extension; conditions to relicensing or reregistration; rules; procedure for reinstatement of license or registration.

Sec. 411. (1) Subject to subsection (2), a person who fails to renew a license or registration on or before the expiration date shall not practice the occupation, operate, or use the title after the expiration date printed on the license or registration. A license or registration shall lapse on the day after the expiration date.

(2) A person who fails to renew a license or registration on or before the expiration date shall be permitted to renew the license or registration by payment of the required license or registration fee and a late renewal fee within 60 days after the expiration date.

(3) Except as otherwise provided in this act, a person who fails to renew a license or registration within the time period set forth in subsection (2) may be relicensed or reregistered without examination and without meeting additional education or training requirements in force at the time of application for relicensure or reregistration if all of the following conditions are met:

(a) The person applies within 3 years after the expiration date of the last license or registration.

(b) The person pays an application processing fee, the late renewal fee, and the per year license or registration fee for the upcoming licensure or registration period.

(c) Penalties and conditions imposed by disciplinary action in this state or any other jurisdiction have been satisfied.

(d) The person submits proof of having completed the equivalent of 1 year of continuing education within the 12 months immediately preceding the date of application or as otherwise provided in a specific article or by rule, if continuing education is required of licensees or registrants under a specific article.

(4) Except as otherwise provided in this act, a person may be relicensed or reregistered subsequent to 3 or more years after the expiration date of the last license or registration upon showing that the person meets the requirements for licensure or registration as established by the department in rules or procedures which may require a person to pass all or part of a required examination, to complete continuing education requirements, or to meet current education or training requirements.

(5) Unless otherwise provided in this act, a person who seeks reinstatement of a license or registration shall file an application on a form provided by the department, pay the application processing fee, and file a petition to the department and the appropriate board stating reasons for reinstatement and including evidence that the person can and is likely to serve the public in the regulated activity with competence and in conformance with all other requirements prescribed by law, rule, or an order of the department or board. The procedure to be followed in conducting the review of a petition for reinstatement is prescribed in article 5. If approved for reinstatement, the person shall pay the per year license or registration fee for the upcoming license or registration period, in addition to completing any requirements imposed in accordance with section 203(2).

339.2502a Real estate broker, associate real estate broker, and real estate salesperson; term of license.

Sec. 2502a. Beginning November 1, 2003, the department shall issue a license for real estate broker, associate real estate broker, and real estate salesperson for a term of 3 years.

339.2504 Real estate broker's license; approved classroom courses; application; condition to taking examination; renewal or reinstatement of license; continuing education requirements; exceptions; approval of person offering or conducting course or courses of study; suspension or revocation of approval; prohibited representations; conduct of pre-licensure course; violation; penalties; real estate clinic, meeting, course, or institute; sponsoring studies, research, and programs.

Sec. 2504. (1) Before receiving a real estate broker's license, an applicant shall have successfully completed not less than 90 clock hours of approved classroom courses in real estate of which not less than 9 clock hours shall be instruction on civil rights law and equal opportunity in housing, and shall submit an application as described in section 2505. The 90 hours shall be in addition to the hours required to obtain a real estate salesperson's license.

(2) Before being permitted to take the real estate salesperson's examination, an applicant shall show proof of successful completion of not less than 40 clock hours of classroom courses in principles of real estate, of which not less than 4 clock hours shall be instruction on civil rights law and equal opportunity in housing.

(3) For purposes of subsections (1) and (2), approved courses may be on the following topics:

(a) Real estate license law and related regulatory laws.

(b) Real property law, including property interests and restrictions.

(c) Federal, state, and local tax laws affecting real property.

(d) Conveyances, including contracts, deeds, and leases.

(e) Financing, including mortgages, land contracts, foreclosure, and limits on lending procedures and interest rates.

(f) Appraisal of real property.

(g) Design and construction.

(h) Marketing, exchanging, and counseling.

(i) The law of agency.

(j) Sales and office management, including listing and selling techniques.

(k) Real estate securities and syndications.

(*l*) Investments, including property management.

(4) Except as otherwise provided in this subsection, before being permitted to renew an active real estate broker's or real estate salesperson's license, a licensee shall have successfully completed, within the preceding 12 months, not less than 6 clock hours of continuing education approved by the department involving any topics relevant to the management, operation, and practice of real estate and covering changes in economic conditions, law, rules, court cases, and interpretations, or any combination of those changes, relating to real property which are pertinent to the activities of a real estate broker or real estate salesperson. Beginning November 1, 2003, a licensee shall complete not less than 18 hours of continuing education per 3-year license cycle. A licensee shall complete at least 6 hours of the required 18 hours of continuing education courses during the time period from November 1, 2003 and ending on December 31, 2004. During calendar year 2005, a licensee shall complete at least 6 hours of the required 18 hours of continuing education courses. During calendar year 2006, a licensee shall complete at least 4 hours of the required 18 hours of continuing education courses. During calendar year 2007 and thereafter, a licensee shall complete at least 2 hours of the required 18 hours of continuing education courses per calendar year. Any education approved by the department that is received by a licensee for further professional designation shall be counted toward the total continuing education credits required for the 3-year license cycle. Each licensee, in completing the appropriate number of clock hours, will have the option of selecting the education courses in that licensee's area of expertise, as long as the education courses are approved by the department and as long as at least 2 hours of an education course per calendar year involve law, rules, and court cases regarding real estate. Notwithstanding this subsection, the department may relicense a licensee who has completed not less than 18 hours of continuing education in the subject matter areas required by this subsection during the 3-year license cycle but has not otherwise met the requirements of this section if the licensee provides evidence satisfactory to the department that he or she has good cause for not complying with the requirements in this subsection.

(5) A license which has been inactive for less than 3 years may be reinstated without examination if the licensee shows proof of completion of not less than the appropriate number of clock hours of continuing education described in subsection (4). A broker's license which has been inactive for 3 or more continuous years may be reinstated without examination if the licensee provides proof of the completion of either 6 clock hours of continuing education described in subsection (4) for each of the years the license was inactive or 40 clock hours of instruction described in subsection (3). A salesperson's license which has been inactive for 3 or more continuous years may be reinstated if the licensee provides proof of meeting 1 of the following requirements:

(a) Completion of 6 clock hours of continuing education described in subsection (4) for each of the years the license was inactive.

(b) Completion of 40 clock hours of instruction described in subsection (3).

(c) Passing the examination required for licensure as a salesperson as provided in subsection (2).

(6) The continuing education requirements provided in subsections (4) and (5) shall not be applied towards the real estate broker's license education requirements provided in subsection (1), and courses taken under real estate broker's license education requirements shall not be applied towards the continuing education requirements.

(7) For real estate brokers, associate brokers, and salespersons who receive a license issued in the second or third years of a 3-year license cycle, continuing education shall be in compliance with subsection (4), except for the following:

(a) A real estate broker, associate broker, or salesperson who receives a license issued in the second year of the 3-year license cycle is required to complete 12 hours of continuing education to renew his or her license.

(b) A real estate broker, associate broker, or salesperson who receives a license issued in the third year of the 3-year licensing cycle is required to complete 6 hours of continuing education to renew his or her license.

(8) A person who offers or conducts a course or courses of study represented to meet the educational requirements of this article, first shall obtain approval from the department and shall abide by the rules of the department concerning curriculum, instructor qualification, grading system, and other related matters. In addition to other requirements imposed under rule, in order to receive approval, a course shall be designed to be taught for not less than 1 clock hour, not including time spent on breaks, meals, or other unrelated activities, provided the course is only approved for less than 2 clock hours if, based upon the subject matter, course outline, instructional materials, methodology, and other considerations consistent with rules of the department, the department determines that the course objectives can be effectively met in the proposed time period. The department may suspend or revoke the approval of a person for a violation of this article or of the rules promulgated under this article. A person shall not represent that its students are assured of passing an examination required by the department. A person shall not represent that the issuance of departmental approval is a recommendation or indorsement of the person to which it is issued or of a course of instruction given by it. A pre-licensure course approved under this article shall be conducted by a local public school district, a community college, an institution of higher education authorized to grant degrees, or a private school licensed by the department of career development under 1943 PA 148, MCL 395.101 to 395.103.

(9) A person who in operating a school violates subsection (8) is subject to the penalties set forth in article 6.

(10) The department may conduct, hold, or assist in conducting or holding, a real estate clinic, meeting, course, or institute, which shall be open to a person licensed under this article, and may incur the necessary expenses in connection with the clinic, meeting, course, or institute. The department, in the public interest, may assist educational institutions within this state in sponsoring studies, research, and programs for the purpose of raising the standards of professional practice in real estate and the competence of a licensee.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 612]

(HB 4042)

AN ACT to amend 1971 PA 227, entitled "An act to prescribe the rights and duties of parties to home solicitation sales," by amending the title and sections 1, 1a, 3, and 6 (MCL 445.111, 445.111a, 445.113, and 445.116), section 1 as amended by 1999 PA 18 and section 3 as amended by 2000 PA 15, and by adding sections 1b, 1c, 1d, and 1e.

The People of the State of Michigan enact:

TITLE

An act to prescribe the rights and duties of parties to home solicitation sales; to regulate certain telephone solicitation; to provide for the powers and duties of certain state officers and entities; and to prescribe penalties and remedies.

445.111 Definitions.

Sec. 1. As used in this act:

(a) "Home solicitation sale" means a sale of goods or services of more than $25.00 in which the seller or a person acting for the seller engages in a personal, telephonic, or written solicitation of the sale, the solicitation is received by the buyer at a residence of the buyer, and the buyer's agreement or offer to purchase is there given to the seller or a person acting for the seller. Home solicitation sale does not include any of the following:

(*i*) A sale made pursuant to a preexisting revolving charge account.

(*ii*) A sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale.

(*iii*) A sale or solicitation of insurance by an insurance agent licensed by the commissioner of insurance.

(*iv*) A sale made at a fixed location of a business establishment where goods or services are offered or exhibited for sale.

(*v*) A sale made pursuant to a printed advertisement in a publication of general circulation.

(*vi*) A sale of services by a real estate broker or salesperson licensed by the department of consumer and industry services.

(*vii*) A sale of agricultural or horticultural equipment and machinery that is demonstrated to the consumer by the vendor at the request of either or both of the parties.

(b) "Fixed location" means a place of business where the seller or an agent, servant, employee, or solicitor of that seller primarily engages in the sale of goods or services of the same kind as would be sold at the residence of a buyer.

(c) "Business day" means Monday through Friday and does not include Saturday, Sunday, or the following business holidays: New Year's day, Martin Luther King's birthday, Washington's birthday, Memorial day, Independence day, Labor day, Columbus day, Veterans' day, Thanksgiving day, and Christmas day.

(d) "Federally insured depository institution" means a state or national bank, state or federal savings bank, state or federal savings and loan association, or state or federal credit union that holds deposits insured by an agency of the United States.

(e) As used in only the definition of home solicitation sales, "goods or services" does not include any of the following:

(*i*) A loan, deposit account, or trust account lawfully offered or provided by a federally insured depository institution or a subsidiary or affiliate of a federally insured depository institution.

(*ii*) An extension of credit that is subject to any of the following acts:

(A) The mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684.

(B) The secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81.

(C) The regulatory loan act, 1939 PA 21, MCL 493.1 to 493.24.

(D) The consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.

(E) 1984 PA 379, MCL 493.101 to 493.114.

(F) The motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141.

(*iii*) A sale of a security or interest in a security that is subject to the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818.

(f) "Written solicitation" means a postcard or other written notice delivered to a buyer's residence that requests that the buyer contact the seller or seller's agent by telephone to inquire about a good or service, unless the postcard or other written notice concerns a previous purchase or order or specifies the price of the good or service and accurately describes the good or service.

(g) "ADAD" or "automatic dialing and announcing device" means any device or system of devices that is used, whether alone or in conjunction with other equipment, for the purpose of automatically selecting or dialing telephone numbers.

(h) "Commission" means the public service commission.

(i) "Do-not-call list" means a do-not-call list of consumers and their residential telephone numbers maintained by the commission, by a vendor designated by the commission, or by an agency of the federal government, under section 1a.

(j) "Existing customer" means an individual who has purchased goods or services from a person, who is the recipient of a voice communication from that person, and who either paid for the goods or services within the 12 months preceding the voice communication or has not paid for the goods and services at the time of the voice communication because of a prior agreement between the person and the individual.

(k) "Person" means an individual, partnership, corporation, limited liability company, association, governmental entity, or other legal entity.

(*l*) "Residential telephone subscriber" or "subscriber" means a person residing in this state who has residential telephone service.

(m) "Telephone solicitation" means any voice communication over a telephone for the purpose of encouraging the recipient of the call to purchase, rent, or invest in goods or services during that telephone call. Telephone solicitation does not include any of the following:

(*i*) A voice communication to a residential telephone subscriber with that subscriber's express invitation or permission prior to the voice communication.

(*ii*) A voice communication to an existing customer of the person on whose behalf the voice communication is made, unless the existing customer is a consumer who has requested that he or she not receive calls from or on behalf of that person under section 1c(1)(g).

(*iii*) A voice communication to a residential telephone subscriber in which the caller requests a face-to-face meeting with the residential telephone subscriber to discuss a

purchase, sale, or rental of, or investment in, goods or services but does not urge the residential telephone subscriber to make a decision to purchase, sell, rent, invest, or make a deposit on that good or service during the voice communication.

(n) "Telephone solicitor" means any person doing business in this state who makes or causes to be made a telephone solicitation from within or outside of this state, including, but not limited to, calls made by use of automated dialing and announcing devices or by a live person.

(o) "Vendor" means a person designated by the commission to maintain a do-not-call list under section 1a. The term may include a governmental entity.

445.111a Telephonic solicitation using recorded message prohibited; establishment of state do-not-call list.

Sec. 1a. (1) A home solicitation sale shall not be made by telephonic solicitation using in whole or in part a recorded message. A person shall not make a telephone solicitation that consists in whole or in part of a recorded message.

(2) Within 120 days after the effective date of the amendatory act that added this subsection, the commission shall do 1 of the following:

(a) Establish a state do-not-call list. All of the following apply if the commission establishes a do-not-call list under this subdivision:

(*i*) The commission shall publish the do-not-call list quarterly for use by telephone solicitors.

(*ii*) The do-not-call list fund is created in the state treasury. Money received from fees under subparagraph (*iii*) shall be credited to the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money remaining in the fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal years. Money in the fund may be appropriated to the commission to cover the costs of administering the do-not-call list, but may not be appropriated to compensate or reimburse a vendor designated under subdivision (b) to maintain a do-not-call list under that subdivision.

(*iii*) The commission shall establish and collect 1 or both of the following fees to cover the costs to the commission for administering the do-not-call list:

(A) Fees charged to telephone solicitors for access to the do-not-call list.

(B) Fees charged to residential telephone subscribers for inclusion on the do-not-call list. The commission shall not charge a residential telephone subscriber a fee of more than $5.00 for a 3-year period.

(*iv*) The commission shall maintain the do-not-call list for at least 1 year. After 1 year, the commission may at any time elect to designate a vendor to maintain a do-not-call list under subdivision (b), in which case subdivision (b) shall apply.

(b) Designate a vendor to maintain a do-not-call list. All of the following apply to a vendor designated to maintain a do-not-call list under this subdivision:

(*i*) The commission shall establish a procedure or follow existing procedure for the submission of bids by vendors to maintain a do-not-call list under this subdivision.

(*ii*) The commission shall establish a procedure or follow existing procedure for the selection of the vendor to maintain the do-not-call list. In selecting the vendor, the commission shall consider at least all of the following factors:

(A) The cost of obtaining and the accessibility and frequency of publication of the do-not-call list to telephone solicitors.

(B) The cost and ease of registration on the do-not-call list to consumers who are seeking inclusion on the do-not-call list.

(*iii*) The commission may review its designation and make a different designation under this subdivision if the commission determines that another person would be better than the designated vendor in meeting the selection factors established under subparagraph (*ii*) or if the designated vendor engages in activities the commission considers contrary to the public interest.

(*iv*) If the commission does not establish a state do-not-call list under subdivision (a), the commission shall comply with the designation requirements of this subdivision for at least 1 year. After 1 year, the commission may at any time elect to establish and maintain a do-not-call list under subdivision (a), in which case subdivision (a) shall apply.

(*v*) Unless the vendor is a governmental entity, a vendor designated by the commission under this subdivision is not a governmental agency and is not an agent of the commission in maintaining a do-not-call list.

(*vi*) The commission and a vendor designated under this subdivision shall execute a written contract. The contract shall include the vendor's agreement to the requirements of this section and any additional requirements established by the commission.

(*vii*) The commission shall not use state funds to compensate or reimburse a vendor designated under this subdivision. The vendor may receive compensation or reimbursement for maintaining a designated do-not-call list under this subdivision only from 1 or both of the following:

(A) Fees charged by the vendor to telephone solicitors for access to the do-not-call list.

(B) Fees charged by the vendor to residential telephone subscribers for inclusion on the do-not-call list. A designated vendor shall not charge a residential telephone subscriber a fee of more than $5.00 for a 3-year period.

(*viii*) The designee do-not-call list fund is created in the state treasury. If the vendor is a department or agency of this state, money received from fees under subparagraph (*vii*) by that vendor shall be credited to the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money remaining in the fund at the end of a fiscal year shall be carried over in the fund to the next and succeeding fiscal years. Money in the fund may be appropriated to that vendor to cover the costs of administering the do-not-call list.

(3) In determining whether to establish a state do-not-call list under subsection (2)(a) or designate a vendor under subsection (2)(b), and in designating a vendor under subsection (2)(b), the commission shall consider comments submitted to the commission from consumers, telephone solicitors, or any other person.

(4) Beginning 90 days after the commission establishes a do-not-call list under subsection (2)(a) or designates a vendor to maintain a do-not-call list under subsection (2)(b), a telephone solicitor shall not make a telephone solicitation to a residential telephone subscriber whose name and residential telephone number is on the then-current version of that do-not-call list.

(5) Notwithstanding any other provision of this section, if an agency of the federal government establishes a federal do-not-call list, within 120 days after the establishment of the federal do-not-call list, the commission shall designate the federal list as the state do-not-call list. The federal list shall remain the state do-not-call list as long as the federal list is maintained. A telephone solicitor shall not make a telephone solicitation to a residential telephone subscriber whose name and residential telephone number is on the then-current version of the federal list.

(6) A telephone solicitor shall not use a do-not-call list for any purpose other than meeting the requirements of subsection (4) or (5).

(7) The commission or a vendor shall not sell or transfer the do-not-call list to any person for any purpose unrelated to this section.

445.111b Information to be provided by person making telephone solicitation; interference with caller ID function prohibited.

Sec. 1b. (1) At the beginning of a telephone solicitation, a person making a telephone solicitation to a residential telephone subscriber shall state his or her name and the full name of the organization or other person on whose behalf the call was initiated and provide a telephone number of the organization or other person on request. A natural person must be available to answer the telephone number at any time when telephone solicitations are being made.

(2) The person answering the telephone number required under subsection (1) shall provide a residential telephone subscriber calling the telephone number with information describing the organization or other person on whose behalf the telephone solicitation was made to the residential telephone subscriber and describing the telephone solicitation.

(3) A telephone solicitor shall not intentionally block or otherwise interfere with the caller ID function on the telephone of a residential telephone subscriber to whom a telephone solicitation is made so that the telephone number of the caller is not displayed on the telephone of the residential telephone subscriber.

445.111c Unfair or deceptive act or practice; violation; penalty.

Sec. 1c. (1) It is an unfair or deceptive act or practice and a violation of this act for a telephone solicitor to do any of the following:

(a) Misrepresent or fail to disclose, in a clear, conspicuous, and intelligible manner and before payment is received from the consumer, all of the following information:

(*i*) Total purchase price to the consumer of the goods or services to be received.

(*ii*) Any restrictions, limitations, or conditions to purchase or to use the goods or services that are the subject of an offer to sell goods or services.

(*iii*) Any material term or condition of the seller's refund, cancellation, or exchange policy, including a consumer's right to cancel a home solicitation sale under section 2 and, if applicable, that the seller does not have a refund, cancellation, or exchange policy.

(*iv*) Any material costs or conditions related to receiving a prize, including the odds of winning the prize, and if the odds are not calculable in advance, the factors used in calculating the odds, the nature and value of a prize, that no purchase is necessary to win the prize, and the "no purchase required" method of entering the contest.

(*v*) Any material aspect of an investment opportunity the seller is offering, including, but not limited to, risk, liquidity, earnings potential, market value, and profitability.

(*vi*) The quantity and any material aspect of the quality or basic characteristics of any goods or services offered.

(*vii*) The right to cancel a sale under this act, if any.

(b) Misrepresent any material aspect of the quality or basic characteristics of any goods or services offered.

(c) Make a false or misleading statement with the purpose of inducing a consumer to pay for goods or services.

(d) Request or accept payment from a consumer or make or submit any charge to the consumer's credit or bank account before the telephone solicitor or seller receives from the consumer an express verifiable authorization. As used in this subdivision, "verifiable authorization" means a written authorization or confirmation, an oral authorization recorded by the telephone solicitor, or confirmation through an independent third party.

(e) Offer to a consumer in this state a prize promotion in which a purchase or payment is necessary to obtain the prize.

(f) Fail to comply with the requirements of section 1a or 1b.

(g) Make a telephone solicitation to a consumer in this state who has requested that he or she not receive calls from the organization or other person on whose behalf the telephone solicitation is made.

(2) Except as provided in this subsection, beginning 210 days after the effective date of the amendatory act that added this section, a person who knowingly or intentionally violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $500.00, or both. This subsection does not prohibit a person from being charged with, convicted of, or punished for any other crime including any other violation of law arising out of the same transaction as the violation of this section. This subsection does not apply if the violation of this section is a failure to comply with the requirements of section 1a(1), (4), or (5) or section 1b.

(3) A person who suffers loss as a result of violation of this section may bring an action to recover actual damages or $250.00, whichever is greater, together with reasonable attorney fees. This subsection does not prevent the consumer from asserting his or her rights under this act if the telephone solicitation results in a home solicitation sale, or asserting any other rights or claims the consumer may have under applicable state or federal law.

445.111d Do-not-call list; notice of description and enrollment; "telecommunication provider" defined.

Sec. 1d. (1) Beginning 210 days after the effective date of the amendatory act that added this section, if a telephone directory includes residential telephone numbers, a person that publishes a new telephone directory shall include in the telephone directory a notice describing the do-not-call list and how to enroll on the do-not-call list.

(2) Beginning 210 days after the effective date of the amendatory act that added this section, each telecommunication provider that provides residential telephone service shall include a notice describing the do-not-call list and how to enroll on the do-not-call list with 1 of that telecommunication provider's bills for telecommunication services to a residential telephone subscriber each year. If the federal communication commission or any other federal agency establishes a federal "do not call" list, the notice shall also describe that list and how to enroll on that list. As used in this subsection, "telecommunication provider" means that term as defined in section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102.

445.111e Applicability of §§ 445.111a, 445.111b, 445.111c, and 445.111d.

Sec. 1e. Sections 1a, 1b, 1c, and 1d do not apply to a person subject to any of the following:

(a) The charitable organizations and solicitations act, 1975 PA 169, MCL 400.271 to 400.294.

(b) The public safety solicitation act, 1992 PA 298, MCL 14.301 to 14.327.

(c) Section 527 of the internal revenue code of 1986.

445.113 Written agreement or offer to purchase; contents; form; cancellation; exception.

Sec. 3. (1) In a home solicitation sale, unless the buyer requests the seller to provide goods or services without delay in an emergency, the seller shall present to the buyer and obtain the buyer's signature to a written agreement or offer to purchase that designates as the date of the transaction the date on which the buyer actually signs.

The agreement or offer to purchase shall contain a statement substantially as follows in immediate proximity to the space reserved in the agreement or offer to purchase for the signature of the buyer:

"You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right. Additionally, the seller is prohibited from having an independent courier service or other third party pick up your payment at your residence before the end of the 3-business-day period in which you can cancel the transaction."

(2) The seller shall attach to the copy or cause to be printed on the reverse side of the written agreement or offer to purchase retained by the buyer a notice of cancellation in duplicate that shall appear as follows:

"notice of cancellation

(enter date of transaction)

(date)

You may cancel this transaction, without any penalty or obligation, within 3 business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within 10 business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to (name of seller), at (address of seller's place of business) not later than midnight on

_____

(date)

I hereby cancel this transaction.

_____

(date)

_____

(buyer's signature) "

(3) The notices required by this section shall be in not less than 10-point bold type and shall be 2 points larger than the text of the contract. A written agreement or offer to purchase and the notice of cancellation attached to the agreement or offer shall be written in the same language as that used in any oral presentation that was given to facilitate sale of the goods or services. The seller shall enter on the blanks in the notice of cancellation the date of transaction, which is the date the buyer signs the written agreement, and the date for mailing the notice of cancellation. An error in entering this information shall not diminish the buyer's rights under this act.

(4) Until the seller has complied with this section, the buyer may cancel the home solicitation sale by notifying the seller in any manner and by any means of his or her intention to cancel.

(5) This section does not apply to a home solicitation sale where the seller engaged in a telephone solicitation of the sale if sections 505 to 507 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2505 to 484.2507, apply to the solicitation or sale.

445.116 Refunds or penalties as set off or defense.

Sec. 6. In connection with a home solicitation sale, refunds or penalties to which the debtor is entitled pursuant to this act may be set off against the debtor's obligation, and may be raised as a defense to an action on the obligation without regard to the time limitations prescribed by this act.

Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 613]

(HB 4632)

AN ACT to amend 1976 PA 331, entitled "An act to prohibit certain methods, acts, and practices in trade or commerce; to prescribe certain powers and duties; to provide for certain remedies, damages, and penalties; to provide for the promulgation of rules; to provide for certain investigations; and to prescribe penalties," by amending section 3 (MCL 445.903), as amended by 2000 PA 14, and by adding section 9a.

The People of the State of Michigan enact:

445.903 Unfair, unconscionable, or deceptive methods, acts, or practices in conduct of trade or commerce; rules.

Sec. 3. (1) Unfair, unconscionable, or deceptive methods, acts, or practices in the conduct of trade or commerce are unlawful and are defined as follows:

(a) Causing a probability of confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services.

(b) Using deceptive representations or deceptive designations of geographic origin in connection with goods or services.

(c) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has sponsorship, approval, status, affiliation, or connection that he or she does not have.

(d) Representing that goods are new if they are deteriorated, altered, reconditioned, used, or secondhand.

(e) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.

(f) Disparaging the goods, services, business, or reputation of another by false or misleading representation of fact.

(g) Advertising or representing goods or services with intent not to dispose of those goods or services as advertised or represented.

(h) Advertising goods or services with intent not to supply reasonably expectable public demand, unless the advertisement discloses a limitation of quantity in immediate conjunction with the advertised goods or services.

(i) Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions.

(j) Representing that a part, replacement, or repair service is needed when it is not.

(k) Representing to a party to whom goods or services are supplied that the goods or services are being supplied in response to a request made by or on behalf of the party, when they are not.

(*l*) Misrepresenting that because of some defect in a consumer's home the health, safety, or lives of the consumer or his or her family are in danger if the product or services are not purchased, when in fact the defect does not exist or the product or services would not remove the danger.

(m) Causing a probability of confusion or of misunderstanding with respect to the authority of a salesperson, representative, or agent to negotiate the final terms of a transaction.

(n) Causing a probability of confusion or of misunderstanding as to the legal rights, obligations, or remedies of a party to a transaction.

(o) Causing a probability of confusion or of misunderstanding as to the terms or conditions of credit if credit is extended in a transaction.

(p) Disclaiming or limiting the implied warranty of merchantability and fitness for use, unless a disclaimer is clearly and conspicuously disclosed.

(q) Representing or implying that the subject of a consumer transaction will be provided promptly, or at a specified time, or within a reasonable time, if the merchant knows or has reason to know it will not be so provided.

(r) Representing that a consumer will receive goods or services "free" or "without charge", or using words of similar import in the representation, without clearly and conspicuously disclosing with equal prominence in immediate conjunction with the use of those words the conditions, terms, or prerequisites to the use or retention of the goods or services advertised.

(s) Failing to reveal a material fact, the omission of which tends to mislead or deceive the consumer, and which fact could not reasonably be known by the consumer.

(t) Entering into a consumer transaction in which the consumer waives or purports to waive a right, benefit, or immunity provided by law, unless the waiver is clearly stated and the consumer has specifically consented to it.

(u) Failing, in a consumer transaction that is rescinded, canceled, or otherwise terminated in accordance with the terms of an agreement, advertisement, representation, or provision of law, to promptly restore to the person or persons entitled to it a deposit, down payment, or

other payment, or in the case of property traded in but not available, the greater of the agreed value or the fair market value of the property, or to cancel within a specified time or an otherwise reasonable time an acquired security interest.

(v) Taking or arranging for the consumer to sign an acknowledgment, certificate, or other writing affirming acceptance, delivery, compliance with a requirement of law, or other performance, if the merchant knows or has reason to know that the statement is not true.

(w) Representing that a consumer will receive a rebate, discount, or other benefit as an inducement for entering into a transaction, if the benefit is contingent on an event to occur subsequent to the consummation of the transaction.

(x) Taking advantage of the consumer's inability reasonably to protect his or her interests by reason of disability, illiteracy, or inability to understand the language of an agreement presented by the other party to the transaction who knows or reasonably should know of the consumer's inability.

(y) Gross discrepancies between the oral representations of the seller and the written agreement covering the same transaction or failure of the other party to the transaction to provide the promised benefits.

(z) Charging the consumer a price that is grossly in excess of the price at which similar property or services are sold.

(aa) Causing coercion and duress as the result of the time and nature of a sales presentation.

(bb) Making a representation of fact or statement of fact material to the transaction such that a person reasonably believes the represented or suggested state of affairs to be other than it actually is.

(cc) Failing to reveal facts that are material to the transaction in light of representations of fact made in a positive manner.

(dd) Subject to subdivision (ee), representations by the manufacturer of a product or package that the product or package is 1 or more of the following:

(*i*) Except as provided in subparagraph (*ii*), recycled, recyclable, degradable, or is of a certain recycled content, in violation of guides for the use of environmental marketing claims, 16 C.F.R. part 260.

(*ii*) For container holding devices regulated under part 163 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.16301 to 324.16303, representations by a manufacturer that the container holding device is degradable contrary to the definition provided in that act.

(ee) Representing that a product or package is degradable, biodegradable, or photodegradable unless it can be substantiated by evidence that the product or package will completely decompose into elements found in nature within a reasonably short period of time after consumers use the product and dispose of the product or the package in a landfill or composting facility, as appropriate.

(ff) Offering a consumer a prize if in order to claim the prize the consumer is required to submit to a sales presentation, unless a written disclosure is given to the consumer at the time the consumer is notified of the prize and the written disclosure meets all of the following requirements:

(*i*) Is written or printed in a bold type that is not smaller than 10-point.

(*ii*) Fully describes the prize, including its cash value, won by the consumer.

(*iii*) Contains all the terms and conditions for claiming the prize, including a statement that the consumer is required to submit to a sales presentation.

(*iv*) Fully describes the product, real estate, investment, service, membership, or other item that is or will be offered for sale, including the price of the least expensive item and the most expensive item.

(gg) Violating 1971 PA 227, MCL 445.111 to 445.117, in connection with a home solicitation sale or telephone solicitation, including, but not limited to, having an independent courier service or other third party pick up a consumer's payment on a home solicitation sale during the period the consumer is entitled to cancel the sale.

(2) The attorney general may promulgate rules to implement this act under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The rules shall not create an additional unfair trade practice not already enumerated by this section. However, to assure national uniformity, rules shall not be promulgated to implement subsection (1)(dd) or (ee).

445.909a List of consumer complaints.

Sec. 9a. After each calendar quarter, the attorney general shall by electronic mail provide to the better business bureau of western Michigan, inc., better business bureau of Michiana, inc., better business bureau of Detroit and eastern Michigan, inc., and better business bureau serving NW Ohio and SE Michigan, inc., a list of complaints made by consumers to the attorney general during that calendar quarter of violations of section 3(1)(gg) in connection with a telephone solicitation. The list shall contain the name of each person against whom 1 or more complaints were made and the number of complaints against that person.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4042 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

Compiler's note: House Bill No. 4042, referred to in enacting section 1, was filed with the Secretary of State December 20, 2002, and became P.A. 2002, No. 612, Eff. Mar. 31, 2003.

[No. 614]

(HB 6478)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," (MCL 205.91 to 205.111) by adding section 4x.

The People of the State of Michigan enact:

205.94x Tax exemption; resident tribal member.

Sec. 4x. (1) The tax under this act does not apply to the sale of a motor vehicle, recreational watercraft, snowmobile, or all terrain vehicle, not for resale, to a resident tribal member if the motor vehicle, recreational watercraft, snowmobile, or all terrain

vehicle is for personal use and is principally garaged, berthed, or stored within that resident tribal member's tribe agreement area.

(2) The tax under this act does not apply to the sale of a mobile home, not for resale, to a resident tribal member if the mobile home is to be used as that resident tribal member's principal residence and the mobile home is located within that resident tribal member's tribe agreement area.

(3) As used in this section, "resident tribal member" means an individual who meets all of the following criteria:

(a) Is an enrolled member of a federally recognized tribe.

(b) The individual's tribe has an agreement with this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, that is in full force and effect.

(c) The individual's principal place of residence is located within the agreement area as designated in the agreement under subdivision (b).

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 615]

(HB 6479)

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," by amending section 30 (MCL 206.30), as amended by 2000 PA 400.

The People of the State of Michigan enact:

206.30 "Taxable income" defined; personal exemption; single additional exemption; certain deduction not considered allowable federal exemption for purposes of subsection (2); allowable exemption or deduction for nonresident or part-year resident; subtraction of prizes under §§ 432.1 to 432.47 from adjusted gross income prohibited; adjusted personal exemption; "retirement or pension benefits" defined.

Sec. 30. (1) "Taxable income" means, for a person other than a corporation, estate, or trust, adjusted gross income as defined in the internal revenue code subject to the following adjustments under this section:

(a) Add gross interest income and dividends derived from obligations or securities of states other than Michigan, in the same amount that has been excluded from adjusted gross income less related expenses not deducted in computing adjusted gross income because of section 265(a)(1) of the internal revenue code.

(b) Add taxes on or measured by income to the extent the taxes have been deducted in arriving at adjusted gross income.

(c) Add losses on the sale or exchange of obligations of the United States government, the income of which this state is prohibited from subjecting to a net income tax, to the extent that the loss has been deducted in arriving at adjusted gross income.

(d) Deduct, to the extent included in adjusted gross income, income derived from obligations, or the sale or exchange of obligations, of the United States government that this state is prohibited by law from subjecting to a net income tax, reduced by any interest on indebtedness incurred in carrying the obligations and by any expenses incurred in the production of that income to the extent that the expenses, including amortizable bond premiums, were deducted in arriving at adjusted gross income.

(e) Deduct, to the extent included in adjusted gross income, compensation, including retirement benefits, received for services in the armed forces of the United States.

(f) Deduct the following to the extent included in adjusted gross income:

(*i*) Retirement or pension benefits received from a federal public retirement system or from a public retirement system of or created by this state or a political subdivision of this state.

(*ii*) Retirement or pension benefits received from a public retirement system of or created by another state or any of its political subdivisions if the income tax laws of the other state permit a similar deduction or exemption or a reciprocal deduction or exemption of a retirement or pension benefit received from a public retirement system of or created by this state or any of the political subdivisions of this state.

(*iii*) Social security benefits as defined in section 86 of the internal revenue code.

(*iv*) Before October 1, 1994, retirement or pension benefits from any other retirement or pension system as follows:

(A) For a single return, the sum of not more than $7,500.00.

(B) For a joint return, the sum of not more than $10,000.00.

(*v*) After September 30, 1994, retirement or pension benefits not deductible under subparagraph (*i*) or subdivision (e) from any other retirement or pension system or benefits from a retirement annuity policy in which payments are made for life to a senior citizen, to a maximum of $30,000.00 for a single return and $60,000.00 for a joint return. The maximum amounts allowed under this subparagraph shall be reduced by the amount of the deduction for retirement or pension benefits claimed under subparagraph (*i*) or subdivision (e) and for tax years after the 1996 tax year by the amount of a deduction claimed under subdivision (r). For the 1995 tax year and each tax year after 1995, the maximum amounts allowed under this subparagraph shall be adjusted by the percentage increase in the United States consumer price index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subparagraph and subparagraph (*iv*) as necessary for tax years that end after September 30, 1994. As used in this subparagraph, "senior citizen" means that term as defined in section 514.

(*vi*) The amount determined to be the section 22 amount eligible for the elderly and the permanently and totally disabled credit provided in section 22 of the internal revenue code.

(g) Adjustments resulting from the application of section 271.

(h) Adjustments with respect to estate and trust income as provided in section 36.

(i) Adjustments resulting from the allocation and apportionment provisions of chapter 3.

(j) Deduct political contributions as described in section 4 of the Michigan campaign finance act, 1976 PA 388, MCL 169.204, or section 301 of title III of the federal election campaign act of 1971, Public Law 92-225, 2 U.S.C. 431, not in excess of $50.00 per annum, or $100.00 per annum for a joint return.

(k) Deduct, to the extent included in adjusted gross income, wages not deductible under section 280C of the internal revenue code.

(*l*) Deduct the following payments made by the taxpayer in the tax year:

(*i*) The amount of payment made under an advance tuition payment contract as provided in the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1444.

(*ii*) The amount of payment made under a contract with a private sector investment manager that meets all of the following criteria:

(A) The contract is certified and approved by the board of directors of the Michigan education trust to provide equivalent benefits and rights to purchasers and beneficiaries as an advance tuition payment contract as described in subparagraph (*i*).

(B) The contract applies only for a state institution of higher education as defined in the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1444, or a community or junior college in Michigan.

(C) The contract provides for enrollment by the contract's qualified beneficiary in not less than 4 years after the date on which the contract is entered into.

(D) The contract is entered into after either of the following:

(I) The purchaser has had his or her offer to enter into an advance tuition payment contract rejected by the board of directors of the Michigan education trust, if the board determines that the trust cannot accept an unlimited number of enrollees upon an actuarially sound basis.

(II) The board of directors of the Michigan education trust determines that the trust can accept an unlimited number of enrollees upon an actuarially sound basis.

(m) If an advance tuition payment contract under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1444, or another contract for which the payment was deductible under subdivision (*l*) is terminated and the qualified beneficiary under that contract does not attend a university, college, junior or community college, or other institution of higher education, add the amount of a refund received by the taxpayer as a result of that termination or the amount of the deduction taken under subdivision (*l*) for payment made under that contract, whichever is less.

(n) Deduct from the taxable income of a purchaser the amount included as income to the purchaser under the internal revenue code after the advance tuition payment contract entered into under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1444, is terminated because the qualified beneficiary attends an institution of post-secondary education other than either a state institution of higher education or an institution of postsecondary education located outside this state with which a state institution of higher education has reciprocity.

(o) Add, to the extent deducted in determining adjusted gross income, the net operating loss deduction under section 172 of the internal revenue code.

(p) Deduct a net operating loss deduction for the taxable year as determined under section 172 of the internal revenue code subject to the modifications under section 172(b)(2) of the internal revenue code and subject to the allocation and apportionment provisions of chapter 3 of this act for the taxable year in which the loss was incurred.

(q) For a tax year beginning after 1986, deduct, to the extent included in adjusted gross income, benefits from a discriminatory self-insurance medical expense reimbursement plan.

(r) After September 30, 1994 and before the 1997 tax year, a taxpayer who is a senior citizen may deduct, to the extent included in adjusted gross income, interest and dividends received in the tax year not to exceed $1,000.00 for a single return or $2,000.00 for a joint return. However, for tax years before the 1997 tax year, the deduction under this subdivision shall not be taken if the taxpayer takes a deduction for retirement benefits under subdivision (e) or a deduction under subdivision (f)(*i*), (*ii*), (*iv*), or (*v*). For tax years after the 1996 tax year, a taxpayer who is a senior citizen may deduct to the extent included in adjusted gross income, interest, dividends, and capital gains received in the tax year not to exceed $3,500.00 for a single return and $7,000.00 for a joint return for the 1997 tax year, and $7,500.00 for a single return and $15,000.00 for a joint return for tax years after the 1997 tax year. For tax years after the 1996 tax year, the maximum amounts allowed under this subdivision shall be reduced by the amount of a deduction claimed for retirement benefits under subdivision (e) or a deduction claimed under subdivision (f)(*i*), (*ii*), (*iv*), or (*v*). For the 1995 tax year, for the 1996 tax year, and for each tax year after the 1998 tax year, the maximum amounts allowed under this subdivision shall be adjusted by the percentage increase in the United States consumer price index for the immediately preceding calendar year. The department shall annualize the amounts provided in this subdivision as necessary for tax years that end after September 30, 1994. As used in this subdivision, "senior citizen" means that term as defined in section 514.

(s) Deduct, to the extent included in adjusted gross income, all of the following:

(*i*) The amount of a refund received in the tax year based on taxes paid under this act.

(*ii*) The amount of a refund received in the tax year based on taxes paid under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787.

(*iii*) The amount of a credit received in the tax year based on a claim filed under sections 520 and 522 to the extent that the taxes used to calculate the credit were not used to reduce adjusted gross income for a prior year.

(t) Add the amount paid by the state on behalf of the taxpayer in the tax year to repay the outstanding principal on a loan taken on which the taxpayer defaulted that was to fund an advance tuition payment contract entered into under the Michigan education trust act, 1986 PA 316, MCL 390.1421 to 390.1444, if the cost of the advance tuition payment contract was deducted under subdivision (*l*) and was financed with a Michigan education trust secured loan.

(u) For the 1998 tax year and each tax year after the 1998 tax year, deduct the amount calculated under section 30d.

(v) For tax years that begin on and after January 1, 1994, deduct, to the extent included in adjusted gross income, any amount, and any interest earned on that amount, received in the tax year by a taxpayer who is a Holocaust victim as a result of a settlement of claims against any entity or individual for any recovered asset pursuant to the German act regulating unresolved property claims, also known as Gesetz zur Regelung offener Vermogensfragen, as a result of the settlement of the action entitled In re: Holocaust victims assets, CV-96-4849, CV-96-6161, and CV-97-0461 (E.D. NY), or as a result of any similar action if the income and interest are not commingled in any way with and are kept separate from all other funds and assets of the taxpayer. As used in this subdivision:

(*i*) "Holocaust victim" means a person, or the heir or beneficiary of that person, who was persecuted by Nazi Germany or any Axis regime during any period from 1933 to 1945.

(*ii*) "Recovered asset" means any asset of any type and any interest earned on that asset including, but not limited to, bank deposits, insurance proceeds, or artwork owned by a Holocaust victim during the period from 1920 to 1945, withheld from that Holocaust victim from and after 1945, and not recovered, returned, or otherwise compensated to the Holocaust victim until after 1993.

(w) For tax years that begin after December 31, 1999, deduct, to the extent not deducted in determining adjusted gross income, both of the following:

(*i*) The total of all contributions made on and after October 1, 2000 by the taxpayer in the tax year to education savings accounts pursuant to the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486, not to exceed $5,000.00 for a single return or $10,000.00 for a joint return per tax year. A deduction under this subparagraph is not allowed for contributions to an education savings account in the tax year in which the initial withdrawal is made from that account or any subsequent year.

(*ii*) The amount under section 30f.

(x) For tax years that begin after December 31, 1999, add to the extent not included in adjusted gross income the amount of money withdrawn by the taxpayer in the tax year from education savings accounts if the withdrawal was not a qualified withdrawal as provided in the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486.

(y) For tax years that begin after December 31, 1999, deduct, to the extent included in adjusted gross income, the amount of a distribution from individual retirement accounts that qualify under section 408 of the internal revenue code if the distribution is used to pay qualified higher education expenses as that term is defined in the Michigan education savings program act, 2000 PA 161, MCL 390.1471 to 390.1486.

(z) For tax years that begin after December 31, 2000, deduct, to the extent included in adjusted gross income, an amount equal to the qualified charitable distribution made in the tax year by a taxpayer to a charitable organization. The amount allowed under this subdivision shall be equal to the amount deductible by the taxpayer under section 170(c) of the internal revenue code with respect to the qualified charitable distribution in the tax year in which the taxpayer makes the distribution to the qualified charitable organization, reduced by both the amount of the deduction for retirement or pension benefits claimed by the taxpayer under subdivision (f)(*i*), (*ii*), (*iv*), or (*v*) and by 2 times the total amount of credits claimed under sections 260 and 261 for the tax year. As used in this subdivision, "qualified charitable distribution" means a distribution of assets to a qualified charitable organization by a taxpayer not more than 60 days after the date on which the taxpayer received the assets as a distribution from a retirement or pension plan described in subsection (8)(a). A distribution is to a qualified charitable organization if the distribution is made in any of the following circumstances:

(*i*) To an organization described in section 501(c)(3) of the internal revenue code except an organization that is controlled by a political party, an elected official or a candidate for an elective office.

(*ii*) To a charitable remainder annuity trust or a charitable remainder unitrust as defined in section 664(d) of the internal revenue code; to a pooled income fund as defined in section 642(c)(5) of the internal revenue code; or for the issuance of a charitable gift annuity as defined in section 501(m)(5) of the internal revenue code. A trust, fund, or annuity described in this subparagraph is a qualified charitable organization only if no person holds any interest in the trust, fund, or annuity other than 1 or more of the following:

(A) The taxpayer who received the distribution from the retirement or pension plan.

(B) The spouse of an individual described in sub-subparagraph (A).

(C) An organization described in section 501(c)(3) of the internal revenue code.

(aa) A taxpayer who is a resident tribal member may deduct, to the extent included in adjusted gross income, all nonbusiness income earned or received in the tax year and during the period in which an agreement entered into between the taxpayer's tribe and this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, is in full force and effect. As used in this subdivision:

(*i*) "Business income" means business income as defined in section 4 and apportioned under chapter 3.

(*ii*) "Nonbusiness income" means nonbusiness income as defined in section 14 and, to the extent not included in business income, all of the following:

(A) All income derived from wages whether the wages are earned within the agreement area or outside of the agreement area.

(B) All interest and passive dividends.

(C) All rents and royalties derived from real property located within the agreement area.

(D) All rents and royalties derived from tangible personal property, to the extent the personal property is utilized within the agreement area.

(E) Capital gains from the sale or exchange of real property located within the agreement area.

(F) Capital gains from the sale or exchange of tangible personal property located within the agreement area at the time of sale.

(G) Capital gains from the sale or exchange of intangible personal property.

(H) All pension income and benefits including, but not limited to, distributions from a 401(k) plan, individual retirement accounts under section 408 of the internal revenue code, or a defined contribution plan, or payments from a defined benefit plan.

(I) All per capita payments by the tribe to resident tribal members, without regard to the source of payment.

(J) All gaming winnings.

(*iii*) "Resident tribal member" means an individual who meets all of the following criteria:

(A) Is an enrolled member of a federally recognized tribe.

(B) The individual's tribe has an agreement with this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, that is in full force and effect.

(C) The individual's principal place of residence is located within the agreement area as designated in the agreement under sub-subparagraph (B).

(2) The following personal exemptions multiplied by the number of personal or dependency exemptions allowable on the taxpayer's federal income tax return pursuant to the internal revenue code shall be subtracted in the calculation that determines taxable income:

(a) For a tax year beginning during 1987	$ 1,600.00.
(b) For a tax year beginning during 1988	$ 1,800.00.
(c) For a tax year beginning during 1989	$ 2,000.00.
(d) For a tax year beginning after 1989 and before 1995	$ 2,100.00.

(e) For a tax year beginning during 1995 or 1996 ..... $ 2,400.00.

(f) Except as otherwise provided in subsection (7), for a tax year beginning after 1996 ..... $ 2,500.00.

(3) A single additional exemption determined as follows shall be subtracted in the calculation that determines taxable income in each of the following circumstances:

(a) For tax years beginning after 1989 and before 2000, $900.00 in each of the following circumstances:

(*i*) The taxpayer is a paraplegic, a quadriplegic, a hemiplegic, a person who is blind as defined in section 504, or a person who is totally and permanently disabled as defined in section 522.

(*ii*) The taxpayer is a deaf person as defined in section 2 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502.

(*iii*) The taxpayer is 65 years of age or older.

(*iv*) The return includes unemployment compensation that amounts to 50% or more of adjusted gross income.

(b) For tax years beginning after 1999, $1,800.00 for each taxpayer and every dependent of the taxpayer who is 65 years of age or older. When a dependent of a taxpayer files an annual return under this act, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision. As used in this subdivision and subdivision (c), "dependent" means that term as defined in section 30e.

(c) For tax years beginning after 1999, $1,800.00 for each taxpayer and every dependent of the taxpayer who is a deaf person as defined in section 2 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502; a paraplegic, a quadriplegic, or a hemiplegic; a person who is blind as defined in section 504; or a person who is totally and permanently disabled as defined in section 522. When a dependent of a taxpayer files an annual return under this act, the taxpayer or dependent of the taxpayer, but not both, may claim the additional exemption allowed under this subdivision.

(d) For tax years beginning after 1999, $1,800.00 if the taxpayer's return includes unemployment compensation that amounts to 50% or more of adjusted gross income.

(4) For a tax year beginning after 1987, an individual with respect to whom a deduction under section 151 of the internal revenue code is allowable to another federal taxpayer during the tax year is not considered to have an allowable federal exemption for purposes of subsection (2), but may subtract $500.00 in the calculation that determines taxable income for a tax year beginning in 1988, $1,000.00 for a tax year beginning after 1988 and before 2000, and $1,500.00 for a tax year beginning after 1999.

(5) A nonresident or a part-year resident is allowed that proportion of an exemption or deduction allowed under subsection (2), (3), or (4) that the taxpayer's portion of adjusted gross income from Michigan sources bears to the taxpayer's total adjusted gross income.

(6) For a tax year beginning after 1987, in calculating taxable income, a taxpayer shall not subtract from adjusted gross income the amount of prizes won by the taxpayer under the McCauley-Traxler-Law-Bowman-McNeely lottery act, 1972 PA 239, MCL 432.1 to 432.47.

(7) For each tax year after the 1997 tax year, the personal exemption allowed under subsection (2) shall be adjusted by multiplying the exemption for the tax year beginning in 1997 by a fraction, the numerator of which is the United States consumer price index for the state fiscal year ending in the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States consumer price index for the 1995-96 state fiscal year. The resultant product shall be rounded to the

nearest $100.00 increment. The personal exemption for the tax year shall be determined by adding $200.00 to that rounded amount. As used in this section, "United States consumer price index" means the United States consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics. For each year after the 2000 tax year, the exemptions allowed under subsection (3) shall be adjusted by multiplying the exemption amount under subsection (3) for the tax year beginning in 2000 by a fraction, the numerator of which is the United States consumer price index for the state fiscal year ending the tax year prior to the tax year for which the adjustment is being made and the denominator of which is the United States consumer price index for the 1998-1999 state fiscal year. The resultant product shall be rounded to the nearest $100.00 increment.

(8) As used in subsection (1)(f), "retirement or pension benefits" means distributions from all of the following:

(a) Except as provided in subdivision (d), qualified pension trusts and annuity plans that qualify under section 401(a) of the internal revenue code, including all of the following:

(*i*) Plans for self-employed persons, commonly known as Keogh or HR 10 plans.

(*ii*) Individual retirement accounts that qualify under section 408 of the internal revenue code if the distributions are not made until the participant has reached 59-1/2 years of age, except in the case of death, disability, or distributions described by section 72(t)(2)(A)(*iv*) of the internal revenue code.

(*iii*) Employee annuities or tax-sheltered annuities purchased under section 403(b) of the internal revenue code by organizations exempt under section 501(c)(3) of the internal revenue code, or by public school systems.

(*iv*) Distributions from a 401(k) plan attributable to employee contributions mandated by the plan or attributable to employer contributions.

(b) The following retirement and pension plans not qualified under the internal revenue code:

(*i*) Plans of the United States, state governments other than this state, and political subdivisions, agencies, or instrumentalities of this state.

(*ii*) Plans maintained by a church or a convention or association of churches.

(*iii*) All other unqualified pension plans that prescribe eligibility for retirement and predetermine contributions and benefits if the distributions are made from a pension trust.

(c) Retirement or pension benefits received by a surviving spouse if those benefits qualified for a deduction prior to the decedent's death. Benefits received by a surviving child are not deductible.

(d) Retirement and pension benefits do not include:

(*i*) Amounts received from a plan that allows the employee to set the amount of compensation to be deferred and does not prescribe retirement age or years of service. These plans include, but are not limited to, all of the following:

(A) Deferred compensation plans under section 457 of the internal revenue code.

(B) Distributions from plans under section 401(k) of the internal revenue code other than plans described in subdivision (a)(*iv*).

(C) Distributions from plans under section 403(b) of the internal revenue code other than plans described in subdivision (a)(*iii*).

(*ii*) Premature distributions paid on separation, withdrawal, or discontinuance of a plan prior to the earliest date the recipient could have retired under the provisions of the plan.

(*iii*) Payments received as an incentive to retire early unless the distributions are from a pension trust.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 616]

(HB 6480)

AN ACT to amend 1941 PA 122, entitled "An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to create the position and to define the powers and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," by amending section 30c (MCL 205.30c), as amended by 2001 PA 168.

The People of the State of Michigan enact:

205.30c Voluntary disclosure agreement.

Sec. 30c. (1) The state treasurer, or an authorized representative of the state treasurer, on behalf of the department, may enter into a voluntary disclosure agreement pursuant to subsections (2) to (11) or an agreement with a federally recognized Indian tribe within the state of Michigan pursuant to subsections (12) and (13).

(2) A voluntary disclosure agreement may be entered into with a person who makes application, who is a nonfiler, and who meets 1 or more of the following criteria:

(a) Has a filing responsibility under nexus standards issued by the department after December 31, 1997.

(b) Has a reasonable basis to contest liability, as determined by the state treasurer, for a tax or fee administered under this act.

(3) All taxes and fees administered under this act are eligible for inclusion in a voluntary disclosure agreement.

(4) To be eligible for a voluntary disclosure agreement, subject to subsection (1), a person must meet all of the following requirements:

(a) Except as otherwise provided in this subdivision, has had no previous contact by the department or its agents regarding a tax covered by the agreement. For purposes of

this subdivision, a letter of inquiry, whether a final letter or otherwise, requesting information under section 21(2)(a) that was sent to a nonfiler shall not be considered a previous contact under this subdivision if the nonfiler sends a written request to the department to enter into a voluntary disclosure agreement not later than June 30, 1999.

(b) Has had no notification of an impending audit by the department or its agents.

(c) Is not currently under audit by the department of treasury or under investigation by the department of state police, department of attorney general, or any local law enforcement agency regarding a tax covered by the agreement.

(d) Is not currently the subject of a civil action or a criminal prosecution involving any tax covered by the agreement.

(e) Has agreed to register, file returns, and pay all taxes due in accordance with all applicable laws of this state for all taxes administered under this act for all periods after the lookback period.

(f) Has agreed to pay all taxes due for each tax covered under the agreement for the lookback period, plus statutory interest as stated in section 23, within the period of time and in the manner specified in the agreement.

(g) Has agreed to file returns and worksheets for the lookback period as specified in the agreement.

(h) Has agreed not to file a protest or seek a refund of taxes paid to this state for the lookback period based on the issues disclosed in the agreement or based on the person's lack of nexus or contacts with this state.

(5) If a person satisfies all requirements stated in subsections (1), (2), and (4), the department shall enter into a voluntary disclosure agreement with that person providing the following relief:

(a) Notwithstanding section 28(1)(e) of this act, the department shall not assess any tax, delinquency for a tax, penalty, or interest covered under the agreement for any period before the lookback period identified in the agreement.

(b) The department shall not assess any applicable discretionary or nondiscretionary penalties for the lookback period.

(c) The department shall provide complete confidentiality of the agreement and shall also enter into an agreement not to disclose, in accordance with section 28(1)(f), any of the terms or conditions of the agreement to any tax authorities of any state or governmental authority or to any person except as required by exchange of information agreements authorized under section 28(1)(f), including the international fuel tax agreement under chapter 317 of title 49 of the United States Code, 49 U.S.C. 31701 to 31708. The department shall not exchange information obtained under this section with other states regarding the person unless information regarding the person is specifically requested by another state.

(6) The department shall not bring a criminal action against a person for failure to report or to remit any tax covered by the agreement before or during the lookback period if the facts established by the department are not materially different from the facts disclosed by the person to the department.

(7) A voluntary disclosure agreement is effective when signed by the person subject to the agreement, or his, her, or its lawful representative, and returned to the department within the time period specified in the agreement. The department shall only provide the relief specified in the executed agreement. Any verbal or written communication by the department before the effective date of the agreement shall not afford any penalty waiver, limited lookback period, or other benefit otherwise available under this section.

(8) A material misrepresentation of the fact by an applicant relating to the applicant's current activity in this state renders an agreement null and void and of no effect. A change in the activities or operations of a person after the effective date of the agreement is not a material misrepresentation of fact and shall not affect the agreement's validity.

(9) The department may audit any of the taxes covered by the agreement within the lookback period or in any prior period if, in the department's opinion, an audit of a prior period is necessary to determine the person's tax liability for the tax periods within the lookback period or to determine another person's tax liability.

(10) Nothing in subsections (2) to (9) shall be interpreted to allow or permit unjust enrichment as that term is defined in subsection (15). Any tax collected or withheld from another person by an applicant shall be remitted to the department without respect to whether it was collected during or before the lookback period.

(11) The department shall not require a person who enters into a voluntary disclosure agreement to make any filings that are additional to those otherwise required by law.

(12) The department may enter into a tribal agreement with a federally recognized Indian tribe specifying the applicability of a tax administered under this act to that tribe, its members, and any person conducting business with them. The tribe, its members, and any person conducting business with them shall remain fully subject to this state's tax acts except as otherwise specifically provided by an agreement in effect for the period at issue. A tribal agreement shall include all of the following:

(a) A statement of its purpose.

(b) Provisions governing duration and termination that make the agreement terminable by either party if there is noncompliance and terminable at-will after a period of not more than 2 years.

(c) Provisions governing administration, collection, and enforcement. Those provisions shall include all of the following:

(*i*) Collection of taxes levied under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, or the use tax act, 1937 PA 94, MCL 205.91 to 205.111, on the sale of tangible personal property or the storage, use, or consumption of tangible personal property not exempt under the agreement.

(*ii*) Collection of taxes levied on tobacco products under the tobacco products tax act, 1993 PA 327, MCL 205.421 to 205.436, and taxes levied under the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, and the motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234, on sales of tobacco products or motor fuels not exempt under the agreement.

(*iii*) Withholding and remittance of income taxes levied under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, from employees not exempt under the agreement.

(*iv*) Reporting of gambling winnings to the same extent and in the same manner as reported to the federal government.

(*v*) A waiver of tribal sovereign immunity sufficient to make the agreement enforceable against both parties.

(d) Provisions governing disclosure of information between the department and the tribe as necessary for the proper administration of the tribal agreement.

(e) A provision ensuring that the members of the tribe will be bound by the terms of the agreement.

(f) A designation of the agreement area within which the specific provisions of the tribal agreement apply.

(13) A tribal agreement authorized under subsection (12) may include 1 or more of the following:

(a) A provision for dispute resolution between this state and the tribe, which may include a nonjudicial forum.

(b) A provision for the sharing between the parties of certain taxes collected by the tribe and its members.

(c) Any other provisions beneficial to the administration or enforcement of the tribal agreement.

(14) A tribal agreement authorized under subsection (12) shall not authorize the approval of a class III gaming compact negotiated under the Indian gaming regulatory act, Public Law 100-497, 102 Stat. 2467.

(15) As used in this section:

(a) "Lookback period" means 1 or more of the following:

(*i*) The most recent 48-month period as determined by the department or the first date the person subject to an agreement under this section began doing business in this state if less than 48 months.

(*ii*) For single business taxes levied under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, the lookback period shall be the 4 most recent completed fiscal or calendar years over a 48-month period or the first date the person subject to an agreement under this section began doing business in this state if less than 48 months.

(*iii*) Notwithstanding subparagraphs (*i*), (*ii*), and (*iv*), the most recent 36-month period as determined by the department or the first date the person subject to an agreement under this section began doing business in this state if less than 36 months, if tax returns filed in another state for a tax based on net income that included sales in the numerator of the apportionment formula that now must be included in the numerator of the apportionment formula under the single business tax act, 1975 PA 228, MCL 208.1 to 208.145, and those sales increased the net tax liability payable to that state.

(*iv*) If there is doubt as to liability for the tax during the lookback period, another period as determined by the state treasurer to be in the best interest of this state and to preserve equitable and fair administration of taxes.

(b) "Nonfiler" for a particular tax means, beginning July 1, 1998, a person that has not filed a return for the particular tax being disclosed for periods beginning after December 31, 1988. Nonfiler also includes a person whose only filing was a single business tax estimated tax return filed before January 1, 1999.

(c) "Person" means an individual, firm, bank, financial institution, limited partnership, copartnership, partnership, joint venture, association, corporation, limited liability company, limited liability partnership, receiver, estate, trust, or any other group or combination acting as a unit.

(d) "Previous contact" means any notification of an impending audit pursuant to section 21(1), review, notice of intent to assess, or assessment. Previous contact also includes final letters of inquiry pursuant to section 21(2)(a) or a subpoena from the department.

(e) "Unjust enrichment" includes the withholding of income tax under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and the collection of any other tax administered by this act that has not been remitted to the department.

(f) "Voluntary disclosure agreement" or "agreement" means a written agreement that complies with this act.

(16) The department of treasury shall post a copy of each tribal agreement and any changes to a tribal agreement on the department of treasury's website not later than 60 days after the tribal agreement takes effect or the changes to the tribal agreement take effect.

(17) Not later than January 31 of each year, the department of treasury shall report to each house of the legislature, including the majority leader and minority leader of the senate and the speaker and minority leader of the house of representatives, on the tribal agreement and changes to the tribal agreement entered into during the immediately preceding calendar year. The report shall include all of the following:

(a) A copy of the tribal agreement.

(b) A summary of the changes since the immediately preceding report.

(c) A detailed listing and description of changes to any agreement areas described in a tribal agreement.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 617]

(HB 6481)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," (MCL 205.51 to 205.78) by adding section 4aa.

The People of the State of Michigan enact:

205.54aa Tax exemption; resident tribal member.

Sec. 4aa. (1) The tax under this act does not apply to the sale of a motor vehicle, recreational watercraft, snowmobile, or all terrain vehicle, not for resale, to a resident tribal member if the motor vehicle, recreational watercraft, snowmobile, or all terrain vehicle is for personal use and is principally garaged, berthed, or stored within that resident tribal member's tribe agreement area.

(2) The tax under this act does not apply to the sale of a mobile home, not for resale, to a resident tribal member if the mobile home is to be used as that resident tribal member's principal residence and the mobile home is located within that resident tribal member's tribe agreement area.

(3) As used in this section, "resident tribal member" means an individual who meets all of the following criteria:

(a) Is an enrolled member of a federally recognized tribe.

(b) The individual's tribe has an agreement with this state pursuant to section 30c of 1941 PA 122, MCL 205.30c, that is in full force and effect.

(c) The individual's principal place of residence is located within the agreement area as designated in the agreement under subdivision (b).

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 20, 2002.

[No. 618]

(SB 1391)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 19a and 675 (MCL 257.19a and 257.675), section 19a as amended by 1998 PA 68 and section 675 as amended by 2001 PA 18.

The People of the State of Michigan enact:

257.19a "Disabled person" and "person with disabilities" defined.

Sec. 19a. "Disabled person" or "person with disabilities" means a person who is determined by a physician, a physician assistant, or an optometrist as specifically provided in this section licensed to practice in this state to have 1 or more of the following physical characteristics:

(a) Blindness as determined by an optometrist, a physician, or a physician assistant.

(b) Inability to walk more than 200 feet without having to stop and rest.

(c) Inability to do both of the following:

(*i*) Use 1 or both legs or feet.

(*ii*) Walk without the use of a wheelchair, walker, crutch, brace, prosthetic, or other device, or without the assistance of another person.

(d) A lung disease from which the person's forced expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or from which the person's arterial oxygen tension is less than 60 mm/hg of room air at rest.

(e) A cardiovascular condition that causes the person to measure between 3 and 4 on the New York heart classification scale, or that renders the person incapable of meeting a minimum standard for cardiovascular health that is established by the American heart association and approved by the department of public health.

(f) An arthritic, neurological, or orthopedic condition that severely limits the person's ability to walk.

(g) The persistent reliance upon an oxygen source other than ordinary air.

257.675 Stopping, standing, or parking of vehicle; requirements; signs; traffic control orders; hearing; windshield placard; certificate of identification for disabled person; special registration plates; courtesy required; free parking sticker; display; confiscation; false statement, deception, or fraud as misdemeanor; penalty; violation as civil infraction; cancellation, revocation, or suspension; driver's, chauffeur's, or state personal identification card number; signature of out-of-state physician or physician assistant.

Sec. 675. (1) Except as otherwise provided in this section and this chapter, a vehicle stopped or parked upon a highway or street shall be stopped or parked with the wheels of the vehicle parallel to the roadway and within 12 inches of any curb existing at the right of the vehicle.

(2) A local authority may by ordinance permit parking of a vehicle on a 1-way roadway with the vehicle's left wheels adjacent to and within 12 inches of any curb existing at the left of the vehicle.

(3) A local authority may by ordinance permit angle parking on a roadway, except that angle parking shall not be permitted on a state trunk line highway.

(4) The state transportation commission with respect to state trunk line highways and the board of county road commissioners with respect to county roads, acting jointly with the director of the department of state police, may place signs prohibiting or restricting the stopping, standing, or parking of vehicles on a highway where in the opinion of the officials as determined by an engineering survey, the stopping, standing, or parking is dangerous to those using the highway or where the stopping, standing, or parking of vehicles would unduly interfere with the free movement of traffic on the highway or street. The signs shall be official signs and a person shall not stop, stand, or park a vehicle in violation of the restrictions stated on the signs. The signs shall be installed only after a proper traffic order is filed with the county clerk. Upon the application to the state transportation commission by a home rule city affected by an order, opportunity shall be given to the city for a hearing before the state transportation commission, pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, except when an ordinance of the home rule city prohibits or restricts the parking of vehicles on a state trunk line highway; when the home rule city, by lawfully authorized official action, requests the state transportation department to prohibit or restrict parking on a state trunk line highway; or when the home rule city enters into a construction agreement with the state transportation department providing for the prohibition or restriction of parking on a state trunk line highway during or after the period of construction. Traffic control orders, so long as they affect parking upon a state trunk line highway within the corporate limits of a home rule city, are considered "rules" within the meaning of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and upon application for a hearing by a home rule city, the proceedings before the state transportation commission shall be considered a "contested case" within the meaning of that act.

(5) A disabled person may apply, on a form prescribed by the secretary of state, for a serially numbered nontransferable temporary or permanent windshield placard for the personal use of the disabled person. An individual who has a religious objection to having a medical examination may personally apply at a branch office of the secretary of state for a serially numbered nontransferable temporary or permanent windshield placard for the personal use of the disabled individual. If it appears obvious that the individual has a qualifying disability, the individual shall not be required to present a medical statement attesting to the disability. The application for and the issuance of the serially numbered

nontransferable temporary or permanent windshield placard is subject to all of the following:

(a) The secretary of state may issue to a disabled person with a temporary disability a temporary windshield placard that is valid for a period of not more than 6 months.

(b) The secretary of state may issue to a disabled person with a permanent disability an original or renewal permanent windshield placard that is valid for at least 4 years.

(c) An original certificate of identification or permanent windshield placard shall expire on the disabled person's fifth birthday after the date of issuance.

(d) A renewal permanent windshield placard shall expire on the disabled person's fourth birthday after the date of renewal.

(e) A person holding a certificate of identification or permanent windshield placard at any time within 45 days before the expiration of his or her certificate or placard may make application for a new or renewal placard as provided for in this section. However, if the person will be out of state during the 45 days immediately preceding expiration of the certificate or placard or for other good cause shown cannot apply for a placard within the 45-day period, application for a new or renewal placard may be made not more than 6 months before expiration of the certificate or placard. A placard issued or renewed under this subdivision shall expire as provided for in this subsection.

(f) Upon application in the manner prescribed by the secretary of state for replacement of a lost, stolen, or destroyed certificate or placard described in this section, a disabled person or organization that provides specialized services to disabled persons may be issued a placard that in substance duplicates the original certificate or placard for a fee of $10.00.

(g) A certificate or placard described in this section may be used by a person other than the disabled person for the sole purpose of transporting the disabled person. An organization that provides specialized services to disabled persons may apply for and receive a permanent windshield placard to be used in any motor vehicle actually transporting a disabled person. If the organization ceases to transport disabled persons, the placard shall be returned to the secretary of state for cancellation and destruction.

(6) A disabled person with a certificate of identification, windshield placard, special registration plates issued under section 803d, a special registration plate issued under section 803f that has a tab for persons with disabilities attached, a certificate of identification or windshield placard from another state, or special registration plates from another state issued for persons with disabilities is entitled to courtesy in the parking of a vehicle. The courtesy shall relieve the disabled person or the person transporting the disabled person from liability for a violation with respect to parking, other than in violation of this act. A local authority may by ordinance prohibit parking on a street or highway to create a fire lane or to provide for the accommodation of heavy traffic during morning and afternoon rush hours, and the privileges extending to veterans and physically disabled persons under this subsection do not supersede that ordinance.

(7) Except as otherwise provided in subsection (24), an application for an initial free parking sticker shall contain a certification by a physician or physician assistant licensed to practice in this state attesting to the nature and estimated duration of the applicant's disabling condition and verifying that the applicant qualifies for a free parking sticker. An individual who has a religious objection to having a medical examination may personally apply at a branch office of the secretary of state for an initial free parking sticker. If it appears obvious that the individual is unable to do 1 or more of the acts listed in subdivisions (a) to (d), the individual shall not be required to present a certification by a physician or a physician assistant attesting to the nature and estimated duration of the

applicant's disabling condition or verifying that the applicant qualifies for a free parking sticker. The applicant qualifies for a free parking sticker if the applicant is a licensed driver and the physician or physician assistant certifies or, if an individual is not required to have a certification by a physician or a physician assistant, it is obvious that the applicant is unable to do 1 or more of the following:

(a) Manage, manipulate, or insert coins, or obtain tickets or tokens in parking meters or ticket machines in parking lots or parking structures, due to the lack of fine motor control of both hands.

(b) Reach above his or her head to a height of 42 inches from the ground, due to a lack of finger, hand, or upper extremity strength or mobility.

(c) Approach a parking meter due to his or her use of a wheelchair or other device.

(d) Walk more than 20 feet due to an orthopedic, neurological, cardiovascular, or lung condition in which the degree of debilitation is so severe that it almost completely impedes the ability to walk.

(8) To be entitled to free parking in a metered space or in a publicly owned parking structure or area, a vehicle must properly display 1 of the following:

(a) A windshield placard bearing a free parking sticker issued pursuant to this act.

(b) A valid certificate of identification issued before October 1, 1994.

(c) A valid windshield placard issued by another state.

(d) A certificate of identification issued by another state.

(e) A license plate for persons with disabilities issued by another state.

(f) A special registration plate with a tab for persons with disabilities attached issued by another state.

(9) A vehicle that does not properly display 1 of the items listed in subsection (8) is not entitled to free parking in a metered parking space or in a publicly owned parking area or structure, and the disabled person or vehicle operator shall pay all parking fees and may be responsible for a civil infraction.

(10) Blindness that is not accompanied by an incapacity described in subsection (7) does not entitle a person to a free parking sticker.

(11) The secretary of state shall attach a free parking sticker, in contrasting colors, to the windshield placard of a person certified as having an incapacity described in subsection (7).

(12) A windshield placard issued under this section shall be displayed on the interior rearview mirror of the vehicle or, if there is no interior rearview mirror, on the lower left corner of the dashboard while the vehicle is parked or being parked by or under the direction of a disabled person pursuant to this section.

(13) A certificate of identification issued before February 11, 1992 shall be displayed on the lower left corner of the dashboard of the parked vehicle.

(14) Upon conviction of an offense involving a violation of the special privileges conferred upon a holder of a certificate of identification, windshield placard, or free parking sticker, a magistrate or judge trying the case, as a part of any penalty imposed, may confiscate the serially numbered certificate of identification, windshield placard, or free parking sticker and return the confiscated item or items to the secretary of state together with a certified copy of the sentence imposed. Upon receipt of a certificate of identification, windshield placard, or free parking sticker from a judge or magistrate, the secretary of state shall cancel and destroy the certificate, placard, or sticker, and the disabled person to whom it was issued shall not receive another certificate, placard, or sticker until

he or she submits a completed application and presents a current medical statement attesting to his or her condition. A law enforcement officer who observes a misuse of a certificate of identification, windshield placard, or free parking sticker may immediately confiscate the certificate, placard, or sticker and forward it with a copy of his or her report to the secretary of state.

(15) A person who intentionally makes a false statement of material fact or commits or attempts to commit a deception or fraud on a medical statement attesting to a disability, submitted in support of an application for a certificate of identification, windshield placard, free parking sticker, special registration plate, or tab for persons with disabilities under this section, section 803d, or section 803f, is guilty of a misdemeanor, punishable by a fine of not more than $500.00 or imprisonment for not more than 30 days, or both.

(16) A person who commits or attempts to commit a deception or fraud by 1 or more of the following methods is guilty of a misdemeanor punishable by a fine of not more than $500.00 or imprisonment for not more than 30 days, or both:

(a) Using a certificate of identification, windshield placard, or free parking sticker issued under this section or by another state to provide transportation to a disabled person, when the person is not providing transportation to a disabled person.

(b) Altering, modifying, or selling a certificate of identification, windshield placard, or free parking sticker issued under this section or by another state.

(c) Copying or forging a certificate of identification, windshield placard, or free parking sticker described in this section or selling a copied or forged certificate, placard, or sticker described in this section. In the case of a violation of this subdivision, the fine described in this subsection shall be not less than $250.00.

(d) Using a copied or forged certificate of identification, windshield placard, or free parking sticker described in this section.

(e) Making a false statement of material fact to obtain or assist an individual in obtaining a certificate, placard, or sticker described in this section, a special registration plate under section 803d, or a tab for persons with disabilities under section 803f.

(f) Knowingly using or displaying a certificate, placard, or sticker described in this section that has been canceled by the secretary of state.

(17) Except as otherwise provided in this section, a person who violates this section is responsible for a civil infraction.

(18) A certificate of identification issued before October 1, 1994 and containing an expiration date is valid for free parking in a space controlled or regulated by a meter on a public highway or in a publicly owned parking area or structure when the time for parking indicated on the meter has expired, or in a parking space clearly identified by an official sign as being reserved for use by disabled persons that is on public property or private property available for public use, until the expiration date printed on the certificate. The certificate expires and shall be canceled on its expiration date.

(19) A certificate of identification issued before October 1, 1994 that does not contain an expiration date expires and shall be canceled on October 1, 1994.

(20) A certificate of identification shall not be issued or renewed by the secretary of state after October 1, 1994.

(21) The secretary of state may cancel, revoke, or suspend a windshield placard, free parking sticker, or certificate of identification under any of the following circumstances:

(a) The secretary of state determines that a windshield placard, free parking sticker, or certificate of identification was fraudulently or erroneously issued.

(b) The secretary of state determines that a person has made or is making an unlawful use of his or her windshield placard, free parking sticker, or certificate of identification.

(c) The secretary of state determines that a check or draft used to pay the required fee is not paid on its first presentation and is not paid upon reasonable notice or demand or that the required fee is paid by an invalid credit card.

(d) The secretary of state determines that the person is no longer eligible to receive or use a windshield placard, free parking sticker, or certificate of identification.

(e) The secretary of state determines that the owner has committed an offense under this act involving a windshield placard, free parking sticker, or certificate of identification.

(f) A person has violated this act and the secretary of state is authorized under this act to cancel, revoke, or suspend a windshield placard, free parking sticker, or certificate of identification for that violation.

(g) The secretary of state receives notice from another state or foreign country that a windshield placard, free parking sticker, or certificate of identification issued by the secretary of state has been surrendered by the owner or seized in conformity with the laws of that other state or foreign country, or has been improperly used or displayed in violation of the laws of that other state or foreign country.

(22) Before a cancellation, revocation, or suspension under subsection (21), the person affected thereby shall be given notice and an opportunity to be heard.

(23) A windshield placard issued to a disabled person shall bear the disabled person's driver's or chauffeur's license number or the number on his or her official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(24) For purposes of this section only, the secretary of state may accept an application for a windshield placard, special registration plate, or free parking sticker from a disabled person that is signed by a physician or physician assistant licensed to practice in another state if the application is accompanied by a copy of that physician's or physician assistant's current medical license issued by that state.

This act is ordered to take immediate effect.
Approved December 21, 2002.
Filed with Secretary of State December 23, 2002.

[No. 619]

(SB 1436)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of

health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 22203, 22205, 22207, 22209, 22211, 22213, 22215, 22221, 22226, 22230, 22231, 22235, 22239, 22241, 22247, 22255, and 22260 (MCL 333.22203, 333.22205, 333.22207, 333.22209, 333.22211, 333.22213, 333.22215, 333.22221, 333.22226, 333.22230, 333.22231, 333.22235, 333.22239, 333.22241, 333.22247, 333.22255, and 333.22260), sections 22203, 22207, 22209, 22213, 22215, 22221, 22231, 22239, 22241, 22247, and 22260 as amended by 1993 PA 88, section 22205 as amended by 2000 PA 253, sections 22211, 22230, 22235, and 22255 as added by 1988 PA 332, and section 22226 as added by 1988 PA 331, and by adding sections 22219 and 22224a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

333.22203 Definitions; A to F.

Sec. 22203. (1) "Addition" means adding patient rooms, beds, and ancillary service areas, including, but not limited to, procedure rooms or fixed equipment, surgical operating rooms, therapy rooms or fixed equipment, or other accommodations to a health facility.

(2) "Capital expenditure" means an expenditure for a single project, including cost of construction, engineering, and equipment that under generally accepted accounting principles is not properly chargeable as an expense of operation. Capital expenditure includes a lease or comparable arrangement by or on behalf of a health facility to obtain a health facility, licensed part of a health facility, or equipment for a health facility, if the actual purchase of a health facility, licensed part of a health facility, or equipment for a health facility would have been considered a capital expenditure under this part. Capital expenditure includes the cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, addition, conversion, modernization, new construction, or replacement of physical plant and equipment.

(3) "Certificate of need" means a certificate issued under this part authorizing a new health facility, a change in bed capacity, the initiation, replacement, or expansion of a covered clinical service, or a covered capital expenditure that is issued in accordance with this part.

(4) "Certificate of need review standard" or "review standard" means a standard approved by the commission.

(5) "Change in bed capacity" means 1 or more of the following:

(a) An increase in licensed hospital beds.

(b) An increase in licensed nursing home beds or hospital beds certified for long-term care.

(c) An increase in licensed psychiatric beds.

(d) A change from 1 licensed use to a different licensed use.

(e) The physical relocation of beds from a licensed site to another geographic location.

(6) "Clinical" means directly pertaining to the diagnosis, treatment, or rehabilitation of an individual.

(7) "Clinical service area" means an area of a health facility, including related corridors, equipment rooms, ancillary service and support areas that house medical equipment, patient rooms, patient beds, diagnostic, operating, therapy, or treatment rooms or other accommodations related to the diagnosis, treatment, or rehabilitation of individuals receiving services from the health facility.

(8) "Commission" means the certificate of need commission created under section 22211.

(9) "Covered capital expenditure" means a capital expenditure of $2,500,000.00 or more, as adjusted annually by the department under section 22221(g), by a person for a health facility for a single project, excluding the cost of nonfixed medical equipment, that includes or involves the acquisition, improvement, expansion, addition, conversion, modernization, new construction, or replacement of a clinical service area.

(10) "Covered clinical service", except as modified by the commission under section 22215, means 1 or more of the following:

(a) Initiation or expansion of 1 or more of the following services:

(*i*) Neonatal intensive care services or special newborn nursing services.

(*ii*) Open heart surgery.

(*iii*) Extrarenal organ transplantation.

(b) Initiation, replacement, or expansion of 1 or more of the following services:

(*i*) Extracorporeal shock wave lithotripsy.

(*ii*) Megavoltage radiation therapy.

(*iii*) Positron emission tomography.

(*iv*) Surgical services provided in a freestanding surgical outpatient facility, an ambulatory surgery center certified under title XVIII, or a surgical department of a hospital licensed under part 215 and offering inpatient or outpatient surgical services.

(*v*) Cardiac catheterization.

(*vi*) Fixed and mobile magnetic resonance imager services.

(*vii*) Fixed and mobile computerized tomography scanner services.

(*viii*) Air ambulance services.

(c) Initiation or expansion of a specialized psychiatric program for children and adolescent patients utilizing licensed psychiatric beds.

(d) Initiation, replacement, or expansion of a service not listed in this subsection, but designated as a covered clinical service by the commission under section 22215(1)(a).

(11) "Fixed equipment" means equipment that is affixed to and constitutes a structural component of a health facility, including, but not limited to, mechanical or electrical systems, elevators, generators, pumps, boilers, and refrigeration equipment.

333.22205 Definitions; H to M.

Sec. 22205. (1) "Health facility", except as otherwise provided in subsection (2), means:

(a) A hospital licensed under part 215.

(b) A psychiatric hospital or psychiatric unit licensed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(c) A nursing home licensed under part 217 or a hospital long-term care unit as defined in section 20106(6).

(d) A freestanding surgical outpatient facility licensed under part 208.

(e) A health maintenance organization issued a license or certificate of authority in this state.

(2) "Health facility" does not include the following:

(a) An institution conducted by and for the adherents of a church or religious denomination for the purpose of providing facilities for the care and treatment of the sick who depend solely upon spiritual means through prayer for healing.

(b) A health facility or agency located in a correctional institution.

(c) A veterans facility operated by the state or federal government.

(d) A facility owned and operated by the department of community health.

(3) "Initiate" means the offering of a covered clinical service that has not been offered in compliance with this part or former part 221 on a regular basis at that location within the 12-month period immediately preceding the date the covered clinical service will be offered.

(4) "Medical equipment" means a single equipment component or a related system of components that is used for clinical purposes.

333.22207 Definitions; M to S.

Sec. 22207. (1) "Medicaid" means the program for medical assistance administered by the department of community health under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

(2) "Modernization" means an upgrading, alteration, or change in function of a part or all of the physical plant of a health facility. Modernization includes, but is not limited to, the alteration, repair, remodeling, and renovation of an existing building and initial fixed equipment and the replacement of obsolete fixed equipment in an existing building. Modernization of the physical plant does not include normal maintenance and operational expenses.

(3) "New construction" means construction of a health facility where a health facility does not exist or construction replacing or expanding an existing health facility or a part of an existing health facility.

(4) "Person" means a person as defined in section 1106 or a governmental entity.

(5) "Planning area" means the area defined in a certificate of need review standard for determining the need for, and the resource allocation of, a specific health facility, service, or equipment. Planning area includes, but is not limited to, the state, a health facility service area, or a health service area or subarea within the state.

(6) "Proposed project" means a proposal to acquire an existing health facility or begin operation of a new health facility, make a change in bed capacity, initiate, replace, or expand a covered clinical service, or make a covered capital expenditure.

(7) "Rural county" means a county not located in a metropolitan statistical area or micropolitan statistical areas as those terms are defined under the "standards for defining metropolitan and micropolitan statistical areas" by the statistical policy office of the office of information and regulatory affairs of the United States office of management and budget, 65 F.R. p. 82238 (December 27, 2000).

(8) "Stipulation" means a requirement that is germane to the proposed project and has been agreed to by an applicant as a condition of certificate of need approval.

333.22209 Activities requiring certificate of need; exceptions; requirements; acquisition of existing health facility; relocation; "sharing agreement" defined.

Sec. 22209. (1) Except as otherwise provided in this part, a person shall not do any of the following without first obtaining a certificate of need:

(a) Acquire an existing health facility or begin operation of a health facility at a site that is not currently licensed for that type of health facility.

(b) Make a change in the bed capacity of a health facility.

(c) Initiate, replace, or expand a covered clinical service.

(d) Make a covered capital expenditure.

(2) A certificate of need is not required for a reduction in licensed bed capacity or services at a licensed site.

(3) Subject to subsection (9) and if the relocation does not result in an increase of licensed beds within that health service area, a certificate of need is not required for any of the following:

(a) The physical relocation of licensed beds from a hospital site licensed under part 215 to another hospital site licensed under the same license as the hospital seeking to transfer the beds if both hospitals are located within a 2-mile radius of each other.

(b) Subject to subsections (7) and (8), the physical relocation of licensed beds from a hospital licensed under part 215 to a freestanding surgical outpatient facility licensed under part 208 if that freestanding surgical outpatient facility satisfies each of the following criteria on December 2, 2002:

(*i*) Is owned by, is under common control of, or has as a common parent the hospital seeking to relocate its licensed beds.

(*ii*) Was licensed prior to January 1, 2002.

(*iii*) Provides 24-hour emergency care services at that site.

(*iv*) Provides at least 4 different covered clinical services at that site.

(c) Subject to subsections (7) and (8), the physical relocation of licensed beds from a hospital licensed under part 215 to another hospital licensed under part 215 within the same health service area if the hospital receiving the licensed beds is owned by, is under common control of, or has as a common parent the hospital seeking to relocate its licensed beds.

(4) Subject to subsection (5), a hospital licensed under part 215 is not required to obtain a certificate of need to provide 1 or more of the covered clinical services listed in section 22203(10) in a federal veterans health care facility or to use long-term care unit beds or acute care beds that are owned and located in a federal veterans health care facility if the hospital satisfies each of the following criteria:

(a) The hospital has an active affiliation or sharing agreement with the federal veterans health care facility.

(b) The hospital has physicians who have faculty appointments at the federal veterans health care facility or has an affiliation with a medical school that is affiliated with a federal veterans health care facility and has physicians who have faculty appointments at the federal veterans health care facility.

(c) The hospital has an active grant or agreement with the state or federal government to provide 1 or more of the following functions relating to bioterrorism:

(*i*) Education.

(*ii*) Patient care.

(*iii*) Research.

(*iv*) Training.

(5) A hospital that provides 1 or more covered clinical services in a federal veterans health care facility or uses long-term care unit beds or acute care beds located in a federal veterans health care facility under subsection (4) may not utilize procedures performed at

the federal veterans health care facility to demonstrate need or to satisfy a certificate of need review standard unless the covered clinical service provided at the federal veterans health care facility was provided under a certificate of need.

(6) If a hospital licensed under part 215 had fewer than 70 licensed beds on December 1, 2002, that hospital is not required to satisfy the minimum volume requirements under the certificate of need review standards for its existing operating rooms as long as those operating rooms continue to exist at that licensed hospital site.

(7) Before relocating beds under subsection (3)(b), the hospital seeking to relocate its beds shall provide the information requested by the department of consumer and industry services that will allow the department of consumer and industry services to verify the number of licensed beds that were staffed and available for patient care at that hospital as of December 2, 2002. A hospital shall transfer no more than 35% of its licensed beds to another hospital or freestanding surgical outpatient facility under subsection (3)(b) or (c) not more than 1 time after the effective date of the amendatory act that added this subsection if the hospital seeking to relocate its licensed beds or another hospital owned by, under common control of, or having as a common parent the hospital seeking to relocate its licensed beds is located in a city that has a population of 750,000 or more.

(8) The licensed beds relocated under subsection (3)(b) or (c) shall not be included as new beds in a hospital or as a new hospital under the certificate of need review standards for hospital beds. One of every 2 beds transferred under subsection (3)(b) up to a maximum of 100 shall be beds that were staffed and available for patient care as of December 2, 2002. A hospital relocating beds under subsection (3)(b) shall not reactivate licensed beds within that hospital that were unstaffed or unavailable for patient care on December 2, 2002 for a period of 5 years after the date of the relocation of the licensed beds under subsection (3)(b).

(9) No licensed beds shall be physically relocated under subsection (3) if 7 or more members of the commission, after the appointment and confirmation of the 6 additional commission members under section 22211 but before June 15, 2003, determine that relocation of licensed beds under subsection (3) may cause great harm and detriment to the access and delivery of health care to the public and the relocation of beds should not occur without a certificate of need.

(10) An applicant seeking a certificate of need for the acquisition of an existing health facility may file a single, consolidated application for the certificate of need if the project results in the acquisition of an existing health facility but does not result in an increase or relocation of licensed beds or the initiation, expansion, or replacement of a covered clinical service. Except as otherwise provided in this subsection, a person acquiring an existing health facility is subject to the applicable certificate of need review standards in effect on the date of the transfer for the covered clinical services provided by the acquired health facility. The department may except 1 or more of the covered clinical services listed in section 22203(10)(b), except the covered clinical service listed in section 22203(10)(b)(*iv*), from the minimum volume requirements in the applicable certificate of need review standards in effect on the date of the transfer, if the equipment used in the covered clinical service is unable to meet the minimum volume requirements due to the technological incapacity of the equipment. A covered clinical service excepted by the department under this subsection is subject to all the other provisions in the applicable certificate of need review standards in effect on the date of the transfer, except minimum volume requirements.

(11) An applicant seeking a certificate of need for the relocation or replacement of an existing health facility may file a single, consolidated application for the certificate of need if the project does not result in an increase of licensed beds or the initiation, expansion, or

replacement of a covered clinical service. A person relocating or replacing an existing health facility is subject to the applicable certificate of need review standards in effect on the date of the relocation or replacement of the health facility.

(12) As used in this section, "sharing agreement" means a written agreement between a federal veterans health care facility and a hospital licensed under part 215 for the use of the federal veterans health care facility's beds or equipment, or both, to provide covered clinical services.

333.22211 Certificate of need commission; creation; appointment, qualifications, and terms of members; vacancy; laws to which commission members subject.

Sec. 22211. (1) The certificate of need commission is created in the department. The commission shall consist of 11 members appointed by the governor with the advice and consent of the senate. The governor shall not appoint more than 6 members from the same major political party and shall appoint 5 members from another major political party. The members constituting the commission on the day before the effective date of the amendatory act that added subdivision (a) shall serve on the commission for the remainder of their terms. On the expiration of the term of each member constituting the commission on the day before the effective date of the amendatory act that added subdivision (a), the governor shall appoint a successor as required under this section in accordance with subdivisions (f), (g), (h), (i), and (j) and in that order. Of the additional members, the governor, within 30 days after the effective date of the amendatory act that added subdivision (a), shall appoint 6 additional members to the commission as required under subdivisions (a), (b), (c), (d), and (e). The commission shall consist of the following 11 members:

(a) Two individuals representing hospitals.

(b) One individual representing physicians licensed under part 170 to engage in the practice of medicine.

(c) One individual representing physicians licensed under part 175 to engage in the practice of osteopathic medicine and surgery.

(d) One individual who is a physician licensed under part 170 or 175 representing a school of medicine or osteopathic medicine.

(e) One individual representing nursing homes.

(f) One individual representing nurses.

(g) One individual representing a company that is self-insured for health coverage.

(h) One individual representing a company that is not self-insured for health coverage.

(i) One individual representing a nonprofit health care corporation operating pursuant to the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1703.

(j) One individual representing organized labor unions in this state.

(2) In making appointments, the governor shall, to the extent feasible, assure that the membership of the commission is broadly representative of the interests of all of the people of this state and of the various geographic regions.

(3) A member of the commission shall serve for a term of 3 years or until a successor is appointed. Of the 6 members appointed within 30 days after the effective date of the amendatory act that added subsection (1)(a), 2 of the members shall be appointed for a term of 1 year, 2 of the members shall be appointed for a term of 2 years, and 2 of the members shall be appointed for a term of 3 years. A vacancy on the commission shall be

filled for the remainder of the unexpired term in the same manner as the original appointment.

(4) Commission members are subject to the following:

(a) 1968 PA 317, MCL 15.321 to 15.330.

(b) 1973 PA 196, MCL 15.341 to 15.348.

(c) 1978 PA 472, MCL 4.411 to 4.431.

333.22213 Commission; bylaws; removal of member; election of chairperson and vice-chairperson; meetings; quorum; final action; compensation and expenses; duties of department; professional employees.

Sec. 22213. (1) The commission shall, within 2 months after appointment and confirmation of all members, adopt bylaws for the operation of the commission. The bylaws shall include, at a minimum, voting procedures that protect against conflict of interest and minimum requirements for attendance at meetings.

(2) The governor may remove a commission member from office for failure to attend 3 consecutive meetings in a 1-year period.

(3) The commission annually shall elect a chairperson and vice-chairperson.

(4) The commission shall hold regular quarterly meetings at places and on dates fixed by the commission. Special meetings may be called by the chairperson, by not less than 3 commission members, or by the department.

(5) A majority of the commission members appointed and serving constitutes a quorum. Final action by the commission shall be only by affirmative vote of a majority of the commission members appointed and serving. A commission member shall not vote by proxy.

(6) The legislature annually shall fix the per diem compensation of members of the commission. Expenses of members incurred in the performance of official duties shall be reimbursed as provided in section 1216.

(7) The department shall furnish administrative services to the commission, shall have charge of the commission's offices, records, and accounts, and shall provide at least 2 full-time administrative employees, secretarial staff, and other staff necessary to allow the proper exercise of the powers and duties of the commission. The department shall make available the times and places of commission meetings and keep minutes of the meetings and a record of the actions of the commission. The department shall make available a brief summary of the actions taken by the commission.

(8) The department shall assign at least 2 full-time professional employees to staff the commission to assist the commission in the performance of its substantive responsibilities under this part.

333.22215 Duties of commission; purpose; public hearing before final action; submission of proposed final action to joint committee; approval or disapproval; review standards; revision of fees.

Sec. 22215. (1) The commission shall do all of the following:

(a) If determined necessary by the commission, revise, add to, or delete 1 or more of the covered clinical services listed in section 22203. If the commission proposes to add to the covered clinical services listed in section 22203, the commission shall develop proposed review standards and make the review standards available to the public not less than 30 days before conducting a hearing under subsection (3).

(b) Develop, approve, disapprove, or revise certificate of need review standards that establish for purposes of section 22225 the need, if any, for the initiation, replacement, or expansion of covered clinical services, the acquisition or beginning the operation of a health facility, making changes in bed capacity, or making covered capital expenditures, including conditions, standards, assurances, or information that must be met, demonstrated, or provided by a person who applies for a certificate of need. A certificate of need review standard may also establish ongoing quality assurance requirements including any or all of the requirements specified in section 22225(2)(c). Except for nursing home and hospital long-term care unit bed review standards, by January 1, 2004, the commission shall revise all certificate of need review standards to include a requirement that each applicant participate in title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and 1396r-8 to 1396v.

(c) Direct the department to prepare and submit recommendations regarding commission duties and functions that are of interest to the commission including, but not limited to, specific modifications of proposed actions considered under this section.

(d) Approve, disapprove, or revise proposed criteria for determining health facility viability under section 22225.

(e) Annually assess the operations and effectiveness of the certificate of need program based on periodic reports from the department and other information available to the commission.

(f) By January 1, 2005, and every 2 years thereafter, make recommendations to the joint committee regarding statutory changes to improve or eliminate the certificate of need program.

(g) Upon submission by the department approve, disapprove, or revise standards to be used by the department in designating a regional certificate of need review agency, pursuant to section 22226.

(h) Develop, approve, disapprove, or revise certificate of need review standards governing the acquisition of new technology.

(i) In accordance with section 22255, approve, disapprove, or revise proposed procedural rules for the certificate of need program.

(j) Consider the recommendations of the department and the department of attorney general as to the administrative feasibility and legality of proposed actions under subdivisions (a), (b), and (c).

(k) Consider the impact of a proposed restriction on the acquisition of or availability of covered clinical services on the quality, availability, and cost of health services in this state.

(*l*) If the commission determines it necessary, appoint standard advisory committees to assist in the development of proposed certificate of need review standards. A standard advisory committee shall complete its duties under this subdivision and submit its recommendations to the commission within 6 months unless a shorter period of time is specified by the commission when the standard advisory committee is appointed. An individual shall serve on no more than 2 standard advisory committees in any 2-year period. The composition of a standard advisory committee shall not include a lobbyist registered under 1978 PA 472, MCL 4.411 to 4.431, but shall include all of the following:

(*i*) Experts with professional competence in the subject matter of the proposed standard, who shall constitute a 2/3 majority of the standard advisory committee.

(*ii*) Representatives of health care provider organizations concerned with licensed health facilities or licensed health professions.

(*iii*) Representatives of organizations concerned with health care consumers and the purchasers and payers of health care services.

(m) In addition to subdivision (b), review and, if necessary, revise each set of certificate of need review standards at least every 3 years.

(n) If a standard advisory committee is not appointed by the commission and the commission determines it necessary, submit a request to the department to engage the services of private consultants or request the department to contract with any private organization for professional and technical assistance and advice or other services to assist the commission in carrying out its duties and functions under this part.

(o) Within 6 months after the appointment and confirmation of the 6 additional commission members under section 22211, develop, approve, or revise certificate of need review standards governing the increase of licensed beds in a hospital licensed under part 215, the physical relocation of hospital beds from 1 licensed site to another geographic location, and the replacement of beds in a hospital licensed under part 215.

(2) The commission shall exercise its duties under this part to promote and assure all of the following:

(a) The availability and accessibility of quality health services at a reasonable cost and within a reasonable geographic proximity for all people in this state.

(b) Appropriate differential consideration of the health care needs of residents in rural counties in ways that do not compromise the quality and affordability of health care services for those residents.

(3) Not less than 30 days before final action is taken by the commission under subsection (1)(a), (b), (d), (h), or (o), the commission shall conduct a public hearing on its proposed action. In addition, not less than 30 days before final action is taken by the commission under subsection (1)(a), (b), (d), (h), or (o), the commission chairperson shall submit the proposed action and a concise summary of the expected impact of the proposed action for comment to each member of the joint committee. The commission shall inform the joint committee of the date, time, and location of the next meeting regarding the proposed action. The joint committee shall promptly review the proposed action and submit its recommendations and concerns to the commission.

(4) The commission chairperson shall submit the proposed final action including a concise summary of the expected impact of the proposed final action to the governor and each member of the joint committee. The governor or the legislature may disapprove the proposed final action within 45 days after the date of submission. If the proposed final action is not submitted on a legislative session day, the 45 days commence on the first legislative session day after the proposed final action is submitted. The 45 days shall include not less than 9 legislative session days. Legislative disapproval shall be expressed by concurrent resolution which shall be adopted by each house of the legislature. The concurrent resolution shall state specific objections to the proposed final action. A proposed final action by the commission under subsection (1)(a), (b), (d), (h), or (o) is not effective if it has been disapproved under this subsection. If the proposed final action is not disapproved under this subsection, it is effective and binding on all persons affected by this part upon the expiration of the 45-day period or on a later date specified in the proposed final action. As used in this subsection, "legislative session day" means each day in which a quorum of either the house of representatives or the senate, following a call to order, officially convenes in Lansing to conduct legislative business.

(5) The commission shall not develop, approve, or revise a certificate of need review standard that requires the payment of money or goods or the provision of services

unrelated to the proposed project as a condition that must be satisfied by a person seeking a certificate of need for the initiation, replacement, or expansion of covered clinical services, the acquisition or beginning the operation of a health facility, making changes in bed capacity, or making covered capital expenditures. This subsection does not preclude a requirement that each applicant participate in title XIX of the social security act, chapter 531, 49 Stat. 620, 1396r-6 and 1396r-8 to 1396v, or a requirement that each applicant provide covered clinical services to all patients regardless of his or her ability to pay.

(6) If the reports received under section 22221(f) indicate that the certificate of need application fees collected under section 20161 have not been within 10% of 3/4 the cost to the department of implementing this part, the commission shall make recommendations regarding the revision of those fees so that the certificate of need application fees collected equal approximately 3/4 of the cost to the department of implementing this part.

(7) As used in this section, "joint committee" means the joint committee created under section 22219.

333.22219 Joint legislative committee.

Sec. 22219. (1) A joint legislative committee to focus on proposed actions of the commission regarding the certificate of need program and certificate of need standards and to review other certificate of need issues is created. The joint committee shall consist of 6 members as follows:

(a) The chairperson of the senate committee on health policy.

(b) The vice-chairperson of the senate committee on health policy.

(c) The minority vice-chairperson of the senate committee on health policy.

(d) The chairperson of the house of representatives committee on health policy.

(e) The vice-chairperson of the house of representatives committee on health policy.

(f) The minority vice-chairperson of the house of representatives committee on health policy.

(2) The joint committee shall be co-chaired by the chairperson of the senate committee on health policy and the chairperson of the house committee on health policy.

(3) The joint committee may administer oaths, subpoena witnesses, and examine the application, documentation, or other reports and papers of an applicant or any other person involved in a matter properly before the committee.

(4) The joint committee shall review the recommendations made by the commission under section 22215(6) regarding the revision of the certificate of need application fees and submit a written report to the legislature outlining the costs to the department to implement the program, the amount of fees collected, and its recommendation regarding the revision of those fees.

(5) The joint committee may develop a plan for the revision of the certificate of need program. If a plan is developed by the joint committee, the joint committee shall recommend to the legislature the appropriate statutory changes to implement the plan.

333.22221 Duties of department generally.

Sec. 22221. The department shall do all of the following:

(a) Subject to approval by the commission, promulgate rules to implement its powers and duties under this part.

(b) Report to the commission at least annually on the performance of the department's duties under this part.

(c) Develop proposed certificate of need review standards for submission to the commission.

(d) Administer and apply certificate of need review standards. In the review of certificate of need applications, the department shall consider relevant written communications from any person.

(e) Designate adequate staff or other resources to directly assist hospitals and nursing homes with less than 100 beds in the preparation of applications for certificates of need.

(f) By October 1, 2003, and annually thereafter, report to the commission regarding the costs to the department of implementing this part and the certificate of need application fees collected under section 20161 in the immediately preceding state fiscal year.

(g) Beginning January 1, 2003, annually adjust the $2,500,000.00 threshold set forth in section 22203(9) by an amount determined by the state treasurer to reflect the annual percentage change in the consumer price index, using data from the immediately preceding period of July 1 to June 30. As used in this subdivision, "consumer price index" means the most comprehensive index of consumer prices available for this state from the bureau of labor statistics of the United States department of labor.

(h) Annually review the application process, including all forms, reports, and other materials that are required to be submitted with the application. If needed to promote administrative efficiency, revise the forms, reports, and any other materials required with the application.

(i) Within 6 months after the effective date of the amendatory act that added this subdivision, create a consolidated application for a certificate of need for the relocation or replacement of an existing health facility.

(j) In consultation with the commission, define single project as it applies to capital expenditures.

333.22224a Magnetic resonance image units.

Sec. 22224a. (1) A person seeking to initiate, expand, replace, relocate, or acquire a fixed or mobile magnetic resonance imager service within a county that has a population of more than 160,000 but does not have at least 2 magnetic resonance imager units may file a letter of intent with the department prior to the initiation, expansion, replacement, relocation, or acquisition of a fixed or mobile magnetic resonance imager unit within that county instead of obtaining a certificate of need.

(2) Within 30 days after receiving the letter of intent, if the department verifies that the county has a population of more than 160,000 and that the county does not already have 2 magnetic resonance imager units, the department shall send a written acknowledgment to the person approving the initiation, expansion, replacement, relocation, or acquisition of a fixed or mobile magnetic resonance imager unit.

(3) A person shall not initiate, expand, replace, relocate, or acquire a fixed or mobile magnetic resonance imager unit under this section without a certificate of need unless that person receives a written acknowledgment of approval from the department under subsection (2).

(4) A person seeking to initiate, expand, replace, relocate, or acquire a fixed or mobile magnetic resonance imager service under this section shall be a nonprofit organization and shall demonstrate that the service shall be accessible to all patients regardless of his or her ability to pay and shall participate in title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-8 to 1396v.

333.22226 Regional certificate of need review agency; standards; designation of person for specific review area; requirements; duration and termination of agency; local certificate of need review agency; application or other information; review; recommendations; decision; convening consumers, providers, purchasers, or payers of health care; public hearing; meetings; "review area" defined.

Sec. 22226. (1) The commission shall develop standards for the designation by the department of a regional certificate of need review agency for each review area to develop advisory recommendations for proposed projects. The standards shall be based on the requirements for a regional certificate of review agency set forth in subsection (3).

(2) The department, with the concurrence of the commission, shall designate a person to be a regional certificate of need review agency for a specific review area, according to procedures approved by the commission, if the person meets the standards approved under subsection (1), and if a regional certificate of need review agency has not already been designated for that specific review area.

(3) A regional certificate of need review agency shall meet all of the following requirements:

(a) Be an independent nonprofit organization that is not a subsidiary of, or otherwise controlled by, any other person.

(b) Be governed by a board that is broadly representative of consumers, providers, payers, and purchasers of health care in the review area, with a majority of the board being consumers, payers, and purchasers of health care.

(c) Demonstrate a willingness and ability to conduct reviews of all proposed projects requiring a certificate of need that would be located within the review area served by the regional certificate of need review agency.

(d) Avoid conflict of interest in its review of all applications for a certificate of need.

(e) Provide data to the department to enable the department to evaluate the regional certificate of need review agency's performance. The data provided under this subdivision shall be reviewed at periodic meetings between the department and the regional certificate of need review agency.

(f) Not receive more than a designated proportion of its financial support from health facilities and health professionals, as determined by the commission.

(g) Meet other requirements established by the commission that are relevant to the functions of a regional certificate of need review agency, under this part.

(4) The designation of a regional certificate of need review agency shall be operative for a period of time approved by the commission, but not for more than 24 months. The designation of a regional certificate of need review agency may be terminated by the department with the concurrence of the commission at any time for noncompliance with the standards approved under subsection (1). In addition, the designation may be terminated by the regional certificate of need review agency upon the expiration of 60 days after the department receives written notice of the termination.

(5) A local certificate of need review agency that was designated pursuant to a designation agreement authorized under former section 22124 and effective on October 1, 1988 is designated as the regional certificate of need review agency for its review area until the expiration of 1 year after the date of final approval of the standards developed under subsection (1), unless the designation is terminated by either the department under subsection (4) or the regional certificate of need review agency before that time.

(6) A person applying for a certificate of need under this part shall simultaneously provide a copy of any letter of intent, application, or additional information required by the department to the regional certificate of need review agency designated by the department for the review area in which the proposed project would be located, unless the regional certificate of need review agency determines that it will not review the application or other information, and notifies both the applicant and the department in writing of its determination. The regional certificate of need review agency may review the application and submit its recommendations to the department. If the regional certificate of need review agency determines that it will not review the application, then the regional certificate of need review agency shall notify both the applicant and the department in writing of its determination. In developing its recommendations, the regional certificate of need review agency shall utilize the review procedures and time frames specified for regional certificate of need review agencies in the rules continued or promulgated under this part, and shall also utilize certificate of need review standards, statutory criteria, and forms identical to those used by the department.

(7) Before developing a proposed decision on an application, the department shall review the recommendations of the regional certificate of need review agency for the review area in which the proposed project would be located, if the recommendations are submitted to the department within the time frames required under subsection (6). If the director makes a final decision that is inconsistent with the recommendations of the regional certificate of need review agency, the department shall promptly provide the regional certificate of need review agency with a detailed statement of the reasons for the director's decision. The statement shall address each instance in which the director's decision is inconsistent with the recommendation of the regional certificate of need review agency regarding a specific certificate of need review standard or criterion.

(8) A regional certificate of need review agency may convene consumers, providers, purchasers, or payers of health care, or representatives of all of those groups, related to activities in its review area for the purpose of achieving the objectives of this part.

(9) Before developing a recommendation on a certificate of need application, a regional certificate of need review agency shall hold a public hearing on the proposed project. If the department determines that local interest merits a public hearing and a regional certificate of need review agency has not been designated for the review area in which the proposed project will be located, then the department shall hold a public hearing on the proposed project.

(10) A regional certificate of need review agency shall conduct all meetings regarding its activities for the purpose of achieving the objectives of this part in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(11) As used in this section, "review area" means a geographic area established for a health systems agency pursuant to former section 1511 of the public health service act, or a geographic area otherwise established by the commission for a regional certificate of need review agency.

333.22230 Participation in medicaid program as distinct criterion.

Sec. 22230. In evaluating applications for a health facility as defined under section 22205(1)(c) in a comparative review, the department shall include participation in title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v, as a distinct criterion, weighted as very important, and determine the degree to which an application meets this criterion based on the extent of participation in the medicaid program.

333.22231 Decision to grant or deny application for certificate of need; conditions; single decision for all applications; proposed decision; final decision; notice of reversal; hearing; judicial review; effect of exceeding time frames.

Sec. 22231. (1) The decision to grant or deny an application for a certificate of need shall be made by the director. A decision shall be proposed to the director by a bureau within the department designated by the director as responsible for the certificate of need program. A decision shall be in writing and shall indicate 1 of the following:

(a) Approval of the application.

(b) Disapproval of the application.

(c) Subject to subsection (2), approval of the application with conditions.

(d) If agreed to by the department and the applicant, approval of the application with stipulations.

(2) If an application is approved with conditions under subsection (1)(c), the conditions shall be explicit, shall be related to the proposed project or to the applicable provisions of this part, and shall specify a time, not to exceed 1 year after the date the decision is rendered, within which the conditions shall be met.

(3) If the department is conducting a comparative review, the director shall issue only 1 decision for all of the applications included in the comparative review.

(4) Before a final decision on an application is made, the bureau of the department designated by the director as responsible for the certificate of need program shall issue a proposed decision with specific findings of fact in support of the proposed decision with regard to each of the criteria listed in section 22225. The proposed decision also shall state with specificity the reasons and authority of the department for the proposed decision. The department shall transmit a copy of the proposed decision to the applicant.

(5) The proposed decision shall be submitted to the director on the same day the proposed decision is issued.

(6) If the proposed decision is other than an approval without conditions or stipulations, the director shall issue a final decision not later than 60 days after the date a proposed decision is submitted to the director unless the applicant has filed a request for a hearing on the proposed decision. If the proposed decision is an approval, the director shall issue a final decision not later than 5 days after the proposed decision is submitted to the director.

(7) The director shall review the proposed decision before a final decision is rendered.

(8) If a proposed decision is an approval, and if, upon review, the director reverses the proposed decision, the director immediately shall notify the applicant of the reversal. Within 15 days after receipt of the notice of reversal, the applicant may request a hearing under section 22232. After the hearing, the applicant may request the director to reconsider the reversal of the proposed decision, based on the results of the hearing.

(9) Within 30 days after the final decision of the director, the final decision of the director may be appealed only by the applicant and only on the record directly to the circuit court for the county where the applicant has its principal place of business in this state or the circuit court for Ingham county. Judicial review is governed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(10) If the department exceeds the time set forth in this section for other than good cause, as determined by the commission, upon the written request of an applicant, the department shall return to the applicant all of the certificate of need application fee paid by the applicant under section 20161.

333.22235 Waiver of law and procedural requirements and criteria for review; affidavit; emergency certificate of need.

Sec. 22235. (1) The department may waive otherwise applicable provisions of this part and procedural requirements and criteria for review upon a showing by the applicant, by affidavit, of all of the following:

(a) The necessity for immediate or temporary relief due to natural disaster, fire, unforeseen safety consideration, or other emergency circumstances.

(b) The serious adverse effect of delay on the applicant and the community that would be occasioned by compliance with the otherwise applicable requirements of this part and rules promulgated under this part.

(c) The lack of substantial change in facilities or services that existed before the emergency circumstances established under subdivision (a).

(d) The temporary nature of the construction of facilities or the services that will not preclude different disposition of longer term determinations in a subsequent application for a certificate of need not made under this section.

(2) The department may issue an emergency certificate of need after necessary and appropriate review. A record of the review shall be made, including copies of affidavits and other documentation. Findings and conclusions shall be made as to an application for an emergency certificate of need, whether the emergency certificate of need is issued or denied.

(3) An emergency certificate of need issued under this section is a final decision and the applicant is not required to submit a formal application for a second review. A certificate of need issued under this section may be subject to special limitations and restrictions, in regard to duration and right of extension or renewal and other factors, imposed by the department.

333.22239 Stipulation.

Sec. 22239. (1) If the certificate of need approval was based on a stipulation that the project would participate in title XIX and the project has not participated in title XIX for at least 12 consecutive months within the first 2 years of operation or continued to participate annually thereafter, the department shall revoke the certificate of need. A stipulation described in this section is germane to all health facility projects.

(2) The department shall monitor the participation in title XIX of each certificate of need applicant approved under this part. Except as otherwise provided in subsection (3), the department shall require each applicant to provide verification of participation in title XIX with its application and annually thereafter.

(3) The department shall not revoke or deny a certificate of need for a nursing home licensed under part 217 if that nursing home does not participate in title XIX on the effective date of the amendatory act that added this subsection but agrees to participate in title XIX if beds become available. This section does not prohibit a person from applying for and obtaining a certificate of need to acquire or begin operation of a nursing home that does not participate in title XIX.

333.22241 "New technology" defined; new technology review period; conditions to acquisition of new technology before end of review period; appointment, composition, and purpose of standing new medical technology advisory committee.

Sec. 22241. (1) For purposes of this section and section 22243, "new technology" means medical equipment that requires, but has not yet been granted, the approval of the federal food and drug administration for commercial use.

(2) The period ending 12 months after the date of federal food and drug administration approval of new technology for commercial use shall be considered the new technology review period. A person shall not acquire new technology before the end of a new technology review period, unless 1 of the following occurs:

(a) The department, with the concurrence of the commission, issues a public notice that the new technology will not be added to the list of covered medical equipment during the new technology review period. The notice may apply to specific new technology or classes of new technology.

(b) The person complies with the requirements of section 22243.

(c) The commission approves the addition of the new technology to the list of covered medical equipment, and the person obtains a certificate of need for that covered medical equipment.

(3) To assist in the identification of new medical technology or new medical services that may be appropriate for inclusion as a covered clinical service in the earliest possible stage of its development, the commission shall appoint a standing new medical technology advisory committee. A majority of the new medical technology advisory committee shall be representatives of health care provider organizations concerned with licensed health facilities or licensed health professions and other persons knowledgeable in medical technology. The commission also shall appoint representatives of health care consumer, purchaser, and third party payer organizations to the committee. The commission shall also appoint faculty members from schools of medicine, osteopathy, and nursing in this state.

333.22247 Monitoring compliance with certificates of need; investigating allegations of noncompliance; violation; sanctions; refund of charges.

Sec. 22247. (1) The department shall monitor compliance with all certificates of need issued under this part and shall investigate allegations of noncompliance with a certificate of need or this part.

(2) If the department determines that the recipient of a certificate of need under this part is not in compliance with the terms of the certificate of need or that a person is in violation of this part or the rules promulgated under this part, the department shall do 1 or more of the following:

(a) Revoke or suspend the certificate of need.

(b) Impose a civil fine of not more than the amount of the billings for the services provided in violation of this part.

(c) Take any action authorized under this article for a violation of this article or a rule promulgated under this article, including, but not limited to, issuance of a compliance order under section 20162(5), whether or not the person is licensed under this article.

(d) Request enforcement action under section 22253.

(e) Take any other enforcement action authorized by this code.

(f) Publicize or report the violation or enforcement action, or both, to any person.

(g) Take any other action as determined appropriate by the department.

(3) A person shall not charge to, or collect from, another person or otherwise recover costs for services provided or for equipment or facilities that are acquired in violation of this part. If a person has violated this subsection, in addition to the sanctions provided under subsection (2), the person shall, upon request of the person from whom the charges were collected, refund those charges, either directly or through a credit on a subsequent bill.

333.22255 Procedural rules.

Sec. 22255. The department, with the approval of the commission, may promulgate procedural rules to implement this part.

333.22260 Reports of reviews; preparation and publication; statements; recommendations; public examination of applications and written materials on file; providing copies.

Sec. 22260. (1) The department shall prepare and publish monthly reports of reviews conducted under this part. The reports shall include a statement on the status of each pending review and a statement as to each review completed, including statements of the findings and decisions made in the course of the reviews since the last report, and the recommendations of regional certificate of need review agencies.

(2) The department shall make available to the public for examination during all business hours the applications received by them and pertinent written materials on file.

(3) The department, upon request, shall provide copies of an application or part of an application. The department may charge a reasonable fee for the copies.

Repeal of § 333.22217.

Enacting section 1. Section 22217 of the public health code, 1978 PA 368, MCL 333.22217, is repealed.

Approved December 21, 2002.
Filed with Secretary of State December 23, 2002.

[No. 620]

(SB 914)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending sections 2, 7u, 8, 14, 24, 24c, 34c, 35, 41, 57a, 58, 62, 63, 64, 66, 67, 70, 73, 73a, 73b, 75, 83, 85, 86, 87, 88, 90, 95, 96, 97, 98, 98a, 99, 101, 102, 103, 105, 113, 121, 122, 127b, 130, 135, 138, 139, and 144 (MCL 211.2, 211.7u, 211.8, 211.14, 211.24, 211.24c, 211.34c, 211.35, 211.41, 211.57a, 211.58, 211.62, 211.63, 211.64, 211.66, 211.67, 211.70, 211.73, 211.73a, 211.73b, 211.75, 211.83, 211.85, 211.86, 211.87, 211.88, 211.90, 211.95, 211.96, 211.97, 211.98, 211.98a, 211.99, 211.101, 211.102, 211.103, 211.105, 211.113, 211.121, 211.122, 211.127b, 211.130, 211.135, 211.138, 211.139, and

211.144), sections 2, 8, 14, and 34c as amended by 2000 PA 415, section 7u as amended by 1994 PA 390, section 24 as amended by 1994 PA 415, and section 24c as amended by 1996 PA 476.

The People of the State of Michigan enact:

211.2 Real property; definition; determination of taxable status; acquisition for public purposes by purchase or condemnation; responsibilities of parties in real estate transaction; "levy date" defined.

Sec. 2. (1) For the purpose of taxation, real property includes all of the following:

(a) All land within this state, all buildings and fixtures on the land, and all appurtenances to the land, except as expressly exempted by law.

(b) All real property owned by this state or purchased or condemned for public highway purposes by any board, officer, commission, or department of this state and sold on land contract, notwithstanding the fact that the deed has not been executed transferring title.

(c) For taxes levied after December 31, 2002, buildings and improvements located upon leased real property, except buildings and improvements exempt under section 9f or improvements assessable under section 8(h), if the value of the buildings or improvements is not otherwise included in the assessment of the real property. However, buildings and improvements located on leased real property shall not be treated as real property unless they would be treated as real property if they were located on real property owned by the taxpayer.

(2) The taxable status of persons and real and personal property for a tax year shall be determined as of each December 31 of the immediately preceding year, which is considered the tax day, any provisions in the charter of any city or village to the contrary notwithstanding. An assessing officer is not restricted to any particular period in the preparation of the assessment roll but may survey, examine, or review property at any time before or after the tax day.

(3) Notwithstanding a provision to the contrary in any law, if real property is acquired for public purposes by purchase or condemnation, all general property taxes, but not penalties, levied during the 12 months immediately preceding, but not including, the day title passes to the public agency shall be prorated in accordance with this subsection. The seller or condemnee is responsible for the portion of taxes from the levy date or dates to, but not including, the day title passes and the public agency is responsible for the remainder of the taxes. If the date that title will pass cannot be ascertained definitely and an agreement in advance to prorate taxes is desirable, an estimated date for the passage of title may be agreed to. In the absence of an agreement, the public agency shall compute the proration of taxes as of the date title passes. The question of proration of taxes shall not be considered in any condemnation proceeding. As used in this subsection, "levy date" means the day on which general property taxes become due and payable. In addition to the portion of taxes for which the public agency is responsible under the provisions of this subsection, the public agency is also responsible for all general property taxes levied on or after the date title passes and before the property is removed from the tax rolls.

(4) In a real estate transaction between private parties in the absence of an agreement to the contrary, the seller is responsible for that portion of the annual taxes levied during the 12 months immediately preceding, but not including, the day title passes, from the levy date or dates to, but not including, the day title passes and the buyer is responsible for the remainder of the annual taxes. As used in this subsection, "levy date" means the day on which a general property tax becomes due and payable.

211.7u Homestead of persons in poverty; exemption from taxation; applicability of section to property of corporation; eligibility for exemption; application; policy and guidelines to be used by local assessing unit; duties of board of review; appeal of property assessment; "homestead" defined.

Sec. 7u. (1) The homestead of persons who, in the judgment of the supervisor and board of review, by reason of poverty, are unable to contribute toward the public charges is eligible for exemption in whole or in part from taxation under this act. This section does not apply to the property of a corporation.

(2) To be eligible for exemption under this section, a person shall do all of the following on an annual basis:

(a) Be an owner of and occupy as a homestead the property for which an exemption is requested.

(b) File a claim with the supervisor or board of review on a form provided by the local assessing unit, accompanied by federal and state income tax returns for all persons residing in the homestead, including any property tax credit returns, filed in the immediately preceding year or in the current year. The filing of a claim under this subsection constitutes an appearance before the board of review for the purpose of preserving the claimant's right to appeal the decision of the board of review regarding the claim.

(c) Produce a valid driver's license or other form of identification if requested by the supervisor or board of review.

(d) Produce a deed, land contract, or other evidence of ownership of the property for which an exemption is requested if required by the supervisor or board of review.

(e) Meet the federal poverty guidelines updated annually in the federal register by the United States department of health and human services under authority of section 673 of subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9902, or alternative guidelines adopted by the governing body of the local assessing unit provided the alternative guidelines do not provide income eligibility requirements less than the federal guidelines.

(3) The application for an exemption under this section shall be filed after January 1 but before the day prior to the last day of the board of review.

(4) The governing body of the local assessing unit shall determine and make available to the public the policy and guidelines the local assessing unit uses for the granting of exemptions under this section. The guidelines shall include but not be limited to the specific income and asset levels of the claimant and total household income and assets.

(5) The board of review shall follow the policy and guidelines of the local assessing unit in granting or denying an exemption under this section unless the board of review determines there are substantial and compelling reasons why there should be a deviation from the policy and guidelines and the substantial and compelling reasons are communicated in writing to the claimant.

(6) A person who files a claim under this section is not prohibited from also appealing the assessment on the property for which that claim is made before the board of review in the same year.

(7) As used in this section, "homestead" means homestead or qualified agricultural property as those terms are defined in section 7dd.

211.8 Personal property; scope.

Sec. 8. For the purposes of taxation, personal property includes all of the following:

(a) All goods, chattels, and effects within this state.

(b) All goods, chattels, and effects belonging to inhabitants of this state, located without this state, except that property actually and permanently invested in business in another state shall not be included.

(c) All interests owned by individuals in real property, the fee title to which is in this state or the United States, except as otherwise provided in this act.

(d) For taxes levied before January 1, 2003, buildings and improvements located upon leased real property, except if the value of the real property is also assessed to the lessee or owner of those buildings and improvements. For taxes levied after December 31, 2002, buildings and improvements located upon leased real property, except buildings and improvements exempt under section 9f or improvements assessable under section 8(h), shall be assessed as real property under section 2 to the owner of the buildings or improvements in the local tax collecting unit in which the buildings or improvements are located if the value of the buildings or improvements is not otherwise included in the assessment of the real property. For taxes levied after December 31, 2001, buildings and improvements exempt under section 9f or improvements assessable under section 8(h) and located on leased real property shall be assessed as personal property.

(e) Tombs or vaults built within any burial grounds and kept for hire or rent, in whole or in part, and the stock of a corporation or association owning the tombs, vaults, or burial grounds.

(f) All other personal property not enumerated in this section and not especially exempted by law.

(g) The personal property of gas and coke companies, natural gas companies, electric light companies, waterworks companies, hydraulic companies, and pipe line companies transporting oil or gas as public or common carriers, to be assessed in the local tax collecting unit in which the personal property is located. The mains, pipes, supports, and wires of these companies, including the supports and wire or other line used for communication purposes in the operation of those facilities, and the rights of way and the easements or other interests in real property by virtue of which the mains, pipes, supports, and wires are erected and maintained, shall be assessed as personal property in the local tax collecting unit where laid, placed, or located. Interests in underground rock strata used for gas storage purposes, whether by lease or ownership separate from the surface of real property, shall be separately valued and assessed as personal property in the local tax collecting unit in which it is located to the person who holds the interest. Interests in underground rock strata shall be reported as personal property to the appropriate assessing officer for all property descriptions included in the storage field in the local tax collecting unit and a separate valuation shall be assessed for each school district. The personal property of street railroad, plank road, cable or electric railroad or transportation companies, bridge companies, and all other companies not required to pay a specific tax to this state in lieu of all other taxes, shall, except as otherwise provided in this section, be assessed in the local tax collecting unit in which the property is located, used, or laid, and the track, road, or bridge of a company is considered personal property. None of the property assessable as personal property under this subdivision shall be affected by any assessment or tax levied on the real property through or over which the personal property is laid, placed, or located, nor shall any right of way, easement, or other interest in real property, assessable as personal property under this subdivision, be extinguished or otherwise affected in case the real property subject to assessment is sold in the exercise of the taxing power.

(h) During the tenancy of a lessee, leasehold improvements and structures installed and constructed on real property by the lessee, provided and to the extent the improvements

or structures add to the true cash taxable value of the real property notwithstanding that the real property is encumbered by a lease agreement, and the value added by the improvements or structures is not otherwise included in the assessment of the real property or not otherwise assessable under subdivision (j). The cost of leasehold improvements and structures on real property shall not be the sole indicator of value. Leasehold improvements and structures assessed under this subdivision shall be assessed to the lessee.

(i) A leasehold estate received by a sublessor from which the sublessor receives net rentals in excess of net rentals required to be paid by the sublessor except to the extent that the excess rentals are attributable to the installation and construction of improvements and structures assessed under subdivision (h) or (j) or included in the assessment of the real property. For purposes of this act, a leasehold estate is considered to be owned by the lessee receiving additional net rentals. A lessee in possession is required to provide the assessor with the name and address of its lessor. Taxes collected under this act on leasehold estates shall become a lien against the rentals paid by the sublessee to the sublessor.

(j) To the extent not assessed as real property, a leasehold estate of a lessee created by the difference between the income that would be received by the lessor from the lessee on the basis of the present economic income of the property as defined and allowed by section 27(4), minus the actual value to the lessor under the lease. This subdivision does not apply to property if subject to a lease entered into before January 1, 1984 for which the terms of the lease governing the rental rate or the tax liability have not been renegotiated after December 31, 1983. This subdivision does not apply to a nonprofit housing cooperative. As used in this subdivision, "nonprofit cooperative housing corporation" means a nonprofit cooperative housing corporation that is engaged in providing housing services to its stockholders and members and that does not pay dividends or interest upon stock or membership investment but that does distribute all earnings to its stockholders or members.

(k) For taxes levied after December 31, 2002, a trade fixture.

211.14 Personal property; taxable situs.

Sec. 14. (1) All goods and chattels located in a local tax collecting unit other than that in which the owner of the goods or chattels resides shall be assessed in the local tax collecting unit in which the goods or chattels are located.

(2) All animals kept throughout the year in a local tax collecting unit other than that in which the owner of the animals resides shall be assessed to the owner or the person in possession of the animals in the local tax collecting unit in which the animals are kept.

(3) The tangible personal property of minors under guardianship shall be assessed to the guardian in the local tax collecting unit in which the guardian resides, and the personal property of any other person under guardianship shall be assessed to the guardian in the local tax collecting unit in which the ward resides.

(4) Tangible personal property belonging to the estate of a deceased person, in the hands of the executors, administrators, or trustees appointed under the last will and testament of the deceased person, or by order of any court of competent jurisdiction, shall be assessed to the executors, administrators, or trustees in the local tax collecting unit and in the school district in which the deceased person resided, until the executors, administrators, or trustees give notice to the appropriate assessing officer that the estate has been distributed. If the deceased person was a nonresident of this state, the property

shall be assessed in the local tax collecting unit in which it is located, to the executors, administrators, or trustees or to the person in possession of the property.

(5) Tangible personal property under the control of a trustee or agent, whether a corporation or a natural person, may be assessed to the trustee or agent in the local tax collecting unit in which the trustee or agent resides, except as otherwise provided. Personal property mortgaged or pledged is considered the property of the person in possession of that personal property and may be assessed to that person. Personal property not otherwise taxed under this act that is in the possession of any person, firm, or corporation using that property in connection with a business conducted for profit is considered the property of that person, firm, or corporation for taxation and shall be assessed to that person, firm, or corporation.

(6) For taxes levied before January 1, 2003, a building situated upon real property of the United States or of this state, or upon the real property of any person, firm, association, or corporation if the owner of the building is not the owner of the fee title to that real property, and if the value of the real property is not assessed to the owner of the building, shall be assessed as personal property to the owner or occupant of the building in the local tax collecting unit in which the real property is located. The building is subject to sale for taxes in the same manner as provided for the sale of personal property. It is not necessary to remove a building for the purpose of sale. For taxes levied after December 31, 2002, buildings and improvements, except buildings and improvements exempt under section 9f or improvements assessable under section 8(h), located upon real property of the United States or of this state, or upon the real property of any person, firm, association, or corporation if the owner of the building is not the owner of the fee title to that real property is considered real property for the purposes of taxation and assessment, and shall be assessed as real property under section 2 to the owner or occupant of the building in the local tax collecting unit in which the buildings are located if the value of the building is not otherwise included in the assessment of the real property. For taxes levied after December 31, 2001, buildings and improvements exempt under section 9f that are located upon the real property of the United States or of this state, or upon the real property of any person, firm, association, or corporation if the owner of the building is not the owner of the fee title to that real property shall be assessed as personal property to the owner or occupant of the building in the local tax collecting unit in which the real property is located.

(7) Tangible personal property of nonresidents of this state and all forest products, owned by residents or nonresidents, or estates of deceased persons, shall be assessed in the local tax collecting unit in which the tangible personal property or forest products are located, to the person or corporation in control of the premises, store, mill, dockyard, piling ground, place of storage, or warehouse where the tangible personal property or forest products are located, on December 31. If tangible personal property or forest products are in transit to a local tax collecting unit within this state, the tangible personal property or forest products shall be assessed in that local tax collecting unit. If tangible personal property or forest products are in transit to some place without this state, the tangible personal property or forest products shall be assessed at the local tax collecting unit in this state nearest to the last boom or sorting gap of the stream in or bordering on this state in which the tangible personal property or forest products will naturally be last floated during transit, and if the transit of the tangible personal property or forest products is to be other than through any watercourse in or bordering on this state, then the assessment shall be made in the local tax collecting unit at the point at which the tangible personal property or forest products will naturally leave this state in the ordinary course of transit. The tangible personal property or forest products in transit to

any place without this state shall be assessed to the owner or the person or corporation in possession or control of the tangible personal property or forest products. If the transit of the tangible personal property or forest products will pass through the booms or sorting gaps or into the places of storage of any person or corporation operating upon any stream, then the tangible personal property or forest products may be assessed to that person or corporation. A person or corporation assessed for any tangible personal property or forest products belonging to a nonresident of this state is entitled to recover from the owner of the tangible personal property or forest products by a suit in attachment, garnishment, or for money had and received, any amount that the person or corporation assessed is compelled to pay because of the assessment, shall have a lien upon the tangible personal property or forest products as a security against loss or damage because of being assessed for the tangible personal property or forest products of another, and may retain possession of the tangible personal property or forest products until that lien is satisfied. A person or corporation assessed is not compelled to pay taxes on account of that assessment unless the appropriate assessing officer, at the time of assessment, serves notice in writing on the person or corporation in control of the premises, store, mill, dockyard, piling ground, place of storage, or warehouse that the assessment will be made. An owner or person interested in the tangible personal property or forest products may secure the release of the tangible personal property or forest products from that lien by giving to the person or corporation assessed a bond in an amount double the probable tax to be assessed on the tangible personal property or forest products, but not less than $200.00, with 2 sufficient sureties, conditioned for the payment of the tax by the owner or person interested and the saving of the person or corporation assessed from payment of the assessment and from costs, damages, and expenses on account of nonpayment, which bond as to amount and sufficiency of sureties shall be approved by the county clerk of the county in which the assessment is made.

211.24 Property tax assessment roll; time; determining value of metallic mining properties and mineral rights; report of state geologist; certification by state tax commission; appeal.

Sec. 24. (1) On or before the first Monday in March in each year, the assessor shall make and complete an assessment roll, upon which he or she shall set down all of the following:

(a) The name and address of every person liable to be taxed in the local tax collecting unit with a full description of all the real property liable to be taxed. If the name of the owner or occupant of any tract or parcel of real property is known, the assessor shall enter the name and address of the owner or occupant opposite to the description of the property. If unknown, the real property described upon the roll shall be assessed as "owner unknown". All contiguous subdivisions of any section that are owned by 1 person, firm, corporation, or other legal entity and all unimproved lots in any block that are contiguous and owned by 1 person, firm, corporation, or other legal entity shall be assessed as 1 parcel, unless demand in writing is made by the owner or occupant to have each subdivision of the section or each lot assessed separately. However, failure to assess contiguous parcels as entireties does not invalidate the assessment as made. Each description shall show as near as possible the number of acres contained in it, as determined by the assessor. It is not necessary for the assessment roll to specify the quantity of land comprised in any town, city, or village lot.

(b) The assessor shall estimate, according to his or her best information and judgment, the true cash value and assessed value of every parcel of real property and set the assessed value down opposite the parcel.

(c) The assessor shall calculate the tentative taxable value of every parcel of real property and set that value down opposite the parcel.

(d) The assessor shall determine the percentage of value of every parcel of real property that is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, and set that percentage of value down opposite the parcel.

(e) The assessor shall determine the date of the last transfer of ownership of every parcel of real property occurring after December 31, 1994 and set that date down opposite the parcel.

(f) The assessor shall estimate the true cash value of all the personal property of each person, and set the assessed value and tentative taxable value down opposite the name of the person. In determining the property to be assessed and in estimating the value of that property, the assessor is not bound to follow the statements of any person, but shall exercise his or her best judgment. For taxes levied after December 31, 2003, the assessor shall separately state the assessed value and tentative taxable value of any leasehold improvements.

(g) Property assessed to a person other than the owner shall be assessed separately from the owner's property and shall show in what capacity it is assessed to that person, whether as agent, guardian, or otherwise. Two or more persons not being copartners, owning personal property in common, may each be assessed severally for each person's portion. Undivided interests in lands owned by tenants in common, or joint tenants not being copartners, may be assessed to the owners.

(2) The state geologist, or his or her duly authorized deputy, shall determine, according to his or her best information and judgment, the true cash value of the metallic mining properties and mineral rights consisting of metallic resources that are either producing, developed, or have a known commercial mineral value, including surface rights and personal property that may be used in the operation or development of the property assessed, or any stockpile of ore or mineral stored on the surface. For the purpose of encouraging the exploration and development of metallic mineral resources, metallic mineral ore newly discovered or proven in the ground and not part of the property of an operating mine shall be exempt from the taxes collected under this act for a maximum period of 10 years or until the time it becomes part of the property of an operating mine or it in itself becomes an operating mine. Metallic mineral ore newly discovered or proven in the ground and part of the property of an operating mine shall be exempt from taxes collected under this act until it, in combination with previously discovered metallic mineral ore of the operating mine, comes into a 10-year recovery period of the mine as determined by the average normal annual rate of extraction of the mine.

(3) An operating mine shall be defined to be an operating mine as of the date of starting of a shaft, stripping of overburden, or rehabilitation, or an abandoned or idle mine closed for not less than 2 years. Ore shall not enjoy more than 10 years' exemption from taxation. This section does not exempt from the taxes collected under this act ore reserves proven as of April 1, 1947. It is the intent of this act that mineral properties shall be valued and assessed in the future for ad valorem taxes according to the formula used in the valuation of mineral properties before the effective date of this act. It is the intent of this act that no metallic mineral ore shall be exempt more than 10 years because of the application of this act and if at any time it becomes evident that such is the case, the state tax commission shall determine the value of this untaxed ore and place this valuation on the proper tax roll. The state geologist shall report his or her determination of the true cash value of the mineral properties to the state tax commission on or before February 10 of

each year. The state tax commission shall assess the mineral properties containing 20% or more of natural iron per ton of ore in conformity and uniformity with all other property within the assessing district. The state tax commission shall assess all other metallic mineral properties at the value certified by the state geologist. The state tax commission, as early as is practicable before February 20, shall certify the assessment of the property to the assessor of the township or city in which the property is situated, who shall for the mineral properties and mineral rights that are owned separate from the surface rights on the property assess each to the owner at the valuation certified to him or her. However, an adjustment to the value certified by the state tax commission may be made by the assessor of the township or city to reflect any general adjustment of assessed valuation from the immediately preceding year not included in the state tax commission computation. The assessor shall determine the true cash value of the surface rights and assess the value of the surface rights to the owner. The assessment upon the metallic mining properties and mineral rights may be altered from year to year regardless of whether any previous assessment has been reviewed by the state tax commission. The assessor or the owner of any interest in the property assessed may appeal the assessment and valuation of the property as determined by the board of review to the state tax commission which shall review the assessment and valuation as provided in section 152.

211.24c Notice of increase in tentative state equalized valuation or tentative taxable value; contents; required information and forms; addressing and mailing assessment notice; effect of failure to send or receive assessment notice; calculation of tentative equalized valuation; model assessment notice form; statement; separate statement.

Sec. 24c. (1) The assessor shall give to each owner or person or persons listed on the assessment roll of the property a notice by first-class mail of an increase in the tentative state equalized valuation or the tentative taxable value for the year. The notice shall specify each parcel of property, the tentative taxable value for the current year and, beginning in 1996, the taxable value for the immediately preceding year. The notice shall also specify the time and place of the meeting of the board of review. Beginning in 1996, the notice shall also specify the difference between the property's tentative taxable value in the current year and the property's taxable value in the immediately preceding year.

(2) The notice shall include, in addition to the information required by subsection (1), all of the following:

(a) The state equalized valuation for the immediately preceding year.

(b) The tentative state equalized valuation for the current year.

(c) The net change between the tentative state equalized valuation for the current year and the state equalized valuation for the immediately preceding year.

(d) The classification of the property as defined by section 34c.

(e) The inflation rate for the immediately preceding year as defined in section 34d.

(f) A statement provided by the state tax commission explaining the relationship between state equalized valuation and taxable value. Beginning in 1996, if the assessor believes that a transfer of ownership has occurred in the immediately preceding year, the statement shall state that the ownership was transferred and that the taxable value of that property is the same as the state equalized valuation of that property.

(3) When required by the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, the assessment notice shall include or be accompanied by information or forms prescribed by the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(4) The assessment notice shall be addressed to the owner according to the records of the assessor and mailed not less than 10 days before the meeting of the board of review. The failure to send or receive an assessment notice does not invalidate an assessment roll or an assessment on that property.

(5) The tentative state equalized valuation shall be calculated by multiplying the assessment by the tentative equalized valuation multiplier. If the assessor has made assessment adjustments that would have changed the tentative multiplier, the assessor may recalculate the multiplier for use in the notice.

(6) The state tax commission shall prepare a model assessment notice form that shall be made available to local units of government.

(7) Beginning in 1995, the assessment notice under subsection (1) shall include the following statement:

"If you purchased your homestead after May 1 last year, to claim the homestead exemption, if you have not already done so, you are required to file an affidavit before May 1.".

(8) For taxes levied after December 31, 2003, the assessment notice under subsection (1) shall separately state the state equalized valuation and taxable value for any leasehold improvements.

211.34c Classification of assessable property; tabulation of assessed valuations; transmittal of tabulation and other statistical information; classifications of assessable real and personal property; buildings on leased land as improvements; total usage of parcel which includes more than 1 classification; notice to assessor and protest of assigned classification; decision; petition; arbitration; determination final and binding; appeal by department; construction of section.

Sec. 34c. (1) Not later than the first Monday in March in each year, the assessor shall classify every item of assessable property according to the definitions contained in this section. Following the March board of review, the assessor shall tabulate the total number of items and the valuations as approved by the board of review for each classification and for the totals of real and personal property in the local tax collecting unit. The assessor shall transmit to the county equalization department and to the state tax commission the tabulation of assessed valuations and other statistical information the state tax commission considers necessary to meet the requirements of this act and 1911 PA 44, MCL 209.1 to 209.8.

(2) The classifications of assessable real property are described as follows:

(a) Agricultural real property includes parcels used partially or wholly for agricultural operations, with or without buildings, and parcels assessed to the department of natural resources and valued by the state tax commission. For taxes levied after December 31, 2002, agricultural real property includes buildings on leased land used for agricultural operations. As used in this subdivision, "agricultural operations" means the following:

(*i*) Farming in all its branches, including cultivating soil.

(*ii*) Growing and harvesting any agricultural, horticultural, or floricultural commodity.

(*iii*) Dairying.

(*iv*) Raising livestock, bees, fish, fur-bearing animals, or poultry.

(*v*) Turf and tree farming.

(*vi*) Performing any practices on a farm incident to, or in conjunction with, farming operations. A commercial storage, processing, distribution, marketing, or shipping operation is not part of agricultural operations.

(b) Commercial real property includes the following:

(*i*) Platted or unplatted parcels used for commercial purposes, whether wholesale, retail, or service, with or without buildings.

(*ii*) Parcels used by fraternal societies.

(*iii*) Parcels used as golf courses, boat clubs, ski areas, or apartment buildings with more than 4 units.

(*iv*) For taxes levied after December 31, 2002, buildings on leased land used for commercial purposes.

(c) Developmental real property includes parcels containing more than 5 acres without buildings, or more than 15 acres with a market value in excess of its value in use. Developmental real property may include farm land or open space land adjacent to a population center, or farm land subject to several competing valuation influences.

(d) Industrial real property includes the following:

(*i*) Platted or unplatted parcels used for manufacturing and processing purposes, with or without buildings.

(*ii*) Parcels used for utilities sites for generating plants, pumping stations, switches, substations, compressing stations, warehouses, rights-of-way, flowage land, and storage areas.

(*iii*) Parcels used for removal or processing of gravel, stone, or mineral ores, whether valued by the local assessor or by the state geologist.

(*iv*) For taxes levied after December 31, 2002, buildings on leased land used for industrial purposes.

(*v*) For taxes levied after December 31, 2002, buildings on leased land for utility purposes.

(e) Residential real property includes the following:

(*i*) Platted or unplatted parcels, with or without buildings, and condominium apartments located within or outside a village or city, which are used for, or probably will be used for, residential purposes.

(*ii*) Parcels that are used for, or probably will be used for, recreational purposes, such as lake lots and hunting lands, located in an area used predominantly for recreational purposes.

(*iii*) For taxes levied after December 31, 2002, a home, cottage, or cabin on leased land, and a mobile home that would be assessable as real property under section 2a except that the land on which it is located is not assessable because the land is exempt.

(f) Timber-cutover real property includes parcels that are stocked with forest products of merchantable type and size, cutover forest land with little or no merchantable products, and marsh lands or other barren land. However, when a typical purchase of this type of land is for residential or recreational uses, the classification shall be changed to residential.

(3) The classifications of assessable personal property are described as follows:

(a) Agricultural personal property includes any agricultural equipment and produce not exempt by law.

(b) Commercial personal property includes the following:

(*i*) All equipment, furniture, and fixtures on commercial parcels, and inventories not exempt by law.

(*ii*) All outdoor advertising signs and billboards.

(*iii*) Well drilling rigs and other equipment attached to a transporting vehicle but not designed for operation while the vehicle is moving on the highway.

(*iv*) Unlicensed commercial vehicles or commercial vehicles licensed as special mobile equipment or by temporary permits.

(c) Industrial personal property includes the following:

(*i*) All machinery and equipment, furniture and fixtures, and dies on industrial parcels, and inventories not exempt by law.

(*ii*) Personal property of mining companies valued by the state geologist.

(d) For taxes levied before January 1, 2003, residential personal property includes a home, cottage, or cabin on leased land, and a mobile home that would be assessable as real property under section 2a except that the land on which it is located is not assessable because the land is exempt.

(e) Utility personal property includes the following:

(*i*) Electric transmission and distribution systems, substation equipment, spare parts, gas distribution systems, and water transmission and distribution systems.

(*ii*) Oil wells and allied equipment such as tanks, gathering lines, field pump units, and buildings.

(*iii*) Inventories not exempt by law.

(*iv*) Gas wells with allied equipment and gathering lines.

(*v*) Oil or gas field equipment stored in the open or in warehouses such as drilling rigs, motors, pipes, and parts.

(*vi*) Gas storage equipment.

(*vii*) Transmission lines of gas or oil transporting companies.

(4) For taxes levied before January 1, 2003, buildings on leased land of any classification are improvements where the owner of the improvement is not the owner of the land or fee, the value of the land is not assessed to the owner of the building, and the improvement has been assessed as personal property pursuant to section 14(6).

(5) If the total usage of a parcel includes more than 1 classification, the assessor shall determine the classification that most significantly influences the total valuation of the parcel.

(6) An owner of any assessable property who disputes the classification of that parcel shall notify the assessor and may protest the assigned classification to the March board of review. An owner or assessor may appeal the decision of the March board of review by filing a petition with the state tax commission not later than June 30 in that tax year. The state tax commission shall arbitrate the petition based on the written petition and the written recommendations of the assessor and the state tax commission staff. An appeal may not be taken from the decision of the state tax commission regarding classification complaint petitions and the state tax commission's determination is final and binding for the year of the petition.

(7) The department of treasury may appeal the classification of any assessable property to the residential and small claims division of the Michigan tax tribunal not later than December 31 in the tax year for which the classification is appealed.

(8) This section shall not be construed to encourage the assessment of property at other than the uniform percentage of true cash value prescribed by this act.

211.35 State tax statement; duties of state treasurer; apportionment.

Sec. 35. On or before the first day of September in each year, the state treasurer shall make and record in his or her office a statement showing the taxes to be raised for state

purposes that year, referring to the law on which each tax is based, and the total amount of the taxes. The state tax he or she shall apportion among the several counties in proportion to the valuation of the taxable property in each county as determined by the last preceding state board of equalization, and shall before the October session of the board of supervisors in each year make out and transmit to the clerk of each county a statement of the amount of the taxes apportioned to that county. The state treasurer shall also, in a separate item of the statement, set forth the amount of indebtedness of the county to the state remaining unpaid at the time the statement is made, as shown by the statement of the account between the county and this state made by the state treasurer on the first day of July after the apportionment, which amount shall be apportioned by the board of supervisors of the proper county at the same time as state taxes contained in the apportionment of the state treasurer, and shall be levied in the same manner as and become a portion of the county taxes for the same year, unless the indebtedness is paid to the state before October first. The portion of the taxes, if any, that should be assessed to a particular township, shall be apportioned to and assessed upon the township, ward, or city.

211.41 Assessor; local clerk; duties; county clerk; statement to state treasurer; contents.

Sec. 41. Before the supervisor or assessing officer delivers the roll to the township treasurer or city collector, he or she shall carefully foot the several columns of valuation and taxes, and make a detailed statement, which he or she shall give the clerk of his or her township or city, and the clerk shall immediately charge the amount of taxes to the township treasurer or city collector. The clerk of each city and incorporated village shall report to the clerk of their respective counties all taxes levied in their respective cities or villages, and not included in the general tax levy, on or before the first day of October in each year. The county clerk shall, within 30 days after the close of the annual session of the board of supervisors in October in each year, forward to the state treasurer, to be filed in his or her office, a statement showing the aggregate valuation of all property as assessed in each assessing precinct within the county during the current year. The state treasurer shall include in the statement a detail of all taxes to be raised in the county for that year and the amount of taxes not included in the general tax levy, reported to him or her by the several city and village clerks as provided in this section.

211.57a State treasurer to prescribe practice for county treasurers; failure of county treasurer to comply; state treasurer to complete work; expense borne by county; state treasurer to furnish to county treasurers changes in tax laws.

Sec. 57a. (1) It is the duty of the state treasurer to prescribe uniform practices, forms, and methods that shall be used by the several county treasurers of this state in carrying out this act. All proceedings under the authority of this act shall be conducted in conformity with the uniform practices prescribed by the state treasurer. On the neglect or failure on the part of any county treasurer to abide by the uniform practices and use the uniform forms prescribed, the state treasurer may give notice in writing to the county clerk and to the county board of commissioners, or in lieu of the board of commissioners, the board of county auditors in counties having a county board of auditors, which notice shall state the facts constituting the alleged neglect or failure. If the alleged neglect or failure is not corrected within 10 days after giving the notice, the state treasurer shall have complete power and authority, by himself or herself or his or her deputy or authorized agents, to enter the office of the county treasurer and complete the work in the office in conformity with the uniform practices, the expenses of that work to be charged back to the county, which expense shall be paid from the general fund of the county.

(2) The state treasurer shall, within 30 days after the final adjournment of the legislature in every year, furnish the county treasurers with instructions relative to changes made in the tax laws of this state with respect to the duties of the township treasurers and county treasurers in connection with the collection of taxes. The several county treasurers shall, within 7 days after the receipt of those instructions, forward a copy of the instructions to each township treasurer in his or her respective county. The instructions shall contain all changes made since the filing of the previous instructions. In case of the furnishing of the first instructions to county treasurers under the provisions of this section, all changes of tax collection procedure as well as instructions with respect to tax collection procedures shall be furnished.

211.58 Payments to county treasurer; receipt; numbering; certificate.

Sec. 58. After the return of lands for unpaid taxes, the county treasurer is authorized to receive, under like provisions as in section 53, the amounts of the several taxes or any of them due, and the board of commissioners in each county may authorize notice to be given to all delinquent taxpayers so far as known. Neither taxes nor special assessments that are delinquent may be paid under protest to the county treasurer. The county treasurer shall issue duplicate receipts for all the taxes received by him or her, which shall be accounted for by the county clerk, or by the board of auditors in counties having a board of auditors, 1 of the duplicate receipts shall be delivered to the person paying the taxes, and 1 filed in the office of the county treasurer, which receipt shall be available to the county clerk or board of county auditors in counties having a board of auditors for abstracting and accounting purposes. All receipts issued under the provisions of this section shall be consecutively numbered by the printer and by the printer delivered to the county clerk who shall account for the receipts. At the time the printer delivers the receipts to the county clerk, the printer shall notify the state treasurer of the delivery, specifying the quantity and numbers of the receipts. Except when the final installment of the tax is paid, the county treasurer shall not issue a receipt for a payment of less than $1.00 and any tax or installment then sought to be paid in an amount less than $1.00 shall not be discharged or considered paid unless the sum of $1.00 is paid, and the difference between the amount of the tax paid and $1.00 shall be considered to be a part payment of the cost of issuing the receipts and shall be credited to the general fund of the county. In the case of payments by the same taxpayer as many descriptions shall be included in 1 receipt as will be sufficient to make a payment of $1.00. When payment of the taxes on any parcel or description of land or on any undivided share of land is made to any county treasurer, the treasurer shall place or cause to be placed upon the face of the receipt or redemption certificate, the following certificate: "I hereby certify that application was made to pay all taxes and special assessments due and payable at this office on the description shown in this receipt except for the years and items as follows:

(Signed). . . . . .Treas."

Every receipt shall be deemed to include the foregoing certificate, and unless otherwise noted on the certificate, shall be construed as an application to pay all taxes and special assessments assessed against the property described on the certificate and then due and payable at the office of the treasurer issuing the receipt. Future installments of special assessments shall not be considered as being then due and payable.

211.62 County clerk and circuit court; duties; court order; form.

Sec. 62. If a petition is filed, the county clerk shall present the petition to the circuit court of the county in which the delinquent tax property is situated, and the circuit court shall enter an order as prescribed in this section. The county clerk shall countersign the

order, record the order in the proper books of his or her office, and transmit a true copy of the order to the state treasurer. The order shall be substantially in the following form:

STATE OF MICHIGAN,)
) ss.
County of .....)

The circuit court for the county of ..... .

In the matter of the petition of ....., state treasurer of the state of Michigan, for and in behalf of this state, for the sale of certain property for taxes assessed on that property: On reading and filing the petition of the state treasurer of the state of Michigan requesting a judgment in favor of the state of Michigan against each parcel of land described in the petition, for the amounts specified in the petition that are, claimed to be due for taxes, interest, and charges on each parcel of property, and that the property be sold for the amounts claimed by the state of Michigan. It is ordered that the petition will be brought on for hearing and decree at the ..... term of this court, to be held at ....., in the county of ....., state of Michigan, on the ..... day of ..... 20...., at the opening of the court on that day, and that all persons interested in that property or any part of that property desiring to contest the lien claimed on that property by the state of Michigan for the taxes, interest, and charges claimed, or any part of the taxes, interest, and charges claimed, shall appear in this court, and file with the clerk of this court their objections to the lien, on or before the first day of the term of this court, and that in default the lien will be granted and judgment entered as requested in petition. And it is further ordered that in pursuance of the judgment the property described in the petition for which a judgment of sale is made, will be sold for the taxes, interest, and charges on the property as determined by the judgment, on the first Tuesday in May after the judgment is entered, beginning at 10 o'clock a.m. The sale shall be held at the office of the county treasurer, or at another convenient place selected by the county treasurer at the county seat of the county of ....., state of Michigan. The sale shall be a public sale, and each parcel described in the judgment shall be separately sold for the total taxes, interest, and charges. The sale shall be made to the person paying the full amount charged against a parcel, and accepting a conveyance of the smallest undivided fee simple interest. If no person will pay the taxes and charges and take a conveyance of less than the entire fee simple interest, then the whole parcel shall be offered and sold. If any parcel cannot be sold for taxes, interest, and charges, the parcel shall be passed over and reoffered for sale. If the parcel cannot be sold for the taxes, interest, and charges, the county treasurer shall bid off the parcel in the name of the state.

Witness the Hon. ....., circuit judge, and the seal of the (circuit) court of .....county, this ..... day of ..... 20..... .

.....
Circuit Judge.

Countersigned,

.....
Register.

211.63 Designated newspapers; publication of order and petition; notice of tax sale advertising.

Sec. 63. (1) The state treasurer shall designate a newspaper in which an order and petition are to be published on or before September 1 in each year. If the publisher of the

designated newspaper fails to accept the designation within 15 days after the designation is made or refuses or neglects to publish and print the order and petition, or, for any other cause, the publication becomes impracticable, the state treasurer shall designate some other newspaper before the time limited for commencing publication.

(2) In counties in which 1 or more regularly established newspapers have been printed, published, and circulated more than 1 year before the designation, 1 of those newspapers shall be designated for the publication required under subsection (1).

(3) The state treasurer shall also cause to be carried in not more than 10 newspapers in each county a notice advising the public of the tax sale advertising. The newspapers shall be designated by the state treasurer, and the notice shall be carried once in each of the newspapers designated on a date selected by the state treasurer. The notice shall contain the name of the newspaper in the county designated to print the order and petition and description of property advertised.

211.64 Publication by distribution; county treasurer; duties.

Sec. 64. (1) If a newspaper is not published in a county in which delinquent tax property is located, or if a newspaper cannot be secured to publish an order and petition in that county, the state treasurer shall cause the order and petition containing the list of property delinquent for taxes to be printed in proper form for general distribution, and shall provide the county treasurer with enough copies to provide each voter at the last general election in the county with 1 copy.

(2) The county treasurer shall distribute the order and petition in such a manner that copies shall become public in every local tax collecting unit in the county, and shall post or cause to be posted 3 copies in 3 public places in each local tax collecting unit.

(3) The county treasurer shall file an affidavit of the posting and distribution of the order and petition in the usual form in the office of the county treasurer and of the state treasurer.

211.66 Publication of petition and order for hearing; jurisdiction; objections; hearing; evidence; order setting aside taxes; judgment.

Sec. 66. (1) The state treasurer shall cause a copy of the order and a copy of the petition to be published once each week for 3 consecutive weeks before the time fixed for the hearing on the petition, in a newspaper published in the county in which the petition is filed selected by the state treasurer.

(2) The order and petition shall be published in the same newspaper, the order immediately preceding the petition. The petition shall state the years for which delinquent taxes are due and the total amount of taxes, interest, and charges due for each parcel.

(3) The cost of publishing the order and petition shall be paid by this state.

(4) The proprietor of the newspaper in which the order and petition are published shall furnish the proper county treasurer with not more than 400 copies of each publication, 10 copies to each local tax collecting unit, and 2 copies to the state treasurer.

(5) The state treasurer and county treasurer shall carefully examine the notices published and determine if they are correct.

(6) The term 3 consecutive weeks means 3 publications in 3 successive weeks and the dates of the publications shall be specified by the state treasurer.

(7) A person familiar with the facts may make an affidavit as to the publication required.

(8) The state treasurer shall not pay for the publication unless satisfied that the publication has been made according to law.

(9) The publication of the order and petition is equivalent to a personal service of notice of the filing of the petition on all persons who are interested in the property specified in the petition, of all proceedings on the petition, and on the sale of the property under the judgment, and gives the court jurisdiction to hear the petition, determine all questions arising on the petition, and to enter a judgment ordering the sale of the property for the payment of all taxes, interest, and charges on the property.

(10) The circuit court has jurisdiction to hear, try, and determine the matters alleged in the petition, even though the amount involved in the petition is less than $100.00.

(11) The prosecuting attorney shall prosecute all proceedings under this section on the part of this state. If the prosecuting attorney does not prosecute a proceeding under this section, the court shall appoint another competent person to take charge of and prosecute the proceeding, who shall be paid by the county. The county board of commissioners may employ a competent person to prosecute or to assist in the prosecution of proceedings under this section.

(12) An affidavit attesting to the publication of the order and petition required under this section shall be filed in both the office of the county clerk and state treasurer before any final order is entered. Proof of the filing of an affidavit of publication in the office of the state treasurer may be made by affidavit of the state treasurer or his or her deputy.

(13) A person with an interest in the property or any portion of the property included or referred to in the petition who desires to contest the validity of any tax shall file written objections with the clerk of the county in which the property is advertised for sale and serve a copy of the objections on the prosecuting attorney of the county, the state treasurer, and the county, local tax collecting unit, and school district in which the property is located, and shall file proof of service on or before the day fixed in the notice for the hearing of the petition. A person shall not make any objections not specified in written objections filed under this section. A hearing upon objections filed under this subsection shall not be held until service is made and proof of service is filed.

(14) If on the day fixed in the notice for the hearing on the petition or on the day following that day, the court determines that any person has been prevented from filing objections to any tax without any fault on his or her part, the court may grant additional time for that purpose, not to exceed 5 days. The court shall give precedence to the hearing of a petition over all other business, shall examine, consider, and determine the matters stated in the petition and any objections made in a summary manner without other pleadings, and to enter a final judgment on the petition.

(15) The taxes specified in the petition are presumed to be legal and a judgment for those taxes shall be made unless the taxes are shown to be improper. Evidence shall be taken in open court. All oral testimony shall, at the request of any person interested, be written down and filed. The court may make any order necessary to facilitate the proceedings. The court shall decide all questions as to the admissibility of evidence, and that decision is final and not subject to review or appeal.

(16) If the property of 2 or more persons has been assessed together, the court may, if practicable, separate the assessments and apportion to each parcel the just proportion of the taxes, interest, and charges. If any tax is found illegal, that part shall be set aside and the remaining tax is valid. The total amount of taxes, interest, and charges fixed by the court shall be entered by the register of the court opposite each parcel of property in the column of the record under the heading "amount of judgment against property." If the court makes any order setting aside the taxes on any parcel of property, or any part of the taxes, or any special order relating to any parcel of property, or taxes on any parcel of property, a brief entry of that order shall be entered opposite that property or tax. The

special order shall be signed by the judge of the court, either by his or her full name or initials, and that entry has the same effect as if made and entered as a part of a final judgment.

(17) At least 10 days before the time fixed for the sale of the property, the court shall enter a final judgment in favor of this state for the payment of all valid taxes, interest, and charges, shall determine the total amount chargeable against each parcel of property, and shall order that unless payment is made, the property, or as much of the property as is necessary to satisfy the amount fixed by the judgment, shall severally be sold as the law directs. A judgment is considered in favor of this state against each parcel of property for each tax included in the judgment. The court may decree costs against a person contesting any tax that is equitable, if the tax, or any part of the tax that remains unpaid, is determined to be valid.

(18) In the absence from the file of a proper affidavit of publication as required by this section, secondary evidence of the publication and the filing of the affidavit is admissible if, according to the calendar entry of the clerk of the court, an affidavit of publication was filed. The affidavit of publication filed in the office of the state treasurer is admissible as secondary evidence.

211.67 Judgment; form; vesting of title in state; disposition of disputed taxes; appeal; condition; rejection and reassessment.

Sec. 67. (1) A final judgment shall be entered in the record for recording judgments of the circuit court of the county in which the property is located. The judgment shall have the usual caption for judgments and shall be substantially in the following form:

"State of Michigan,)
The circuit court for the)
county of .....)

At a session of this court held at the court house in the ..... of ..... on the ..... day of ..... 20....

Present: Hon. ....., Circuit Judge

In the matter of the petition of ....., state treasurer of the state of Michigan, for and in behalf of this state, for the sale of certain property for taxes assessed on that property:

The petition and the matters stated in the petition, and the objections filed to the taxes claimed in the petition (if any objections are filed) came on to be heard, and proof of the publication of the order of hearing, and of the petition having been made and filed, and after hearing all interested parties: It is ordered that the amount of taxes, interest, collection fee, and charges set down in the tax record, which is incorporated as part of the petition, are valid, and judgment is entered in favor of the state of Michigan against each parcel of property for payment of the amount set down in the tax record opposite that parcel. It is further ordered that unless that amount is paid prior to sale, that property, or that interest in the property necessary to satisfy the judgment against the property, shall be severally sold as the law directs, on the ..... day of May, A.D. 20...., beginning at 10 o'clock a.m. It is further ordered that title to each parcel of property ordered in this judgment to be offered for sale, that is bid off to the state, shall become absolute in the state of Michigan on the expiration of the period of redemption from that sale, and all taxes, special assessments that are charged against or are liens upon that property, and other liens and encumbrances against that property of whatever kind or nature, shall be canceled as of that date, unless any parcel of property is redeemed as provided in section 74 of the general property tax act, 1893 PA 206, MCL 211.74, or unless

an appeal is taken as provided in the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. It is further ordered that the special orders made by this court, and entered on the tax records, are made a part of this judgment, with the same effect as if entered in this judgment.

(Countersigned)

.....

Circuit Judge

.....

Clerk of Courts."

(2) Unless sooner redeemed, upon the expiration of the period of redemption provided in section 74, absolute title to the property bid off to this state vests in this state as provided in the judgment.

(3) If costs are adjudged against any person contesting a tax, the judgment shall state the costs and execution awarded. The judgment shall be signed by the judge and countersigned by the clerk.

(4) Immediately after the entry of the judgment, the county clerk shall make a certified copy of the judgment, and annex the judgment to the tax record. The county clerk shall then deliver the tax record to the county treasurer, in whose office the tax record shall remain.

(5) If the hearing on the petition is not held on the day fixed in the notice, the hearing shall be continued from day to day during the term without the entry of any order of continuance, until disposed of.

(6) If it is determined to be impracticable to hear and determine the objections to all of the taxes specified in the petition within the time fixed for that purpose, then the court shall, within the time stated in this section, enter a final judgment as to all taxes to which no objections have been filed, and also those to which objections have been filed, which the court has then heard and determined to be valid. The judgment shall be signed and recorded as provided in this section. The court shall proceed with the consideration of the remaining taxes set forth in the petition, and objections to those taxes, and as soon as practicable dispose of the remaining taxes by 1 or more judgments in a form as the court determines, which shall be entered in the record of the court. The judgment shall describe the property and specify the total amount of taxes, interest, and charges on each parcel of property. After the judgment is entered, the county clerk shall immediately deliver to the county treasurer a certified copy of the judgment, to be kept and used as provided in this section. A copy of the judgment shall be annexed to the tax record and is part of the tax record.

(7) If a decree is not entered on a petition as to the taxes named in the petition, or any part of the taxes named in the petition, the state treasurer shall, as soon as practicable, file a new petition for sale, and proceedings on that new petition shall be conducted and judgment entered and sale made as provided in this section.

(8) If judgment is entered in favor of the validity of any disputed tax, and the person contesting the validity of that tax desires to appeal to the court of appeals, that person may do so on paying the amount of the judgment to the county treasurer within 10 days after the date the judgment is entered. The county treasurer shall retain the amount of the judgment until the decision of the court of appeals, and shall pay the amount of the judgment to the party appealing the judgment if the tax appealed is held invalid. If the tax appealed is held valid, then the amount of the judgment shall be credited to the proper

fund. Payment of the amount of the judgment discharges the tax lien on the property. If the court rules against the validity of any tax, either the county treasurer or the state treasurer may appeal to the court of appeals on behalf of this state, but there shall be no sale for the tax held invalid until the decision appealed is reversed or modified by the supreme court.

(9) Proceedings in which the validity of any tax is in dispute shall, if no other provision is made in this section, follow the ordinary practice of the court, and the court may allow amendments as in ordinary cases.

(10) Notice shall be given of all appeals to the court of appeals, and an appeal shall be claimed, entered, and bond for costs given, within 20 days after the judgment is entered. Any party appealing from a judgment, except the state treasurer and any political subdivision of this state, shall file a bond for costs in the usual form, the amount of the bond and sureties on the bond to be approved by the court that entered the judgment. The judge shall, at the request of either party and on due notice, settle in proper form a case containing as much of the record and proceedings as necessary to the understanding of the judgment by the court of appeals, and if an appeal is taken, the case shall be transmitted to the court of appeals. An appeal of the tax on any parcel does not delay or affect the proceedings for the sale of any property on which there is no appeal.

(11) If the court in its judgment determines an assessment to be void because of an erroneous or indefinite description of the parcel of property, the court shall, in that judgment, direct the state treasurer to reject that tax and cause that tax to be reassessed on a correct description of the parcel of property. The judgment shall also set forth the correct description of that property.

211.70 Sale; payment of bid; cancellation and forfeiture for failure to make payment; reoffer; state bid; report and confirmation of sale; setting aside; report to state treasurer.

Sec. 70. (1) On the first Tuesday of May, beginning at 10:00 a.m., the county treasurer shall commence the sale of the property mentioned in the judgment upon which the amounts charged have not been paid. The county treasurer shall continue the sale from day to day, Sundays and other legal holidays excepted, until as much of each parcel is sold as is sufficient to pay the amounts charged.

(2) The county treasurer may deputize 1 or more persons in his or her office to conduct the sale for him or her and in his or her behalf. An appointment shall be filed by the county treasurer with the county clerk in the court proceedings relating to the tax sale.

(3) Each parcel described in the judgment shall be sold separately for the total taxes, interest, and charges. The property shall be sold to the person paying the full amount charged against that parcel, and accepting a conveyance of the smallest undivided fee simple interest in that parcel. No greater interest in any parcel shall be sold than is sufficient to pay the amount of the tax, interest, and charges for which the property is sold.

(4) If no person will pay the tax, interest, and charges and take a conveyance of less than the entire fee simple interest in a parcel, then the whole parcel shall be offered and sold.

(5) The sale shall be held at the county seat, at the office of or at a convenient place selected by the county treasurer. Property sold is subject to the taxes assessed after taxes included in the judgment and for the year for which the sale is made.

(6) The county treasurer may, in his or her discretion, require immediate payment of any person to whom any parcel of property is sold. In all cases where payment is not made in 24 hours after the sale, the county treasurer shall declare the bid canceled and sell the

land again. Any person who fails to pay to the county treasurer the amount of his or her bid, shall forfeit to the state 5 times the amount of that bid, and costs of collection, which may be recovered in the name of the people of the state of Michigan in an action in any court of competent jurisdiction. The county treasurer and prosecuting attorney of the county shall prosecute for all delinquencies and penalties without unnecessary delay. Any subsequent bid of a person who fails to pay a previous bid at that sale may be disregarded by the treasurer.

(7) If a parcel of property cannot be sold for taxes, interest, and charges, that parcel shall be passed over and shall be reoffered before the close of the sale. If the property cannot be sold for the taxes, interest, and charges, the county treasurer or his or her deputy or deputies shall bid off the property in the name of the state for the state, county, and township, in proportion to the taxes, interest, and charges due each. Taxes, interest, and charges on property bid off to the state shall remain a lien on that property, and any person may purchase that property as provided in this act.

(8) The county treasurer shall enter or cause to be entered in the proper columns of the tax record the interest in property sold, the name and post office address of each purchaser opposite each parcel sold, and the word "state" opposite each parcel bid off in the name of the state. Certificates shall be given to each purchaser of the property and the interest bid off by him or her, showing the year's tax for which he or she has purchased, the amount of that tax, and of all charges paid by him or her at the time of purchase. The certificate shall state that he or she will be entitled to a deed after the period of redemption provided for in section 74 has expired, and that if the sale is not confirmed the money will be returned.

(9) As soon as possible after the conclusion of any sale, and within 25 days after the day named in the notice for the commencement of the sale, the county treasurer shall make and file with the clerk of the court a report of the sale, referring to the tax record for the particulars. Upon petition by the county treasurer, the court may extend the time within which the report is required to be filed, not to exceed 50 days from the date of the commencement of the sale.

(10) All sales shall stand confirmed, subject to the right of redemption provided for in section 74, unless objections to the sale are filed within 8 days after the time limited for filing the report described in subsection (9), without the entry of an order or further notice. Procedures for setting aside a sale are the same, so far as applicable, as in a sale in equity on the foreclosure of mortgages. No sale shall be set aside for inadequacy of price, except upon payment of the amount bid, with interest and costs. No sale shall be set aside after confirmation, unless the taxes were paid or the property was exempt from taxation and, in that case, the owner of the property may move the court at any time within 1 year after he or she has notice of the sale to set the sale aside.

(11) As soon as practicable after sales are confirmed and within 30 days from the date of confirmation, the county treasurer shall make full report of the sale to the state treasurer, in a form prescribed by the state treasurer, giving a description of the property sold, the amounts for which the property was sold, and the names and addresses of the purchasers. The state treasurer shall, after the period of redemption provided in section 74 has expired, execute deeds to the purchasers in a form prescribed by him or her.

(12) All property bid off in the name of the state shall continue liable to be taxed in the same manner as if it was not the property of the state.

(13) If property included in the judgment is not sold as advertised, the state treasurer shall cause a sale to be made at some other time as he or she may fix for that purpose. Notice of that sale shall be published at least 4 weeks prior to the sale. The notice shall

contain a description of the property and the amount of taxes, interest, and charges, as provided in the judgment. The sale and all other proceedings shall be the same as if made on the first day of the initial sale. The county treasurer shall receive only that amount receivable at the state treasury. All money received at any tax sales that belong to the state shall be paid into the state treasury. The expenses of advertising and sale exclusive of the county's share shall be paid from the state treasury on the warrant of the state treasurer, and the remainder shall be credited to the general fund.

211.73 Tax deed; setting aside or cancellation; 5 year limitation; improvements; refund; taxes.

Sec. 73. (1) No sale of property or deed issued by the state treasurer under this act shall be set aside or annulled by any court of this state after the purchaser or his or her heirs or assigns have been in actual and undisputed possession of the property sold for a period of 5 years from the date of the purchase or deed.

(2) If a sale made under this act is set aside by any court less than 5 years from the date of the sale or deed, the court shall determine the value of improvements made by the purchaser, if he or she has been in possession of the property, and enter a judgment in that amount in favor of the purchaser, and issue execution to collect that amount from the claimant before putting him or her in possession.

(3) If a sale made under this act is set aside by any court or is canceled by the state treasurer as provided in this act, the state treasurer shall refund to the purchaser the amount paid at the time of the sale, with interest at the rate of 6% per annum from the time of the purchase to the time when the sale was set aside or canceled.

(4) No refund of purchase money and interest shall be made more than 5 years from the date of expiration of the redemption period in the case of a tax certificate, or more than 5 years from the date the purchaser or his or her heirs or assigns, was entitled to a tax deed, if a tax deed was issued. The state treasurer shall charge back to the county all taxes, interest, and charges for all years for which the taxes are invalid or the description erroneous. For all years for which no invalidity has been found the state treasurer shall proceed to enforce the collection of the taxes for all years refunded as provided in this act, as in the case of taxes for which sale has not been made.

211.73a Adverse possession or failure to give notice for reconveyance as bar to certain rights; failure to present certificate of purchase or due proof of loss as bar to securing tax deed; certificate of cancellation; effect of bona fide attempt to give notice of reconveyance; effect of failure to redeem; barred or voided tax deed or certificate of purchase not revived.

Sec. 73a. (1) The right to recover possession of property to a refund of the amount paid, or to secure a tax deed, by a person claiming through or under a deed executed by the state treasurer or by an officer authorized to issue tax deeds under a former tax law of the territory of the state of Michigan or by virtue of a certificate of purchase issued under this act or by a former tax law, is forever barred by the actual, open, and continuous possession of a person claiming that property adversely to the tax deed or certificate of purchase, for the period of 5 years after the purchaser of the tax title or his or her heirs or assigns are entitled to a deed or by a failure of the tax title purchaser or his or her heirs or assigns to make a bona fide attempt to give notice required under this act, or by a former tax law, for a reconveyance of the property within 5 years.

(2) In case of a failure to give the required notice for reconveyance within the period of 5 years from the date the purchaser or his or her heirs or assigns become entitled to a

tax deed to be issued by the state treasurer, the person claiming title under the tax deed or certificate of purchase is barred from asserting that title or claiming a lien on the land by reason of a tax purchase and the purchaser or his or her heirs or assigns are not entitled to a refund of the amount paid as a condition of the purchase of the tax title by reason of any defect, irregularity, invalidity, or any cause whatever affecting the taxes or the sale of the property for a tax lien.

(3) The failure of a tax title purchaser or his or her heirs or assigns to present a certificate of purchase or due proof of loss to the state treasurer or his or her deputy, as prescribed in section 72, or to the officer empowered by a former law to issue tax deeds, within 5 years from the purchase of the tax title, bars the tax title purchaser or his or her heirs or assigns from securing a tax deed.

(4) In the case of failure to present a certificate of purchase to the state treasurer or his or her deputy or to an officer empowered by a former tax law to issue tax deeds, a person owning an interest in the property sold for taxes, upon the payment of 50 cents to the state treasurer or his or her deputy, shall be entitled to a certificate of cancellation under the hand and seal of the state treasurer or his or her deputy, setting forth a description of the certificate of purchase and that, according to the records of the state treasurer, a tax deed has not been issued for a certificate of purchase, and that the time for presentation of the certificate of purchase or due proof of loss of the certificate has expired, and neither the certificate of purchase nor due proof of loss of the certificate was presented within the time required. The certificate of cancellation may be recorded in the office of the register of deeds of the county in which the property is situated. When recorded, the certificate prima facie evidence of the facts certified and has the same effect as evidence and notice of title as the recording of deeds and other conveyances. The register of deeds is entitled, for the recording of the certificate of cancellation, to the same fees as for recording of deeds.

(5) If within the period of 5 years the tax title purchaser or his or her heirs or assigns have made a bona fide attempt to give the required notice for the reconveyance of the premises, neither the legality or sufficiency of the sale or notice, nor the bona fides of the purchaser in this attempt to give the statutory notice, shall be questioned, raised, or adjudicated except in or by a suit in equity.

(6) A person who has been properly served with notice and who has failed to redeem from a sale in accordance with this act, within the period specified, is not entitled to question or deny in any manner the sufficiency of notice upon the ground that some other person entitled to notice was not also served.

(7) Nothing in this section shall be construed, by implication or otherwise, to revive or give effect to a tax deed or certificate of purchase barred or voided by operations of law or otherwise.

211.73b Effect of failure to present purchaser's certificate of tax sale of property or due proof of loss; action based on tax deed against person in possession; possession of unoccupied, unimproved, and unenclosed lands; barred or voided certificate or deed not revived.

Sec. 73b. (1) A purchaser's certificate of tax sale issued under this act or any prior act, including any law of the territory of Michigan prior to September 28, 1907, which, or due proof of loss of which, has not been presented to the state treasurer or his or her deputy, as prescribed in section 72, within 90 days after the effective date of this section, is barred and shall cease to be a cloud upon the title to the property affected.

(2) An action based upon a tax deed executed by an officer of the state of Michigan before September 28, 1942 shall not be maintained in any court to recover property in this state or to establish, maintain, or recover an interest in property against a person in possession who, or whose predecessors in interest, paid or caused to be paid the taxes regularly assessed against the property for at least 5 consecutive years preceding the date when the action is brought and who claim the property under a connected chain of title from the person who was the last grantee in the regular chain of title of the property at the time the tax deed was executed.

(3) In the case of unoccupied, unimproved, and unenclosed property a person shall be considered to be in possession of the property for the purposes of subsection (2) if that person or his or her predecessors in interest paid or caused to be paid all taxes regularly assessed against the property for a period of at least 5 consecutive years before the action is brought against him or her.

(4) Nothing in this section shall be construed, by implication or otherwise, to revive or give any effect to any certificate or deed barred or voided by operation of law or otherwise.

211.75 Annulment of certificate of redemption or tax deed; copy; record; notice to state treasurer.

Sec. 75. If a court annuls a certificate executed by the county treasurer or any deed issued by the state treasurer, the clerk of the court, on the payment by any party interested of $1.00, shall deliver to that person a certified copy of the judgment or order. The certified copy of the judgment or order may be recorded in the office of the register of deeds of the county in which the property is located. On recording the certificate, the register of deeds shall enter in the margin of the record of the tax deed affected a brief statement of the judgment or order, and shall also send notice of the judgment or order to the office of the state treasurer.

211.83 Loss of certificate of sale or deed; verification; issuance of deed; contents; fee.

Sec. 83. (1) If a certificate of sale for delinquent taxes is lost, the purchaser, his or her legal representative, or his or her assigns may file a verified affidavit of the loss and that the purchaser was, at the time of the loss, the bona fide and legal holder and owner of the certificate.

(2) If an affidavit is filed under subsection (1), the state treasurer or his or her designated representative shall execute a deed to the property described in the certificate, if the certificate has not been redeemed, in the same manner as though the certificate had been presented and surrendered.

(3) The state treasurer or his or her designated representative shall execute a second deed to property conveyed if the original deed and record of the original deed is lost or destroyed. A second deed shall declare upon its face that it is a second deed, and shall recite the loss or destruction of the former deed and its date, if possible. A second deed shall inure to the benefit of the grantee in the first deed or his or her heirs or assigns, as the case may be, and shall have the same force and effect as the first deed. Before execution of a second deed, the party applying for the second deed shall pay to the state treasurer the sum of $1.00, which shall be credited to the general fund of this state.

211.85 Enforcement of remaining unpaid taxes.

Sec. 85. The sale of any of the bids of the state for which the time of redemption has not expired shall not prejudice the right to enforce the collection of any tax prior or subse-

quent to the year or years for which the property was sold. For the taxes and charges remaining unpaid for prior or subsequent year or years, the state treasurer shall offer that property in regular succession at the next annual tax sale, giving notice as required by law, unless previously redeemed or otherwise discharged.

211.86 Ejectment action; authorized against state; evidence; tax refund.

Sec. 86. In the prosecution of an action of ejectment by any person holding an adverse claim to any property bid off to the state as provided in this act, the state treasurer may be defendant. In all cases in the prosecution or defense of an action of ejectment or trespass by any person holding or claiming property under any deed or other conveyance of property bid off or purchased for delinquent or unpaid taxes, the party reclaiming under the purchase for unpaid taxes may show his or her title to the property, whether title was derived under 1 or more purchases or sales for taxes or otherwise, and may give in evidence any and all deeds of conveyance or other legal evidence of purchase, which he or she may have received on sales for taxes, and may claim title under any or all of them. The state or county shall not be required to refund any taxes or money by reason of defect in the taxes or sales prior to the particular tax or deed decreed valid.

211.87 Adjustment of accounts; statement of account; interest on delinquent payments; charge back lists.

Sec. 87. (1) The accounts between this state and each county and local tax collecting unit in this state shall be adjusted on the basis of crediting and paying to each county and local tax collecting unit the taxes collected by and for each county and local tax collecting unit with interest on those taxes.

(2) The state treasurer shall, on January 1, April 1, July 1, and October 1 in each year, make a statement of account between this state and each county and deliver the statement of account to the county treasurer of each county together with a warrant payable to the county treasurer for all money in the state treasury collected for the county, a local tax collecting unit, school district, or highway in that county, or any other purposes for that county, local tax collecting unit, school district, or highway. The state treasurer shall send notice of the warrant to the county clerk.

(3) At the time designated in subsection (2), the county treasurer shall pay to this state all money collected and due from that county to this state, as shown by the statement of account prepared by the state treasurer. On January 15, and on the fifteenth day of each month thereafter, the county treasurer shall pay to this state all money coming into his or her hands from the collection of the state tax, and shall transmit a sworn statement of the amount of taxes received from the collector in each assessing district in that county. The collector in each assessing district in the county shall pay to the county treasurer of its respective county all money collected not later than January 10, and not later than the tenth day of each month thereafter until the regular quarterly settlement for the quarter ending March 31 is made each year. The county treasurer or collector of each assessing district in the county shall also pay to the state treasurer for the use of this state 1/2 of 1% for each month or fraction of a month as interest on all money in his or her possession belonging to this state and not remitted on the fifteenth of the month. The state treasurer shall include all sums due as interest in his or her quarterly statement to the county treasurer. The sum due as interest shall be paid by the county the same as the taxes are paid and collected by the county from the treasurer or the sureties on his or her bond.

(4) The county treasurer of each county shall, on or before the fifteenth day of each month, make out a detailed statement of account for the preceding calendar month

between the county and the local tax collecting units in that county. The statement shall show the different funds to which the several debits and credits belong. The county treasurer shall deliver the statement to the treasurer of the local tax collecting unit and pay the amount shown by the statement to the local tax collecting unit. The county treasurer shall notify the clerk of the local tax collecting unit of the total amount paid and provide a description of the property upon which the taxes were paid. The county clerk shall charge that amount to the county treasurer, and the clerks of the local tax collecting units shall charge that amount to the treasurers of the local tax collecting units on the books of their respective offices.

(5) Treasurers for the local tax collecting units are not required to make a settlement with the county treasurer for the items of state and county taxes included in the annual charge back list until the annual settlement with the county treasurer.

(6) The county board of commissioners by majority vote may authorize the county treasurer to pay directly to the school districts all money shown on the statement to be due to the school districts within the county. In that case the county superintendent is not required to compute and report delinquent school taxes handled by the county.

211.88 Tax report of state treasurer; contents; time; entries of county treasurer.

Sec. 88. The state treasurer shall, on the first Monday in each month, transmit to the treasurer of each county a list of the property in that county upon which the taxes have been paid to the state treasurer and also a list of all property bid off to the state that has been sold during the preceding month. Upon receiving the lists the county treasurer shall make the proper entries showing the payment or sale. Where a sale has been made by the state treasurer, the county treasurer shall note that fact upon the tax record.

211.90 Compensation and expenses; payment.

Sec. 90. All compensation of officers in the assessment and collection of taxes in townships and in the return of delinquent taxes to the county treasurer, except fees collected by township treasurers on their tax rolls, shall be paid by the township. All compensation of county officers and expenses incurred by them under the provisions of this act shall be paid by the county. The compensation of all state officers and expenses incurred by them shall be paid by this state. Expenses incurred by the state officers shall be audited by the state treasurer and paid out of the general fund.

211.95 State treasurer or county treasurer withholding sale because of error; taxes charged back; change in boundaries.

Sec. 95. (1) If the state treasurer or county treasurer discovers before the sale of any property for delinquent taxes that for any reason the property should not be sold, the state treasurer or county treasurer shall cause the property to be withheld from sale.

(2) If the error originated with the local tax collecting unit or county officers, the amount of the taxes shall be charged against the county from which the taxes were returned as delinquent.

(3) If the error was made by an officer of a local tax collecting unit, the amount of the taxes shall be charged by the county treasurer to the local tax collecting unit.

(4) If there has been a change in the boundaries of the county in which the property is situated after the return of the taxes, the taxes shall be charged to the county in which the property was located when the taxes were returned as delinquent.

211.96 Rejected taxes; list; reassessment.

Sec. 96. (1) The county treasurer shall, on or before June 30 of each year, prepare a statement setting forth all rejected taxes, the reasons for the rejection, and a description of the property upon which the taxes were assessed.

(2) After due examination, if the rejection is approved, the state treasurer shall submit the rejected taxes, through the county treasurer, to the county board of commissioners at the next annual fall session.

(3) If taxes are rejected or charged back by the state treasurer or the county treasurer, unless the property was not subject to taxation at the time the taxes were assessed, the taxes on the property have been paid, or there had been a double assessment of the taxes on the property, the county board of commissioners shall cause the taxes to be reassessed upon the same property, collected with the taxes of the current year, and treated in the same manner as taxes of the current year. Taxes that are rejected or charged back are not subject to penalties other than the penalties that apply to taxes assessed in the current year. If the taxes cannot be properly reassessed upon the same property, the county board of commissioners shall cause the taxes to be reassessed upon the taxable property of the proper local tax collecting unit.

211.97 Rejected taxes on detached lands; statement to state treasurer; tax credit.

Sec. 97. The county board of commissioners shall furnish to the state treasurer a list of all taxes that have been rejected or charged back to their county upon property that has been detached from the county after the taxes were assessed. The state treasurer shall credit to that county the amount charged back, and charge that amount to the county in which the property is situated if the taxes have not been paid or reassessed.

211.98 Conveyance; grounds for withholding; 5 year limitation; cancellation of sale; rejection and reassessment of taxes.

Sec. 98. (1) If property returned to the state treasurer under this act is sold for the nonpayment of taxes and the state treasurer discovers any of the following, the state treasurer shall suspend the sale or forfeiture of that property:

(a) The property was not subject to taxation on the date of the assessment of the taxes for which it was sold.

(b) The taxes had been paid to the proper officer within the time limited by law for payment or redemption.

(c) The sale violated a provision of this act.

(d) A certificate, including the certificate provided for in section 135, tax history, or statement to the effect that all taxes charged against the property has been paid, is given by the proper officer within the time limited by law for payment or redemption.

(e) The description of the property used in the assessment was so indefinite or erroneous as to result in the tax lien being void.

(2) The state treasurer shall withhold a conveyance of property the sale of which is suspended pursuant to subsection (1) and shall, on demand, refund the purchase price to the purchaser with interest at 6% per annum.

(3) If a sale is suspended pursuant to subsection (1)(d), the person on whose behalf the certificate, tax history, or statement was given shall, when presenting the certificate to the state treasurer, pay to the state treasurer all taxes and charges due to this state upon the property at the time the certificate was issued. A refund of the purchase price and interest shall not be made more than 5 years after the expiration of the redemption period.

(4) If the discovery of any of the conditions set forth in subsection (1) is not made until after a conveyance of the property is executed and delivered, a certificate of error may be issued in proper form for recording and the deed, if not recorded, shall be surrendered when the purchase price is refunded. If the deed has been recorded, the purchase price shall be refunded on a recorded release from the holder of the tax deed. Conveyance of the property shall not be withheld or a certificate of error issued more than 5 years after the date of the sale unless 1 or more of the following conditions exist:

(a) The property was not subject to taxation at the time of the assessment of the taxes for which it was sold.

(b) The taxes had been paid to the proper officer within the time limited by law for the payment or redemption.

(5) Refund of the purchase price and interest shall not be made more than 5 years after the purchaser or his or her heirs or assigns was entitled to a tax deed.

(6) If a conveyance of property is withheld or a certificate of error issued under this section, the state treasurer shall cancel the sale. If a conveyance is withheld or certificate of error issued for the reasons set forth in subsection (1)(a), (b), and (e), the state treasurer shall reject the taxes and special assessments for the nonpayment of which the property was sold. The rejected taxes and special assessments shall be reassessed pursuant to section 96. If a conveyance is withheld or certificate of error issued for the reasons set forth in subsection (1)(c) or (d), the state treasurer may proceed to enforce the collection of the taxes under this act.

211.98a Certificate of payment of taxes, certificate of error, or cancellation of sale; payment.

Sec. 98a. (1) If taxes are paid to the officer authorized under this act to receive payment, and the entry of that payment is not made upon the tax roll, a person applying for a certificate of error or a cancellation of the sale for delinquent taxes, and rejection of the taxes, shall present to the state treasurer the certificate of the county treasurer that the taxes were paid on the ..... day of ..... (giving date), as it appears on the copy of the receipt for payment of the taxes on file in the county treasurer's office.

(2) A certified copy of the receipt shall be forwarded to the state treasurer with the certificate.

(3) The county treasurer shall make a certified copy of receipts presented to him or her and file those receipts in his or her office, and shall return the original receipt to the person entitled to the original receipt.

(4) The county treasurer shall immediately notify the person or officer receiving payment of the production of the receipt and require payment to the county treasurer of the amount not discharged by entry upon the tax roll at the time of payment. If the person who received payment does not pay that amount within 30 days of the receipt of the notice, the county treasurer shall bring suit against that person and against his or her bond for the recovery of that amount. On receipt of the amount paid, the county treasurer shall pay that amount to the proper officer of the local tax collecting unit or fund entitled to that amount, and shall notify the county board of commissioners at the annual session in October of the amounts collected and paid.

211.99 Irregularities; records prima facie evidence; presumption; signing of records; deed unimpeachable.

Sec. 99. (1) A tax assessed upon property or a sale of property for a delinquent tax shall not be held invalid by any court of this state on account of any of the following:

(a) An irregularity in any assessment.

(b) An assessment or tax roll not having been made or a proceeding held within the time required by law.

(c) The property having been assessed without the name of the owner, or in the name of any person other than the owner.

(d) Any other irregularity, informality, or omission, or lack of any matter of form or substance in any proceeding that does not prejudice the property rights of the person whose property is taxed.

(2) All proceedings in assessing and levying taxes and in the sale of property for delinquent taxes shall be presumed by all the courts of this state to be legal, unless affirmatively shown to be illegal.

(3) All records, statements, and certificates provided for in this act are prima facie evidence of the facts set forth in the record, statement, or certificate.

(4) The absence of any record of any proceeding, the omission of any mention in any record of any vote or proceeding, or the mention of any matter in any statement or certificate that should appear in the statement or certificate under any law of this state does not affect the validity of any proceeding, tax, or title, if the fact that the vote or proceeding was had or the tax was authorized is shown by any other record, statement, or certificate entered as evidence under this act or any other law of this state.

(5) A tax or sale of property for any tax shall not be rendered or held invalid if a record, statement, certificate, affidavit, paper, or return cannot be found in the proper office. Unless the contrary is affirmatively shown, the presumption is that the record was made, and the certificate, statement, affidavit, paper, or return was duly made and filed.

(6) If any statement, certificate, or record is required to be made or signed by a school district board or the governing body of a local tax collecting unit, that statement, certificate, or record may be made and signed by the members of the school district board or the governing body of a local tax collecting unit, or a majority of the school district board or the governing body of a local tax collecting unit, and it is not necessary that other members be present when each signs the certificate, statement, affidavit, paper, or return.

(7) This section shall not be construed to authorize any showing impeaching the validity of any deed executed by the state treasurer under this act, and that deed is absolute and conclusive as provided in this act.

211.101 Deed to deceased person; title conveyed.

Sec. 101. If property is sold for delinquent taxes and the purchaser or his or her assigns dies before a deed is executed on the sale, the deed may be executed by the state treasurer to and in the name of the deceased person, if the deceased person would be entitled to a deed if still alive, and the deed vests title to the property in the heirs or devisees of the deceased person, in the same manner and liable to the claims of creditors and other persons as if the deed had been executed to the deceased person immediately prior to his or her death. The executor or administrator may assign the certificate of purchase and the deed may issue to the assignee of the certificate.

211.102 Delinquent tax return to department of natural resources; time; record; failure to pay; forfeiture.

Sec. 102. (1) The county treasurer shall, at the same time he or she makes his or her return of delinquent property to the state treasurer, make a similar return to the department of natural resources of all homestead and part paid state property, the fee of

which is in this state, the taxes upon which have not been collected, with a statement of the amount of the taxes.

(2) The department of natural resources shall provide suitable books, and enter in those books the description of every parcel of property returned and the taxes on that property.

(3) The person holding an interest in any parcel of property returned shall, on or before the first day of July following the return, pay to the state treasurer the taxes assessed on that property, with interest at the rate of 1% per month or fraction of a month from the immediately preceding March 1. If the taxes are not paid, the certificate of purchase of that parcel shall become void and that parcel shall be subject to sale and redemption in the same time and manner as property forfeited for nonpayment of interest. A patent shall not be made of that property until all taxes levied on that property are paid.

211.103 Statement of taxes paid; time; credit.

Sec. 103. The department of natural resources shall, on or before the first day of May and November in each year, make out and furnish to the state treasurer a statement containing a description of the property upon which the taxes have been paid, and the amount of the payments. At the same time, the department of natural resources shall transmit to each county treasurer a copy of the statement so far as the same relates to his or her county. The state treasurer shall credit to each county its proper part of those taxes, and the county treasurer shall credit each township with its share of that amount.

211.105 Organization of new county; division of local tax collecting unit; effect on assessments; credit.

Sec. 105. (1) If a new county is organized after the time for making the assessment roll and before the return of the treasurer of the local tax collecting unit, the new organization does not affect the assessment, collection, or return of taxes for that year on any property attached to the new county.

(2) The division of a local tax collecting unit after the time for making the assessment roll and before the return of the treasurer of the local tax collecting unit does not affect the assessment, collection, and return of taxes set forth on that assessment roll. The taxes shall be assessed, collected, and returned as though there had been no division of the local tax collecting unit.

(3) If property is detached from any county after the taxes on property in that county are returned to the state treasurer, and any of those taxes are rejected or set aside, the county from which the taxes were detached shall receive credit, and the county to which they are attached shall be charged.

211.113 Waste; removal of property from lands bid to state prohibited; warrant for seizure and sale of property; agreement; injunctive relief.

Sec. 113. (1) A person shall not remove any building or fixture, sand, gravel, or minerals, or cut or remove any logs, wood, timber, or any other part of property sold for delinquent taxes while this state owns that property or holds a tax lien on that property by virtue of the sale or the nonpayment of any other delinquent taxes.

(2) If a person removes a building or fixture, sand, gravel, or minerals, or cuts or removes logs, wood, timber, or any other part of property in violation of subsection (1), the state treasurer or his or her designated representative shall issue a warrant in the

name of the people of this state directed to the sheriff of the county in which the property is situated. The warrant shall set forth a description of the property and the amount of the unpaid taxes, interest, and charges, and command the sheriff to seize the buildings, fixtures, sand, gravel, minerals, logs, wood, timber, or other property wherever found in any county in this state and to sell the buildings, fixtures, sand, gravel, minerals, logs, wood, timber, or other property or a sufficient quantity of the buildings, fixtures, sand, gravel, minerals, logs, wood, timber, or other property to satisfy the taxes, interest, and charges and the cost of the seizure and sale.

(3) The sheriff shall receive the warrant and execute the warrant as directed in the warrant, as if a levy and sale on execution, and make a return on the warrant to the state treasurer, within 60 days after the receipt of the warrant, and pay all money collected to the state treasurer.

(4) The state treasurer may furnish the state trespass agent with lists or plats of property bid off to this state and on which the taxes remain unpaid. The state trespass agent shall examine the property and promptly report to the state treasurer all violations of this section.

(5) The sheriff and county treasurer of each county shall report any trespass or other acts prohibited by this section to the state treasurer immediately after either has knowledge of the trespass or prohibited act, and any officer of a local tax collecting unit with knowledge of a trespass or prohibited act shall report the facts to the sheriff or county treasurer.

(6) A person with a fee interest or a land contract vendee may enter into a contract and agreement with the state treasurer or the county treasurer, whereby the person may remove any buildings or fixtures, sand, gravel, or minerals, or cut or remove any logs, wood, timber, or any other part of the property If that person posts satisfactory bonds securing to this state absolute protection against loss to this state, a county, or other political subdivision of this state.

(7) This state or any board or department of this state having jurisdiction of property sold or forfeited to this state may obtain an injunction to restrain waste on any of that property, to prevent the removal or tearing down of any building or the removal of a fixture, the removal of any sand, gravel, or minerals, or the cutting or removal of any logs, wood, timber, or any other part of that property, whether or not that act constitutes waste.

(8) The circuit court of the county in which the property or any part of the property is located has jurisdiction to grant injunctive relief upon the filing of a bill or petition for relief whether or not other relief is sought.

211.121 Publication of tax laws; distribution; service claims audit.

Sec. 121. The state treasurer shall, from time to time as necessary, cause to be printed at the expense of this state a sufficient number of copies of this act and other laws relating to the taxation of property, as necessary for a full understanding of all the duties of assessing officers or other state, county, or local tax collecting unit officers. The state treasurer shall include proper side notes, an index, and forms of proceedings, as necessary. The state treasurer shall furnish 1 copy to each supervisor, assessor, clerk for a local tax collecting unit, and county clerk, and 3 copies to each county treasurer. Each copy shall be marked "state property." The state treasurer shall transmit to each county treasurer, at the expense of the county, a sufficient number of copies for each county, and each county treasurer shall immediately furnish to the clerk of each local tax collecting unit in that county 5 copies to be distributed to the officers of the local tax collecting unit entitled to a copy. The state treasurer shall examine and audit all properly certified claims for services rendered and expenses incurred under this section.

211.122 Forms and record books; state treasurer to prescribe.

Sec. 122. The state treasurer shall prescribe or approve all forms, blanks, and record books required under this act. The county clerks and treasurers shall use the blanks prescribed or approved by the state treasurer and no others.

211.127b Abandoned land; state title absolute; state conveyances to city or village; sale; proceeds.

Sec. 127b. (1) Property located within the corporate limits of any city or village, and acquired by this state by the automatic operation of former section 127 prior to June 15, 1933, and not conveyed to this state by the state treasurer, after absolute title to that property has been determined to be in this state by final judgment of a court of competent jurisdiction, and after that judgment is no longer subject to modification or reversal shall be conveyed by the director of the department of natural resources to that city or village.

(2) All property conveyed under this section or any part of that property or interest in that property may be sold by the city or village as provided by law or charter. The proceeds of any sale shall be applied as provided in section 131.

211.130 Taxes canceled; allocation of burden; correction of assessment roll.

Sec. 130. (1) All taxes charged against the property in the office of the state treasurer if the property is deeded to this state shall be canceled. No part of the taxes due to the township or county shall be charged to this state, but this state and the county and township respectively shall bear the share of loss on the taxes that properly belongs to each.

(2) The state treasurer shall make a list of all property deeded to this state in each county on or before the first day of March in each year and transmit the list to the county treasurer. The county treasurer shall serve, or cause to be served, upon the supervisor of the township in which the property is located a copy of the list of property in the township as furnished to the treasurer by the state treasurer.

(3) The supervisor shall produce the list to the board of review while in session for the purpose of reviewing the assessment roll. The supervisor shall omit and cancel from his or her assessment roll all property deeded to this state, as shown by the list. The board of review shall, when in session, compare the assessment roll of the township with the list furnished by the county treasurer, and correct all mistakes.

(4) The property deeded to this state shall not be liable to any assessment for any purpose until the property is sold by this state, and notice of the sale given to the county treasurer by the department of natural resources.

211.135 Recording of conveyances; tax certificate; excepted conveyances; register of deeds; violation; penalty.

Sec. 135. (1) If any deed, land contract, plat of any townsite or village, addition to any townsite, village, or city plat, or any other instrument for the conveyance of title to any property, is presented to the register of deeds of any county in this state for recording or filing, the register of deeds shall require all of the following from the person presenting the instrument for filing:

(a) A certificate from the state treasurer, or from the county treasurer of the county, stating whether there are any tax liens or titles held by this state, or by any individual, against the property sought to be conveyed by the instrument.

(b) A certificate that all taxes due on that property have been paid for the 5 years preceding the date of the instrument.

(c) A certificate from the city, village, or township treasurer in which the property is located, whether there are any tax titles or certificates of tax sale held by the city, village, or township, or by any individual, against the property to be conveyed.

(d) A certificate that all tax titles, tax certificates, or special assessments sold on that property to the city, village, or township have been redeemed for the 5 years preceding the date of the instrument.

(2) If the certificate or certificates required under subsection (1) are not provided, the person presenting the instrument for recording shall not record the instrument until the necessary certificate is presented.

(3) If any instrument is presented for certification on or after March 1 and before the local treasurer of the local tax collecting unit in which the property is located has made his or her return of current delinquent taxes, the county treasurer shall include with his or her certification a notation that the current delinquent return was not available for examination. The register of deeds shall not refuse to record the instrument because of a lack of complete certification.

(4) Taxes canceled by court decree made pursuant to section 67 shall be considered to have been paid within the meaning of this section, provided title to the property against which those taxes were assessed is not in this state on the date of the certificate.

(5) The register of deeds shall note the fact upon the deed that the required certificate or certificates have or have not been presented to him or her when the instrument is presented for recording. If the person presenting the instrument refuses to procure a certificate or certificates, the register of deeds shall endorse that fact upon the instrument, over his or her official signature, and shall refuse to receive and record the instrument.

(6) This section does not apply to any of the following:

(a) The filing of any town or village plat for the purpose of incorporation, insofar as the property included in that plat is included in a plat already filed in the office of the register of deeds, or insofar as the description of the property in that plat is not changed by the plat.

(b) The filing of any copy of the town, village, or city plat if the original plat filed in the office of the register of deeds has been lost or destroyed.

(c) To any sheriff's or commissioner's deed executed for the sale of property under any proceeding in law, or by virtue of any judgment of any of the courts of this state.

(d) To any deed of trust by any assignee, executor, or corporation executed pursuant to any law of this state.

(e) To any quitclaim deed or other conveyance containing no covenants of warranty.

(f) To any patent executed by the president of the United States or the governor of this state.

(g) To any tax deed made by the state treasurer.

(h) To any deed executed by any railroad company conveying its right-of-way, provided the deed is accompanied by a certificate of the state treasurer showing that all specific taxes due from the railroad company have been paid, including taxes levied in the year in which the deed is executed.

(7) A violation of this section by any register of deeds is a misdemeanor, punishable by a fine of not more than $100.00, and he or she is liable to the grantee of any instrument recorded for the amount of damages sustained.

211.138 Treatment of delinquent lands prior to 1891; tender of legal charges; effect.

Sec. 138. (1) All property that has been returned to the state treasurer as delinquent for taxes under the provisions of any general tax law in force prior to the passage of

former 1891 PA 200, and upon which the taxes are unpaid and which have not been sold for those taxes, and all property returned that has been sold for delinquent taxes, and upon which the sale has been or may be set aside by any court of competent jurisdiction or canceled as provided by law, is subject to disposition, sale, and redemption for the enforcement and collection of the tax liens in the method and manner provided in this act.

(2) This section contained does not apply to the sale of any property previously sold, if the sale was set aside or canceled for any reason affecting the validity of the taxes for which the property was sold.

(3) The court may enter decree of sale for the taxes for any year prior to 1891, for the amount of the taxes found valid, without including the charge for interest as provided by law.

(4) If tender of the amount assessed against any property for taxes of 1890 or any prior year is made to the state treasurer, together with the collection fee and the charge for expenses as provided by law, at any time before the first day of the month preceding the month in which sale is ordered to be made, the state treasurer shall issue a receipt and cancel any state bid under which the property is held for that year, and this state and the county and township shall bear the loss of accrued interest in proportion to their interests in the property.

211.139 Examination of proceedings; collection of taxes.

Sec. 139. (1) The state treasurer may cause an examination to be made of the proceedings under which any property bid off to this state, and which has not been deeded by the state treasurer, were sold for delinquent taxes and bid of to this state under the provisions of any general tax law.

(2) If the state treasurer finds that the sales or the decrees under which the sales were made were in contravention of any provision of the laws in force at the time the decrees were entered or sales made, the state treasurer may cancel the sales and proceed at any time to enforce the collection of the taxes under this act.

211.144 Proceedings to set aside sale; state treasurer to be made party; service of petition upon municipalities; representation by attorney general.

Sec. 144. (1) The state treasurer shall be made a party defendant to all actions or proceedings instituted to set aside any sale for delinquent taxes on property that has been sold at annual tax sales, or to set aside any taxes returned to him or her and for which sale has not been made.

(2) A copy of the petition shall be served upon the state treasurer, the prosecuting attorney of the county, and the city, village, township, and school district, for the taxes of which the property was sold or returned delinquent at the time of commencing the action, which service is in lieu of the service of other process. Hearing upon the petition shall not be held until service has been made and proof of service filed.

(3) The state treasurer may cause the attorney general to represent him or her in those proceedings. In any suit or proceedings instituted under this section, no costs shall be assessed against any party to the action.

This act is ordered to take immediate effect.

Approved December 21, 2002.

Filed with Secretary of State December 23, 2002.

Compiler's note: In subsection (1) of MCL 211.139, the phrase "for delinquent taxes and bid of to this state" evidently should read "for delinquent taxes and bid off to this state."

[No. 621]

(HB 6327)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 224b, 2409, 2409a, 2409c, 3515, 3519, and 3528 (MCL 500.224b, 500.2409, 500.2409a, 500.2409c, 500.3515, 500.3519, and 500.3528), section 224b as added and sections 3515 and 3519 as amended by 2002 PA 304, sections 2409 and 2409a as amended by 1993 PA 200, section 2409c as added by 1986 PA 318, and section 3528 as added by 2000 PA 252.

The People of the State of Michigan enact:

500.224b Quality assistance assessment fee; assessment on health maintenance organization having medicaid managed care contract; use; circumstances; definitions.

Sec. 224b. (1) The department of community health shall assess on each health maintenance organization that has a medicaid managed care contract awarded by the state and administered by the department of community health a quality assurance

assessment fee that equals 6% of non-medicare premiums collected by that health maintenance organization.

(2) The quality assurance assessment fee collected under subsection (1) and all federal matching funds attributed to that fee shall be used for the following purposes and under the following specific circumstances:

(a) The quality assurance assessment fee shall be implemented on May 10, 2002.

(b) The quality assurance assessment fee shall be assessed on the non-medicare premiums collected by each health maintenance organization described in subsection (1) based on the health maintenance organization's most recent statement filed with the commissioner pursuant to sections 438 and 438a. Except as otherwise provided, the quality assurance assessment fee shall be payable on a quarterly basis with the first payment due 90 days after the date the fee is assessed. If a health maintenance organization does not have non-medicare premium revenue listed in a filing under section 438 or 438a, the assessment shall be based on an estimate by the department of community health of the health maintenance organization's non-medicare premiums for the quarter and shall be payable upon receipt.

(c) The quality assurance assessment fee shall only be assessed on a health maintenance organization that has in effect a medicaid managed care contract awarded by the state and administered by the department of community health at the time of the assessment.

(d) Beginning October 1, 2007, the quality assurance assessment fee shall no longer be assessed or collected.

(e) The department of community health shall implement this section in a manner that complies with federal requirements. If the department of community health is unable to comply with the federal requirements for federal matching funds under this section or is unable to use the fiscal year 2001-2002 level of support for federal matching dollars other than for a change in covered benefits or covered population required under the state's medicaid contract with health maintenance organizations, the quality assurance assessment fee under this section shall no longer be assessed or collected.

(f) If a health maintenance organization fails to pay the quality assurance assessment fee required under subsection (1), the department of community health may assess the health maintenance organization a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department of community health may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(g) The medicaid health maintenance organization quality assurance assessment fund is established as a separate fund in the state treasury. The department of community health shall deposit the revenue raised through the quality assurance assessment fee with the state treasurer for deposit in the medicaid health maintenance organization quality assurance assessment fund.

(h) In all fiscal years governed by this section, medicaid reimbursement rates shall not be reduced below the medicaid payment rates in effect on April 1, 2002 as a direct result of the quality assurance assessment fee assessed under this section. This subdivision does not apply to a change in medicaid reimbursement rates caused by a change in covered benefits or change in covered populations required under the state's medicaid contract with health maintenance organizations.

(i) The amounts listed in this subdivision are appropriated for the department of community health, subject to the conditions set forth in this section, for the fiscal year ending September 30, 2003:

MEDICAL SERVICES		
Health plan services	$	1,476,781,100
Gross appropriation	$	1,476,781,100
Appropriated from:		
Federal revenues:		
Total federal revenues		817,495,900
Special revenue funds:		
Medicaid quality assurance assessment		55,747,000
State general fund/general purpose	$	603,538,200

(3) As used in this section:

(a) "Medicaid" means title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(b) "Medicare" means title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28, 1395x to 1395yy, and 1395bbb to 1395ggg.

500.2409 Public hearing and report required; condition; basis of report; findings; certification; contested hearing; final report and certification; consideration by commissioner; forwarding reports and certification to governor, clerk of the house, secretary of the senate, and legislative committee members; approval or disapproval of certification by legislature; concurrent resolution; vote.

Sec. 2409. (1) By May 15, 2003 and by May 15 annually thereafter, the commissioner shall make a determination as to whether a reasonable degree of competition in the worker's compensation insurance market exists on a statewide basis. If the commissioner determines that a reasonable degree of competition in the worker's compensation insurance market does not exist on a statewide basis, the commissioner shall hold a public hearing and shall issue a report delineating specific classifications and kinds or types of insurance, if any, where competition does not exist. The report shall be based on relevant economic tests, including but not limited to those in subsection (3). The findings in the report shall not be based on any single measure of competition, but appropriate weight shall be given to all measures of competition. Any person who disagrees with the report and findings of the commissioner may request a contested hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, not later than 60 days after issuance of the report under this subsection.

(2) If the results of the report issued under subsection (1) are disputed or if the commissioner determines that circumstances that the report was based on have changed, the commissioner shall issue a supplemental report to the report under subsection (1) which shall include a certification of whether or not a reasonable degree of competition exists in the worker's compensation insurance market. The supplemental report and certification shall be issued not later than November 15 immediately following the release of the report under subsection (1) that this report supplements and shall be supported by substantial evidence.

(3) All of the following shall be considered by the commissioner for purposes of subsections (1) and (2):

(a) The extent to which any insurer controls all or a portion of the worker's compensation insurance market. In making a determination under this subdivision, the commissioner shall use all insurers in this state, including self-insurers, group self-insurers as provided

in chapter 65, and insurers writing risks under the placement facility created in chapter 23 as a base for calculating market share.

(b) Whether the total number of companies writing worker's compensation insurance in this state is sufficient to provide multiple options to employers.

(c) The disparity among worker's compensation insurance rates and classifications to the extent that such classifications result in rate differentials.

(d) The availability of worker's compensation insurance to employers in all geographic areas and all types of business.

(e) The residual market share.

(f) The overall rate level which is not excessive, inadequate, or unfairly discriminatory.

(g) Any other factors the commissioner considers relevant.

(4) The reports and certifications required under subsections (1) and (2) shall be forwarded to the governor, the clerk of the house, the secretary of the senate, all the members of the house of representatives standing committees on insurance and labor issues, and all the members of the senate standing committees on commerce and labor issues.

(5) Not later than 90 days after receipt of the final report and final certification, the legislature, by concurrent resolution, shall approve or disapprove the certification by a majority roll-call vote in each house. If the certification is approved, the commissioner shall proceed under section 2409a.

500.2409a Worker's compensation insurance market; plan to create competition or availability; methods; powers of commissioner.

Sec. 2409a. If the commissioner certifies and the legislature resolves pursuant to section 2409 that a reasonable degree of competition does not exist with respect to the worker's compensation insurance market on a statewide basis or any geographic areas, classifications, kinds or types of risk, or that insurance is unavailable to a segment of the market who are, in good faith, entitled to obtain insurance through ordinary means, the commissioner shall create competition or availability where it does not exist. A plan for competition or availability adopted pursuant to this section shall be included in a report or supplemental report under section 2409. The plan shall only relate to those geographic areas, classifications, or kinds or types of risks where competition has been certified not to exist. The plan may include methods designed to create competition or availability as the commissioner considers necessary, and may provide for the commissioner to do 1 or more of the following:

(a) Authorize, by order, joint underwriting activities in a manner specified in the commissioner's order.

(b) Modify the rate approval process in a manner to increase competition or availability while at the same time providing for reasonably timely rate approvals, including prior approval or file and use processes.

(c) Order excess profits regulation. Excess profits regulation authorized by this subdivision shall be based upon rules promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Excess profits shall include both underwriting profits and all after-tax investment or investment profit or loss from unearned premiums and loss reserves attributable to worker's compensation insurance. The commissioner, pursuant to excess profits regulation, may establish forms for the reporting of financial data of an insurer.

(d) Establish and require worker's compensation insurance rates, by order, which insurers must use as a condition of maintaining their certificate of authority. The order setting the rates shall take effect not less than 90 days nor more than 150 days after the order is issued.

500.2409c Public hearing; issuance and contents of tentative report; request for contested hearing; final report and certification; considerations.

Sec. 2409c. (1) By May 15, 2003 and by May 15 annually thereafter, the commissioner shall make an annual determination as to whether a reasonable degree of competition in the commercial liability insurance market exists on a statewide basis. If the commissioner determines that a reasonable degree of competition in the commercial liability insurance market does not exist on a statewide basis, the commissioner shall hold a public hearing and shall issue a report delineating specific classifications and kinds or types of insurance, if any, where a reasonable degree of competition does not exist. The report shall be based on relevant economic tests, including, but not limited to, those in subsection (3). The findings in the report shall not be based on any single measure of competition, but appropriate weight shall be given to all measures of competition. Any person who disagrees with the report and findings of the commissioner may request a contested hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, not later than 60 days after issuance of the report under this subsection.

(2) If the results of the report issued under subsection (1) are disputed or if the commissioner determines that circumstances that the report was based on have changed, the commissioner shall issue a supplemental report to the report under subsection (1) which shall include a certification of whether or not a reasonable degree of competition exists in the commercial liability insurance market. The supplemental report and certification shall be issued not later than November 15 immediately following the release of the report under subsection (1) that this report supplements and shall be supported by substantial evidence.

(3) All of the following shall be considered by the commissioner for purposes of subsections (1) and (2):

(a) The extent to which any insurer controls the commercial liability insurance market, or any portion of the commercial liability insurance market.

(b) Whether the total number of companies writing commercial liability insurance in this state is sufficient to provide multiple options to commercial liability insurance purchasers.

(c) The disparity among commercial liability insurance rates and classifications to the extent that such classifications result in rate differentials.

(d) The availability of commercial liability insurance to commercial liability insurance purchasers in all geographic areas and all types of business.

(e) The residual market share.

500.3515 Additional health maintenance services; copayments; "preventative health care services" defined; partial payment from government or private person.

Sec. 3515. (1) A health maintenance organization may provide additional health maintenance services or any other related health care service or treatment not required under this chapter.

(2) A health maintenance organization may have health maintenance contracts with deductibles. A health maintenance organization may have health maintenance contracts with copayments that are required for specific health maintenance services. Copayments for services required under section 3501(b), excluding deductibles, shall be nominal, shall not exceed 50% of a health maintenance organization's reimbursement to an affiliated provider for providing the service to an enrollee, and shall not be based on the provider's standard charge for the service. A health maintenance organization shall not require contributions be made to a deductible for preventative health care services. As used in this subsection, "preventative health care services" means services designated to maintain an individual in optimum health and to prevent unnecessary injury, illness, or disability.

(3) A health maintenance organization may accept from governmental agencies and from private persons payments covering any part of the cost of health maintenance contracts.

500.3519 Contract and contract rates; fairness; rate differential; basic health services required.

Sec. 3519. (1) A health maintenance organization contract and the contract's rates, including any deductibles and copayments, between the organization and its subscribers shall be fair, sound, and reasonable in relation to the services provided, and the procedures for offering and terminating contracts shall not be unfairly discriminatory.

(2) A health maintenance organization contract and the contract's rates shall not discriminate on the basis of race, color, creed, national origin, residence within the approved service area of the health maintenance organization, lawful occupation, sex, handicap, or marital status, except that marital status may be used to classify individuals or risks for the purpose of insuring family units. The commissioner may approve a rate differential based on sex, age, residence, disability, marital status, or lawful occupation, if the differential is supported by sound actuarial principles, a reasonable classification system, and is related to the actual and credible loss statistics or reasonably anticipated experience for new coverages.

(3) All health maintenance organization contracts shall include, at a minimum, basic health services.

500.3528 Health maintenance organization; duties.

Sec. 3528. (1) A health maintenance organization shall do all of the following:

(a) Establish written policies and procedures for credentialing verification of all health professionals with whom the health maintenance organization contracts and shall apply these standards consistently.

(b) Verify the credentials of a health professional before entering into a contract with that health professional. The health maintenance organization's medical director or other designated health professional shall have responsibility for, and shall participate in, health professional credentialing verification.

(c) Establish a credentialing verification committee consisting of licensed physicians and other health professionals to review credentialing verification information and supporting documents and make decisions regarding credentialing verification.

(d) Make available for review by the applying health professional upon written request all application and credentialing verification policies and procedures.

(e) Retain all records and documents relating to a health professional's credentialing verification process for at least 2 years.

(f) Keep confidential all information obtained in the credentialing verification process, except as otherwise provided by law.

(2) A health maintenance organization shall obtain primary verification of at least all of the following information about an applicant to become a health professional with the health maintenance organization:

(a) Current license to practice in this state and history of licensure.

(b) Current level of professional liability coverage, if applicable.

(c) Status of hospital privileges, if applicable.

(3) A health maintenance organization shall obtain, subject to either primary or secondary verification at the health maintenance organization's discretion, all of the following information about an applicant to become an affiliated provider with the health maintenance organization:

(a) The health professional's license history in this and all other states.

(b) The health professional's malpractice history.

(c) The health professional's practice history.

(d) Specialty board certification status, if applicable.

(e) Current drug enforcement agency (DEA) registration certificate, if applicable.

(f) Graduation from medical or other appropriate school.

(g) Completion of postgraduate training, if applicable.

(4) A health maintenance organization shall obtain at least every 3 years primary verification of all of the following for a participating health professional:

(a) Current license to practice in this state.

(b) Current level of professional liability coverage, if applicable.

(c) Status of hospital privileges, if applicable.

(5) A health maintenance organization shall require all participating providers to notify the health maintenance organization of changes in the status of any of the items listed in this section at any time and identify for providers the individual at the health maintenance organization to whom they should report changes in the status of an item listed in this section.

(6) A health maintenance organization shall provide a health professional with the opportunity to review and correct information submitted in support of that health professional's credentialing verification application as follows:

(a) Each health professional who is subject to the credentialing verification process has the right to review all information, including the source of that information, obtained by the health maintenance organization to satisfy the requirements of this section during the health maintenance organization's credentialing process.

(b) A health maintenance organization shall notify a health professional of any information obtained during the health maintenance organization's credentialing verification process that does not meet the health maintenance organization's credentialing verification standards or that varies substantially from the information provided to the health maintenance organization by the health professional, except that the health maintenance organization is not required to reveal the source of information if the information is not obtained to meet the requirements of this section or if disclosure is prohibited by law.

(c) A health professional has the right to correct any erroneous information. A health maintenance organization shall have a formal process by which a health professional may submit supplemental or corrected information to the health maintenance organization's

credentialing verification committee and request a reconsideration of the health professional's credentialing verification application if the health professional feels that the health carrier's credentialing verification committee has received information that is incorrect or misleading. Supplemental information is subject to confirmation by the health maintenance organization.

(7) If a health maintenance organization contracts to have another entity perform the credentialing functions required by this section, the commissioner shall hold the health maintenance organization responsible for monitoring the activities of the entity with which it contracts and for ensuring that the requirements of this section are met.

(8) Nothing in this act shall be construed to require a health maintenance organization to select a provider as a participating provider solely because the provider meets the health maintenance organization's credentialing verification standards, or to prevent a health maintenance organization from utilizing separate or additional criteria in selecting the health professionals with whom it contracts.

This act is ordered to take immediate effect.
Approved December 21, 2002.
Filed with Secretary of State December 23, 2002.

[No. 622]

(SB 1500)

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending sections 39b and 39e (MCL 208.39b and 208.39e), section 39b as added by 1996 PA 441 and section 39e as added by 2002 PA 531.

The People of the State of Michigan enact:

208.39b Business located and conducted within renaissance zone; allowable tax credit; definitions.

Sec. 39b. (1) Except as provided in subsection (2) and for tax years that begin after December 31, 1996, a taxpayer that is a business located and conducting business activity within a renaissance zone may claim a credit against the tax imposed by this act for the tax year to the extent and for the duration provided pursuant to the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, equal to the tax liability attributable to business activity conducted within a renaissance zone in the tax year or, for tax years that begin on or after January 1, 2003, either of the following:

(a) Except as provided in subdivision (b), for a business that first locates and begins conducting business activity within a renaissance zone after November 30, 2002, the lesser of the following:

(*i*) The tax liability attributable to business activity conducted within a renaissance zone in the tax year.

(*ii*) Ten percent of adjusted services performed in a designated renaissance zone.

(b) For a business that is located and conducting business activity within a renaissance zone before December 1, 2002 or a business that before December 1, 2002 has entered into a purchase agreement or lease agreement for real or personal property to be used for business activity within a renaissance zone, the greater of the following:

(*i*) The amount calculated under subdivision (a)(*i*) or (*ii*), whichever is less.

(*ii*) The lesser of the following:

(A) The amount calculated under subdivision (a)(*i*).

(B) The credit allowed under this section for the tax year beginning in 2002 plus 2% of the increase in the amount calculated under subsection (9)(a)(*i*) for the tax year over the amount calculated under subsection (9)(a)(*i*) for the tax year beginning in 2002.

(2) Any portion of the taxpayer's tax liability that is attributable to illegal activity conducted in the renaissance zone shall not be used to calculate a credit under this section.

(3) The credit allowed under this section continues through the tax year in which the renaissance zone designation expires.

(4) The tax liability used to determine the credit under this section is the taxpayer's tax liability before the calculation of credits provided in sections 37c and 38b and after the calculation of all other credits under this act.

(5) The credit allowed under this section shall not exceed the tax liability of the taxpayer for the tax year.

(6) A taxpayer that claims a credit under this section shall not employ, pay a speaker fee to, or provide any remuneration, compensation, or consideration to any person employed by the state, the state administrative board created in 1921 PA 2, MCL 17.1 to 17.3, or the renaissance zone review board created in 1996 PA 376, MCL 125.2681 to 125.2696, whose employment relates or related in any way to the authorization or enforcement of the credit allowed under this section for any year in which the taxpayer claims a credit under this section and for the 3 years after the last year that a credit is claimed.

(7) To be eligible for the credit allowed under this section, an otherwise qualified taxpayer shall file an annual return under this act.

(8) Any portion of the taxpayer's tax liability that is attributable to business activity related to the operation of a casino, and business activity that is associated or affiliated with the operation of a casino including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used to calculate a credit under this section. As used in this subsection, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, Initiated Law of 1996, MCL 432.201 to 432.226.

(9) As used in this section:

(a) "Adjusted services performed in a designated renaissance zone" means either of the following:

(*i*) Except as provided in subparagraph (*ii*), the sum of the taxpayer's payroll for services performed in a designated renaissance zone plus an amount equal to the amount added pursuant to section 9(4)(c) for the tax year for property exempt under section 7ff of the general property tax act, 1893 PA 206, MCL 211.7ff, in the tax year or, for new property, in the immediately following tax year.

(*ii*) For a partnership, limited liability company, S corporation, or individual, the amount determined under subparagraph (*i*) plus the product of the following as related to the taxpayer if greater than zero:

(A) Business income.

(B) The apportionment factor as determined under chapter 3.

(C) The renaissance zone business activity factor.

(b) "New property" means property that has not been subject to, or exempt from, the collection of taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, and has not been subject to, or exempt from, ad valorem property taxes levied in another state, except that receiving an exemption as inventory property does not disqualify property.

(c) "Renaissance zone" means that term as defined in 1996 PA 376, MCL 125.2681 to 125.2696.

(d) "Payroll" means total salaries and wages before deducting any personal or dependency exemptions.

(e) "Renaissance zone business activity factor" means a fraction, the numerator of which is the ratio of the average value of the taxpayer's property located in a designated renaissance zone to the average value of the taxpayer's property in this state plus the ratio of the taxpayer's payroll for services performed in a designated renaissance zone to all of the taxpayer's payroll in this state and the denominator of which is 2.

(f) "Tax liability attributable to business activity conducted within a renaissance zone" means the taxpayer's tax liability multiplied by the renaissance zone business activity factor.

208.39e Tax credit; certification as eligible taxpayer under Michigan next energy authority act; definitions.

Sec. 39e. (1) A taxpayer may claim a credit against the tax imposed by this act for 1 or more of the following as applicable:

(a) The credit allowed under subsection (2).

(b) The credit allowed under subsection (6).

(2) For tax years that begin after December 31, 2002, a taxpayer that is certified under the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827, as an eligible taxpayer may claim a nonrefundable credit for the tax year equal to the amount determined under subdivision (a) or (b), whichever is less:

(a) The amount by which the taxpayer's tax liability attributable to qualified business activity for the tax year exceeds the taxpayer's baseline tax liability attributable to qualified business activity.

(b) For tax years that begin after December 31, 2002, 10% of the amount by which the taxpayer's adjusted qualified business activity performed in this state outside of a renaissance zone for the tax year exceeds the taxpayer's adjusted qualified business activity performed in this state outside of a renaissance zone for the 2001 tax year.

(3) For any tax year in which the eligible taxpayer's tax liability attributable to qualified business activity for the tax year does not exceed the taxpayer's baseline tax liability attributable to qualified business activity, the eligible taxpayer shall not claim the credit allowed under subsection (2).

(4) An affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall not take the credit allowed under subsection (2) unless the qualified business activity of the group or entities is consolidated.

(5) A taxpayer that claims a credit under subsection (2) shall attach a copy of each of the following as issued pursuant to the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827, to the annual return required under this act for each tax year in which the taxpayer claims the credit allowed under subsection (2):

(a) The proof of certification that the taxpayer is an eligible taxpayer for the tax year.

(b) The proof of certification of the taxpayer's tax liability attributable to qualified business activity for the tax year.

(c) The proof of certification of the taxpayer's baseline tax liability attributable to qualified business activity.

(6) For tax years that begin after December 31, 2002, a taxpayer that is a qualified alternative energy entity may claim a credit for the taxpayer's qualified payroll amount. A taxpayer shall claim the credit under this subsection after all allowable nonrefundable credits under this act.

(7) If the credit allowed under subsection (6) exceeds the tax liability of the taxpayer for the tax year, that portion of the credit that exceeds the tax liability shall be refunded.

(8) Notwithstanding any other provision of this act and for tax years that begin after December 31, 2002, a person whose apportioned or allocated gross receipts are less than $350,000.00 for the tax year need not file a return or pay the tax as provided under this act.

(9) As used in this section:

(a) "Adjusted qualified business activity performed in this state outside of a renaissance zone" means either of the following:

(*i*) Except as provided in subparagraph (*ii*), the taxpayer's payroll for qualified business activity performed in this state outside of a renaissance zone.

(*ii*) For a partnership, limited liability company, S corporation, or individual, the amount determined under subparagraph (*i*) plus the product of the following as related to the taxpayer:

(A) Business income.

(B) The apportionment factor as determined under chapter 3.

(C) The alternative energy business activity factor.

(b) "Alternative energy business activity factor" means a fraction the numerator of which is the ratio of the value of the taxpayer's property used for qualified business activity and located in this state outside of a renaissance zone for the year for which the factor is being calculated to the value of all of the taxpayer's property located in this state for that year plus the ratio of the taxpayer's payroll for qualified business activity performed in this state outside of a renaissance zone for that year to all of the taxpayer's payroll in this state for that year and the denominator of which is 2.

(c) "Alternative energy marine propulsion system", "alternative energy system", "alternative energy vehicle", and "alternative energy technology" mean those terms as defined in the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

(d) "Alternative energy zone" means a renaissance zone designated as an alternative energy zone by the board of the Michigan strategic fund under section 8a of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2688a.

(e) "Baseline tax liability attributable to qualified business activity" means the taxpayer's tax liability for the 2001 tax year multiplied by the taxpayer's alternative energy business activity factor for the 2001 tax year. A taxpayer with a 2001 tax year of less than 12 months shall annualize the amount calculated under this subdivision as necessary to determine baseline tax liability attributable to qualified business activity that reflects a 12-month period.

(f) "Eligible taxpayer" means a taxpayer that has proof of certification of qualified business activity under the Michigan next energy authority act, 2002 PA 593, MCL 207.821 to 207.827.

(g) "Payroll" means total salaries and wages before deducting any personal or dependency exemptions.

(h) "Qualified alternative energy entity" means a taxpayer located in an alternative energy zone.

(i) "Qualified business activity" means research, development, or manufacturing of an alternative energy marine propulsion system, an alternative energy system, an alternative energy vehicle, alternative energy technology, or renewable fuel.

(j) "Qualified employee" means an individual who is employed by a qualified alternative energy entity, whose job responsibilities are related to the research, development, or manufacturing activities of the qualified alternative energy entity, and whose regular place of employment is within an alternative energy zone.

(k) "Qualified payroll amount" means an amount equal to payroll of the qualified alternative energy entity attributable to all qualified employees in the tax year of the qualified alternative energy entity for which the credit under subsection (6) is being claimed, multiplied by the tax rate for that tax year.

(*l*) "Renaissance zone" means a renaissance zone designated under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696.

(m) "Renewable fuel" means 1 or more of the following:

(*i*) Biodiesel or biodiesel blends containing at least 20% biodiesel. As used in this subparagraph, "biodiesel" means a diesel fuel substitute consisting of methyl or ethyl esters produced from the transesterification of animal or vegetable fats with methanol or ethanol.

(*ii*) Biomass. As used in this subparagraph, "biomass" means residues from the wood and paper products industries, residues from food production and processing, trees and grasses grown specifically to be used as energy crops, and gaseous fuels produced from solid biomass, animal wastes, municipal waste, or landfills.

(n) "Tax liability attributable to qualified business activity" means the taxpayer's tax liability multiplied by the taxpayer's alternative energy business activity factor for the tax year.

(o) "Tax rate" means the rate imposed under sections 51, 51d, and 51e of the income tax act of 1967, 1967 PA 281, MCL 206.51, 206.51d, and 206.51e, annualized as necessary, for the tax year in which the qualified alternative energy entity claims a credit under subsection (6).

This act is ordered to take immediate effect.
Approved December 21, 2002.
Filed with Secretary of State December 23, 2002.

[No. 623]

(SB 1437)

AN ACT to amend 1979 PA 152, entitled "An act to provide for the establishment and collection of fees for the regulation of certain occupations and professions, and for certain agencies and businesses; to create certain funds; and to prescribe certain powers and

duties of certain state agencies and departments," by amending section 37 (MCL 338.2237), as amended by 1988 PA 461.

The People of the State of Michigan enact:

338.2237 Real estate broker, associate broker, salesperson, or branch office; fees; registration of property approved under land sales act; real estate education fund; real estate enforcement fund; creation and use.

Sec. 37. (1) Fees for a person licensed or seeking licensure as a real estate broker, associate broker, salesperson, or branch office or seeking other licenses or approvals issued under article 25 of the occupational code, MCL 339.2501 to 339.2518, are as follows:

(a) Application processing fees:	
(*i*) Brokers and associate brokers	$ 20.00
(*ii*) Salespersons	10.00
(*iii*) Branch office	10.00
(b) License fees, per year:	
(*i*) Brokers and associate brokers	36.00
(*ii*) Salespersons	26.00
(c) Branch office fee, per year	10.00
(d) Sale of out of state property:	
(*i*) Application to sell	20.00
(*ii*) Property registration	500.00
(*iii*) Renewal of approval to sell	20.00

(2) A fee shall not be required for the registration of property approved under the land sales act, 1972 PA 286, MCL 565.801 to 565.835.

(3) The real estate education fund is established in the state treasury and shall be administered by the department. Fifteen dollars of each license fee received by the department under subsection (1)(b) during that 3-year license cycle shall be deposited with the state treasurer to the credit of the real estate education fund. The department shall utilize the real estate education fund only for the operation of departmental programs related to education required of all licensees or applicants for licensure under article 25 of the occupational code, MCL 339.2501 to 339.2518. Any unexpended balance in the real estate education fund at the end of a fiscal year shall carry forward to the next fiscal year.

(4) The real estate enforcement fund is created in the state treasury and shall be administered by the department. Beginning the license cycle after the effective date of the amendatory act that added this subsection, $15.00 of each license fee received by the department under subsection (1)(b) during that 3-year license cycle shall be deposited into the real estate enforcement fund. The department shall utilize the real estate enforcement fund only for the enforcement of article 25 of the occupational code, MCL 339.2501 to 339.2518, regarding unlicensed activity as further described in section 601(1) and (2) and to reimburse the attorney general for expenses incurred in conducting prosecutions of such unlicensed practice. Any unexpended balance in the real estate enforcement fund at the end of a fiscal year shall carry forward to the next fiscal year.

This act is ordered to take immediate effect.

Approved December 21, 2002.

Filed with Secretary of State December 23, 2002.

[No. 624]

(HB 5743)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending sections 7cc and 53b (MCL 211.7cc and 211.53b), section 7cc as amended by 1996 PA 476 and section 53b as amended by 2000 PA 284.

The People of the State of Michigan enact:

211.7cc Homestead exemption from tax levied by local school district for school operating purposes; procedures.

Sec. 7cc. (1) A homestead is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, if an owner of that homestead claims an exemption as provided in this section. Notwithstanding the tax day provided in section 2, the status of property as a homestead shall be determined on the date an affidavit claiming an exemption is filed under subsection (2).

(2) An owner of property may claim an exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall state that the property is owned and occupied as a homestead by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. Beginning in 1995, 1 copy of the affidavit shall be retained by the owner, 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4), together with all information submitted under subsection (18) for a cooperative housing corporation. Beginning in 1995, the affidavit shall require the owner claiming the exemption to indicate if that owner has claimed another exemption on property in this state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner's number is subject to the disclosure restrictions in 1941 PA 122, MCL 205.1 to 205.31.

(3) A husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 homestead exemption.

(4) Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under subsection (6), the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, as provided in subsection (1) until December 31 of the year in which the property is transferred or is no longer a homestead as defined in section 7dd. The local tax collecting unit shall forward

copies of affidavits to the department of treasury according to a schedule prescribed by the department of treasury.

(5) Not more than 90 days after exempted property is no longer used as a homestead by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. Beginning October 1, 1994, an owner who fails to file a rescission as required by this subsection is subject to a penalty of $5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of $200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) If the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the homestead of the owner claiming the exemption, effective for taxes levied after 1994 the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the department of treasury within 35 days after the date of the notice. The denial shall be made on a form prescribed by the department of treasury. If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the homestead of the owner claiming the exemption, for taxes levied in 1994 the assessor may send a recommendation for denial for any affidavit that is forwarded to the department of treasury stating the reasons for the recommendation. If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the homestead of the owner claiming the exemption and has not denied the claim, for taxes levied after 1994 the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

(7) The department of treasury shall determine if the property is the homestead of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. If the department of treasury determines that the property is not the homestead of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An owner may appeal the denial of a claim of exemption to the department of treasury within 35 days of receipt of the notice of denial. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of 1941 PA 122, MCL 205.21. Within 10 days after acknowledging an appeal of a denial of a claim of exemption, the department of treasury shall notify the assessor and the treasurer for the county in which the property is located that an appeal has been filed. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall issue a corrected tax bill for previously unpaid taxes with interest and penalties computed based on the interest and penalties that would have accrued from the date the taxes were originally levied if there had not been an exemption. If the tax roll is in the county

treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall prepare and submit a supplemental tax bill for any additional taxes, together with any interest and penalties. For taxes levied in 1994 only, the county treasurer shall waive any interest and penalties due if the owner pays the supplemental tax bill not more than 30 days after the owner receives the supplemental tax bill. Interest and penalties shall not be assessed for any period before February 14, 1995. However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the homestead property tax exemption for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax, interest, or penalty collected into the state school aid fund.

(8) An owner may appeal a final decision of the department of treasury to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision. An assessor may appeal a final decision of the department of treasury to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision if the assessor denied the exemption under subsection (6), or, for taxes levied in 1994 only, the assessor forwarded a recommendation for denial to the department of treasury under subsection (6). An owner is not required to pay the amount of tax in dispute in order to appeal a denial of a claim of exemption to the department of treasury or to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest and penalties except as provided in subsection (7), if any, shall accrue and be computed based on the interest and penalties that would have accrued from the date the taxes were originally levied as if there had not been an exemption.

(9) An affidavit filed by an owner for a homestead rescinds all previous exemptions filed by that owner for any other homestead. The department of treasury shall notify the assessor of the local tax collecting unit in which the property for which a previous exemption was claimed is located that the previous exemption is rescinded by the subsequent affidavit. Upon receipt of notice that an exemption is rescinded, the assessor of the local tax collecting unit shall remove the exemption effective December 31 of the year in which the property is transferred or is no longer a homestead as defined in section 7dd. The assessor of the local tax collecting unit in which that property is located shall notify the treasurer in possession of the tax roll for a year for which the exemption is rescinded. If the tax roll is in the local tax collecting unit's possession, the tax roll shall be amended to reflect the rescission and the local treasurer shall prepare and issue a corrected tax bill for previously unpaid taxes with interest and penalties computed based on the interest and penalties that would have accrued from the date the taxes were originally levied if there had not been an exemption for that year. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the rescission and the county treasurer shall prepare and submit a supplemental tax bill for any additional taxes, together with any interest and penalties. However, if the property has been transferred to a bona fide purchaser, the taxes, interest, and penalties shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the

owner who received the homestead property tax exemption when the property was not a homestead as defined in section 7dd for the tax and interest plus penalty accruing, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax, interest, or penalty collected into the state school aid fund.

(10) An owner of property for which a claim of exemption is rescinded may appeal that rescission with either the July or December board of review in either the year for which the exemption is rescinded or in the immediately succeeding year. If an appeal of a rescission of a claim for exemption is received not later than 5 days prior to the date of the December board of review, the local tax collecting unit shall convene a December board of review and consider the appeal pursuant to this section and section 53b. An owner of property for which a claim of exemption is rescinded may appeal the decision of the board of review to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision.

(11) If the homestead is part of a unit in a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, an owner shall claim an exemption for only that portion of the total taxable value of the property used as the homestead of that owner in a manner prescribed by the department of treasury. If a portion of a parcel for which the owner claims an exemption is used for a purpose other than as a homestead, the owner shall claim an exemption for only that portion of the taxable value of the property used as the homestead of that owner in a manner prescribed by the department of treasury.

(12) When a county register of deeds records a transfer of ownership of a property, he or she shall notify the local tax collecting unit in which the property is located of the transfer.

(13) The department of treasury shall make available the affidavit forms and the forms to rescind an exemption, which may be on the same form, to all city and township assessors, county equalization officers, county registers of deeds, and closing agents. A person who prepares a closing statement for the sale of property shall provide affidavit and rescission forms to the buyer and seller at the closing and, if requested by the buyer or seller after execution by the buyer or seller, shall file the forms with the local tax collecting unit in which the property is located. If a closing statement preparer fails to provide homestead exemption affidavit and rescission forms to the buyer and seller, or fails to file the affidavit and rescission forms with the local tax collecting unit if requested by the buyer or seller, the buyer may appeal to the department of treasury within 30 days of notice to the buyer that an exemption was not recorded. If the department of treasury determines that the buyer qualifies for the exemption, the department of treasury shall notify the assessor of the local tax collecting unit that the exemption is granted and the assessor of the local tax collecting unit or, if the tax roll is in the possession of the county treasurer, the county treasurer shall correct the tax roll to reflect the exemption. This subsection does not create a cause of action at law or in equity against a closing statement preparer who fails to provide homestead exemption affidavit and rescission forms to a buyer and seller or who fails to file the affidavit and rescission forms with the local tax collecting unit when requested to do so by the buyer or seller.

(14) An owner who owned and occupied a homestead on May 1 for which the exemption was not on the tax roll may file an appeal with the July board of review or December board of review in the year for which the exemption was claimed or the immediately succeeding 3 years. If an appeal of a claim for exemption that was not on the tax roll is received not later than 5 days prior to the date of the December board of review, the local tax collecting unit shall convene a December board of review and consider the appeal pursuant to this section and section 53b.

(15) If the assessor or treasurer of the local tax collecting unit believes that the department of treasury erroneously denied a claim for exemption, the assessor or treasurer may submit written information supporting the owner's claim for exemption to the department of treasury within 35 days of the owner's receipt of the notice denying the claim for exemption. If, after reviewing the information provided, the department of treasury determines that the claim for exemption was erroneously denied, the department of treasury shall grant the exemption and the tax roll shall be amended to reflect the exemption.

(16) If granting the exemption under this section results in an overpayment of the tax, a rebate, including any interest paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(17) If an exemption under this section is erroneously granted, an owner may request in writing that the department of treasury withdraw the exemption. If an owner requests that an exemption be withdrawn, the department of treasury shall issue an order notifying the local assessor that the exemption issued under this section has been denied based on the owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If an owner requests that an exemption under this section be withdrawn before that owner is contacted in writing by either the local assessor or the department of treasury regarding that owner's eligibility for the exemption and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

(18) For tax years beginning on and after January 1, 1994, a cooperative housing corporation is entitled to a full or partial exemption under this section for the tax year in which the cooperative housing corporation files all of the following with the local tax collecting unit in which the cooperative housing corporation is located if filed on or before May 1 of the tax year, or for the tax year following the year in which all of the following are filed if filed after May 1 of the tax year:

(a) An affidavit form.

(b) A statement of the total number of units owned by the cooperative housing corporation and occupied as the principal residence of a tenant stockholder as of the date of the filing under this subsection.

(c) A list that includes the name, address, and social security number of each tenant stockholder of the cooperative housing corporation occupying a unit in the cooperative housing corporation as his or her principal residence as of the date of the filing under this subsection.

(d) A statement of the total number of units of the cooperative housing corporation on which an exemption under this section was claimed and that were transferred in the tax year immediately preceding the tax year in which the filing under this section was made.

211.53b Clerical error or mutual mistake of fact as to assessment figures, rate of taxation, or mathematical computation; verification, approval, and affidavit; correction of records; rebate; notice and payment; initiation of action; actions of board of review; exemption; appeal.

Sec. 53b. (1) If there has been a clerical error or a mutual mistake of fact relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes, the clerical error or mutual mistake of fact shall be verified by the local assessing officer and approved by the board of review at a meeting held for the purposes of this section on Tuesday following the second Monday in December and, for summer property taxes, on Tuesday following the third Monday in July. If there is not a levy of summer property taxes, the board of review may meet for the purposes of this section on Tuesday following the third Monday in July. If approved, the board of review shall file an affidavit within 30 days relative to the clerical error or mutual mistake of fact with the proper officials who are involved with the assessment figures, rate of taxation, or mathematical computation and all affected official records shall be corrected. If the clerical error or mutual mistake of fact results in an overpayment or underpayment, the rebate, including any interest paid, shall be made to the taxpayer or the taxpayer shall be notified and payment made within 30 days of the notice. A rebate shall be without interest. The county treasurer may deduct the rebate from the appropriate tax collecting unit's subsequent distribution of taxes. The county treasurer shall bill to the appropriate tax collecting unit the tax collecting unit's share of taxes rebated. Except as otherwise provided in subsection (6), a correction under this subsection may be made in the year in which the error was made or in the following year only.

(2) Action pursuant to this section may be initiated by the taxpayer or the assessing officer.

(3) The board of review meeting in July and December shall meet only for the purpose described in subsection (1) and to hear appeals provided for in sections 7u, 7cc, and 7ee. If an exemption under section 7u is approved, the board of review shall file an affidavit with the proper officials involved in the assessment and collection of taxes and all affected official records shall be corrected. If an appeal under section 7cc or 7ee results in a determination that an overpayment has been made, the board of review shall file an affidavit and a rebate shall be made at the times and in the manner provided in subsection (1). Except as otherwise provided in sections 7cc and 7ee, a correction under this subsection shall be made for the year in which the appeal is made only. If the board of review grants an exemption or provides a rebate for property under section 7cc or 7ee as provided in this subsection, the board of review shall require the owner to execute the affidavit provided for in section 7cc or 7ee and shall forward a copy of any section 7cc affidavits to the department of treasury.

(4) If an exemption under section 7cc is granted by the board of review under this section, the provisions of section 7cc(6) through (8) apply. If an exemption under section 7cc is not granted by the board of review under this section, the owner may appeal that decision in writing to the department of treasury within 35 days of the board of review's denial and the appeal shall be conducted as provided in section 7cc(7).

(5) An owner or assessor may appeal a decision of the board of review under this section regarding an exemption under section 7ee to the residential and small claims division of the Michigan tax tribunal. An owner is not required to pay the amount of tax in dispute in order to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest and penalties, if any, shall accrue

and be computed based on interest and penalties that would have accrued from the date the taxes were originally levied as if there had not been an exemption.

(6) A correction under this section that grants a homestead exemption pursuant to section 7cc(14) may be made for the year in which the appeal was filed and the 3 immediately preceding tax years.

This act is ordered to take immediate effect.
Approved December 21, 2002.
Filed with Secretary of State December 23, 2002.

[No. 625]

(SB 1447)

AN ACT to amend 1939 PA 288, entitled "An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties," by amending section 17b of chapter XIIA (MCL 712A.17b), as amended by 1998 PA 325.

The People of the State of Michigan enact:

CHAPTER XIIA

712A.17b Definitions; proceedings to which section applicable; use of dolls or mannequins; support person; notice; videorecorded statement; shielding of witness; videorecorded deposition; special arrangements to protect welfare of witness; section additional to other protections or procedures.

Sec. 17b. (1) As used in this section:

(a) "Custodian of the videorecorded statement" means the family independence agency, investigating law enforcement agency, prosecuting attorney, or department of attorney general or another person designated under the county protocols established as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628.

(b) "Developmental disability" means that term as defined in section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, except that, for the purposes of implementing this section, developmental disability includes only a condition that is attributable to a mental impairment or to a combination of mental and physical impairments, and does not include a condition attributable to a physical impairment unaccompanied by a mental impairment.

(c) "Videorecorded statement" means a witness's statement taken by a custodian of the videorecorded statement as provided in subsection (5). Videorecorded statement does not include a videorecorded deposition taken as provided in subsections (16) and (17).

(d) "Witness" means an alleged victim of an offense listed under subsection (2) who is either of the following:

(*i*) A person under 16 years of age.

(*ii*) A person 16 years of age or older with a developmental disability.

(2) This section only applies to either of the following:

(a) A proceeding brought under section 2(a)(1) of this chapter in which the alleged offense, if committed by an adult, would be a felony under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g, or under former section 136 or 136a of the Michigan penal code, 1931 PA 328.

(b) A proceeding brought under section 2(b) of this chapter.

(3) If pertinent, the witness shall be permitted the use of dolls or mannequins, including, but not limited to, anatomically correct dolls or mannequins, to assist the witness in testifying on direct and cross-examination.

(4) A witness who is called upon to testify shall be permitted to have a support person sit with, accompany, or be in close proximity to the witness during his or her testimony. A notice of intent to use a support person shall name the support person, identify the relationship the support person has with the witness, and give notice to all parties to the proceeding that the witness may request that the named support person sit with the witness when the witness is called upon to testify during any stage of the proceeding. The notice of intent to use a named support person shall be filed with the court and shall be served upon all parties to the proceeding. The court shall rule on a motion objecting to the use of a named support person before the date at which the witness desires to use the support person.

(5) A custodian of the videorecorded statement may take a witness's videorecorded statement. The videorecorded statement shall be admitted at all proceedings except the adjudication stage instead of the live testimony of the witness. The videorecorded statement shall state the date and time that the statement was taken; shall identify the persons present in the room and state whether they were present for the entire videorecording or only a portion of the videorecording; and shall show a time clock that is running during the taking of the statement.

(6) In a videorecorded statement, the questioning of the witness should be full and complete; shall be in accordance with the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628; and, if appropriate for the witness's developmental level, shall include, but need not be limited to, all of the following areas:

(a) The time and date of the alleged offense or offenses.

(b) The location and area of the alleged offense or offenses.

(c) The relationship, if any, between the witness and the respondent.

(d) The details of the offense or offenses.

(e) The names of other persons known to the witness who may have personal knowledge of the offense or offenses.

(7) A custodian of the videorecorded statement may release or consent to the release or use of a videorecorded statement or copies of a videorecorded statement to a law enforcement agency, an agency authorized to prosecute the criminal case to which the

videorecorded statement relates, or an entity that is part of county protocols established under section 8 of the child protection law, 1975 PA 238, MCL 722.628. Each respondent and, if represented, his or her attorney has the right to view and hear the videorecorded statement at a reasonable time before it is offered into evidence. In preparation for a court proceeding and under protective conditions, including, but not limited to, a prohibition on the copying, release, display, or circulation of the videorecorded statement, the court may order that a copy of the videorecorded statement be given to the defense.

(8) If authorized by the prosecuting attorney in the county in which the videorecorded statement was taken, a videorecorded statement may be used for purposes of training the custodians of the videorecorded statement in that county on the forensic interview protocol implemented as required by section 8 of the child protection law, 1975 PA 238, MCL 722.628.

(9) Except as provided in this section, an individual, including, but not limited to, a custodian of the videorecorded statement, the witness, or the witness's parent, guardian, guardian ad litem, or attorney, shall not release or consent to release a videorecorded statement or a copy of a videorecorded statement.

(10) A videorecorded statement that becomes part of the court record is subject to a protective order of the court for the purpose of protecting the privacy of the witness.

(11) A videorecorded statement shall not be copied or reproduced in any manner except as provided in this section. A videorecorded statement is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, is not subject to release under another statute, and is not subject to disclosure under the Michigan court rules governing discovery. This section does not prohibit the production or release of a transcript of a videorecorded statement.

(12) Except as otherwise provided in subsection (15), if, upon the motion of a party or in the court's discretion, the court finds on the record that psychological harm to the witness would occur if the witness were to testify in the presence of the respondent at a court proceeding or in a videorecorded deposition taken as provided in subsection (13), the court shall order that the witness during his or her testimony be shielded from viewing the respondent in such a manner as to enable the respondent to consult with his or her attorney and to see and hear the testimony of the witness without the witness being able to see the respondent.

(13) In a proceeding brought under section 2(b) of this chapter, if, upon the motion of a party or in the court's discretion, the court finds on the record that psychological harm to the witness would occur if the witness were to testify at the adjudication stage, the court shall order to be taken a videorecorded deposition of a witness that shall be admitted into evidence at the adjudication stage instead of the live testimony of the witness. The examination and cross-examination of the witness in the videorecorded deposition shall proceed in the same manner as permitted at the adjudication stage.

(14) In a proceeding brought under section 2(a)(1) of this chapter in which the alleged offense, if committed by an adult, would be a felony under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g, or under former section 136 or 136a of the Michigan penal code, 1931 PA 328, if, upon the motion of a party made before the adjudication stage, the court finds on the record that the special arrangements specified in subsection (15) are necessary to protect the welfare of the witness, the court shall order 1 or both of those special arrangements. In determining whether it is necessary to protect the welfare of the witness, the court shall consider both of the following:

(a) The age of the witness.

(b) The nature of the offense or offenses.

(15) If the court determines on the record that it is necessary to protect the welfare of the witness and grants the motion made under subsection (14), the court shall order 1 or both of the following:

(a) In order to protect the witness from directly viewing the respondent, the courtroom shall be arranged so that the respondent is seated as far from the witness stand as is reasonable and not directly in front of the witness stand. The respondent's position shall be located so as to allow the respondent to hear and see all witnesses and be able to communicate with his or her attorney.

(b) A questioner's stand or podium shall be used for all questioning of all witnesses by all parties, and shall be located in front of the witness stand.

(16) In a proceeding brought under section 2(a)(1) of this chapter in which the alleged offense, if committed by an adult, would be a felony under section 136b, 145c, 520b to 520e, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, 750.520b to 750.520e, and 750.520g, or under former section 136 or 136a of the Michigan penal code, 1931 PA 328, if, upon the motion of a party or in the court's discretion, the court finds on the record that the witness is or will be psychologically or emotionally unable to testify at a court proceeding even with the benefit of the protections afforded the witness in subsections (3), (4), and (15), the court shall order that a videorecorded deposition of a witness shall be taken to be admitted at the adjudication stage instead of the witness's live testimony.

(17) For purposes of the videorecorded deposition under subsection (16), the witness's examination and cross-examination shall proceed in the same manner as if the witness testified at the adjudication stage, and the court shall order that the witness, during his or her testimony, shall not be confronted by the respondent but shall permit the respondent to hear the testimony of the witness and to consult with his or her attorney.

(18) This section is in addition to other protections or procedures afforded to a witness by law or court rule.

(19) A person who intentionally releases a videorecorded statement in violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1356 of the 91st Legislature is enacted into law.

Approved December 21, 2002.
Filed with Secretary of State December 23, 2002.

Compiler's note: Senate Bill No. 1356, referred to in enacting section 1, was filed with the Secretary of State December 20, 2002, and became P.A. 2002, No. 604, Eff. Mar. 31, 2003.

[No. 626]

(SB 1410)

AN ACT to amend 1969 PA 317, entitled "An act to revise and consolidate the laws relating to worker's disability compensation; to increase the administrative efficiency of

the adjudicative processes of the worker's compensation system; to improve the qualifications of the persons having adjudicative functions within the worker's compensation system; to prescribe certain powers and duties; to create the board of worker's compensation magistrates and the worker's compensation appellate commission; to create certain other boards; to provide certain procedures for the resolution of claims, including mediation and arbitration; to prescribe certain benefits for persons suffering a personal injury under the act; to prescribe certain limitations on obtaining benefits under the act; to create, and provide for the transfer of, certain funds; to prescribe certain fees; to prescribe certain remedies and penalties; to repeal certain parts of this act on specific dates; and to repeal certain acts and parts of acts," by amending section 625 (MCL 418.625), as amended by 1995 PA 271.

The People of the State of Michigan enact:

418.625 Insurance policy's notice of issuance; contents; refusal to accept coverage.

Sec. 625. Each insurer mentioned in section 611 issuing an insurance policy covering worker's compensation in this state shall file with the director, within 30 days after the effective date of the policy, a notice of the issuance of the policy and its effective date. A notice of issuance of insurance, a notice of termination of insurance, or a notice of employer name change may be submitted in writing or by using bureau approved electronic record layout and transaction standards and may be submitted by the insurer directly or by the compensation advisory organization of Michigan on behalf of the insurer. Payment shall not be required by the bureau or any third party for the use of bureau approved electronic record layout and transaction standards under this act. Time requirements for notices under this act apply whether filed by the insurer or the compensation advisory organization of Michigan. If the policy covers persons who would otherwise be exempted from this act by section 115, the notice shall contain a specific statement to that effect. A notice shall not be required of any insurer where the policy issued is a renewal of the preceding policy. The insurer, if it refuses to accept any coverage under this act, shall do so in writing.

This act is ordered to take immediate effect.
Approved December 21, 2002.
Filed with Secretary of State December 23, 2002.

[No. 627]

(SB 670)

AN ACT to amend 1937 PA 306, entitled "An act to promote the safety, welfare and educational interests of the people of the state of Michigan by regulating the construction, reconstruction and remodeling of certain public or private school buildings or additions thereto, by regulating the construction, reconstruction and remodeling of buildings leased or acquired for school purposes, and to define the class of buildings affected by this act; to prescribe the powers and duties of the superintendent of public instruction, the state fire marshal, architects, engineers and school board members with respect thereto; to prescribe penalties for the violation of this act; and to repeal all acts and parts of acts, general, local and special, inconsistent with or contrary to the provisions of this act," by amending section 2 (MCL 388.852).

The People of the State of Michigan enact:

388.852 School building; architect or engineer; responsibilities; violation; penalty.

Sec. 2. (1) The licensed architect or engineer preparing the plans and specifications of a school building is responsible for assuring that the design documents provide for a structure with sufficient structural strength and fire resistance and that the building will meet all applicable codes, standards, and regulations.

(2) The person supervising the construction of a school building is responsible for the construction of the school building in conformance with the approved plans and specifications prepared by the licensed architect or engineer.

(3) A person that violates this section is subject to all of the following:

(a) A state civil infraction punishable by a civil fine of not more than $10,000.00.

(b) If the person knowingly violated this section, a misdemeanor punishable by a fine of not more than $10,000.00 or imprisonment for not more than 180 days, or both.

This act is ordered to take immediate effect.
Approved December 21, 2002.
Filed with Secretary of State December 23, 2002.

[No. 628]

(SB 358)

AN ACT to amend 1937 PA 306, entitled "An act to promote the safety, welfare and educational interests of the people of the state of Michigan by regulating the construction, reconstruction and remodeling of certain public or private school buildings or additions thereto, by regulating the construction, reconstruction and remodeling of buildings leased or acquired for school purposes, and to define the class of buildings affected by this act; to prescribe the powers and duties of the superintendent of public instruction, the state fire marshal, architects, engineers and school board members with respect thereto; to prescribe penalties for the violation of this act; and to repeal all acts and parts of acts, general, local and special, inconsistent with or contrary to the provisions of this act," by amending the title and section 1 (MCL 388.851) and by adding section 1b.

The People of the State of Michigan enact:

TITLE

An act to promote the safety, welfare, and educational interests of the people of the state of Michigan by regulating the construction, reconstruction, and remodeling of certain public or private school buildings or additions to such buildings, by regulating the construction, reconstruction, and remodeling of buildings leased or acquired for school purposes, and to define the class of buildings affected by this act; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties for the violation of this act; and to repeal acts and parts of acts.

388.851 School buildings; construction requirements; waiver.

Sec. 1. A school building, public or private, or any additions to a school building, shall not be erected, remodeled, or reconstructed in this state except in conformity with all of the following provisions:

(a) All plans and specifications for buildings shall be prepared by an architect or professional engineer who is licensed in this state. An architect or professional engineer licensed in this state or another person qualified to supervise construction shall supervise the construction of a school building.

(b) All walls, floors, partitions, and roofs shall be constructed of fire-resisting materials such as stone, brick, tile, concrete, gypsum, steel, or similar fire-resisting material. All steel members shall be protected by at least 3/4 of an inch of fire-resisting material.

(c) Wood lath or wood furring shall not be used in the construction. These regulations shall not be construed as prohibiting the use of finished wood flooring, wood door and window frames, wood sash, or wood furring and grounds, for the purpose of installing wood trim, panelling, acoustical units, or similar facing materials on masonry walls, structural steel, or concrete ceiling members.

(d) Every room enclosing a heating unit shall be enclosed by walls of fire-resisting materials and shall be equipped with automatically closing fire doors. All heating units shall not be located directly beneath any portion of a school building or addition that is constructed or reconstructed after January 1, 2003. This regulation shall not be construed to require the removal of an existing heating plant from beneath an existing building when an addition to the building is constructed unless the department requires such removal in the interests of the public safety. In any school where natural gas or any other kind of gas is used for heating purposes, the gas shall be chemically treated before being used in such a manner as to give a very distinguishable odor if any leak should develop in the heating system.

(e) In gymnasiums, fire-proofings may be omitted from the trusses and purlins if they are more than 16 feet off the main floor level.

(f) The architect or engineer shall provide adequate exits from all parts of school buildings. In all cases, there shall be at least 2 stairways and the distance from the door of any class or assembly room to a stairway or exit shall not exceed 100 feet.

(g) Provisions in subdivisions (b) to (f) may be waived in writing by the department.

(h) Compliance with section 1b.

388.851b School buildings; administration and enforcement of act; inspection; methods; plan reviews; delegation of responsibilities; approval under fire prevention code; scope of act; definitions.

Sec. 1b. (1) Except as provided in subsection (5), the department is responsible for the administration and enforcement of this act and the Stille-DeRossett-Hale single state construction code act of 1972, 1972 PA 230, MCL 125.1501 to 125.1531, in each school building in this state.

(2) Except as provided in subsection (5), a school building covered by bond issues that were approved by the department of treasury after July 1, 2003 shall not be constructed, remodeled, or reconstructed in this state until written approval of the plans and specifications is obtained from the department indicating that the school building will be designed and constructed in conformance with the code. This subsection does not apply to any school building for which construction is covered by bond issues that were approved by the department of treasury before July 1, 2003.

(3) Responsibility for inspections of school buildings shall be determined by 1 of the following methods:

(a) By an independent third party designated in the contract governing the construction, remodeling, or reconstruction of a school building. The independent third party shall be responsible for all inspections required to insure compliance with the code. The school authority shall verify that the independent third party named is knowledgeable about construction practices and codes and is otherwise qualified to conduct the inspections. The name of the independent third party to be responsible for conducting inspections shall be submitted to the department with the plans and specifications required by subsection (2). If the department determines that the independent third party is not qualified to conduct the inspections or is not an independent third party, it shall disapprove of the designation and notify the school authority. All inspection reports prepared by the person designated by the school authority under this subdivision shall be sent to the department upon completion of the inspection. The department may return the report for further work if there are questions relating to the scope of the inspection or whether the construction, remodeling, or reconstruction meets the requirements of the code.

(b) If a designation of an independent third party is not made as required under subdivision (a), the inspections required to insure compliance with the code will be performed by the department or as provided under subsection (5).

(4) Except as provided in subsection (5), the department shall perform for school buildings all plan reviews within 60 days from the date the plans are filed or considered approved and inspections within 5 business days as required by the code and shall be the enforcing agency for this act.

(5) The department shall delegate the responsibility for the administration and enforcement of this act to the applicable agency if both the school board and the governing body of the governmental subdivision have annually certified to the department, in a manner prescribed by the department, that full-time code officials, inspectors, and plan reviewers registered under the building officials and inspectors registration act, 1986 PA 54, MCL 338.2301 to 338.2313, will conduct plan reviews and inspections of school buildings.

(6) This section does not affect the responsibilities of the department under the fire prevention code, 1941 PA 207, MCL 29.1 to 29.34. The bureau of construction codes and the office of fire safety in the department shall jointly develop procedures to use the plans and specifications submitted in carrying out the requirements of this act and the fire prevention code, 1941 PA 207, MCL 29.1 to 29.34. A certificate of occupancy shall not be issued by the appropriate code enforcement agency until a certificate of approval has been issued under the fire prevention code, 1941 PA 207, MCL 29.1 to 29.34.

(7) This section applies to construction, remodeling, or reconstruction of school buildings that are covered by bond issues that were approved by the department of treasury after July 1, 2003. Construction, remodeling, or reconstruction of school buildings that are covered by bond issues approved before July 1, 2003 shall submit the plans and specifications to the department for approval under section 1. The department shall not grant approval until it has received the certification described in section 3 relative to fire safety and from the appropriate health department relative to water supply, sanitation, and food handling.

(8) As used in this section:

(a) "Code" means the state construction code provided for in the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(b) "Construction" shall have the same meaning as that term is defined under section 2a of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1502a.

(c) "Department" means the department of consumer and industry services.

This act is ordered to take immediate effect.
Approved December 21, 2002.
Filed with Secretary of State December 23, 2002.

[No. 629]

(HB 5296)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 145c (MCL 750.145c), as amended by 1994 PA 444.

The People of the State of Michigan enact:

750.145c Definitions; child sexually abusive activity or material; penalties; possession of child sexually abusive material; expert testimony; defenses; acts of commercial film or photographic print processor; applicability and uniformity of section; enactment or enforcement of ordinances, rules, or regulations prohibited.

Sec. 145c. (1) As used in this section:

(a) "Appears to include a child" means that the depiction appears to include, or conveys the impression that it includes, a person who is less than 18 years of age, and the depiction meets either of the following conditions:

(*i*) It was created using a depiction of any part of an actual person under the age of 18.

(*ii*) It was not created using a depiction of any part of an actual person under the age of 18, but all of the following apply to that depiction:

(A) The average individual, applying contemporary community standards, would find the depiction, taken as a whole, appeals to the prurient interest.

(B) The reasonable person would find the depiction, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(C) The depiction depicts or describes a listed sexual act in a patently offensive way.

(b) "Child" means a person who is less than 18 years of age, subject to the affirmative defense created in subsection (6) regarding persons emancipated by operation of law.

(c) "Commercial film or photographic print processor" means a person or his or her employee who, for compensation, develops exposed photographic film into movie films, negatives, slides, or prints; makes prints from negatives or slides; or duplicates movie films or videotapes.

(d) "Contemporary community standards" means the customary limits of candor and decency in this state at or near the time of the alleged violation of this section.

(e) "Erotic fondling" means touching a person's clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing

or undeveloped breast area, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved. Erotic fondling does not include physical contact, even if affectionate, that is not for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.

(f) "Erotic nudity" means the lascivious exhibition of the genital, pubic, or rectal area of any person. As used in this subdivision, "lascivious" means wanton, lewd, and lustful and tending to produce voluptuous or lewd emotions.

(g) "Listed sexual act" means sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, passive sexual involvement, sexual excitement, or erotic nudity.

(h) "Masturbation" means the real or simulated touching, rubbing, or otherwise stimulating of a person's own clothed or unclothed genitals, pubic area, buttocks, or, if the person is female, breasts, or if the person is a child, the developing or undeveloped breast area, either by manual manipulation or self-induced or with an artificial instrument, for the purpose of real or simulated overt sexual gratification or arousal of the person.

(i) "Passive sexual involvement" means an act, real or simulated, that exposes another person to or draws another person's attention to an act of sexual intercourse, erotic fondling, sadomasochistic abuse, masturbation, sexual excitement, or erotic nudity because of viewing any of these acts or because of the proximity of the act to that person, for the purpose of real or simulated overt sexual gratification or stimulation of 1 or more of the persons involved.

(j) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion.

(k) "Child sexually abusive activity" means a child engaging in a listed sexual act.

(*l*) "Child sexually abusive material" means any depiction, whether made or produced by electronic, mechanical, or other means, including a developed or undeveloped photograph, picture, film, slide, video, electronic visual image, computer diskette, computer or computer-generated image, or picture, or sound recording which is of a child or appears to include a child engaging in a listed sexual act; a book, magazine, computer, computer storage device, or other visual or print or printable medium containing such a photograph, picture, film, slide, video, electronic visual image, computer, or computer-generated image, or picture, or sound recording; or any reproduction, copy, or print of such a photograph, picture, film, slide, video, electronic visual image, book, magazine, computer, or computer-generated image, or picture, other visual or print or printable medium, or sound recording.

(m) "Sadomasochistic abuse" means either of the following:

(*i*) Flagellation or torture, real or simulated, for the purpose of real or simulated sexual stimulation or gratification, by or upon a person.

(*ii*) The condition, real or simulated, of being fettered, bound, or otherwise physically restrained for sexual stimulation or gratification of a person.

(n) "Sexual excitement" means the condition, real or simulated, of human male or female genitals in a state of real or simulated overt sexual stimulation or arousal.

(o) "Sexual intercourse" means intercourse, real or simulated, whether genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between a human and an animal, or with an artificial genital.

(2) A person who persuades, induces, entices, coerces, causes, or knowingly allows a child to engage in a child sexually abusive activity for the purpose of producing any child sexually abusive material, or a person who arranges for, produces, makes, or finances, or a person who attempts or prepares or conspires to arrange for, produce, make, or finance any child sexually abusive activity or child sexually abusive material is guilty of a felony,

punishable by imprisonment for not more than 20 years, or a fine of not more than $100,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child.

(3) A person who distributes or promotes, or finances the distribution or promotion of, or receives for the purpose of distributing or promoting, or conspires, attempts, or prepares to distribute, receive, finance, or promote any child sexually abusive material or child sexually abusive activity is guilty of a felony, punishable by imprisonment for not more than 7 years, or a fine of not more than $50,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know that the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to the persons described in section 7 of 1984 PA 343, MCL 752.367.

(4) A person who knowingly possesses any child sexually abusive material is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $10,000.00, or both, if that person knows, has reason to know, or should reasonably be expected to know the child is a child or that the child sexually abusive material includes a child or that the depiction constituting the child sexually abusive material appears to include a child, or that person has not taken reasonable precautions to determine the age of the child. This subsection does not apply to any of the following:

(a) A person described in section 7 of 1984 PA 343, MCL 752.367, or to a commercial film or photographic print processor acting pursuant to subsection (8).

(b) A police officer acting within the scope of his or her duties as a police officer.

(c) An employee or contract agent of the department of social services acting within the scope of his or her duties as an employee or contract agent.

(d) A judicial officer or judicial employee acting within the scope of his or her duties as a judicial officer or judicial employee.

(e) A party or witness in a criminal or civil proceeding acting within the scope of that criminal or civil proceeding.

(f) A physician, psychologist, limited license psychologist, professional counselor, or registered nurse licensed under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211, acting within the scope of practice for which he or she is licensed.

(g) A social worker registered in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, acting within the scope of practice for which he or she is registered.

(5) Expert testimony as to the age of the child used in a child sexually abusive material or a child sexually abusive activity is admissible as evidence in court and may be a legitimate basis for determining age, if age is not otherwise proven.

(6) It is an affirmative defense to a prosecution under this section that the alleged child is a person who is emancipated by operation of law under section 4(2) of 1968 PA 293, MCL 722.4, as proven by a preponderance of the evidence.

(7) If a defendant in a prosecution under this section proposes to offer in his or her defense evidence to establish that a depiction that appears to include a child was not, in fact, created using a depiction of any part of an actual person under the age of 18, the defendant shall at the time of the arraignment on the information or within 15 days after

arraignment but not less than 10 days before the trial of the case, or at such other time as the court directs, file and serve upon the prosecuting attorney of record a notice in writing of his or her intention to offer that defense. The notice shall contain, as particularly as is known to the defendant or the defendant's attorney, the names of witnesses to be called in behalf of the defendant to establish that defense. The defendant's notice shall include specific information as to the facts that establish that the depiction was not, in fact, created using a depiction of any part of an actual person under the age of 18. Failure to file a timely notice in conformance with this subsection precludes a defendant from offering this defense.

(8) If a commercial film or photographic print processor reports to the local prosecuting attorney his or her knowledge or observation, within the scope of his or her professional capacity or employment, of a film, photograph, movie film, videotape, negative, or slide depicting a person that the processor has reason to know or reason to believe is a child engaged in a listed sexual act; furnishes a copy of the film, photograph, movie film, videotape, negative, or slide to the prosecuting attorney; or keeps the film, photograph, movie film, videotape, negative, or slide according to the prosecuting attorney's instructions, both of the following shall apply:

(a) The identity of the processor shall be confidential, subject to disclosure only with his or her consent or by judicial process.

(b) If the processor acted in good faith, he or she shall be immune from civil liability that might otherwise be incurred by his or her actions. This immunity extends only to acts described in this subsection.

(9) This section applies uniformly throughout the state and all political subdivisions and municipalities in the state.

(10) A local municipality or political subdivision shall not enact ordinances, nor enforce existing ordinances, rules, or regulations governing child sexually abusive activity or child sexually abusive material as defined by this section.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2002.

Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 630]

(HB 5297)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal

offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 16g of chapter XVII (MCL 777.16g), as amended by 2002 PA 47.

The People of the State of Michigan enact:

CHAPTER XVII

777.16g §§ 750.135 to 750.147b; felonies to which chapter applicable.

Sec. 16g. (1) This chapter applies to the following felonies enumerated in chapter 750 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
750.135	Person	D	Exposing children with intent to injure or abandon	10
750.136b(2)	Person	B	Child abuse — first degree	15
750.136b(4)	Person	F	Child abuse — second degree	4
750.136b(5)	Person	G	Child abuse — third degree	2
750.136c	Person	B	Buying or selling an individual	20
750.145a	Person	F	Soliciting child to commit an immoral act	4
750.145b	Person	D	Accosting children for immoral purposes with prior conviction	10
750.145c(2)	Person	B	Child sexually abusive activity or materials — active involvement	20
750.145c(3)	Person	D	Child sexually abusive activity or materials — distributing, promoting, or financing	7
750.145c(4)	Person	F	Child sexually abusive activities or materials — possession	4
750.145d(2)(b)	Variable	G	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 1 year but less than 2 years	2
750.145d(2)(c)	Variable	F	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 2 years but less than 4 years	4
750.145d(2)(d)	Variable	D	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 4 years but less than 10 years	10

750.145d(2)(e)	Variable	C	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 10 years but less than 15 years	15
750.145d(2)(f)	Variable	B	Using internet or computer to commit crime punishable by a maximum term of imprisonment of at least 15 years or for life	20
750.145n(1)	Person	C	Vulnerable adult abuse — first degree	15
750.145n(2)	Person	F	Vulnerable adult abuse — second degree	4
750.145n(3)	Person	G	Vulnerable adult abuse — third degree	2
750.145o	Person	E	Death of vulnerable adult caused by unlicensed caretaker	5
750.145p(1)	Person	G	Vulnerable adult — commingling funds, obstructing investigation, or filing false information	2
750.145p(2)	Person	G	Retaliation or discrimination by caregiver against vulnerable adult	2
750.145p(5)	Person	E	Vulnerable adult — caregiver violations — subsequent offense	5
750.147b	Person	G	Ethnic intimidation	2

(2) For a violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d, determine the offense category, offense variable level, and prior record variable level based on the underlying offense.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2002.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5296 of the 91st Legislature is enacted into law.

Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

Compiler's note: House Bill No. 5296, referred to in enacting section 2, was filed with the Secretary of State December 23, 2002, and became P.A. 2002, No. 629, Eff. Mar. 31, 2003.

[No. 631]

(HB 5047)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of

courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 760.1 to 777.69) by adding section 12a to chapter V.

The People of the State of Michigan enact:

CHAPTER V

765.12a Money collected in addition to bail or bond money; disposition; purpose.

Sec. 12a. (1) A law enforcement agency that obtains bail or bond money from or on behalf of a person arrested pursuant to a warrant issued by a court may collect, in addition to the bail or bond money, an amount not more than $10.00 from the person arrested or from another person on behalf of the person arrested.

(2) A law enforcement agency collecting the amount of money under subsection (1) shall promptly deposit the money into an account created for that purpose in the treasury of the law enforcement agency's governing body.

(3) The money in the account created under subsection (2) may be expended by the governing body to defray the expense of receiving, depositing, and delivering bail or bond money.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 632]

(HB 5456)

AN ACT to authorize the state administrative board to convey certain property in Jackson county; to prescribe conditions for the conveyance; and to provide for disposition of the revenue from the conveyance.

The People of the State of Michigan enact:

Conveyance of property in Blackman charter township, Jackson county, in a wetland bank; consideration; description.

Sec. 1. The state administrative board, on behalf of the state, may convey for consideration of not less than fair market value as determined under section 3 certain state owned property in Blackman charter township, Jackson county, Michigan, consisting of 581.11 acres, of which 285.28 acres will be placed in a wetland bank, and which is more particularly described as follows:

Blackman Charter Township - Parcel #000-08-13-101-001-01

Legal Description: SEC 13 EXC THEREFROM THE R/W OF GRAND TRUNK RY BEING A STRIP OF LD 100 FT WIDE RUNNING IN A NELY AND SWLY DIRECTION ACROSS SD SEC 13. ALSO EXC ALL THAT PART WH LIES N OF GRAND TRUNK RR AND W OF THOMPSON LAKE DRAIN WHICH BELONGS TO THE STATE OF MICHIGAN BUILDING AUTHORITY. ALSO BEG AT S 1/4 POST OF SEC 14 TH N13 31' 46" W33.87 FT TO N R/W LN OF PARNALL RD TH N89 28' 14" E 715.14 FT TH NO 31' 46" W228.13FT TH N62 37'28" W 579 FT TH N27 22'32" E 300 FT THE S62 37' 28" E 601.53 FT TH S33 22'32"W 124.06 TH S62 37' 28" E 373.71 FT TH N34 48' 44" E 710 FT TH N56 18' 44" E 910 FT TH S33 41' 16" E 400 FT TH N56 18' 44" E 50 FT TO POB TH N33 41' 16" W 135 FT TH N56 18' 44" E 151 FT TH N33 41' 16" W 166 FT TH N56 18' 44" E 600 FT TO E SEC LN OF SEC 14 TH S ALG SD SEC LN T NLY R/W LN OF GRAND TRUNK RR TH SWLY ALG SD R/W TO BEG. ALSO THAT PART OF THE SE 1/4 OF THE SE 1/4 OF SEC 14 LYING S AND W OF SLY LN OR GRAND TRUNK RR. TS2 R1W SPLIT ON 1/12/2001 FROM 000-08-14-226-001-02 AND 000-08-13-101-001-00.

Description subject to adjustment.

Sec. 2. The description of the property in section 1 is approximate and for purposes of conveyance is subject to adjustment, by a state survey or other legal description, as the state administrative board or attorney general considers necessary.

Appraisal.

Sec. 3. The fair market value of the property described in section 1 shall be determined by an appraisal prepared by the state tax commission or an independent fee appraiser.

Use of property.

Sec. 4. Any conveyance authorized under this act shall provide that the property is to be used by the grantee for an industrial park with adjacent wetlands, in conjunction with the enterprise park proposed industrial development plan as presented to the department of management and budget, the department of corrections, Blackman charter township, and Leoni charter township, for review and comment, and with the resolutions of support for that plan from Blackman charter township and Leoni charter township.

Sale of property.

Sec. 5. (1) Any sale of property authorized under this act shall be conducted in a manner to realize the highest price for the sale and the highest return to the state. The sale shall be done in an open manner that uses 1 or more of the following:

(a) A competitive sealed bid.

(b) Oral bid.

(c) Public auction.

(d) Use of broker services.

(2) Broker services for the sale shall only be used if there are 3 or more bidders for this property. The minimum selling price for the property shall be the higher value of either its fair market value or the result of a professional concept plan value as determined by a real estate professional qualified to make such valuations. This real estate professional shall be selected through a request for proposal and competitive bid process.

(3) A notice of a sealed or oral bid, public auction sale, or use of broker negotiation services, regarding the sale of property under this act shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 days before the sale. The newspaper shall be one that is published in the county where the property is located. If a newspaper is not published in the county where the property is located, the notice shall be published in a newspaper in a county nearest to the county in which the property is located. The notice shall describe the general location of the property and the date, time, and place of the sale.

Quitclaim deed.

Sec. 6. A conveyance authorized by this act shall be by quitclaim deed approved by the attorney general. To ensure the security and operations of the department of corrections and the state of Michigan, all final sales under this act shall be approved by the department of corrections and the department of management and budget.

Net revenue; disposition; definition.

Sec. 7. The net revenue received under this act shall be deposited in the state treasury and credited to the general fund. As used in this section, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the state associated with the sale of the property.

Conditional effective date.

Sec. 8. This act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 616.

(b) House Bill No. 5465.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

Compiler's note: Senate Bill No. 616, referred to in Sec. 8, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 671, Eff. Dec. 26, 2002.

House Bill No. 5465, also referred to in Sec. 8, was filed with the Secretary of State December 23, 2002, and became P.A. 2002, No. 633, Eff. Dec. 26, 2002.

[No. 633]

(HB 5465)

AN ACT to authorize the state administrative board to convey certain property in Jackson county; to prescribe conditions for the conveyance; and to provide for disposition of the revenue from the conveyance.

The People of the State of Michigan enact:

Conveyance of property in Leoni charter township, Jackson county, in a wetland bank; consideration; description.

Sec. 1. The state administrative board, on behalf of the state, may convey for consideration of not less than fair market value as determined under section 3 certain state owned property in Leoni charter township, Jackson county, Michigan, consisting of 369.78 acres, of which 2.29 acres will be placed in a wetland bank, and which is more particularly described as follows:

Leoni Township - Parcel # 000-09-18-100-001-00

SECTION 18 EXC THEREFROM RR R/W 100 FT WIDE ACROSS NW COR THEREOF. ALSO EXC S 1/2 OF SE 1/4 OF SE 1/4 ALSO EXC NE 1/4 OF SE 1/4. SEC 18 T2S R1E.

Description subject to adjustment.

Sec. 2. The description of the property in section 1 is approximate and for purposes of conveyance is subject to adjustment, by a state survey or other legal description, as the state administrative board or attorney general considers necessary.

Appraisal.

Sec. 3. The fair market value of the property described in section 1 shall be determined by an appraisal prepared by the state tax commission or an independent fee appraiser.

Use of property.

Sec. 4. Any conveyance authorized under this act shall provide that the property is to be used by the grantee for an industrial park with adjacent wetlands, in conjunction with the enterprise park proposed industrial development plan as presented to the department of management and budget, the department of corrections, Blackman charter township, and Leoni charter township, for review and comment, and with the resolutions of support for that plan from Blackman charter township and Leoni charter township.

Sale of property.

Sec. 5. (1) Any sale of property authorized under this act shall be conducted in a manner to realize the highest price for the sale and the highest return to the state. The sale shall be done in an open manner that uses 1 or more of the following:

(a) A competitive sealed bid.

(b) Oral bid.

(c) Public auction.

(d) Use of broker services.

(2) Broker services for the sale shall only be used if there are 3 or more bidders for this property. The minimum selling price for the property shall be the higher value of either its fair market value or the result of a professional concept plan value as determined by a real estate professional qualified to make such valuations. This real estate professional shall be selected through a request for proposal and competitive bid process.

(3) A notice of a sealed or oral bid, public auction sale, or use of broker negotiation services, regarding the sale of property under this act shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 days before the sale. The newspaper shall be one that is published in the county where the property is located. If a newspaper is not published in

the county where the property is located, the notice shall be published in a newspaper in a county nearest to the county in which the property is located. The notice shall describe the general location of the property and the date, time, and place of the sale.

Quitclaim deed.

Sec. 6. A conveyance authorized by this act shall be by quitclaim deed approved by the attorney general. To ensure the security and operations of the department of corrections and the state of Michigan, all final sales under this act shall be approved by the department of corrections and the department of management and budget.

Net revenue; disposition; definition.

Sec. 7. The net revenue received under this act shall be deposited in the state treasury and credited to the general fund. As used in this section, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the state associated with the sale of the property.

Conditional effective date.

Sec. 8. This act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 616.

(b) House Bill No. 5456.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

Compiler's note: Senate Bill No. 616, referred to in Sec. 8, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 671, Eff. Dec. 26, 2002.

House Bill No. 5456, also referred to in Sec. 8, was filed with the Secretary of State December 23, 2002, and became P.A. 2002, No. 632, Eff. Dec. 26, 2002.

[No. 634]

(HB 6128)

AN ACT to amend 1939 PA 3, entitled "An act to provide for the regulation and control of public utilities and other services affected with a public interest within this state; to provide for alternative energy suppliers; to provide for licensing; to include municipally owned utilities and other providers of energy under certain provisions of this act; to create a public service commission and to prescribe and define its powers and duties; to abolish the Michigan public utilities commission and to confer the powers and duties vested by law on the public service commission; to provide for the continuance, transfer, and completion of certain matters and proceedings; to abolish automatic adjustment clauses; to prohibit certain rate increases without notice and hearing; to qualify residential energy conservation programs permitted under state law for certain federal exemption; to create a fund; to provide for a restructuring of the manner in which energy is provided in this state; to encourage the utilization of resource recovery facilities; to prohibit certain acts and practices of providers of energy; to allow for the securitization of stranded costs; to reduce rates; to provide for appeals; to provide appropriations; to declare the effect and purpose of this act; to prescribe remedies and penalties; and to repeal acts and parts of acts," (MCL 460.1 to 460.10cc) by adding sections 9 and 9b.

The People of the State of Michigan enact:

460.9 Definitions; customer switched to alternative gas supplier or natural gas utility; prohibitions; standards; rules; violation; remedies and penalties.

Sec. 9. (1) As used in this section:

(a) "Alternative gas supplier" or "supplier" means a person who sells natural gas at unregulated retail rates to customers located in this state, where the gas is delivered to customers by a natural gas utility that has a customer choice program. Retail sales in a customer choice program by an alternative gas supplier do not constitute public utility service.

(b) "Commission" means the Michigan public service commission in the department of consumer and industry services.

(c) "Customer" means an end-user of natural gas.

(d) "Customer choice program" means a program approved by the commission on application by a natural gas utility that allows retail customers to choose an alternative gas supplier.

(e) "Natural gas utility" means an investor-owned business engaged in the sale and distribution of natural gas within this state whose rates are regulated by the commission.

(2) An alternative gas supplier or natural gas utility shall not switch a customer to its gas supply without authorization of the customer. A natural gas utility shall not be found in violation of this subsection or a commission order issued under subsection (3), if the customer's service was switched by the natural gas utility under the applicable terms and conditions of a commission approved gas customer choice program or as the result of the default of an alternative gas supplier.

(3) The commission may issue orders to ensure that an alternative gas supplier or natural gas utility does not switch a customer to another supplier without the customer's written confirmation, confirmation through an independent third party, or other verification procedures subject to commission approval, confirming the customer's intent to make a switch and that the customer has approved the specific details of the switch.

(4) An alternative gas supplier or natural gas utility shall not include or add optional services in a customer's service package without the authorization of the customer.

(5) The commission may issue orders to ensure that an alternative gas supplier or natural gas utility does not include or add optional services in a customer's service package without the customer's written confirmation, confirmation through an independent third party, or other verification procedures approved by the commission confirming the customer's intent to receive the optional services.

(6) An alternative gas supplier or natural gas utility shall not solicit or enter into contracts subject to this section with customers in this state in a misleading, fraudulent, or deceptive manner.

(7) The commission may by order establish minimum standards for the form and content of all disclosures, explanations, or sales information relating to the sale of a natural gas commodity in a customer choice program and disseminated by an alternative gas supplier or natural gas utility to ensure that the disclosures, explanations, and sales information contain accurate and understandable information and enable a customer to make an informed decision relating to the purchase of a natural gas commodity. Any standards established under this subsection shall be developed to do all of the following:

(a) Not be unduly burdensome.

(b) Not unnecessarily delay or inhibit the initiation and development of competition among alternative gas suppliers or natural gas utilities in any market.

(c) Establish different requirements for disclosures, explanations, or sales information relating to different services or similar services to different natural gas supply classes of customers, whenever such different requirements are appropriate to carry out the provisions of this section.

(8) The commission may adopt rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this section.

(9) If after notice and hearing the commission finds a person has violated this section, the commission may order remedies and penalties to protect and make whole another person who has suffered an economic loss as a result of the violation, including, but not limited to, 1 or more of the following:

(a) Order the person to pay a fine for the first offense of not less than $20,000.00 or more than $30,000.00. For a second and any subsequent offense, the commission shall order the person to pay a fine of not less than $30,000.00 or more than $50,000.00. If the commission finds that the second or any of the subsequent offenses were knowingly made in violation of subsection (2) or (4), the commission shall order the person to pay a fine of not more than $70,000.00. Each switch made in violation of subsection (2) or service added in violation of subsection (4) shall be a separate offense under this subdivision.

(b) Order an unauthorized supplier to refund to the customer any amount greater than the customer would have paid to an authorized supplier.

(c) Order a portion between 10% to 50% of the fine assessed under subdivision (a) be paid directly to the customer who suffered the violation of subsection (2) or (4).

(d) Order the person to reimburse an authorized supplier an amount equal to the amount paid by the customer that should have been paid to the authorized supplier.

(e) If the person is licensed under this act, revoke the license if the commission finds a pattern of violations of subsection (2) or (4).

(f) Issue cease and desist orders.

(10) Notwithstanding subsection (9), a fine shall not be imposed for a violation if the person shows that the violation was an unintentional and bona fide error which occurred notwithstanding the maintenance of procedures reasonably adopted to avoid the error.

(11) A natural gas utility shall not be found in violation of this section for switching a customer's supplier or adding optional services to a customer's account if the switch or addition was made pursuant to the request or notice of an alternative gas supplier that is responsible under a customer choice program for obtaining the customer's approval.

460.9b Alternative gas suppliers; licensing procedure; maintenance of office; capabilities; records; tax remittance.

Sec. 9b. (1) The commission shall issue orders establishing a licensing procedure for all alternative gas suppliers participating in any natural gas customer choice program approved by the commission. An alternative gas supplier shall not do business in this state without first receiving a license under this act.

(2) An alternative gas supplier shall maintain an office within this state.

(3) The commission shall assure that an alternative gas supplier doing business in this state has the necessary financial, managerial, and technical capabilities and require the supplier to maintain records that the commission considers necessary.

(4) The commission shall require an alternative gas supplier to collect and remit to state and local units of government all applicable users, sales, and use taxes if the natural gas utility is not doing so on behalf of the supplier.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 635]

(HB 5999)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 4072 (MCL 500.4072), as amended by 1986 PA 318.

The People of the State of Michigan enact:

500.4072 Standard nonforfeiture law for individual deferred annuities.

Sec. 4072. (1) This section shall be known as the standard nonforfeiture law for individual deferred annuities.

(2) This section does not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code, premium deposit fund, variable annuity, investment annuity, immediate annuity, a deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to a contract delivered outside this state through an agent or other representative of the company issuing the contract.

(3) Except as provided in subsection (2), for contracts issued on or after the operative date of this section, as defined in subsection (13), a contract of annuity shall not be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions that in the commissioner's opinion are at least as favorable to the contract holder, upon cessation of payment of consideration under the contract:

(a) That upon cessation of payment of consideration under a contract, the company will grant a paid-up annuity benefit on a plan stipulated in the contract of a value specified in subsections (6), (7), (8), (9), and (11).

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or before the commencement of any annuity payments, the company will pay in place of any paid-up annuity benefit, a cash surrender benefit of an amount specified in subsections (6), (7), (9), and (11). The company shall reserve the right to defer the payment of the cash surrender benefit for a period of 6 months after demand for the payment with surrender of the contract.

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender, or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of the benefits.

(d) A statement that any paid-up annuity, cash surrender, or death benefits that may be available under the contract are not less than the minimum benefits required by law of the state in which the contract is delivered, and an explanation of the manner in which the benefits are altered by the existence of additional amounts credited by the company to the contract, indebtedness to the company on the contract, or prior withdrawals from or partial surrenders of the contract.

(4) Notwithstanding the requirements of subsection (3), a deferred annuity contract may provide that if considerations have not been received under a contract for a period of 2 full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid before this period would be less than $20.00 monthly, the company may at its option terminate the contract by payment in cash of the then present value of that portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit. This payment shall relieve the company of further obligation under the contract.

(5) The minimum values as specified in subsections (6), (7), (8), (9), and (11) of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this subsection:

(a) Except as otherwise provided in subdivision (b), for contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or before the commencement of any annuity payments shall be equal to an accumulation up to that time at a rate of interest of 3% per annum of percentages of the net considerations, as defined in this subsection, paid before that time, decreased by the sum of subparagraphs (*i*) and (*ii*), and increased by any existing additional amounts credited by the company to the contract:

(*i*) Prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of 3% per annum.

(*ii*) The amount of any indebtedness to the company on the contract, including interest due and accrued.

(b) Beginning on the effective date of the amendatory act that added this subdivision and continuing until January 1, 2005 for contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or before the commencement of any annuity payments shall be equal to an accumulation up to that time at a rate of interest of 1.5% per annum of percentages of the net considerations, as defined in this subsection, paid before that time, decreased by the sum of subparagraphs (*i*) and (*ii*), and increased by any existing additional amounts credited by the company to the contract:

(*i*) Prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of 1.5% per annum.

(*ii*) The amount of any indebtedness to the company on the contract, including interest due and accrued.

(c) The net consideration for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero, and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of $30.00 and less a collection charge of $1.25 per consideration credited to the contract during that contract year. The percentages of net considerations shall be 65% of the net consideration for the first contract year and 87-1/2% of the net considerations for the second and later contract years. Notwithstanding the preceding sentence, the percentage shall be 65% of the portion of the total net consideration for any renewal contract year which exceeds by not more than 2 times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65%.

(d) For contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance, and shall be defined as for contracts with flexible considerations paid annually, except that:

(*i*) The portion of the net consideration for the first contract year to be accumulated shall be the sum of 65% of the net consideration for the first contract year plus 22-1/2% of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(*ii*) The annual contract charge shall be the lesser of $30.00 or 10% of the gross annual considerations.

(e) For contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations, except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to 90% and the net consideration shall be the gross consideration less a contract charge of $75.00.

(6) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. This present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(7) For contracts that provide cash surrender benefits, the cash surrender benefits available before maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit arising from considerations paid before the time of cash surrender. The present value shall be calculated on the basis of an interest rate not more than 1% higher than the interest rate specified in the contract for accumulating the net considerations to determine the maturity value. However, a cash surrender benefit shall not be less than the minimum nonforfeiture amount at that time. The death benefit under contracts that provide cash surrender benefits shall be at least equal to the cash surrender benefit. As used in this subsection and except as otherwise provided in this subsection, "maturity value" means an accumulation up to the maturity date at the rate of interest guaranteed in the contract for accumulating the net considerations to determine the maturity value, but in no event less than 3% per annum, of the percentages of the net considerations, as defined in subsection (5), paid before that time, decreased by the sum of prior withdrawals from or partial surrenders of the contract accumulated at the rate of interest guaranteed in the contract for accumulating net considerations to determine the maturity value but in no event less than 3% per annum and the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by excess interest previously credited by the company to the contract. Beginning on the effective date of the amendatory act that added subsection (5)(b) and continuing until January 1, 2005, as used in this subsection, "maturity value" means an accumulation up to the maturity date at the rate of interest guaranteed in the contract for accumulating the net considerations to determine the maturity value, but in no event less than 1.5% per annum, of the percentages of the net considerations, as defined in subsection (5), paid before that time, decreased by the sum of prior withdrawals from or partial surrenders of the contract accumulated at the rate of interest guaranteed in the contract for accumulating net considerations to determine the maturity value but in no event less than 1.5% per annum and the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by excess interest previously credited by the company to the contract. As used in this subsection, the excess interest is the amount credited over and above the guaranteed interest.

(8) For contracts that do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time before maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid before the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity. The present value shall be calculated for the period before the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine the maturity value, and increased by any existing additional amounts credited by the company to the contract. For contracts that do not provide death benefits before the commencement of annuity payments, the present values shall be calculated on the basis of the interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, the present value of a paid-up annuity benefit shall not be less than the minimum nonforfeiture amount at that time.

(9) For the purpose of determining the benefits calculated under subsections (7) and (8), in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be considered to be the latest date for which election shall be permitted by the contract, but shall not be

later than the anniversary of the contract next following the annuitant's seventieth birthday, or the tenth anniversary of the contract, whichever is later.

(10) A contract that does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount before the commencement of annuity payments shall include a statement in a prominent place in the contract that those benefits are not provided.

(11) Any paid-up annuity, cash surrender, or death benefits available at any time, other than on the contract anniversary under a contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(12) For a contract that provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding subsections (6), (7), (8), (9), and (11), additional benefits payable for total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits that may be required by this section. The inclusion of the additional benefits shall not be required in any paid-up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits.

(13) After October 1, 1980, a company may file with the commissioner a written notice of its election to comply with this section after a specified date before October 1, 1982. After the filing of this notice, then on that specified date, which shall be the operative date of this section for the company, this section shall become operative with respect to annuity contracts thereafter issued by the company. If a company does not make the election, the operative date of this section for the company shall be October 1, 1982.

(14) Notwithstanding the other provisions of this section, upon cancellation of an annuity subject to an assignment under section 2080(6), the minimum nonforfeiture amount of the annuity shall be 92% of the sum of the total premiums paid by the assignor at the time of the cancellation plus interest on such premiums at an annual rate of not less than 5% or the consumer price index, whichever is greater. As used in this subsection, "consumer price index" means that term as defined in section 2080.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 636]

(HB 6219)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain

substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 80166 (MCL 324.80166), as added by 1995 PA 58, and by adding section 80166a.

The People of the State of Michigan enact:

324.80166 Peace officers; stopping of vessels; duty of operator; reasonable suspicion; furnishing false information as misdemeanor; arrests without warrant.

Sec. 80166. (1) Upon the direction of a peace officer acting in the lawful performance of his or her duty, the operator of a vessel moving on the waters of this state shall immediately bring the vessel to a stop or maneuver it in a manner that permits the peace officer to come beside the vessel. The operator of the vessel shall do the following upon the request of the peace officer:

(a) Provide his or her correct name and address.

(b) Exhibit the certificate of number awarded for the vessel.

(c) If the vessel does not bear a decal described in section 80166a or an equivalent decal issued by or on behalf of another state, submit to a reasonable inspection of the vessel and to a reasonable inspection and test of the equipment of the vessel.

(2) Except for inspection of a vessel to determine the number and adequacy of personal flotation devices on that vessel, a peace officer shall not stop and inspect a vessel bearing the decal described in section 80166a or an equivalent decal issued by or on behalf of another state during the period the decal remains in effect unless that peace officer has a reasonable suspicion that the vessel or the vessel's operator is in violation of a marine law.

(3) A person who is detained for a violation of this part or of a local ordinance substantially corresponding to a provision of this part and who furnishes a peace officer false, forged, fictitious, or misleading verbal or written information identifying the person as another person is guilty of a misdemeanor.

(4) A peace officer who observes a marine law violation may immediately arrest the person without a warrant or issue to the person a written or verbal warning.

324.80166a Agreement with United States coast guard.

Sec. 80166a. (1) The department may enter into an agreement with the United States coast guard, the United States coast guard auxiliary, or an organization sponsored by the United States coast guard or the United States coast guard auxiliary to provide for vessel safety checks of a vessel and its equipment. An agreement entered into under this subsection shall not preclude the department, or any peace officer within his or her jurisdiction, from performing an inspection of a vessel or the vessel's equipment for enforcement purposes or courtesy purposes.

(2) An agreement entered into under this section shall specify that the United States coast guard, the United States coast guard auxiliary, or an organization sponsored by the United States coast guard or the United States coast guard auxiliary shall provide the department with a sufficient number of vessel safety check decals for conservation officers and those counties that participate in the marine safety program. In addition to any other information that is included on a vessel safety check decal, each vessel safety check decal

shall bear the likeness of the state seal of Michigan. The vessel safety check decal shall display the year in which the decal was issued and during which it is valid.

(3) Upon the completion of an inspection of a vessel or the vessel's equipment by a peace officer, the United States coast guard, the United States coast guard auxiliary, or an organization sponsored by the United States coast guard or the United States coast guard auxiliary, the peace officer or person performing the inspection shall affix to the vessel the vessel safety check decal provided for in this section.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 637]

(HB 4818)

AN ACT to amend 1988 PA 234, entitled "An act to create the Vietnam veterans memorial monument fund; to establish a commission to govern the monument fund; to prescribe the purpose of the monument fund; to prescribe the powers and duties of the commission and certain state departments and officers; to designate the veterans memorial park; to provide for legislative oversight; and to provide for dissolution of the commission and monument fund," by amending the title and sections 3 and 7 (MCL 35.1053 and 35.1057), the title as amended by 2000 PA 470 and sections 3 and 7 as amended by 1992 PA 121.

The People of the State of Michigan enact:

TITLE

An act to create the Vietnam veterans memorial monument fund; to establish a commission to govern the monument fund; to prescribe the purpose of the monument fund; to prescribe the powers and duties of the commission and certain state departments and officers; to designate the veterans memorial park; to provide for legislative oversight; and to provide for dissolution of the commission.

35.1053 Vietnam veterans memorial monument fund; creation; federal tax status; money credited to fund; use of money.

Sec. 3. The Vietnam veterans memorial monument fund is created as a separate fund in the department of treasury. The state treasurer may receive money or other assets from any source for deposit into the monument fund. The state treasurer shall seek appropriate federal tax status for the monument fund. The state treasurer shall credit to the monument fund the money appropriated to the monument fund, money received for the monument fund under section 6, and all interest that accrues on money in the monument fund. The commission may use money in the monument fund for purposes of this act.

35.1057 Dissolution of commission; disposition and use of balance remaining in monument fund.

Sec. 7. (1) After the completion of the construction of the Vietnam veterans memorial monument pursuant to section 5 and payment of all amounts due in connection with the construction of the monument, the commission is dissolved.

(2) After the construction of the Vietnam veterans memorial monument under section 5 and the construction of the veterans memorial park under section 5a, any amount remaining in the monument fund shall remain in the monument fund.

(3) After the construction of the Vietnam veterans memorial monument under section 5 and the construction of the veterans memorial park under section 5a, the department of management and budget shall expend money from the fund, upon appropriation, only to maintain the Vietnam veterans memorial monument and the veterans memorial park.

(4) The state treasurer shall credit the money received from the secretary of state pursuant to section 217d(12) of the Michigan vehicle code, 1949 PA 300, MCL 257.217d, to the monument fund.

(5) Money in the monument fund at the close of the fiscal year shall remain in the fund and not lapse to the general fund.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 638]

(HB 6234)

AN ACT to authorize the department of natural resources to convey certain state owned property in Huron county; to prescribe conditions for the conveyance; and to provide for disposition of the revenue from the conveyance.

The People of the State of Michigan enact:

Conveyance of property to village of Caseville, Huron county; consideration; jurisdiction; description.

Sec. 1. The department of natural resources, on behalf of the state, may convey to the village of Caseville, for consideration of $1.00, certain parcels of property under the jurisdiction of the department of natural resources and located in the village of Caseville, Huron county, Michigan, and further described as follows:

A parcel of land lakeward of Government Lot 1, Section 35, T18N, R10E, Village of Caseville, described as beginning at the southeast corner of Lot 28 of Harbor Subdivision, according to the recorded plat thereof; then north 64 49'52" west 100 feet; thence south 63° 03'08" west, 342.3 feet thence south 58° 37'02" east, 108.03 feet thence south 69° 19' east 208.36 feet; thence north 25 10'08" east, 265 feet to the point of beginning, including all riparian rights in and to Lake Huron, Village of Caseville, Huron County, Michigan containing 1.30 acres more or less.

A parcel of land lakeward of Government Lot 1, Section 35, T18N, R10E, Village of Caseville, described as beginning at the southwest corner of Harbor Subdivision, according to the recorded plat thereof; thence south 64 49'52" east, 86.5 feet; thence south 33 25'08" west, 137 feet; thence north 47 38'32" west, 309.17 feet; thence 45 25'08" east, 35 feet; thence south 68 44'22" east, 216.88 feet to the point of beginning, including all riparian rights in and to the Pigeon River, Village of Caseville, Huron County, Michigan, containing 0.62 acre, more or less.

Provisions.

Sec. 2. The conveyance authorized by this act shall provide for all of the following:

(a) The property shall be used exclusively for public water access and fishing site purposes and if any fee, term, or condition for the use of the property is imposed on members of the public, or if any of those fees, terms, or conditions are waived for use of this property, resident and nonresident members of the public shall be subject to the same fees, terms, conditions, and waivers.

(b) Upon termination of the use described in subdivision (a) or use for any other purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(c) If the grantee disputes the state's exercise of its right of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

Quitclaim deed; approval by attorney general; reservation of mineral rights.

Sec. 3. The conveyance authorized by this act shall be by quitclaim deed approved by the attorney general and shall not reserve mineral rights to the state.

Disposition of revenue.

Sec. 4. The revenue received under this act shall be deposited in the state treasury and credited to the general fund.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 639]

(HB 6523)

AN ACT to amend 1951 PA 51, entitled "An act to provide for the classification of all public roads, streets, and highways in this state, and for the revision of that classification and for additions to and deletions from each classification; to set up and establish the Michigan transportation fund; to provide for the deposits in the Michigan transportation fund of specific taxes on motor vehicles and motor vehicle fuels; to provide for the allocation of funds from the Michigan transportation fund and the use and administration of the fund for transportation purposes; to set up and establish the truck safety fund; to provide for the allocation of funds from the truck safety fund and administration of the fund for truck safety purposes; to set up and establish the Michigan truck safety commission; to establish certain standards for road contracts for certain businesses; to provide for the continuing review of transportation needs within the state; to authorize the state transportation commission, counties, cities, and villages to borrow money, issue bonds, and make pledges of funds for transportation purposes; to authorize counties to advance funds for the payment of deficiencies necessary for the payment of bonds issued under this act; to provide for the limitations, payment, retirement, and security of the bonds and pledges; to provide for appropriations and tax levies by counties and townships for county roads; to authorize contributions by townships for county roads; to provide for the establishment and administration of the state trunk line fund, critical bridge fund, comprehensive

transportation fund, and certain other funds; to provide for the deposits in the state trunk line fund, critical bridge fund, comprehensive transportation fund, and certain other funds of money raised by specific taxes and fees; to provide for definitions of public transportation functions and criteria; to define the purposes for which Michigan transportation funds may be allocated; to provide for Michigan transportation fund grants; to provide for review and approval of transportation programs; to provide for submission of annual legislative requests and reports; to provide for the establishment and functions of certain advisory entities; to provide for conditions for grants; to provide for the issuance of bonds and notes for transportation purposes; to provide for the powers and duties of certain state and local agencies and officials; to provide for the making of loans for transportation purposes by the state transportation department and for the receipt and repayment by local units and agencies of those loans from certain specified sources; and to repeal acts and parts of acts," by amending section 11 (MCL 247.661), as amended by 2002 PA 498.

The People of the State of Michigan enact:

247.661 State trunk line fund; separate fund; appropriation; purposes; order of priority; expenditures; deductions; borrowing by county road commissions, cities, and villages; limitation; approval; notice; borrowing by state transportation commission; procedures for implementation and administration of loan program; expenditure for administrative expenses; conduct of performance audits; revised municipal finance act inadmissible; definition.

Sec. 11. (1) A fund to be known as the state trunk line fund is established and shall be set up and maintained in the state treasury as a separate fund. The money deposited in the state trunk line fund is appropriated to the state transportation department for the following purposes in the following order of priority:

(a) For the payment, but only from money restricted as to use by section 9 of article IX of the state constitution of 1963, of bonds, notes, or other obligations in the following order of priority:

(*i*) For the payment of contributions required to be made by the state highway commission or the state transportation commission under contracts entered into before July 18, 1979, under 1941 PA 205, MCL 252.51 to 252.64, which contributions have been pledged before July 18, 1979, for the payment of the principal and interest on bonds issued under 1941 PA 205, MCL 252.51 to 252.64, for the payment of which a sufficient sum is irrevocably appropriated.

(*ii*) For the payment of the principal and interest upon bonds designated "State of Michigan, State Highway Commissioner, Highway Construction Bonds, Series I", dated September 1, 1956, in the aggregate principal amount of $25,000,000.00, issued pursuant to former 1955 PA 87 and the resolution of the state administrative board adopted August 6, 1956, for the payment of which a sufficient sum is irrevocably appropriated.

(*iii*) For the payment of the principal and interest on bonds issued under section 18b for transportation purposes other than comprehensive transportation purposes as defined by law and the payment of contributions of the state highway commission or state transportation commission to be made pursuant to contracts entered into under section 18d, which contributions are pledged to the payment of principal and interest on bonds issued under the authorization of section 18d and contracts executed pursuant to that section. A sufficient portion of the fund is irrevocably appropriated to pay, when due, the principal and interest on bonds or notes issued under section 18b for purposes other than compre-

hensive transportation purposes as defined by law, and to pay the annual contributions of the state highway commission and the state transportation commission as are pledged for the payment of bonds issued pursuant to contracts authorized by section 18d.

(b) For the transfer of funds appropriated pursuant to section 10(1)(g) to the transportation economic development fund, but the transfer shall be reduced each fiscal year by the amount of debt service to be paid in that year from the state trunk line fund for bonds, notes, or other obligations issued to fund projects of the transportation economic development fund, which amount shall be certified by the department.

(c) For the transfer of funds appropriated pursuant to section 10(1)(a) to the railroad grade crossing account in the state trunk line fund for expenditure for rail grade crossing improvement purposes at rail grade crossings on public roads and streets under the jurisdiction of the state, counties, cities, or villages. Projects shall be selected for funding in accordance with the following:

(*i*) Not more than 50% or less than 30% of these funds and matched federal funds shall be expended for state trunk line projects.

(*ii*) In prioritizing projects for these funds, in whole or in part, the department shall consider train and vehicular traffic volumes, accident history, traffic control device improvement needs, and the availability of funding.

(*iii*) Consistent with the other requirements for these funds, the first priority for funds deposited pursuant to this subdivision for rail grade crossing improvements and retirement shall be to match federal funds from the railroad-highway grade crossing improvement program or other comparable federal programs if a match is required under federal law.

(*iv*) If the department and the road authority with jurisdiction over the crossing formally agree that the grade crossing should be eliminated by permanent closing of the public road or street, the physical removal of the crossing, roadway within railroad rights of way and street termination treatment will be negotiated between the road authority and railroad company. The funds provided to the road authority as a result of the crossing closure will be credited to its account representing the same road or street system on which the crossing is located and shall be used for any transportation purpose within that road authority's jurisdiction.

(d) For the total operating expenses of the state trunk line fund for each fiscal year as appropriated by the legislature.

(e) For the preservation of state trunk line highways and bridges.

(f) For the opening, widening, improving, construction, and reconstruction of state trunk line highways and bridges, including the acquisition of necessary rights of way and the work incidental to that opening, widening, improving, construction, or reconstruction. Those sums in the state trunk line fund not otherwise appropriated, distributed, determined, or set aside by law shall be used for the construction or reconstruction of the national system of interstate and defense highways, referred to in this act as "the interstate highway system" to the extent necessary to match federal aid funds as the federal aid funds become available for that purpose; and, for the construction and reconstruction of the state trunk line system.

(g) The state transportation department may enter into agreements with county road commissions and with cities and villages to perform work on a highway, road, or street. The agreements may provide for the performance by any of the contracting parties of any of the work contemplated by the contract including engineering services and the acquisition of rights of way in connection with the work, by purchase or condemnation by any of the contracting parties in its own name, and for joint participation in the costs, but

only to the extent that the contracting parties are otherwise authorized by law to expend money on the highways, roads, or streets. The state transportation department also may contract with a county road commission, city, and village to advance money to a county road commission, city, and village to pay their costs of improving railroad grade crossings on the terms and conditions agreed to in the contract. A contract may be executed before or after the state transportation commission borrows money for the purpose of advancing money to a county road commission, city, or village, but the contract shall be executed before the advancement of any money to a county road commission, city, or village by the state transportation commission, and shall provide for the full reimbursement of any advancement by a county road commission, city, or village to the state transportation department, with interest, within 15 years after advancement, from any available revenue sources of the county road commission, city, or village or, if provided in the contract, by deduction from the periodic disbursements of any money returned by the state to the county road commission, city, or village.

(h) For providing inventories of supplies and materials required for the activities of the state transportation department. The state transportation department may purchase supplies and materials for these purposes, with payment to be made out of the state trunk line fund to be charged on the basis of issues from inventory in accordance with the accounting and purchasing laws of this state.

(2) Notwithstanding any other provision of this act, at least 90% of state revenue appropriated annually to the state trunk line fund less the amounts described in subdivisions (a) to (i) shall be expended annually by the state transportation department for the preservation of highways, roads, streets, and bridges and for the payment of debt service on bonds, notes, or other obligations described in subsection (1)(a) issued after July 1, 1983, for the purpose of providing funds for the preservation of highways, roads, streets, and bridges. Of the amounts appropriated for state trunk line projects, the department shall, where possible, secure warranties of not less than 5-year full replacement guarantee for contracted construction work. If an appropriate certificate is filed under section 18e but only to the extent necessary, this subsection shall not prohibit the use of any amount of money restricted as to use by section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund for the payment of debt service on bonds, notes, or other obligations pledging for the payment thereof money restricted as to use by section 9 of article IX of the state constitution of 1963 and deposited in the state trunk line fund, whenever issued, as specified under subsection (1)(a). The amounts which are deducted from the state trunk line fund for the purpose of the calculation required by this subsection are as follows:

(a) Amounts expended for the purposes described in subsection (1)(a) for the payment of debt service on bonds, notes, or other obligations issued before July 2, 1983.

(b) Amounts expended to provide the state matching requirement for projects on the national highway system and for the payment of debt service on bonds, notes, or other obligations issued after July 1, 1983, for the purpose of providing funds for the state matching requirements for projects on the national highway system.

(c) Amounts expended for the construction of a highway, street, road, or bridge to 1 or more of the following or for the payment of debt service on bonds, notes, or other obligations issued after July 1, 1983, for the purpose of providing funds for the construction of a highway, street, road, or bridge to 1 or more of the following:

(*i*) A location for which a building permit has been obtained for the construction of a manufacturing or industrial facility.

(*ii*) A location for which a building permit has been obtained for the renovation of, or addition to, a manufacturing or industrial facility.

(d) Amounts expended for capital outlay other than for highways, roads, streets, and bridges or to pay debt service on bonds, notes, or other obligations issued after July 1, 1983, for the purpose of providing funds for capital outlay other than for highways, roads, streets, and bridges.

(e) Amounts expended for the operating expenses of the state transportation department other than the units of the department performing the functions assigned on January 1, 1983 to the bureau of highways.

(f) Amounts expended pursuant to contracts entered into before January 1, 1983.

(g) Amounts expended for the purposes described in subsection (5).

(h) Amounts appropriated for deposit in the transportation economic development fund and the rail grade crossing account pursuant to section 10(1)(g) and 10(1)(a).

(i) Upon the affirmative recommendation of the director of the state transportation department and the approval by resolution of the state transportation commission, those amounts expended for projects vital to the economy of this state, a region, or local area or the safety of the public. The resolution shall state the cost of the project exempted from this subsection.

(3) Notwithstanding any other provision of this act, the state transportation department shall expend annually at least 90% of the federal revenue distributed to the credit of the state trunk line fund in that year, except for federal revenue expended for the purposes described in subsection (2)(b), (c), (f), and (i) and for the payment of notes issued under section 18b(9) on the preservation of highways, roads, streets, and bridges. The requirement of this subsection shall be waived if compliance would cause this state to be ineligible according to federal law for federal revenue, but only to the extent necessary to make this state eligible according to federal law for that revenue.

(4) Notwithstanding any other provision of this section, the state transportation department may loan money to county road commissions, cities, and villages for paying capital costs of transportation purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963 from the proceeds of bonds or notes issued pursuant to section 18b or from the state trunk line fund. Loans made directly from the state trunk line fund shall be made only after provision of funds for the purposes specified in subsection (1)(a) to (f). Loans described in this subsection are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(5) County road commissions, cities, and villages may borrow money from the proceeds of bonds or notes issued under section 18b or the state trunk line fund for the purposes set forth in subsection (4) that shall be repayable, with interest, from 1 or more of the following:

(a) The money to be received by the county road commission, city, or village from the Michigan transportation fund, except to the extent the money has been or may in the future be pledged by contract in accordance with 1941 PA 205, MCL 252.51 to 252.64, or has been or may in the future be pledged for the payment of the principal and interest upon notes issued pursuant to 1943 PA 143, MCL 141.251 to 141.254, or has been or may in the future be pledged for the payment of principal and interest upon bonds issued under section 18c or 18d, or has been or may in the future be pledged for the payment of the principal and interest upon bonds issued pursuant to 1952 PA 175, MCL 247.701 to 247.707.

(b) Any other legally available funds of the city, village, or county road commission, other than the general funds of the county.

(6) Loans made pursuant to subsection (4) if required by the state transportation department may be payable by deduction by the state treasurer, upon direction of the state transportation department, from the periodic disbursements of any money returned by the state under this act to the county road commission, city, or village, but only after sufficient money has been returned to the county road commission, city, or village to provide for the payment of contractual obligations incurred or to be incurred and principal and interest on notes and bonds issued or to be issued under 1941 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c or 18d. The interest rates and payment schedules of any loans made from the proceeds of bonds or notes issued pursuant to section 18b shall be established by the state transportation department to conform as closely as practicable to the interest rate and repayment schedules on the bonds or notes issued to make the loans. However, the state transportation department may allow for the deferral of the first payment of interest or principal on the loans for a period of not to exceed 1 year after the respective first payment of interest or principal on the bonds or notes issued to make the loans.

(7) The amount borrowed by a county road commission, city, or village pursuant to subsection (5) shall not be included in, or charged against, any constitutional, statutory, or charter debt limitation of the county, city, or village and shall not be included in the determination of the maximum annual principal and interest requirements of, or the limitations upon, the maximum annual principal and interest incurred under 1941 PA 205, MCL 252.51 to 252.64, 1943 PA 143, MCL 141.251 to 141.254, 1952 PA 175, MCL 247.701 to 247.707, or section 18c or 18d.

(8) The county road commission, city, or village is not required to seek or obtain the approval of the electors, the municipal finance commission or its successor agency, or, except as provided in this subsection, the department of treasury to borrow money pursuant to subsection (5). The borrowing is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or to section 5(g) of the home rule city act, 1909 PA 279, MCL 117.5. The state transportation department shall give at least 10 days' notice to the state treasurer of its intention to make a loan under subsection (4). If the state treasurer gives notice to the director of the state transportation department within 10 days of receiving the notice from the state transportation department, that, based upon the then existing financial or credit situation of the county road commission, city, or village, it would not be in the best interests of the state to make a loan under subsection (4) to the county road commission, city, or village, the loan shall not be made unless the state treasurer, after a hearing, if requested by the affected county road commission, city, or village, subsequently gives notice to the director of the state transportation department that the loan may be made on the conditions that the state treasurer specifies.

(9) The state transportation commission may borrow money and issue bonds and notes under, and pursuant to the requirements of, section 18b to make loans to county road commissions, cities, and villages for the purposes described in the second paragraph of section 9 of article IX of the state constitution of 1963, as provided in subsection (4). A single issue of bonds or notes may be issued for the purposes specified in subsection (4) and for the other purposes specified in section 18b. The house and senate transportation appropriations subcommittees shall be notified by the department if there are extras and overruns sufficient to require approval of either the state administrative board or the commission, or both, on any contract between the department and a local road agency or a private business.

(10) The director of the state transportation department, after consultation with representatives of the interests of county road commissions, cities, and villages, shall establish, by intergovernmental communication, procedures for the implementation and administration of the loan program established under subsections (4) to (9).

(11) Not more than 10% per year of all of the funds received by and returned to the state transportation department from any source for the purposes of this section may be expended for administrative expenses. The department shall be subject to section 14(5) if more than 10% per year is expended for administrative expenses. As used in this subsection, "administrative expenses" means those expenses that are not assigned including, but not limited to, specific road construction or preservation projects and are often referred to as general or supportive services. Administrative expenses shall not include net equipment expense, net capital outlay, debt service principal and interest, and payments to other state or local offices which are assigned, but not limited to, specific road construction projects or preservation activities.

(12) Any performance audits of the department shall be conducted according to government auditing standards issued by the United States general accounting office.

(13) Contracts entered into to advance money to a county road commission, city, or village under subsection (1)(g) are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(14) As used in this section, "rail grade crossing improvement purposes" means 1 or more of the following:

(a) The installation and modernization of active and passive warning devices at railroad grade crossings.

(b) The installation or improvement of grade crossing surfaces.

(c) Modification, relocation, or modernization of railroad grade crossing active and passive warning devices necessitated by roadway improvement projects.

(d) Test installations of innovative warning devices or other innovative applications.

(e) Construction of new grade separations.

(f) A cash incentive payment made pursuant to subsection (1)(c)(*iv*) for any public road or street crossing, in an amount no greater than the cost of installing flashing light signals and half roadway gates at the crossing.

(g) Any other work that would be eligible for funding under the federal railroad-highway grade crossing improvement program or other comparable programs.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 640]

(HB 5049)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and

other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," (MCL 380.1 to 380.1852) by adding section 1279d.

The People of the State of Michigan enact:

380.1279d MEAP test; report of irregularities to school district or public school academy.

Sec. 1279d. If the department of treasury or any other state agency has reason to suspect that there are irregularities in a school district's or public school academy's administration of, or preparation of pupils for, a Michigan educational assessment program (MEAP) test, the department of treasury or any other state agency shall not report the suspected irregularities to any person or entity not involved in the scoring or administration of the test before notifying the school district or public school academy of the suspected irregularities and allowing at least 5 business days for school officials to respond.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 641]

(HB 5947)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 44 (MCL 211.44), as amended by 2002 PA 479.

The People of the State of Michigan enact:

211.44 Collection of taxes; mailing, contents, forms, and expense of tax statement; failure to send or receive notice; time and place for receiving taxes; property tax administration fees; return of excess; cost of appeals; waiver of interest, penalty charge, or property tax administration fee; use of fee; cost of treasurer's bond; enforce-

ment of collection; seizing property or bringing action; amounts includable in return of delinquent taxes; distributions by county treasurer; local governing body authorization for imposition of fees or late penalty charges; annual statement; taxes levied after December 31, 2001 on qualified real property; definitions.

Sec. 44. (1) Upon receipt of the tax roll, the township treasurer or other collector shall proceed to collect the taxes. The township treasurer or other collector shall mail to each taxpayer at the taxpayer's last known address on the tax roll or to the taxpayer's designated agent a statement showing the description of the property against which the tax is levied, the taxable value of the property, and the amount of the tax on the property. If a tax statement is mailed to the taxpayer, a tax statement sent to a taxpayer's designated agent may be in a summary form or may be in an electronic data processing format. If the tax statement information is provided to both a taxpayer and the taxpayer's designated agent, the tax statement mailed to the taxpayer may be identified as an informational copy. A township treasurer or other collector electing to send a tax statement to a taxpayer's designated agent or electing not to include an itemization in the manner described in subsection (10)(d) in a tax statement mailed to the taxpayer shall, upon request, mail a detailed copy of the tax statement, including an itemization of the amount of tax in the manner described by subsection (10)(d), to the taxpayer without charge.

(2) The expense of preparing and mailing the statement shall be paid from the county, township, city, or village funds. Failure to send or receive the notice does not prejudice the right to collect or enforce the payment of the tax. The township treasurer shall remain in the office of the township treasurer at some convenient place in the township from 9 a.m. to 5 p.m. to receive taxes on the following days:

(a) At least one business day between December 25 and December 31 unless the township has an arrangement with a local financial institution to receive taxes on behalf of the township treasurer and to forward that payment to the township on the next business day. The township shall provide timely notification of which financial institutions will receive taxes for the township and which days the treasurer will be in the office to receive taxes.

(b) The last day that taxes are due and payable before being returned as delinquent under section 55.

(3) Except as provided by subsection (7), on a sum voluntarily paid before February 15 of the succeeding year, the local property tax collecting unit shall add a property tax administration fee of not more than 1% of the total tax bill per parcel. However, unless otherwise provided for by an agreement between the assessing unit and the collecting unit, if a local property tax collecting unit other than a village does not also serve as the local assessing unit, the excess of the amount of property tax administration fees over the expense to the local property tax collecting unit in collecting the taxes, but not less than 80% of the fee imposed, shall be returned to the local assessing unit. A property tax administration fee is defined as a fee to offset costs incurred by a collecting unit in assessing property values, in collecting the property tax levies, and in the review and appeal processes. The costs of any appeals, in excess of funds available from the property tax administration fee, may be shared by any taxing unit only if approved by the governing body of the taxing unit. Except as provided by subsection (7), on all taxes paid after February 14 and before March 1 the governing body of a city or township may authorize the treasurer to add to the tax a property tax administration fee to the extent imposed on taxes paid before February 15 and a late penalty charge equal to 3% of the tax. The governing body of a city or township may waive interest from February 15 to the

last day of February on a summer property tax that has been deferred under section 51 or any late penalty charge for the homestead property of a senior citizen, paraplegic, quadriplegic, hemiplegic, eligible serviceperson, eligible veteran, eligible widow or widower, totally and permanently disabled person, or blind person, as those persons are defined in chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532, if the person makes a claim before February 15 for a credit for that property provided by chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532, if the person presents a copy of the form filed for that credit to the local treasurer, and if the person has not received the credit before February 15. The governing body of a city or township may waive interest from February 15 to the last day of February on a summer property tax deferred under section 51 or any late penalty charge for a person's property that is subject to a farmland development rights agreement recorded with the register of deeds of the county in which the property is situated as provided in section 36104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36104, if the person presents a copy of the development rights agreement or verification that the property is subject to a development rights agreement before February 15. A 4% county property tax administration fee, a property tax administration fee to the extent imposed on and if authorized under subsection (7) for taxes paid before March 1, and interest on the tax at the rate of 1% per month shall be added to taxes collected by the township or city treasurer after the last day of February and before settlement with the county treasurer, and the payment shall be treated as though collected by the county treasurer. If the statements required to be mailed by this section are not mailed before December 31, the treasurer shall not impose a late penalty charge on taxes collected after February 14.

(4) The governing body of a local property tax collecting unit may waive all or part of the property tax administration fee or the late penalty charge, or both. A property tax administration fee collected by the township treasurer shall be used only for the purposes for which it may be collected as specified by subsection (3) and this subsection. If the bond of the treasurer, as provided in section 43, is furnished by a surety company, the cost of the bond may be paid by the township from the property tax administration fee.

(5) If apprehensive of the loss of personal tax assessed upon the roll, the township treasurer may enforce collection of the tax at any time, and if compelled to seize property or bring an action in December may add, if authorized under subsection (7), a property tax administration fee of not more than 1% of the total tax bill per parcel and 3% for a late penalty charge.

(6) Along with taxes returned delinquent to a county treasurer under section 55, the amount of the property tax administration fee prescribed by subsection (3) that is imposed and not paid shall be included in the return of delinquent taxes and, when delinquent taxes are distributed by the county treasurer under this act, the delinquent property tax administration fee shall be distributed to the treasurer of the local unit who transmitted the statement of taxes returned as delinquent. Interest imposed upon delinquent property taxes under this act shall also be imposed upon the property tax administration fee and, for purposes of this act other than for the purpose of determining to which local unit the county treasurer shall distribute a delinquent property tax administration fee, any reference to delinquent taxes shall be considered to include the property tax administration fee returned as delinquent for the same property.

(7) The local property tax collecting treasurer shall not impose a property tax administration fee, collection fee, or any type of late penalty charge authorized by law or charter unless the governing body of the local property tax collecting unit approves, by resolution or ordinance adopted after December 31, 1982, an authorization for the imposition of a property tax administration fee, collection fee, or any type of late penalty

charge provided for by this section or by charter, which authorization shall be valid for all levies that become a lien after the resolution or ordinance is adopted. However, unless otherwise provided for by an agreement between the assessing unit and the collecting unit, a local property tax collecting unit that does not also serve as the assessing unit shall impose a property tax administration fee on each parcel at a rate equal to the rate of the fee imposed for city or township taxes on that parcel.

(8) The annual statement required by 1966 PA 125, MCL 565.161 to 565.164, or a monthly billing form or mortgagor passbook provided instead of that annual statement shall include a statement to the effect that a taxpayer who was not mailed the tax statement or a copy of the tax statement by the township treasurer or other collector shall receive, upon request and without charge, a copy of the tax statement from the township treasurer or other collector or, if the tax statement has been mailed to the taxpayer's designated agent, from either the taxpayer's designated agent or the township treasurer or other collector. A designated agent who is subject to 1966 PA 125, MCL 565.161 to 565.164, and who has been mailed the tax statement for taxes that became a lien in the calendar year immediately preceding the year in which the annual statement may be required to be furnished shall mail, upon request and without charge to a taxpayer who was not mailed that tax statement or a copy of that tax statement, a copy of that tax statement.

(9) For taxes levied after December 31, 2001, if taxes levied on qualified real property remain unpaid on February 15, all of the following shall apply:

(a) The unpaid taxes on that qualified real property shall be collected in the same manner as unpaid taxes levied on personal property are collected under this act.

(b) Unpaid taxes on qualified real property shall not be returned as delinquent to the county treasurer for forfeiture, foreclosure, and sale under sections 78 to 79a.

(c) If a county treasurer discovers that unpaid taxes on qualified real property have been returned as delinquent for forfeiture, foreclosure, and sale under sections 78 to 79a, the county treasurer shall return those unpaid taxes to the appropriate local tax collection unit for collection as provided in subdivision (a).

(10) As used in this section:

(a) "Designated agent" means an individual, partnership, association, corporation, receiver, estate, trust, or other legal entity that has entered into an escrow account agreement or other agreement with the taxpayer that obligates that individual or legal entity to pay the property taxes for the taxpayer or, if an agreement has not been entered into, that was designated by the taxpayer on a form made available to the taxpayer by the township treasurer and filed with that treasurer. The designation by the taxpayer shall remain in effect until revoked by the taxpayer in a writing filed with the township treasurer. The form made available by the township treasurer shall include a statement that submission of the form allows the treasurer to mail the tax statement to the designated agent instead of to the taxpayer and a statement notifying the taxpayer of his or her right to revoke the designation by a writing filed with the township treasurer.

(b) "Qualified real property" means buildings and improvements located upon leased real property that are assessed as real property under section 2(1)(c), except buildings and improvements exempt under section 9f, if the value of the buildings or improvements is not otherwise included in the assessment of the real property.

(c) "Taxpayer" means the owner of the property on which the tax is imposed.

(d) When describing in subsection (1) that the amount of tax on the property must be shown in the tax statement, "amount of tax" means an itemization by dollar amount of each of the several ad valorem property taxes and special assessments that a person may

pay under section 53 and an itemization by millage rate, on either the tax statement or a separate form accompanying the tax statement, of each of the several ad valorem property taxes that a person may pay under section 53. The township treasurer or other collector may replace the itemization described in this subdivision with a statement informing the taxpayer that the itemization of the dollar amount and millage rate of the taxes is available without charge from the local property tax collecting unit.

Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 642]

(HB 5363)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 213, 216, 217, 217c, 222, 226, 226a, 233b, 244, 248, 249, 251, and 251a (MCL 257.213, 257.216, 257.217, 257.217c, 257.222, 257.226, 257.226a, 257.233b, 257.244, 257.248, 257.249, 257.251, and 257.251a), section 216 as amended by 1996 PA 141, section 217 as amended by 2002 PA 552, sections 217c and 249 as amended by 1993 PA 300, sections 222 and 244 as amended by 2002 PA 485, section 226 as amended by 2000 PA 36, section 226a as amended by 1998 PA 384, section 233b as added by 1994 PA 305, section 248 as amended by 1999 PA 172, section 251 as amended by 2002 PA 491, and section 251a as added by 1990 PA 265.

The People of the State of Michigan enact:

257.213 Officers and investigators; powers.

Sec. 213. The secretary of state and the officers and investigators of the department whom he or she designates have the following powers:

(a) To inspect any vehicle of a type required to be registered under this act and the salvageable parts of a vehicle of a type required to be registered under this act in any public garage or repair shop or in any place where vehicles are held for sale, lease, dismantling, or wrecking, for the purpose of locating stolen vehicles and parts of stolen vehicles and investigating the title and registration of vehicles. In enforcing the provisions of this subdivision, the secretary of state and the officers and investigators have the powers of peace officers.

(b) To examine the books and records of all persons licensed under this act pertaining to the selling, buying, leasing, dismantling, brokering, or wrecking of vehicles of a type required to be registered under this act, and the payment and collection of tax provided for in this act.

(c) The powers of peace officers for the purpose of enforcing the provisions of chapter 5.

257.216 Vehicles subject to registration and certificate of title provisions; exceptions.

Sec. 216. Every motor vehicle, pickup camper, trailer coach, trailer, semitrailer, and pole trailer, when driven or moved upon a highway, is subject to the registration and certificate of title provisions of this act except the following:

(a) A vehicle driven or moved upon a highway in conformance with the provisions of this act relating to manufacturers, transporters, dealers, or nonresidents.

(b) A vehicle that is driven or moved upon a highway only for the purpose of crossing that highway from 1 property to another.

(c) An implement of husbandry.

(d) Special mobile equipment for which the secretary of state may issue a special registration to an individual, partnership, corporation, or association not licensed as a dealer to identify the equipment when being moved over the streets and highways upon payment of the required fee.

(e) A vehicle that is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails.

(f) Any vehicle subject to registration, but owned by the government of the United States.

(g) A certificate of title need not be obtained for a trailer, semitrailer, or pole trailer weighing less than 2,500 pounds.

(h) A vehicle driven or moved upon the highway only for the purpose of securing a weight receipt from a weighmaster as is required in section 801, or for obtaining a vehicle inspection by a law enforcement agency before titling or registration, and then only by the most direct route.

(i) A certificate of title need not be obtained for a vehicle owned by a manufacturer or dealer and held for sale or lease, even though incidentally moved on the highway or used for purposes of testing or demonstration.

(j) A bus or school bus, as defined in section 4b or 57, that is not self-propelled and used exclusively as a construction shanty.

(k) A certificate of title need not be obtained for a moped.

(*l*) For 3 days immediately following the date of a properly assigned title or signed lease agreement from any person other than a vehicle dealer, a registration need not be obtained for a vehicle driven or moved upon the highway for the sole purpose of transporting the vehicle in the most direct route from the place of purchase or lease to a place of storage if the driver has in his or her possession the assigned title showing the date of sale or lease agreement showing the date of the lease.

(m) A certificate of registration need not be obtained for a pickup camper, but a certificate of title shall be obtained.

(n) A new motor vehicle driven or moved upon the highway only for the purpose of moving the vehicle from an accident site to a storage location if the vehicle was being transported on a railroad car or semitrailer that was involved in a disabling accident.

257.217 Application for registration and certificate of title; out-of-state vehicle; form; fee; signature of owner; contents; leased pickup truck or vehicle; duties of dealer and person selling or leasing certain vehicles; temporary registration; copy of security agreement; service fee; imprint on back side of check or bank draft; liability for damages.

Sec. 217. (1) An owner of a vehicle that is subject to registration under this act shall apply to the secretary of state, upon an appropriate form furnished by the secretary of state, for the registration of the vehicle and issuance of a certificate of title for the vehicle. A vehicle brought into this state from another state or jurisdiction that has a rebuilt, salvage, scrap, flood, or comparable certificate of title issued by that other state or jurisdiction shall be issued a rebuilt, salvage, scrap, or flood certificate of title by the secretary of state. The application shall be accompanied by the required fee. An application for a certificate of title shall bear the signature of the owner. The application shall contain all of the following:

(a) The owner's name, the owner's bona fide residence, and either of the following:

(*i*) If the owner is an individual, the owner's mailing address.

(*ii*) If the owner is a firm, association, partnership, limited liability company, or corporation, the owner's business address.

(b) A description of the vehicle including the make or name, style of body, and model year; the number of miles, not including the tenths of a mile, registered on the vehicle's odometer at the time of transfer; whether the vehicle is a flood vehicle or another state previously issued the vehicle a flood certificate of title; whether the vehicle is to be or has been used as a taxi or police vehicle, or by a political subdivision of this state, unless the vehicle is owned by a dealer and loaned or leased to a political subdivision of this state for use as a driver education vehicle; whether the vehicle has previously been issued a salvage or rebuilt certificate of title from this state or a comparable certificate of title from any other state or jurisdiction; vehicle identification number; and the vehicle's weight fully equipped, if a passenger vehicle registered in accordance with section 801(1)(a), and, if a trailer coach or pickup camper, in addition to the weight, the manufacturer's serial number, or in the absence of the serial number, a number assigned by the secretary of state. A number assigned by the secretary of state shall be permanently placed on the trailer coach or pickup camper in the manner and place designated by the secretary of state.

(c) A statement of the applicant's title and the names and addresses of the holders of security interests in the vehicle and in an accessory to the vehicle, in the order of their priority.

(d) Further information that the secretary of state reasonably requires to enable the secretary of state to determine whether the vehicle is lawfully entitled to registration and the owner entitled to a certificate of title. If the secretary of state is not satisfied as to the ownership of a late model vehicle or other vehicle having a value over $2,500.00, before registering the vehicle and issuing a certificate of title, the secretary of state may require the applicant to file a properly executed surety bond in a form prescribed by the secretary of state and executed by the applicant and a company authorized to conduct a surety business in this state. The bond shall be in an amount equal to twice the value of the vehicle as determined by the secretary of state and shall be conditioned to indemnify or reimburse the secretary of state, any prior owner, and any subsequent purchaser or lessee of the vehicle and their successors in interest against any expense, loss, or damage, including reasonable attorney's fees, by reason of the issuance of a certificate of title for

the vehicle or on account of any defect in the right, title, or interest of the applicant in the vehicle. An interested person has a right of action to recover on the bond for a breach of the conditions of the bond, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of 3 years, or before 3 years if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the secretary of state, unless the secretary of state has received notification of the pendency of an action to recover on the bond. If the secretary of state is not satisfied as to the ownership of a vehicle that is valued at $2,500.00 or less and that is not a late model vehicle, the secretary of state shall require the applicant to certify that the applicant is the owner of the vehicle and entitled to register and title the vehicle.

(e) Except as provided in subdivision (f), an application for a commercial vehicle shall also have attached a scale weight receipt of the motor vehicle fully equipped as of the time the application is made. A scale weight receipt is not necessary if there is presented with the application a registration receipt of the previous year that shows on its face the empty weight of the motor vehicle as registered with the secretary of state that is accompanied by a statement of the applicant that there has not been structural change in the motor vehicle that has increased the empty weight and that the previous registered weight is the true weight.

(f) An application for registration of a vehicle on the basis of elected gross weight shall include a declaration by the applicant specifying the elected gross weight for which application is being made.

(g) If the application is for a certificate of title of a motor vehicle registered in accordance with section 801(1)(p), the application shall include the manufacturer's suggested base list price for the model year of the vehicle. Annually, the secretary of state shall publish a list of the manufacturer's suggested base list price for each vehicle being manufactured. Once a base list price is published by the secretary of state for a model year for a vehicle, the base list price shall not be affected by subsequent increases in the manufacturer's suggested base list price but shall remain the same throughout the model year unless changed in the annual list published by the secretary of state. If the secretary of state's list has not been published for that vehicle by the time of the application for registration, the base list price shall be the manufacturer's suggested retail price as shown on the label required to be affixed to the vehicle under section 3 of the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1232. If the manufacturer's suggested retail price is unavailable, the application shall list the purchase price of the vehicle as defined in section 801(4).

(2) An applicant for registration of a leased pickup truck or passenger vehicle that is subject to registration under this act, except a vehicle that is subject to registration tax under section 801g, shall disclose in writing to the secretary of state the lessee's name, the lessee's bona fide residence, and either of the following:

(a) If the lessee is an individual, the lessee's Michigan driver license number or Michigan personal identification number or, if the lessee does not have a Michigan driver license or Michigan personal identification number, the lessee's mailing address.

(b) If the lessee is a firm, association, partnership, limited liability company, or corporation, the lessee's business address.

(3) The secretary of state shall maintain the information described in subsection (2) on the secretary of state's computer records.

(4) A dealer selling, leasing, or exchanging vehicles required to be titled, within 15 days after delivering a vehicle to the purchaser or lessee, and a person engaged in the sale of vessels required to be numbered by part 801 of the natural resources and environmental

protection act, 1994 PA 451, MCL 324.80101 to 324.80199, within 15 days after delivering a boat trailer weighing less than 2,500 pounds to the purchaser or lessee, shall apply to the secretary of state for a new title, if required, and transfer or secure registration plates and secure a certificate of registration for the vehicle or boat trailer, in the name of the purchaser or lessee. The dealer's license may be suspended or revoked in accordance with section 249 for failure to apply for a title when required or for failure to transfer or secure registration plates and certificate of registration within the 15 days required by this section. If the dealer or person fails to apply for a title when required, and to transfer or secure registration plates and secure a certificate of registration and pay the required fees within 15 days of delivery of the vehicle or boat trailer, a title and registration for the vehicle or boat trailer may subsequently be acquired only upon the payment of a transfer fee of $15.00 in addition to the fees specified in section 806. The purchaser or lessee of the vehicle or the purchaser of the boat trailer shall sign the application, including, when applicable, the declaration specifying the maximum elected gross weight, as required by subsection (1)(f), and other necessary papers to enable the dealer or person to secure the title, registration plates, and transfers from the secretary of state. If the secretary of state mails or delivers a purchaser's certificate of title to a dealer, the dealer shall mail or deliver the certificate of title to the purchaser not more than 5 days after receiving the certificate of title from the secretary of state.

(5) If a vehicle is delivered to a purchaser or lessee who has valid Michigan registration plates that are to be transferred to the vehicle, and an application for title, if required, and registration for the vehicle is not made before delivery of the vehicle to the purchaser or lessee, the registration plates shall be affixed to the vehicle immediately, and the dealer shall provide the purchaser or lessee with an instrument in writing, on a form prescribed by the secretary of state, which shall serve as a temporary registration for the vehicle for a period of 15 days from the date the vehicle is delivered.

(6) An application for a certificate of title that indicates the existence of a security interest in the vehicle or in an accessory to the vehicle, if requested by the security interest holder, shall be accompanied by a copy of the security agreement which need not be signed. The request may be made of the seller on an annual basis. The secretary of state shall indicate on the copy the date and place of filing of the application and return the copy to the person submitting the application who shall forward it to the holder of the security interest named in the application.

(7) If the seller does not prepare the credit information, contract note, and mortgage, and the holder, finance company, credit union, or banking institution requires the installment seller to record the lien on the title, the holder, finance company, credit union, or banking institution shall pay the seller a service fee of not more than $10.00. The service fee shall be paid from the finance charges and shall not be charged to the buyer in addition to the finance charges. The holder, finance company, credit union, or banking institution shall issue its check or bank draft for the principal amount financed, payable jointly to the buyer and seller, and there shall be imprinted on the back side of the check or bank draft the following:

"Under Michigan law, the seller must record a first lien in favor of (name of lender) _____ on the vehicle with vehicle identification number _____ and title the vehicle only in the name(s) shown on the reverse side." On the front of the sales check or draft, the holder, finance company, credit union, or banking institution shall note the name(s) of the prospective owner(s). Failure of the holder, finance company, credit union, or banking institution to comply with these requirements frees the seller from any obligation to record the lien or from any liability that may arise as a result of the failure to record the lien. A service fee shall not be charged to the buyer.

(8) In the absence of actual malice proved independently and not inferred from lack of probable cause, a person who in any manner causes a prosecution for larceny of a motor vehicle; for embezzlement of a motor vehicle; for any crime an element of which is the taking of a motor vehicle without authority; or for buying, receiving, possessing, leasing, or aiding in the concealment of a stolen, embezzled, or converted motor vehicle knowing that the motor vehicle has been stolen, embezzled, or converted, is not liable for damages in a civil action for causing the prosecution. This subsection does not relieve a person from proving any other element necessary to sustain his or her cause of action.

257.217c Acquisition of salvage, distressed, or older model vehicles; issuance of salvage or scrap certificates of title; salvage vehicle inspections; sale of vehicles; notice of designation as scrap vehicle; removal of scrap vehicle from state; determination of repair and labor costs; vehicle inspection fee; "actual cash value" defined.

Sec. 217c. (1) The secretary of state may conduct periodic reviews of the records of a dealer to determine whether adequate notice is given to a transferee or lessee of a rebuilt salvage vehicle of that vehicle's prior designation as a salvage vehicle. The secretary of state may request an insurance company to provide copies of salvage title documents and claims reports involving major component parts to assist the secretary of state in monitoring compliance with this act.

(2) Except for a late model vehicle that has been stolen and recovered and that has no major component part removed, missing, or destroyed, or damaged and not salvageable, an insurance company licensed to conduct business in this state that acquires ownership of a late model vehicle through the payment of a claim shall proceed under either of the following:

(a) If the insurance company acquires ownership of the vehicle through payment of a claim, the owner of the vehicle shall assign the certificate of title to the insurance company which shall do all of the following:

(*i*) Surrender a properly assigned certificate of title to the secretary of state.

(*ii*) If the estimated cost of repair, including parts and labor, is equal to or more than 75% but less than 91% of the predamaged actual cash value of the vehicle, apply for a salvage certificate of title, and if the estimated cost of repair, including parts and labor, is equal to or greater than 91% of the predamaged actual cash value of the vehicle, apply for a scrap certificate of title. The insurance company shall not sell the vehicle without first receiving a salvage or scrap certificate of title, which shall be assigned to the buyer. An insurance company may assign a salvage or scrap certificate of the title only to an automotive recycler, used or secondhand vehicle parts dealer, foreign salvage vehicle dealer, or vehicle scrap metal processor.

(b) If after payment of a total loss claim the insurance company permits the owner of the vehicle to retain ownership, the insurance company shall do all of the following:

(*i*) If the estimated cost of repair, including parts and labor, is equal to or greater than 75% but less than 91% of the predamaged actual cash value of the vehicle, require each owner of the vehicle to sign an application for a salvage certificate of title, or if the estimated cost of repair, including parts and labor, is equal to or greater than 91% of the predamaged actual cash value of the vehicle, require each owner of the vehicle to sign an application for a scrap vehicle certificate of title.

(*ii*) Attach the owner's certificate of title to the application for a salvage or scrap certificate of title or have the owner certify that the certificate of title is lost.

(*iii*) On behalf of the owner, apply to the secretary of state for a salvage or scrap certificate of title in the name of the owner. The owner shall not sell or otherwise dispose of the vehicle without first receiving a salvage or scrap certificate of title, which shall be assigned to the buyer. An insurance company may assign a salvage or scrap certificate of title only to an automotive recycler, used or secondhand vehicle parts dealer, foreign salvage vehicle dealer, or vehicle scrap metal processor.

(3) If an insurance company acquires ownership of a vehicle other than a late model vehicle through payment of damages due to an accident, the company shall surrender a properly assigned title to the buyer upon delivery.

(4) If a dealer acquires ownership of a late model vehicle that is a distressed vehicle from an owner, the dealer shall receive an assigned certificate of title. If the assigned certificate of title is not a salvage or scrap certificate of title, the dealer, other than a vehicle scrap metal processor, shall surrender the assigned certificate of title to the secretary of state, and if the estimated cost of repair, including parts and labor, is equal to or greater than 75% but less than 91% of the predamaged actual cash value of the vehicle, apply for a salvage certificate of title, or if the estimated cost of repair, including parts and labor, is equal to or greater than 91% of the predamaged actual cash value of the vehicle, apply for a scrap certificate of title within 5 days after the dealer receives the assigned certificate of title. The dealer may sell a salvage vehicle to another automotive recycler, used or secondhand vehicle parts dealer, foreign salvage vehicle dealer, or vehicle scrap metal processor by assigning the salvage certificate of title to the buyer. Unless the vehicle is rebuilt, inspected, and recertified pursuant to this section, if the vehicle is sold to a buyer other than a dealer, application shall be made for a salvage certificate in the name of the buyer in the manner provided in this act. The dealer may sell a scrap vehicle only to a vehicle scrap metal processor. A vehicle scrap metal processor shall surrender an assigned certificate of title to the secretary of state within 30 days after acquiring a vehicle for which a certificate of title was received. A vehicle scrap metal processor shall surrender an assigned salvage or scrap certificate of title to the secretary of state within 30 days after acquiring a vehicle for which a salvage or scrap certificate of title was received and report that the vehicle was destroyed or scrapped.

(5) An application for a scrap certificate of title shall be made on a form prescribed by the secretary of state accompanied by a fee of $15.00. The application shall contain all of the following:

(a) The complete name and current address of the owner.

(b) A description of the vehicle, including its make, style of body, model year, fee category or weight, color, and vehicle identification number.

(c) If the vehicle is a late model vehicle, a listing of each major component part that was not salvageable.

(d) Further information as may reasonably be required by the secretary of state.

(6) The scrap certificate of title shall authorize the holder of the document to transport but not drive upon a highway the vehicle or parts of a vehicle, and assign ownership to a vehicle scrap metal processor, automotive recycler, used or secondhand vehicle parts dealer, or foreign salvage vehicle dealer. A certificate of title shall not again be issued for this vehicle. A person shall not rebuild or repair a scrap vehicle and allow it to retain the original vehicle identification number.

(7) If a person, other than a dealer or insurance company that is subject to subsection (2) or (4), acquires ownership of a distressed, late model vehicle, the person shall surrender the title or assigned certificate of title to the secretary of state, and if the estimated cost

of repair, including parts and labor, is equal to or greater than 75% but less than 91% of the predamaged actual cash value of the vehicle, apply for a salvage certificate of title, or if the estimated cost of repair, including parts and labor, is equal to or greater than 91% of the predamaged actual cash value of the vehicle, apply for a scrap certificate of title before the vehicle may be transported.

(8) An owner of a vehicle may determine that a vehicle is a scrap vehicle or a salvage vehicle without making any determination as to the actual cash value of the vehicle.

(9) If a leasing company, vehicle manufacturer, insurance company not licensed to do business in this state, association, repossession company, self-insured owner, financial institution, governmental entity, or other company, institution, or entity, owns a distressed, late model vehicle, the titleholder shall surrender the title or assigned certificate of title to the secretary of state and apply for a salvage certificate of title if the retail cost of repair, including parts and labor, is equal to or greater than 75% but less than 91% of the predamaged actual cash value of the vehicle, or if the retail cost of repair, including parts and labor, is equal to or greater than 91% of the predamaged actual cash value of the vehicle, apply for a scrap certificate of title, before the vehicle may be transported or sold. If ownership is transferred, the owner shall sell the vehicle only to a dealer who is eligible to buy a salvage or scrap vehicle in this state unless the owner complies with subsection (12). When a leasing company, vehicle manufacturer, insurance company not licensed to do business in this state, association, repossession company, self-insured owner, financial institution, governmental entity, or other company, institution, or entity, estimates the repair of a distressed, late model vehicle for the purpose of determining whether to apply for a salvage or scrap certificate of title, a complete record of the estimate and, if the vehicle is repaired before a transfer of ownership, a complete record of the actual cost of the repairs performed and by whom shall be maintained for a minimum of 5 years by the leasing company, vehicle manufacturer, insurance company not licensed to do business in this state, association, repossession company, self-insured owner, financial institution, governmental entity, or other company, institution, or entity. The estimates and repair records required by this subsection shall be available for unannounced inspections by a law enforcement agency or a representative of the secretary of state. The secretary of state may request a leasing company, vehicle manufacturer, insurance company not licensed to do business in this state, association, repossession company, self-insured owner, financial institution, governmental entity, or other company, institution, or entity to provide copies of title documents, repair estimates, claims reports involving major component parts, and actual cash value determination documents to assist the secretary of state in monitoring compliance with this act.

(10) An application for a salvage certificate of title shall be made on a form prescribed by the secretary of state accompanied by a fee of $10.00. The application shall contain all of the following:

(a) The complete name and current address of the owner.

(b) A description of the vehicle, including its make, style of body, model year, fee category or weight, color, and vehicle identification number.

(c) An estimate of the cost repair, including parts and labor, and an estimate of the predamaged actual cash value of the vehicle.

(d) If the vehicle is a late model vehicle, a listing of each major component part that was not salvageable.

(e) Further information as may reasonably be required by the secretary of state.

(11) The secretary of state shall issue and mail the salvage certificate within 5 business days after the time the application is received at the secretary of state's office in Lansing.

Each salvage certificate of title shall include a listing of each major component part that was not salvageable.

(12) A salvage certificate of title authorizes the holder of the title to possess, transport, but not drive upon a highway, and transfer ownership in, a vehicle. The secretary of state shall not issue a certificate of title or registration plates for a vehicle for which a salvage certificate of title was issued unless a specially trained officer described in subsection (14) certifies all of the following:

(a) That the vehicle identification numbers and parts identification numbers are correct.

(b) That the applicant has proof of ownership of repair parts used.

(c) That the vehicle complies with the equipment standards of this act.

(13) The certification required by subsection (12) shall be made on a form prescribed and furnished by the secretary of state in conjunction with the department of state police and shall accompany the application that is submitted to the secretary of state for a certificate of title. An application for a certificate of title shall contain a description of each salvageable part used to repair the vehicle and any identification number affixed to or inscribed upon the part as required by state or federal law. Upon satisfactory completion of the inspection as required by the secretary of state and other requirements for application, the secretary of state shall issue a certificate of title for the vehicle bearing the legend "rebuilt salvage".

(14) An officer specially trained as provided by the secretary of state and authorized by the secretary of state to conduct a salvage vehicle inspection is either of the following:

(a) An on-duty or off-duty police officer.

(b) A previously certified police officer who is appointed by the local police agency as a limited enforcement officer to conduct salvage vehicle inspections. The local police agency shall give this officer access to the agency's law enforcement information network system and the authority to confiscate any stolen vehicle or vehicle parts discovered during an inspection. The local police agency may give the officer the authority to arrest a person suspected of having unlawful possession of a stolen vehicle or vehicle parts.

(15) The secretary of state shall issue a certificate to an officer who is specially trained as provided by the secretary of state to conduct salvage vehicle inspections. Only a person who has a valid certification from the secretary of state may perform salvage inspections. The secretary of state on his or her own initiative or in response to complaints shall make reasonable and necessary public or private investigations within or outside of this state and gather evidence against an officer who was issued a certificate and who violated or is about to violate this act or a rule promulgated under this act. The secretary of state may suspend, revoke, or deny a certificate after an investigation if the secretary of state determines that the officer committed 1 or more of the following:

(a) Violated this act or a rule promulgated under this act.

(b) Was found guilty of a fraudulent act in connection with the inspection, purchase, sale, lease, or transfer of a salvage vehicle.

(c) Was found guilty of the theft, embezzlement, or misappropriation of salvage vehicle inspection fees.

(d) Performed improper, careless, or negligent salvage vehicle inspections.

(e) Ceased to function as a police officer because of suspension, retirement, dismissal, disability, or termination of employment.

(f) Was convicted of a violation or attempted violation of 1986 PA 119, MCL 257.1351 to 257.1355.

(g) Made a false statement of a material fact in his or her certification of a salvage vehicle inspection or any record concerning a salvage vehicle inspection.

(16) Upon receipt of the appropriate abstract of conviction from a court and without any investigation, the secretary of state shall immediately revoke the certificate of an officer who has been convicted of a violation or attempted violation of section 413, 414, 415, 535, 535a, or 536a of the Michigan penal code, 1931 PA 328, MCL 750.413, 750.414, 750.415, 750.535, 750.535a, and 750.536a, or has been convicted in federal court or in another state of a violation or attempted violation of a law substantially corresponding to 1 of those sections.

(17) If a dealer acquires ownership of an older model vehicle from an owner, the dealer shall receive an assigned certificate of title and shall retain it as long as he or she retains the vehicle. A vehicle scrap metal processor shall surrender an assigned certificate of title to the secretary of state within 30 days after the vehicle is destroyed or scrapped.

(18) A dealer selling or assigning a vehicle to a vehicle scrap metal processor shall make a record in triplicate on a form to be provided by the secretary of state in substantially the following form:

Scrap Vehicle Inventory:

SELLER: Dealer name _____

Dealer address _____

Dealer license number _____

PURCHASER: Conveyed to: _____ Date _____

(Vehicle scrap metal processor)

Dealer address _____

Dealer license number _____

Vehicles

	Model Year	Vehicle Make	VIN	Title Number	Dealer's Stock Number	Color
1.	_____	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____	_____

etc.

One copy shall be retained as a permanent record by the dealer, 1 copy shall be forwarded with the vehicle to be retained by the vehicle scrap metal processor, and 1 copy shall be forwarded to the secretary of state.

(19) A person, other than an automotive recycler, used or secondhand vehicle parts dealer, or a foreign salvage dealer, receiving a salvage certificate of title shall not sell the vehicle to anyone other than 1 of the following:

(a) The vehicle's former owner.

(b) A used or secondhand vehicle parts dealer.

(c) A vehicle scrap metal processor.

(d) A foreign salvage vehicle dealer licensed under this act.

(e) An automotive recycler.

(20) A person receiving a scrap certificate of title shall not sell the vehicle to anyone other than 1 of the following:

(a) An automotive recycler.

(b) A vehicle scrap metal processor.

(c) A foreign salvage vehicle dealer licensed under this act.

(d) A used or secondhand vehicle parts dealer.

(21) The secretary of state may conduct periodic reviews of the records of a dealer to determine whether adequate notice is given to a transferee or lessee of a rebuilt salvage vehicle of that vehicle's prior designation as a salvage vehicle. The secretary of state may request an insurance company to provide copies of salvage title documents and claims reports involving major component parts to assist the secretary of state in monitoring compliance with this act.

(22) A licensed automotive recycler, used or secondhand vehicle parts dealer, vehicle scrap metal processor, vehicle salvage pool operator, distressed vehicle transporter, foreign salvage vehicle dealer, or broker who has removed a scrap vehicle from this state for the purpose of rebuilding the vehicle or selling or leasing the vehicle to a person other than a vehicle scrap metal processor, shall receive an automatic suspension of its dealer license and of any salvage vehicle agent's license assigned to that dealer for a period of 30 days. Upon receipt by the secretary of state of a written request from the dealer, the dealer shall have the right to an immediate hearing on the matter within that 30-day period.

(23) For the purpose of this section, the estimated costs of the repair parts shall be determined by using the current published retail cost of original manufacturer equipment parts or an estimate of the actual cost of the repair parts. The estimated labor costs shall be computed by using the hourly rate and time allocations which are reasonable and commonly assessed in the repair industry in the community where the repairs are performed.

(24) A police agency shall charge a fee for an inspection of a vehicle pursuant to subsection (12). Each local authority with a police agency shall determine the amount of the fee for inspections by that police agency, which shall not exceed $100.00. The police agency shall credit the fee to the budget of that police agency and use the fee for law enforcement purposes that affect stolen vehicles, stolen vehicle parts, and salvage vehicle inspections. A local police agency shall compensate an off-duty and limited enforcement police officer for a salvage vehicle inspection.

(25) For the purpose of this section, "actual cash value" means the retail dollar value of a vehicle as determined by an objective vehicle evaluation using local market resources such as dealers or want ads or by an independent vehicle evaluation or vehicle appraisal service or by a current issue of a nationally recognized used vehicle guide for financial institution appraisal purposes in this state.

257.222 Registration certificate and certificate of title; issuance; rebuilt, salvage, or scrap certificate of title issued by another state; delivery; manufacture; contents; coat of arms; conduct constituting misdemeanor; penalties; certificate of title for certain vehicles to be different in color; contents of legend.

Sec. 222. (1) Except as otherwise provided in this act, the secretary of state shall issue a registration certificate and a certificate of title when registering a vehicle upon receipt

of the required fees. The secretary of state shall issue a flood, rebuilt, rebuilt salvage, salvage, or scrap certificate of title for a vehicle brought into this state from another state or jurisdiction that has a flood, rebuilt, salvage, or scrap certificate of title issued by that other state or jurisdiction.

(2) The secretary of state shall deliver the registration certificate to the owner. The certificate shall contain on its face the date issued, the name and address of the owner, the registration number assigned to the vehicle, and a description of the vehicle as determined by the secretary of state.

(3) The certificate of title shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the certificate of title without ready detection. The certificate shall contain on its face the identical information required on the face of the registration certificate; if the vehicle is a motor vehicle, the number of miles, not including the tenths of a mile, registered on the vehicle's odometer at the time of transfer; whether the vehicle is to be used or has been used as a taxi, as a police vehicle, or by a political subdivision of this state, unless the vehicle is owned by a dealer and loaned or leased to a political subdivision of this state for use as a driver education vehicle; whether the vehicle is a salvage vehicle; if the vehicle has previously been issued a rebuilt certificate of title from this state or a comparable certificate of title from any other state or jurisdiction; if the vehicle has been issued a scrap certificate of title from this state or a comparable certificate of title from any other state or jurisdiction; if the vehicle is a flood vehicle or has previously been issued a flood certificate of title from this state or any other state or jurisdiction; if the owner or co-owner or lessee or co-lessee of the vehicle is subject to registration denial under section 219(1)(d); a statement of the owner's title and of all security interests in the vehicle or in an accessory on the vehicle as set forth in the application; the date that the application was filed; and any other information that the secretary of state may require.

(4) The certificate of title shall contain a form for assignment of title or interest and warranty of title by the owner with space for the notation of a security interest in the vehicle and in an accessory on the vehicle, which at the time of a transfer shall be certified and signed, and space for a written odometer mileage statement that is required upon transfer pursuant to section 233a. The certificate of title may also contain other forms that the secretary of state considers necessary to facilitate the effective administration of this act. The certificate shall bear the coat of arms of this state.

(5) The secretary of state shall mail or deliver the certificate of title to the owner or other person the owner may direct in a separate instrument, in a form prescribed by the secretary of state.

(6) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates a certificate of title or who uses a reproduced, altered, counterfeited, forged, or duplicated certificate of title shall be punished as follows:

(a) If the intent of reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for 1 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor, punishable by imprisonment for a period equal to that which could be imposed for the commission of the offense the person had the intent to aid or commit. The court may also assess a fine of not more than $10,000.00 against the person.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for not more than 1 year, the person committing the reproduction, alteration, counterfeiting,

forging, duplication, or use is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than $1,000.00, or both.

(7) The certificate of title for a police vehicle, a vehicle owned by a political subdivision of this state, a salvage vehicle, a rebuilt vehicle, a scrap vehicle, or a flood vehicle shall be different in color from the certificate of title for all other vehicles unless the vehicle is loaned or leased to a political subdivision of this state for use as a driver education vehicle.

(8) A scrap certificate of title shall contain a legend that the vehicle is not to be titled or registered and is to be used for parts or scrap metal only.

(9) A certificate of title shall not be issued for a vehicle that has had a salvage certificate of title unless the certificate of title contains the legend "rebuilt salvage".

257.226 Expiration of vehicle registration; duties of secretary of state; issuance of registration; tax; validity of certificate of title; special registration; certification; registration of trailer or semitrailer used for recreational purposes; assignment or reassignment of expiration date under international registration plan; leased vehicle multiyear registration.

Sec. 226. (1) A vehicle registration issued by the secretary of state expires on the owner's birthday, unless another expiration date is provided for under this act or unless the registration is for the following vehicles, in which case registration expires on the last day of February:

(a) A commercial vehicle except for a commercial vehicle issued a registration under the international registration plan or a pickup truck or van owned by an individual.

(b) Except for a trailer or semitrailer issued a registration under the international registration plan, a trailer or semitrailer owned by a business, corporation, or person other than an individual; or a pole trailer.

(2) The expiration date for a registration issued for a motorcycle is March 31.

(3) The expiration date for a registration bearing the letters "SEN" or "REP" is February 1.

(4) In the case of a vehicle owned by a business, corporation, or an owner other than an individual, the secretary of state may assign or reassign the expiration date of the registration.

(5) The secretary of state shall do all of the following:

(a) After the October 1 immediately preceding the year designated on the registration, issue a registration upon application and payment of the proper fee for a commercial vehicle, other than a pickup or van owned by an individual; or a trailer owned by a business, corporation, or person other than an individual.

(b) Beginning 60 days before the expiration date assigned on an international registration plan registration plate, issue a registration under section 801g upon application and payment of the proper apportioned fee for a commercial vehicle engaged in interstate commerce.

(c) After the February 14 immediately preceding the year designated on a registration, issue a registration upon application and payment of the proper fee for a motorcycle.

(d) Beginning 45 days before the owner's birthday and 120 days before the expiration date assigned by the secretary of state, issue a registration for a vehicle other than those designated in subsection (1)(a) or (b). However, if an owner whose registration period begins 45 days before his or her birthday will be out of the state during the 45 days

immediately preceding expiration of a registration or for other good cause shown cannot apply for a renewal registration within the 45-day period, application for a renewal registration may be made not more than 6 months before expiration.

(6) Except as otherwise provided in this subsection, the secretary of state, upon application and payment of the proper fee, shall issue a registration for a vehicle to a resident that shall expire on the owner's birthday. If the owner's next birthday is at least 6 months but not more than 12 months in the future, the owner shall receive a registration valid until the owner's next birthday. If the owner's next birthday is less than 6 months in the future, the owner shall receive a registration valid until the owner's birthday following the owner's next birthday. The tax required under this act for a registration described in this subsection shall bear the same relationship to the tax required under section 801 for a 12-month registration as the length of time of the registration bears to 12 months. Partial months shall be considered as whole months in the calculation of the required tax and in the determination of the length of time between the application for a registration and the owner's next birthday. The tax required for that registration shall be rounded off to whole dollars as provided in section 801.

(7) A certificate of title shall remain valid until canceled by the secretary of state for cause or upon a transfer of an interest shown on the certificate of title.

(8) The secretary of state, upon request, shall issue special registration for commercial vehicles, valid for 6 months after the date of issue, if the full registration fee exceeds $50.00, on the payment of 1/2 the full registration fee and a service charge as enumerated in section 802(1).

(9) The secretary of state may issue a special registration for each of the following:

(a) A new vehicle purchased or leased outside of this state and delivered in this state to the purchaser or lessee by the manufacturer of that vehicle for removal to a place outside of this state, if a certification is made that the vehicle will be primarily used, stored, and registered outside of this state and will not be returned to this state by the purchaser or lessee for use or storage.

(b) A vehicle purchased or leased in this state and delivered to the purchaser or lessee by a dealer or by the owner of the vehicle for removal to a place outside of this state, if a certification is made that the vehicle will be primarily used, stored, and registered outside of this state and will not be returned to this state by the purchaser or lessee for use or storage.

(10) A special registration issued under subsection (9) is valid for not more than 14 days after the date of issuance, and a fee shall be collected for each special registration as provided in section 802(3). The special registration may be in the form determined by the secretary of state. If a dealer makes a retail sale or lease of a vehicle to a purchaser or lessee who is qualified and eligible to obtain a special registration, the dealer shall apply for the special registration for the purchaser or lessee. If a person other than a dealer sells or leases a vehicle to a purchaser or lessee who is qualified and eligible to obtain a special registration, the purchaser or lessee shall appear in person, or by a person exercising the purchaser's or lessee's power of attorney, at an office of the secretary of state and furnish a certification that the person is the bona fide purchaser or lessee or that the person has granted the power of attorney, together with other forms required for the issuance of the special registration and provide the secretary of state with proof that the vehicle is covered by a Michigan no-fault insurance policy issued pursuant to section 3101 of the insurance code of 1956, 1956 PA 218, MCL 500.3101, or proof that the vehicle is covered by a policy of insurance issued by an insurer pursuant to section 3163 of the insurance code

of 1956, 1956 PA 218, MCL 500.3163. The certification required in this subsection shall contain all of the following:

(a) The address of the purchaser or lessee.

(b) A statement that the vehicle is purchased or leased for registration outside of this state.

(c) A statement that the vehicle shall be primarily used, stored, and registered outside of this state.

(d) The name of the jurisdiction in which the vehicle is to be registered.

(e) Other information requested by the secretary of state.

(11) Upon request, the secretary of state may issue a registration valid for 6 months after the date of issuance for use on a trailer or semitrailer weighing 1,500 pounds or less and that is used for recreational purposes, upon payment of 1/2 the full registration fee imposed under section 801(1)(*l*).

(12) In the case of a commercial vehicle, trailer, or semitrailer issued a registration under the international registration plan, the secretary of state in mutual agreement with the owner may assign or reassign the expiration date of the registration. However, the expiration date agreed to shall be either March 31, June 30, September 30, or December 31. Renewals expiring on or after September 30, 1993 shall be for a minimum of at least 12 months if there is a change in the established expiration date.

(13) The expiration date for a multiyear registration issued for a leased vehicle shall be the date the lease expires but shall not be for a period longer than 24 months.

257.226a Temporary registration plates or markers.

Sec. 226a. (1) Temporary registration plates or markers may be issued to licensed dealers in vehicles and to persons engaged in the sale of vessels required to be numbered by part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199, upon application accompanied by the proper fee, for use by purchasers or lessees of vehicles, for not to exceed 15 days pending receipt of regular registration plates from the dealer or person.

Only 1 temporary plate or marker may be issued to a purchaser or lessee of a vehicle. If a dealer or person requires a purchaser or lessee of a vehicle or purchaser or lessee of a vessel to pay for a temporary plate or marker, the dealer or person shall not charge the purchaser or lessee more than the dealer or person was charged by the secretary of state for the individual plate or marker. The secretary of state shall determine the composition and design of the temporary registration plates or markers.

(2) A temporary registration plate or marker shall show in ink the date of issue, a description of the vehicle for which issued, and any other information required by the secretary of state. A dealer or person shall immediately notify the secretary of state of each temporary registration plate or marker issued by the dealer or person, on a form prescribed by the secretary of state. Upon the attachment of the regular plate to a vehicle for which a temporary registration plate or marker has been issued, the temporary plate shall be destroyed.

(3) All temporary registration plates or markers shall be serially numbered and upon issuance the number shall be noted on the statement of vehicle sale form or in the case of a boat trailer on a form prescribed by the secretary of state.

(4) A dealer or person, upon demand, shall immediately surrender any temporary registration plates or markers in his or her possession if the secretary of state finds, after

investigation, that the dealer or person has violated this section, and the dealer or person shall immediately forfeit any right to the temporary registration plates or markers.

(5) The secretary of state may issue a registration plate upon application and payment of the proper fee to an individual, partnership, corporation, or association who in the ordinary course of business has occasion to legally repossess a vehicle in which a security interest is held. A registration plate issued pursuant to this subsection shall be used to move and dispose of a vehicle.

(6) The secretary of state may issue a registration plate upon application and payment of the proper fee to an individual, partnership, corporation, or association who in the ordinary course of business has occasion to legally pick up or deliver a vehicle not required to be titled under this act, or to repair or service a vehicle, or to persons defined as dealers under part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199, for the purpose of delivering a vessel or trailer to a customer or to and from a boat show or exposition. A registration plate issued under this subsection shall be used to move the vehicle.

(7) The secretary of state may issue a registration plate upon application and payment of the proper fee to an individual, partnership, corporation, or association who in the ordinary course of business operates an auto auction, and who in the ordinary course of business has occasion to legally pick up a vehicle which will be offered for sale at the auction, or deliver a vehicle which has been offered for sale at the auction. The registration plate shall be used only to move vehicles as provided in this subsection. Auto auctions that make application for a registration plate under this subsection shall furnish a surety bond as required by the secretary of state.

257.233b Definitions; disclosure by dealer of damage or repair; exception; grounds for revocation.

Sec. 233b. (1) As used in this section:

(a) "Distributor" means that term as defined in section 3(1) of 1981 PA 118, MCL 445.1563.

(b) "Manufacturer" means that term as defined in section 4(2) of 1981 PA 118, MCL 445.1564.

(c) "Program vehicle" means a motor vehicle from either the current model year or the immediately preceding model year, that was repurchased by a manufacturer or distributor from a rental car company.

(2) Except as provided in this subsection, a new motor vehicle dealer shall disclose in writing to a purchaser or lessee of a new motor vehicle, demonstrator, executive or manufacturer's vehicle, or program vehicle before entering into a sales contract or lease agreement that, after the vehicle completed the manufacturing process, the vehicle was damaged and repaired, including an itemization of repairs, if the dealer has knowledge of the damage and repairs and if the cost of the cumulative repairs, as calculated at the rate of the dealer's authorized warranty rate for labor and parts exceeds either 1 of the following:

(a) Five percent of the manufacturer's suggested retail price of the vehicle.

(b) Seven hundred fifty dollars in surface coating repairs or corrosion protection restoration or a combination of these items. If a new motor vehicle dealer fails to comply with this subsection, the purchaser or lessee shall retain all applicable remedies available under article 2 of the uniform commercial code, 1962 PA 174, MCL 440.2101 to 440.2725.

(3) A dealer in new motor vehicles is not required to disclose to a purchaser or lessee under this act that any glass, tires, wheels, bumpers, audio equipment, in-dash components,

or components contained in the living quarters of a motor home that are not required for the operation of the motor home as a motor vehicle were damaged at any time if the damaged item has been replaced with original manufacturer's parts and material.

(4) Repaired damage to a motor vehicle, subject to this section, not exceeding the cost of cumulative repairs as determined pursuant to subsection (2) shall not constitute grounds for revocation of acceptance by the purchaser or lessee. The right of revocation ceases upon the purchaser's or lessee's acceptance of delivery of the vehicle.

257.244 Operation of vehicle by manufacturer, subcomponent system producer, dealer, or transporter with special plate; unauthorized use of special plate; penalties; surety bond or insurance; number of plates; operation of vehicle with dealer plate by vendee or prospective purchaser.

Sec. 244. (1) A manufacturer owning a vehicle of a type otherwise required to be registered under this act may operate or move the vehicle upon a street or highway primarily for the purposes of transporting or testing or in connection with a golf tournament or a public civic event, if the vehicle displays, in the manner prescribed in section 225, 1 special plate approved by the secretary of state.

(2) A producer of a vehicle subcomponent system essential to the operation of the vehicle or the safety of an occupant may operate or move a motor vehicle upon a street or highway solely to transport or test the subcomponent system if the motor vehicle displays, in the manner prescribed in section 225, 1 special plate approved by the secretary of state. To be eligible for the special plate, the subcomponent system producer must be either a recognized subcomponent system producer or must be a subcomponent system producer under contract with a vehicle manufacturer.

(3) A dealer owning a vehicle of a type otherwise required to be registered under this act may operate or move the vehicle upon a street or highway without registering the vehicle if the vehicle displays, in the manner prescribed in section 225, 1 special plate issued to the owner by the secretary of state. As used in this subsection, "dealer" includes an employee, servant, or agent of the dealer.

(4) Solely to deliver the vehicle, a transporter may operate or move a vehicle of a type otherwise required to be registered under this act upon a street or highway if the vehicle displays, in the manner prescribed in section 225, a special plate issued to the transporter under this chapter.

(5) A licensee shall not use a special plate described in this section on service cars or wreckers operated as an adjunct of a licensee's business. A manufacturer, transporter, or dealer making or permitting any unauthorized use of a special plate under this chapter forfeits the right to use special plates and the secretary of state, after notice and a hearing, may suspend or cancel the right to use special plates and require that the special plates be surrendered to or repossessed by the state.

(6) A transporter shall furnish a sufficient surety bond or policy of insurance as protection for public liability and property damage as may be required by the secretary of state.

(7) The secretary of state shall determine the number of plates a manufacturer, dealer, or transporter reasonably needs in his or her business.

(8) If a vehicle that is required to be registered under this act is leased or sold, the vendee or lessee is permitted to operate the vehicle upon a street or highway for not more than 72 hours after taking possession if the vehicle has a dealer plate attached as provided in this section. The application for registration shall be made in the name of the vendee or

lessee before the vehicle is used. The dealer and the vendee or lessee are jointly responsible for the return of the dealer plate to the dealer within 72 hours, and the failure of the vendee or lessee to return or the vendor or lessor to use due diligence to procure the dealer plate is a misdemeanor, and in addition the license of the dealer may be revoked. While using a dealer's plate, a vendee or lessee shall have in his or her possession proof that clearly indicates the date of sale or lease of the motor vehicle.

(9) A vehicle owned by a dealer and bearing the dealer's plate may be driven upon a street or highway for demonstration purposes by a prospective buyer or lessee for a period of 72 hours.

257.248 Dealer license; investigation; report; bond or renewal certificate; dealer plates; stipulation as to service of process; prohibited conduct, application, and classification; expiration; conduct not requiring separate or supplemental license.

Sec. 248. (1) The secretary of state shall not grant a dealer license under this section until an investigation is made of the applicant's qualifications under this act, except that this subsection does not apply to license renewals. The secretary of state shall make the investigation within 15 days after receiving the application and make a report on the investigation.

(2) An applicant for a new vehicle dealer or a used or secondhand vehicle dealer or broker license shall include a properly executed bond or renewal certificate with the application. If a renewal certificate is used, the bond is considered renewed for each succeeding year in the same amount and with the same effect as an original bond. The bond shall be in the sum of $10,000.00 with good and sufficient surety to be approved by the secretary of state. The bond shall indemnify or reimburse a purchaser, seller, lessee, financing agency, or governmental agency for monetary loss caused through fraud, cheating, or misrepresentation in the conduct of the vehicle business whether the fraud, cheating, or misrepresentation was made by the dealer or by an employee, agent, or salesperson of the dealer. The surety shall make indemnification or reimbursement for a monetary loss only after judgment based on fraud, cheating, or misrepresentation has been entered in a court of record against the licensee. The bond shall also indemnify or reimburse the state for any sales tax deficiency as provided in the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, or use tax deficiency as provided in the use tax act, 1937 PA 94, MCL 205.91 to 205.111, for the year in which the bond is in force. The surety shall make indemnification or reimbursement only after final judgment has been entered in a court of record against the licensee. A dealer or applicant who has furnished satisfactory proof that a bond similar to the bond required by this subsection is executed and in force is exempt from the bond provisions set forth in this subsection. The aggregate liability of the surety shall not exceed the sum of the bond. The surety on the bond may cancel the bond upon giving 30 days' notice in writing to the secretary of state and thereafter is not liable for a breach of condition occurring after the effective date of the cancellation.

(3) An applicant for a new vehicle dealer or a used or secondhand vehicle dealer license shall apply for not less than 2 dealer plates as provided by section 245 and shall include with the application the proper fee as provided by section 803.

(4) As a condition precedent to the granting of a license, a dealer shall file with the secretary of state an irrevocable written stipulation, authenticated by the applicant, stipulating and agreeing that legal process affecting the dealer, served on the secretary of state or a deputy of the secretary of state, has the same effect as if personally served on

the dealer. This appointment remains in force as long as the dealer has any outstanding liability within this state.

(5) A person shall not carry on or conduct the business of buying, selling, brokering, leasing, negotiating a lease, or dealing in 5 or more vehicles of a type required to be titled under this act in a 12-month period unless the person obtains a dealer license from the secretary of state authorizing the carrying on or conducting of that business. A person shall not carry on or conduct the business of buying, selling, brokering, leasing, negotiating a lease, or dealing in 5 or more distressed, late model vehicles or salvageable parts to 5 or more of those vehicles in a 12-month period unless the person obtains a used or secondhand vehicle parts dealer, an automotive recycler, or a salvage pool license from the secretary of state or is an insurance company admitted to conduct business in this state. A person shall not carry on or conduct the business of buying 5 or more vehicles in a 12-month period to process into scrap metal or store or display 5 or more vehicles in a 12-month period as an agent or escrow agent of an insurance company unless the person obtains a dealer license from the secretary of state. A vehicle scrap metal processor who does not purchase vehicles or salvageable parts from unlicensed persons is not required to obtain a dealer license. A person from another state shall not purchase, sell, or otherwise deal in distressed, late model vehicles or salvageable parts unless the person obtains a foreign salvage vehicle dealer license from the secretary of state as prescribed under section 248b. A person, including a dealer, shall not purchase or acquire a distressed, late model vehicle or a salvageable part through a salvage pool, auction, or broker without a license as a salvage vehicle agent. The secretary of state shall investigate and seek prosecution, if necessary, of persons allegedly conducting a business without a license.

(6) The application for a dealer license shall be in the form prescribed by the secretary of state and shall be signed by the applicant. In addition to other information as may be required by the secretary of state, the application shall include all of the following:

(a) Name of applicant.

(b) Location of applicant's established place of business in this state.

(c) The name under which business is to be conducted.

(d) If the business is a corporation, the state of incorporation.

(e) Name, address, date of birth, and social security number of each owner or partner and, if a corporation, the name, address, date of birth, and social security number of each of the principal officers.

(f) The county in which the business is to be conducted and the address of each place of business in that county.

(g) If new vehicles are to be sold, the make to be handled. Each new vehicle dealer shall send with the application for license a certification that the dealer holds a bona fide contract to act as factory representative, factory distributor, or distributor representative to sell at retail . . . . . (the make of vehicle to be sold).

(h) A statement of the previous history, record, and associations of the applicant and of each owner, partner, officer, and director. The statement shall be sufficient to establish to the satisfaction of the secretary of state the business reputation and character of the applicant.

(i) A statement showing whether the applicant has previously applied for a license, the result of the application, and whether the applicant has ever been the holder of a dealer license that was revoked or suspended.

(j) If the applicant is a corporation or partnership, a statement showing whether a partner, employee, officer, or director has been refused a license or has been the holder of a license that was revoked or suspended.

(k) If the application is for a used or secondhand vehicle parts dealer or an automotive recycler, it shall include all of the following:

(*i*) Evidence that the applicant maintains or will maintain an established place of business.

(*ii*) Evidence that the applicant maintains or will maintain a police book and vehicle parts purchase and sales and lease records as required under this act.

(*iii*) Evidence of worker's compensation insurance coverage for employees classified under the North American industrial classification system number 42114, entitled "motor vehicle parts (used) wholesalers" or under the national council on compensation insurance classification code number 3821, entitled "automobile dismantling and drivers", if applicable.

(*l*) Certification that neither the applicant nor another person named on the application is acting as the alter ego of any other person or persons in seeking the license. For the purpose of this subdivision, "alter ego" means a person who acts for and on behalf of, or in the place of, another person for purposes of obtaining a vehicle dealer license.

(7) A person shall apply separately for a dealer license for each county in which business is to be conducted. Before moving 1 or more of his or her places of business or opening an additional place of business, a dealer shall apply to the secretary of state for and obtain a supplemental dealer license, for which a fee shall not be charged. A dealer license entitles the dealer to conduct the business of buying, selling, leasing, and dealing in vehicles or salvageable parts in the county covered by the license. The dealer license shall also entitle the dealer to conduct at any other licensed dealer's established place of business in this state only the business of buying, selling, leasing, or dealing in vehicles at wholesale.

(8) The secretary of state shall classify and differentiate vehicle dealers according to the type of activity they perform. A dealer shall not engage in activities of a particular classification as provided in this act unless the dealer is licensed in that classification. An applicant may apply for a dealer license in 1 or more of the following classifications:

(a) New vehicle dealer.

(b) Used or secondhand vehicle dealer.

(c) Used or secondhand vehicle parts dealer.

(d) Vehicle scrap metal processor.

(e) Vehicle salvage pool operator.

(f) Distressed vehicle transporter.

(g) Broker.

(h) Foreign salvage vehicle dealer.

(i) Automotive recycler.

(9) A dealer license expires on December 31 of the last year for which the license is issued. The secretary of state may renew a dealer license for a period of not more than 4 years upon application and payment of the fee required by section 807.

(10) A dealer may conduct the business of buying, selling, or dealing in motor homes, trailer coaches, trailers, or pickup campers at a recreational vehicle show conducted at a location in this state without obtaining a separate or supplemental license under subsection (7) if all of the following apply:

(a) The dealer is licensed as a new vehicle dealer or used or secondhand vehicle dealer.

(b) The duration of the recreational vehicle show is not more than 14 days.

(c) Not less than 14 days before the beginning date of the recreational vehicle show, the show producer notifies the secretary of state, in a manner and form prescribed by the secretary of state, that the recreational vehicle show is scheduled, the location, dates, and times of the recreational vehicle show, and the name, address, and dealer license number of each dealer participating in the recreational vehicle show.

257.249 Denial, suspension, or revocation of license as dealer; grounds.

Sec. 249. The secretary of state may deny the application of a person for a license as a dealer and refuse to issue the person a license as a dealer, or may suspend or revoke a license already issued, if the secretary of state finds that 1 or more of the following apply:

(a) The applicant or licensee has made a false statement of a material fact in his or her application.

(b) The applicant or licensee has not complied with the provisions of this chapter or a rule promulgated under this chapter.

(c) The applicant or licensee has sold or leased or offered for sale or lease a new vehicle of a type required to be registered under this act without having authority of a contract with a manufacturer or distributor of the new vehicle.

(d) The applicant or licensee has been guilty of a fraudulent act in connection with selling, leasing, or otherwise dealing in vehicles of a type required to be registered under this act.

(e) The applicant or licensee has entered into or is about to enter into a contract or agreement with a manufacturer or distributor of vehicles of a type required to be registered under this act that is contrary to any provision of this act.

(f) The applicant or licensee has no established place of business that is used or will be used for the purpose of selling, leasing, displaying, or offering for sale or lease or dealing in vehicles of a type required to be registered, and does not have proper servicing facilities.

(g) The applicant or licensee is a corporation or partnership, and a stockholder, officer, director, or partner of the applicant or licensee has been guilty of any act or omission that would be cause for refusing, revoking, or suspending a license issued to the stockholder, officer, director, or partner as an individual.

(h) The applicant or licensee has possessed a vehicle or a vehicle part that has been confiscated under section 415 of the Michigan penal code, 1931 PA 328, MCL 750.415. The secretary of state shall conduct a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, before the secretary of state takes any action under this subdivision.

(i) The applicant or licensee has been convicted under section 415 of the Michigan penal code, 1931 PA 328, MCL 750.415.

(j) The applicant or licensee has been convicted of violating 1986 PA 119, MCL 257.1351 to 257.1355.

257.251 Dealer records; form; contents; delivery of written statement to buyer; conditions to valid sale; maintenance and inspection of dealer records and inventory; inspections; summary suspension of license; order; hearing; rules.

Sec. 251. (1) Each new vehicle dealer, used vehicle dealer, and broker shall maintain a record in a manner prescribed by the secretary of state of each vehicle of a type subject

to titling under this act that is bought, sold, leased, or exchanged by the dealer or received or accepted by the dealer for sale, lease, or exchange.

(2) Each record shall contain the date of the purchase, sale, lease, or exchange or receipt for the purpose of sale, lease, or exchange, a description of the vehicle, the name and address of the seller, the purchaser or lessee, and the alleged owner or other persons from whom the vehicle was purchased or received, or to whom it was sold, leased, or delivered. The record shall contain a copy of any odometer mileage statement received by the dealer when the dealer purchased or acquired a vehicle and a copy of the odometer mileage statement furnished by the dealer when the dealer sold, leased, or exchanged the vehicle as prescribed in section 233a. If the vehicle is purchased, sold, leased, or exchanged through a broker, the record shall include the broker's name and dealer license number and the amount of the broker's fee, commission, compensation, or other valuable consideration paid by the purchaser or lessee or paid by the dealer, or both. The records of all vehicles purchased, sold, leased, or exchanged through a broker maintained by the secretary of state shall be in an electronic format determined by the secretary of state. A dealer shall retain for not less than 5 years each odometer mileage statement the dealer receives and each odometer mileage statement furnished by the dealer upon the sale, lease, or exchange of a vehicle. The description of the vehicle, in the case of a motor vehicle, shall also include the vehicle identification number and other numbers or identification marks as may be on the vehicle, and shall also include a statement that a number has been obliterated, defaced, or changed, if that is the fact. For a trailer or semitrailer, the record shall include the vehicle identification number and other numbers or identification marks as may be on the trailer or semitrailer.

(3) Not more than 20 days after the delivery of the vehicle, the seller shall deliver to the buyer in person or by mail to the buyer's last known address a duplicate of a written statement, on a form prescribed by the secretary of state in conjunction with the department of treasury, describing clearly the name and address of the seller, the name and address of the buyer, the vehicle sold to the buyer, the cash sale price of the vehicle, the cash paid down by the buyer, the amount credited the buyer for a trade-in, a description of the trade-in, the amount charged for vehicle insurance, stating the types of insurance covered by the insurance policy, the amount charged for a temporary registration plate, the amount of any other charge and specifying its purpose, the net balance due from the buyer, and a summary of insurance coverage to be affected. If the vehicle sold is a new motor home, the written statement shall contain a description, including the year of manufacture, of every major component part of the vehicle that has its own manufacturer's certificate of origin. The written statement shall disclose if the vehicle sold is a vehicle that the seller had loaned or leased to a political subdivision of this state for use as a driver education vehicle. The written statement shall be dated, but not later than the actual date of delivery of the vehicle to the buyer. The original and all copies of the prescribed form shall contain identical information. The statement shall be furnished by the seller, shall be signed by the seller or the seller's agent and by the buyer, and shall be filed with the application for new title or registration. Failure of the seller to deliver this written statement to the buyer does not invalidate the sale between the seller and the buyer.

(4) A retail vehicle sale is void unless both of the following conditions are met:

(a) The sale is evidenced by a written memorandum that contains the agreement of the parties and is signed by the buyer and the seller or the seller's agent.

(b) The agreement contains a place for acknowledgment by the buyer of the receipt of a copy of the agreement or actual delivery of the vehicle is made to the buyer.

(5) Each dealer record and inventory, including the record and inventory of a vehicle scrap metal processor not required to obtain a dealer license, shall be open to inspection by a police officer or an authorized officer or investigator of the secretary of state during reasonable or established business hours.

(6) A dealer licensed as a distressed vehicle transporter shall maintain records in a form as prescribed by the secretary of state. The records shall identify each distressed vehicle that is bought, acquired, and sold by the dealer. The record shall identify the person from whom a distressed vehicle was bought or acquired and the dealer to whom the vehicle was sold. The record shall indicate whether a certificate of title or salvage certificate of title was obtained by the dealer for each vehicle.

(7) A dealer licensed under this act shall maintain records for a period of 5 years. The records shall be made available for inspection by the secretary of state or other law enforcement officials. To determine or enforce compliance with this chapter or other applicable law, the secretary of state or any law enforcement official may inspect a dealer whenever he or she determines it is necessary. The secretary of state may issue an order summarily suspending the license of a dealer pursuant to section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, based on an affidavit by a person familiar with the facts set forth in the affidavit that the dealer has failed to maintain the records required by this act or failed to provide the records for inspection as requested by the secretary of state, or has otherwise hindered, obstructed, or prevented the inspection of records authorized under this section. The dealer to whom the order is directed shall comply immediately, but on application to the department shall be afforded a hearing within 30 days pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. On the basis of the hearing, the summary order shall be continued, modified, or held in abeyance not later than 30 days after the hearing.

(8) A dealer licensed as a vehicle salvage pool operator or broker shall maintain records in a form as prescribed by the secretary of state. The records shall contain a description of each vehicle or salvageable part stored by the dealer, the name and address of the insurance company or person storing the vehicle or salvageable part, the period of time the vehicle or salvageable part was stored, and the person acquiring the vehicle or salvageable part. In the case of a late model vehicle, a record of the purchase or sale of a major component part of the vehicle shall be maintained identifying the part purchased or sold, the name and address of the seller or purchaser, the date of the purchase or sale, and the identification number assigned to the part by the dealer. The record of the purchase or sale of a part shall be maintained in or attached to the dealer's police book or hard copy of computerized data entries and reference codes and shall be accessible at the dealer's location. In addition, a dealer licensed as a broker shall maintain a record of the odometer mileage reading of each vehicle sold pursuant to an agreement between the broker and the buyer or the broker and the seller. The record of odometer mileage shall be maintained for 5 years and shall contain all of the information required by section 233a.

(9) A dealer licensed as a used vehicle parts dealer or an automotive recycler shall maintain records in a form prescribed by the secretary of state. The records shall contain the date of purchase or acquisition of the vehicle, a description of the vehicle including the color, and the name and address of the person from whom the vehicle was acquired. If the vehicle is sold, the record shall contain the date of sale and the name and address of the purchaser. The record shall indicate if the certificate of title or salvage or scrap certificate of title was obtained by the dealer. In the case of a late model vehicle, a record of the

purchase or sale of a major component of the vehicle shall be maintained identifying the part purchased or sold, the name and address of the seller or purchaser, the date of the purchase or sale, and the identification number assigned to the part by the dealer, except that a bumper remanufacturer is not required to maintain a record of the purchase of a bumper. However, a bumper remanufacturer shall assign and attach an identification number to a remanufactured bumper and maintain a record of the sale of the bumper. The record of the purchase or sale of a part shall be maintained in or attached to the dealer's police book or hard copy of computerized data entries and reference codes and shall be accessible at the dealer's location.

(10) A dealer licensed as a vehicle scrap metal processor shall maintain records as prescribed by the secretary of state. As provided in section 217c, the records shall contain for a vehicle purchased from a dealer a copy of the scrap vehicle inventory, including the name and address of the dealer, a description of the vehicle acquired, and the date of acquisition. If a vehicle is purchased or acquired from a person other than a dealer, the record shall contain the date of acquisition, a description of the vehicle, including the color, the name and address of the person from whom the vehicle was acquired, and whether a certificate of title or salvage or scrap certificate of title was obtained by the dealer.

(11) A dealer licensed as a foreign salvage vehicle dealer shall maintain records in a form prescribed by the secretary of state. The records shall contain the date of purchase or acquisition of each distressed vehicle, a description of the vehicle including the color, and the name and address of the person from whom the vehicle was acquired. If the vehicle is sold, the record shall contain the date of sale and the name and address of the purchaser. The record shall indicate if the certificate of title or salvage or scrap certificate of title was obtained by the dealer. In the case of a late model vehicle, a record of the purchase or sale of each salvageable part purchased or acquired in this state shall be maintained and the record shall contain the date of purchase or acquisition of the part, a description of the part, the identification number assigned to the part, and the name and address of the person to or from whom the part was purchased, acquired, or sold. The record of the sale, purchase, or acquisition of a part shall be maintained in the dealer's police book. The police book shall only contain vehicles and salvageable parts purchased in this state or used in the repair of a vehicle purchased in this state. The police book and the records of vehicle part sales, purchases, or acquisitions shall be made available at a location within the state for inspection by the secretary of state within 48 hours after a request by the secretary of state.

(12) The secretary of state shall make periodic unannounced inspections of the records, facilities, and inventories of automotive recyclers and used or secondhand vehicle parts dealers.

(13) The secretary of state may promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

257.251a Copies of documents.

Sec. 251a. At the time a document is signed for the sale or lease of a vehicle, the dealer shall provide a copy of each document signed to the person who signed the document.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 643]

(HB 6333)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 16105, 16106, 16108, 16128, 16163, 16174, 16186, 16226, 16261, 16323, 16608, and 17031 (MCL 333.16105, 333.16106, 333.16108, 333.16128, 333.16163, 333.16174, 333.16186, 333.16226, 333.16261, 333.16323, 333.16608, and 333.17031), section 16106 as amended by 1997 PA 153, section 16108 as amended and section 16323 as added by 1993 PA 80, section 16174 as amended by 1998 PA 227, section 16186 as amended by 2002 PA 441, section 16226 as amended by 2000 PA 29, section 16608 as amended by 1990 PA 216, and section 17031 as amended by 1990 PA 248.

The People of the State of Michigan enact:

333.16105 Definitions; H.

Sec. 16105. (1) "Health occupation" means a health related vocation, calling, occupation, or employment performed by an individual whether or not the individual is licensed or registered under this article.

(2) "Health profession" means a vocation, calling, occupation, or employment performed by an individual acting pursuant to a license or registration issued under this article.

(3) "Health profession specialty field" means an area of practice established under this article that is within the scope of activities, functions, and duties of a licensed health profession and that requires advanced education and training beyond that required for initial licensure.

(4) "Health profession specialty field license" means an authorization to use a title issued to a licensee who has met qualifications established by the Michigan board of dentistry for registration in a health profession specialty field. An individual who holds a dental specialty certification on the effective date of the amendatory act that added this subsection is considered to hold a health profession specialty field license in that speciality and may obtain renewal of the health profession specialty field license in that speciality on the expiration date of the specialty certification. The health profession specialty field license is not a license as that term is defined in section 16106(2).

(5) "Health profession subfield" means an area of practice established under this article which is within the scope of the activities, functions, and duties of a licensed health profession, and requires less comprehensive knowledge and skill than is required to practice the full scope of the health profession.

333.16106 Definitions; I to L.

Sec. 16106. (1) "Incompetence" means a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for a health profession, whether or not actual injury to an individual occurs.

(2) "License", except as otherwise provided in this subsection, means an authorization issued under this article to practice where practice would otherwise be unlawful. License includes an authorization to use a designated title which use would otherwise be prohibited under this article and may be used to refer to a health profession subfield license, limited license, or a temporary license. For purposes of the definition of "prescriber" contained in section 17708(2) only, license includes an authorization issued under the laws of another state, or the country of Canada to practice in that state or in the country of Canada, where practice would otherwise be unlawful, and is limited to a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery. License does not include a health profession specialty field license.

(3) "Licensee", as used in a part that regulates a specific health profession, means an individual to whom a license is issued under that part, and as used in this part means each licensee regulated by this article.

(4) "Limitation" means an action by which a board imposes restrictions or conditions, or both, on a license.

(5) "Limited license" means a license to which restrictions or conditions, or both, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client served are imposed by a board.

333.16108 Definitions; R.

Sec. 16108. (1) "Reclassification" means an action by a disciplinary subcommittee by which restrictions or conditions, or both, applicable to a license are added or removed.

(2) "Registration" means an authorization only for the use of a designated title which use would otherwise be prohibited under this article. Registration includes specialty certification of a licensee and a health profession specialty field license.

(3) "Registrant" as used in a part that regulates the use of a title means an individual to whom a registration, a specialty certification, or a health profession specialty field license is issued under that part, and as used in this part means each registrant regulated by this article.

(4) "Reinstatement" means the granting of a license or certificate of registration, with or without limitations or conditions, to an individual whose license or certificate of registration has been suspended or revoked.

(5) "Relicensure" means the granting of a license to an individual whose license has lapsed for failure to renew the license within 60 days after the expiration date.

(6) "Reregistration" means the granting of a certificate of registration to an individual whose certificate of registration has lapsed for failure to renew the certificate within 60 days after the expiration date.

333.16128 Health profession subfield task force and health profession specialty field task force; membership.

Sec. 16128. (1) A health profession subfield task force shall be composed of a majority of members licensed in the subfields of the health profession that are created by this article and shall include at least 1 licensed member from each of the subfields of the health profession that is created by this article. A health profession subfield task force shall include at least 1 public member and 1 member of that profession who holds a license other than a subfield license in that health profession.

(2) A health profession specialty field task force shall be composed of a majority of members registered in the specialty fields of the health profession that are created by this article. A health profession specialty field task force shall include at least 1 public member and 1 member of that health profession who is a member of the board.

333.16163 Task force; recommendations to board.

Sec. 16163. A task force shall recommend to the board as to:

(a) Determination of standards of education, training, and experience required for practice in a health profession subfield or for registration in a health profession specialty field, and where appropriate, guidelines for approval of educational programs for the health profession subfield or health profession specialty field.

(b) Qualifications required of applicants for licensure in health profession subfields or for registration in health profession specialty fields.

(c) Evaluation of qualifications for initial and continuing licensure of practitioners in health profession subfields or health profession specialty fields. The evaluation may cover assessment of educational credentials, work experience and related training, and administration of tests and examinations.

(d) Guidelines for utilization of, and standards of practice for, licensees in health profession subfields or registrants in health profession specialty fields.

333.16174 License or registration; requirements; permitted acts by board or task force; sanctions; disclosure.

Sec. 16174. (1) An individual who is licensed or registered under this article shall meet all of the following requirements:

(a) Be 18 or more years of age.

(b) Be of good moral character.

(c) Have a specific education or experience in the health profession or in a health profession subfield or health profession specialty field of the health profession, or training equivalent, or both, as prescribed by this article or rules of a board necessary to promote safe and competent practice and informed consumer choice.

(d) Have a working knowledge of the English language as determined in accordance with minimum standards established for that purpose by the department.

(e) Pay the appropriate fees as prescribed in this article.

(2) In addition to the requirements of subsection (1), an applicant for licensure, registration, specialty certification, or a health profession specialty subfield license under this article shall meet all of the following requirements:

(a) Establish that disciplinary proceedings before a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United

States military, of the federal government, or of another country are not pending against the applicant.

(b) Establish that if sanctions have been imposed against the applicant by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country based upon grounds that are substantially similar to those set forth in this article or article 7 or the rules promulgated under this article or article 7, as determined by the board or task force to which the applicant applies, the sanctions are not in force at the time of application.

(c) File with the board or task force a written, signed consent to the release of information regarding a disciplinary investigation involving the applicant conducted by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country.

(3) Before granting a license, registration, specialty certification, or a health profession specialty field license to an applicant, the board or task force to which the applicant applies may do 1 of the following:

(a) Make an independent inquiry into the applicant's compliance with the requirements described in subsection (2). If a licensure or registration board or task force determines under subsection (2)(b) that sanctions have been imposed and are in force at the time of application, the board or task force shall not grant a license or registration or specialty certification or health profession specialty field license to the applicant.

(b) Require the applicant to secure from a national association or federation of state professional licensing boards certification of compliance with the requirements described in subsection (2).

(4) If, after issuing a license, registration, specialty certification, or health profession specialty field license, a board or task force or the department determines that sanctions have been imposed against the licensee or registrant by a similar licensure or registration or specialty licensure or specialty certification board as described in subsection (2)(b), the disciplinary subcommittee may impose appropriate sanctions upon the licensee or registrant. The licensee or registrant may request a show cause hearing before a hearing examiner to demonstrate why the sanctions should not be imposed.

(5) An applicant for licensure, registration, specialty certification, or a health profession specialty field license who is or has been licensed, registered, or certified in a health profession or specialty by another state or country shall disclose that fact on the application form.

333.16186 Reciprocity; requirements.

Sec. 16186. (1) An individual who is licensed to practice a health profession in another state or, until January 1, 2004, is licensed to practice a health profession in a province of Canada, who is registered in another state, or who holds a health profession specialty field license or specialty certification from another state and who applies for licensure, registration, specialty certification, or a health profession specialty field license in this state may be granted an appropriate license or registration or specialty certification or health profession specialty field license upon satisfying the board or task force to which the applicant applies as to all of the following:

(a) The applicant substantially meets the requirements of this article and rules promulgated under this article for licensure, registration, specialty certification, or a health profession specialty field license.

(b) Subject to subsection (3), the applicant is licensed, registered, specialty certified, or speciality licensed in another state or, until January 1, 2004, is licensed in a province in Canada that maintains standards substantially equivalent to those of this state.

(c) Subject to subsection (3), until January 1, 2004, if the applicant is licensed to practice a health profession in a province in Canada, the applicant completed the educational requirements in Canada or in the United States for licensure in Canada or in the United States.

(d) Until January 1, 2004, if the applicant is licensed to practice a health profession in a province in Canada, that the applicant will perform the professional services for which he or she bills in this state, and that any resulting request for third party reimbursement will originate from the applicant's place of employment in this state.

(2) Before granting a license, registration, specialty certification, or a health profession specialty field license to the applicant, the board or task force to which the applicant applies may require the applicant to appear personally before it for an interview to evaluate the applicant's relevant qualifications.

(3) For purposes of the 2002 amendatory act that added this subsection, an applicant who is licensed in a province in Canada who meets the requirements of subsection (1)(c) and takes and passes a national examination in this country that is approved by the appropriate Michigan licensing board, or who takes and passes a Canadian national examination approved by the appropriate Michigan licensing board, is considered to have met the requirements of subsection (1)(b). This subsection does not apply if the department, in consultation with the appropriate licensing board, promulgates a rule disallowing the use of this subsection for an applicant licensed in a province in Canada.

333.16226 Sanctions; determination; judicial review; maximum fine for violation of § 333.16221(a) or (b); completion of program or examination.

Sec. 16226. (1) After finding the existence of 1 or more of the grounds for disciplinary subcommittee action listed in section 16221, a disciplinary subcommittee shall impose 1 or more of the following sanctions for each violation:

Violations of Section 16221	Sanctions
Subdivision (a), (b)(*ii*), (b)(*iv*), (b)(*vi*), or(b)(*vii*)	Probation, limitation, denial, suspension, revocation, restitution, community service, or fine.
Subdivision (b)(*viii*)	Revocation or denial.
Subdivision (b)(*i*), (b)(*iii*), (b)(*v*), (b)(*ix*), (b)(*x*), or (b)(*xi*)	Limitation, suspension, revocation, denial, probation, restitution, community service, or fine.
Subdivision (c)(*i*)	Denial, revocation, suspension, probation, limitation, community service, or fine.
Subdivision (c)(*ii*)	Denial, suspension, revocation, restitution, community service, or fine.
Subdivision (c)(*iii*)	Probation, denial, suspension, revocation, restitution, community service, or fine.

Subdivision (c)(*iv*) or (d)(*iii*)	Fine, probation, denial, suspension, revocation, community service, or restitution.
Subdivision (d)(*i*) or (d)(*ii*)	Reprimand, fine, probation, community service, denial, or restitution.
Subdivision (e)(*i*)	Reprimand, fine, probation, limitation, suspension, community service, denial, or restitution.
Subdivision (e)(*ii*) or (i)	Reprimand, probation, suspension, restitution, community service, denial, or fine.
Subdivision (e)(*iii*), (e)(*iv*), or (e)(*v*)	Reprimand, fine, probation, suspension, revocation, limitation, community service, denial, or restitution.
Subdivision (g)	Reprimand or fine.
Subdivision (h)	Reprimand, probation, denial, suspension, revocation, limitation, restitution, community service, or fine.
Subdivision (j)	Suspension or fine.
Subdivision (k), (p), or (r)	Reprimand or fine.
Subdivision (*l*)	Reprimand, denial, or limitation.
Subdivision (m) or (o)	Denial, revocation, restitution, probation, suspension, limitation, reprimand, or fine.
Subdivision (n)	Revocation or denial.
Subdivision (q)	Revocation.

(2) Determination of sanctions for violations under this section shall be made by a disciplinary subcommittee. If, during judicial review, the court of appeals determines that a final decision or order of a disciplinary subcommittee prejudices substantial rights of the petitioner for 1 or more of the grounds listed in section 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.306, and holds that the final decision or order is unlawful and is to be set aside, the court shall state on the record the reasons for the holding and may remand the case to the disciplinary subcommittee for further consideration.

(3) A disciplinary subcommittee may impose a fine of up to, but not exceeding, $250,000.00 for a violation of section 16221(a) or (b).

(4) A disciplinary subcommittee may require a licensee or registrant or an applicant for licensure or registration who has violated this article or article 7 or a rule promulgated under this article or article 7 to satisfactorily complete an educational program, a training program, or a treatment program, a mental, physical, or professional competence examination, or a combination of those programs and examinations.

333.16261 Prohibited use of insignia, title, letter, word, or phrase.

Sec. 16261. (1) An individual who is not licensed or registered under this article shall not use an insignia, title, or letter, or a word, letter, or phrase singly or in combination, with or without qualifying words, letters, or phrases, under a circumstance to induce the belief that the individual is licensed or registered in this state, is lawfully entitled in this

state to engage in the practice of a profession regulated by this article, or is otherwise in compliance with this article.

(2) An individual shall not announce or hold himself or herself out to the public as limiting his or her practice to, as being specially qualified in, or as giving particular attention to a health profession specialty field for which a board issues a specialty certification or a health profession specialty field license, without first having obtained the specialty certification or health profession specialty field license.

333.16323 Dentist, dental assistant, or dental hygienist; fees.

Sec. 16323. Fees for an individual licensed or seeking licensure to practice as a dentist, dental assistant, or dental hygienist under part 166 are as follows:

(a) Application processing fees:	
(*i*) Dentist	$ 20.00
(*ii*) Dental assistant	10.00
(*iii*) Dental hygienist	15.00
(*iv*) Health profession specialty field license for a dentist	20.00
(b) Examination fees:	
(*i*) Dental assistant's examination, complete	70.00
(*ii*) Dental assistant's examination, per part	35.00
(*iii*) Dentist's health profession specialty field license examination, complete	300.00
(*iv*) Dentist's health profession specialty field license examination, per part	100.00
(c) License fees, per year:	
(*i*) Dentist	90.00
(*ii*) Dental assistant	10.00
(*iii*) Dental hygienist	20.00
(*iv*) Dentist's health profession specialty field license	15.00
(d) Temporary license fees:	
(*i*) Dentist	20.00
(*ii*) Dental assistant	5.00
(*iii*) Dental hygienist	10.00
(e) Limited license fee, per year:	
(*i*) Dentist	25.00
(*ii*) Dental assistant	5.00
(*iii*) Dental hygienist	10.00
(f) Examination review fees:	
(*i*) Dental preclinical or dentist's health profession specialty field license	50.00
(*ii*) Dental assistant	20.00

333.16608 Health profession specialty field license; qualifications; renewal; reference as specialty certification.

Sec. 16608. (1) The board may issue a health profession specialty field license to a licensed dentist who has advanced training beyond that required for initial licensure and

who has demonstrated competency through examination or other evaluative processes in 1 or more of the following health profession specialty fields: prosthodontics, endodontics, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, or oral pathology. A licensed dentist who holds a health profession specialty certification in 1 or more of the health profession specialty fields listed in this subsection on the effective date of the amendatory act that added subsections (3) and (4) is considered to hold a health profession specialty field license in each of those health profession specialty fields and may obtain renewal of each health profession specialty field license on the expiration date of the specialty certification.

(2) A health profession specialty field license issued pursuant to subsection (1) shall be renewed concurrently with the license to practice dentistry.

(3) This section does not prohibit a licensed dentist who has not been issued a health profession specialty field license under subsection (1) from performing services in 1 or more of the health profession specialty fields listed in subsection (1).

(4) For purposes of the administration of the general rules of the board of dentistry in the Michigan administrative code, a reference to specialty certification is a reference to a health profession specialty field license.

333.17031 Condition for more than limited licensure; requirements for full license to practice medicine; filing and contents of written statement; civil or criminal liability; rebuttable presumption.

Sec. 17031. (1) Except as provided in subsection (2), an applicant, in addition to completing the requirements for the degree in medicine, shall complete a period of post-graduate education to attain proficiency in the practice of the profession, as prescribed by the board in rules, as a condition for more than limited licensure.

(2) The board may grant a full license to practice medicine to an applicant who has completed the requirements for a degree in medicine at a medical school located outside the United States or Canada if the applicant demonstrates to the board all of the following:

(a) That the applicant has engaged in the practice of medicine for not less than 10 years after completing the requirements for a degree in medicine.

(b) That the applicant has completed not less than 3 years of postgraduate clinical training in an institution that has an affiliation with a medical school that is listed in a directory of medical schools published by the world health organization as approved by the board.

(c) That the applicant has achieved a score determined by the board to be a passing score on an initial medical licensure examination approved by the board.

(d) That the applicant has safely and competently practiced medicine under a clinical academic limited license granted by the board under this article for 1 or more academic institutions located in this state for not less than the 2 years immediately preceding the date of application for a license under this subsection, during which time the applicant functioned not less than 800 hours per year in the observation and treatment of patients.

(3) An applicant under subsection (2) shall file with the board a written statement from each academic institution upon which the applicant relies to satisfy subsection (2)(d). The statement shall indicate, at a minimum, that the applicant functioned for the academic institution in the observation and treatment of patients not less than 800 hours per year and that in so doing the applicant practiced medicine safely and competently. A person who in good faith makes a written statement that is filed under this subsection is not civilly or criminally liable for that statement. There is a rebuttable presumption that a

person who makes a written statement that is filed under this subsection has done so in good faith.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 644]

(HB 6343)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 5453, 5454, 5455, 5456, 5457, 5458, 5459, 5460, 5462, 5463, 5467, 5468, 5471, 5472, 5473a, 5475, 5476, and 5477 (MCL 333.5453, 333.5454, 333.5455, 333.5456, 333.5457, 333.5458, 333.5459, 333.5460, 333.5462, 333.5463, 333.5467, 333.5468, 333.5471, 333.5472, 333.5473a, 333.5475, 333.5476, and 333.5477), sections 5453, 5454, 5455, 5456, 5462, 5463, 5467, 5471, and 5476 as added by 1998 PA 220 and sections 5457, 5458, 5459, 5460, 5468, 5472, 5473a, 5475, and 5477 as added by 1998 PA 219.

The People of the State of Michigan enact:

333.5453 Definitions; A.

Sec. 5453. (1) "Abatement", except as otherwise provided in subsection (2), means a measure or set of measures designed to permanently eliminate lead-based paint hazards. Abatement includes all of the following:

(a) The removal of lead-based paint and dust lead hazards, the permanent enclosure or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, the removal or covering of soil lead hazards, and all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(b) A project for which there is a written contract or other documentation that provides that a person will be conducting activities in or to a residential dwelling or child occupied facility that will result in the permanent elimination of lead-based paint hazards or that are designed to permanently eliminate lead-based paint hazards.

(c) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person certified under this part, except a project that is exempt from this part.

(d) A project resulting in the permanent elimination of lead-based paint hazards, conducted by a person who, through their company name or promotional literature, represents, advertises, or holds themselves out to be in the business of performing lead-based paint activities except a project that is exempt from this part.

(e) A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to a state or local government abatement order.

(2) Abatement does not include any of the following:

(a) Renovation, remodeling, landscaping, or other activity, if the activity is not designed to permanently eliminate lead-based paint hazards, but is instead designed to repair, restore, or remodel a structure, target housing, or dwelling even though the activity may incidentally result in a reduction or elimination of a lead-based paint hazard.

(b) An interim control, operation, and maintenance activity, or other measure or activity designed to temporarily, but not permanently, reduce a lead-based paint hazard.

(c) Any lead-based paint activity performed by the owner of an owner-occupied residential dwelling or an owner-occupied multifamily dwelling containing 4 or fewer units if the activity is performed only in that owner-occupied unit of the multifamily dwelling.

(3) "Accredited training program" means a training program that has been accredited by the department under this part to provide training for individuals engaged in lead-based paint activities.

(4) "Adequate quality control" means a plan or design that ensures the authenticity, integrity, and accuracy of a sample including, but not limited to, a dust sample, a soil or paint chip sample, or a paint film sample. Adequate quality control also includes a provision in a plan or design described in this subsection for representative sampling.

333.5454 Definitions; C.

Sec. 5454. (1) "Certified abatement worker" means an individual who has been trained to perform abatements by an accredited training program and who is certified by the department under this part to perform abatement.

(2) "Certified clearance technician" means an individual who has completed an approved training course and been certified by the department under this part to conduct clearance testing following interim controls.

(3) "Certified firm" means a person that performs a lead-based paint activity for which the department has issued a certificate of approval under this part.

(4) "Certified inspector" means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and take samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

(5) "Certified project designer" means an individual who has been trained by an accredited training program and certified by the department under this part to prepare abatement project designs, occupant protection plans, and abatement reports.

(6) "Certified risk assessor" means an individual who has been trained by an accredited training program and certified by the department under this part to conduct inspections and risk assessments and to take samples for the presence of lead in paint, dust, and soil for the purposes of abatement clearance testing.

(7) "Certified supervisor" means an individual who has been trained by an accredited training program and certified by the department under this part to supervise and conduct abatements and to prepare occupant protection plans and abatement reports.

(8) "Child occupied facility" means a building or portion of a building constructed before 1978 that is visited regularly by a child who is 6 years of age or less, on at least 2 different days within a given week, if each day's visit is at least 3 hours and the combined weekly visit is at least 6 hours in length, and the combined annual visits are at least 60 hours in length. Child occupied facility includes, but is not limited to, a day-care center, a preschool, and a kindergarten classroom.

333.5455 Definitions; C.

Sec. 5455. (1) "Clearance levels" means the values that indicate the maximum amount of lead permitted in dust on a surface following completion of an abatement as listed in rules promulgated by the department.

(2) "Clearance professional" means 1 or more of the following individuals when performing clearance testing:

(a) A certified inspector.

(b) A certified risk assessor.

(c) A certified clearance technician.

(3) "Common area" means a portion of a building that is generally accessible to all occupants of the building. Common area includes, but is not limited to, a hallway, a stairway, a laundry and recreational room, a playground, a community center, a garage, and a boundary fence.

(4) "Component" or "building component" means a specific design or structural element or fixture of a building, residential dwelling, or child occupied facility that is distinguished by its form, function, and location. Component or building component, includes but is not limited to, a specific interior or exterior design or structural element or fixture.

(5) "Containment" means a process to protect workers and the environment by controlling exposure to a dust lead hazard and debris created during an abatement.

(6) "Course agenda" means an outline of the key topics to be covered during an accredited training program, including the time allotted to teach each topic.

(7) "Course test" means an evaluation of the overall effectiveness of the accredited training program by testing a trainee's knowledge and retention of the topics covered during the accredited training program.

(8) "Course test blueprint" means written documentation identifying the proportion of course test questions devoted to each major topic in the accredited training program curriculum.

333.5456 Definitions; D, E.

Sec. 5456. (1) "Department" means the department of community health.

(2) "Deteriorated paint" means paint or other surface coating that is cracking, flaking, chipping, peeling, or otherwise damaged or separating from the substrate of a building component.

(3) "Discipline" means 1 of the specific types or categories of lead-based paint activities identified in this part for which an individual may receive training from an accredited training program and become certified by the department.

(4) "Distinct painting history" means the application history, as indicated by its visual appearance or a record of application, over time of paint or other surface coatings to a component or room.

(5) "Documented methodology" means a method or protocol used to do either or both of the following:

(a) Sample and test for the presence of lead in paint, dust, and soil.

(b) Perform related work practices as described in rules promulgated under this part.

(6) "Dust lead hazard" means surface dust in a residential dwelling or child occupied facility that contains a concentration of lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

(7) "Elevated blood level" or "EBL" means for purposes of lead abatement an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 20 ug/dl, micrograms of lead per deciliter of whole blood, for a single venous test or of 15-19 ug/dl in 2 consecutive tests taken 3 to 4 months apart. For purposes of case management of children 6 years of age or less, elevated blood level means an excessive absorption of lead that is a confirmed concentration of lead in whole blood of 10 ug/dl.

(8) "Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials, or an adhesively bonded covering material.

(9) "Encapsulation" means the application of an encapsulant.

(10) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate in order to act as a barrier between lead-based paint and the environment.

(11) "EPA" means the United States environmental protection agency.

333.5457 Definitions; G to I.

Sec. 5457. (1) "Guest instructor" means an individual designated by the manager or principal instructor of an accredited training program to provide instruction specific to the lecture, hands-on activities, or work practice components of a course in the accredited training program.

(2) "Hands-on skills assessment" means an evaluation that tests a trainee's ability to satisfactorily perform the work practices, work procedures, or any other skill taught in an accredited training program.

(3) "Hazardous waste" means waste as defined in 40 C.F.R. 261.3.

(4) "Inspection" means a surface-by-surface investigation in target housing or a child occupied facility to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation.

(5) "Interim controls" means a set of measures designed to temporarily reduce human exposure or likely exposure to lead-based paint hazards including, but not limited to, specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

333.5458 Definitions; L.

Sec. 5458. (1) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of 1.0 milligrams per square centimeter or more than 0.5% by weight.

(2) "Lead-based paint activity" means inspection, risk assessment, and abatement in target housing and child occupied facilities or in any part thereof.

(3) "Lead-based paint hazard" means any of the following conditions:

(a) Any lead-based paint on a friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface are equal to or greater than the dust lead hazard levels identified in rules promulgated under this part.

(b) Any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component.

(c) Any chewable lead-based painted surface on which there is evidence of teeth marks.

(d) Any other deteriorated lead-based paint in or on any residential building or child occupied facility.

(e) Surface dust in a residential dwelling or child occupied facility that contains lead in a mass-per-area concentration equal to or exceeding the levels established by rules promulgated under this part.

(f) Bare soil on residential real property or property of a child occupied facility that contains lead equal to or exceeding levels established by rules promulgated under this part.

(4) "Lead-based paint investigation" means an activity designed to determine the presence of lead-based paint or lead-based paint hazards in target housing and child occupied facilities.

(5) "Living area" means an area of a residential dwelling used by 1 or more children age 6 and under including, but not limited to, a living room, kitchen area, den, playroom, and a children's bedroom.

333.5459 Definitions; M to S.

Sec. 5459. (1) "Multifamily dwelling" means a structure that contains more than 1 separate residential dwelling unit and that is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(2) "Paint in poor condition" means 1 or more of the following:

(a) More than 10 square feet of deteriorated paint on an exterior component with a large surface area.

(b) More than 2 square feet of deteriorated paint on an interior component with large surface areas.

(c) More than 10% of the total surface area of the component is deteriorated on an interior or exterior component with a small surface area.

(3) "Permanently covered soil" means soil that has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials including, but not limited to, pavement or concrete but not including grass, mulch, or other landscaping materials.

(4) "Person" means that term as defined in section 1106 but including the state and a political subdivision of the state.

(5) "Principal instructor" means the individual who has the primary responsibility for organizing and teaching a particular course in an accredited training program.

(6) "Recognized laboratory" means an environmental laboratory recognized by the EPA pursuant to section 405 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2685, as being capable of performing an analysis for lead compounds in paint, soil, and dust.

(7) "Reduction" means a measure designed to reduce or eliminate human exposure to a lead-based paint hazard through methods including, but not limited to, interim controls and abatement.

(8) "Residential dwelling" means either of the following:

(a) A detached single family dwelling unit, including, but not limited to, attached structures such as porches and stoops and accessory structures such as garages, fences, and nonagricultural or noncommercial outbuildings.

(b) A building structure that contains more than 1 separate residential dwelling unit that is used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(9) "Risk assessment" means both of the following:

(a) An on-site investigation in target housing or a child occupied facility to determine the existence, nature, severity, and location of a lead-based paint hazard.

(b) The provision of a report by the person conducting the risk assessment explaining the results of the investigation and options for reducing the lead-based paint hazard.

(10) "Soil lead hazard" means bare soil on a residential dwelling or on the property of a child occupied facility that contains lead at or in excess of levels identified by the EPA pursuant to section 403 of title IV of the toxic substances control act, Public Law 94-469, 15 U.S.C. 2683, or as otherwise defined by rule.

333.5460 Definitions; T to V.

Sec. 5460. (1) "Target housing" means housing constructed before 1978, except any of the following:

(a) Housing for the elderly or persons with disabilities, unless any 1 or more children age 6 years or less resides or is expected to reside in that housing.

(b) A 0-bedroom dwelling.

(c) An unoccupied dwelling unit pending demolition, provided the dwelling unit remains unoccupied until demolition.

(2) "Third party examination" means the examination for certification under this part in the disciplines of clearance technician, inspector, risk assessor, worker, and supervisor offered and administered by a party other than an accredited training program.

(3) "Training curriculum" means an established set of course topics for instruction in an accredited training program for a particular discipline designed to provide specialized knowledge and skills.

(4) "Training hour" means not less than 50 minutes of actual learning, including, but not limited to, time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, or hands-on experience or a combination of those activities.

(5) "Training manager" means the individual responsible for administering an accredited training program and monitoring the performance of principal instructors and guest instructors.

(6) "Visual inspection for clearance testing" means the visual examination of a residential dwelling or a child occupied facility following an abatement designed to determine whether the abatement has been successfully completed.

(7) "Visual inspection for risk assessment" means the visual examination of a residential dwelling or a child occupied facility to determine the existence of deteriorated paint or other potential sources of lead-based paint hazards.

333.5462 Lead-based paint activities; training program; accreditation generally.

Sec. 5462. (1) A person may seek accreditation for a training program to offer courses in lead-based paint activities in 1 or more of the following disciplines:

(a) Inspector.

(b) Risk assessor.

(c) Supervisor.

(d) Project designer.

(e) Abatement worker/laborer.

(f) Clearance technician.

(2) A person may also seek accreditation for a training program to offer refresher courses for each of the disciplines described in subsection (1).

(3) A person shall not provide, offer, or claim to provide EPA-accredited courses in lead-based paint activities without applying for and receiving accreditation from the department under this part.

(4) A person seeking accreditation for a training program shall submit a written application to the department containing all of the following:

(a) If the applicant is a sole proprietorship or corporation, its "doing business as" or corporate identification number.

(b) The fee required by section 5471.

(c) The name of each principal position, partner, shareholder, member, or owner.

(d) The training program's proposed name, address, and telephone number.

(e) A list of courses and disciplines for which it is seeking accreditation.

(f) A statement signed by the training program manager certifying that the training program meets the requirements established by this part and the rules promulgated under this part.

(g) A copy of the student and instructor manuals or other materials to be used for each course.

(h) A copy of the course agenda for each course.

(i) A description of the facilities and equipment to be used for lecture and hands-on training.

(j) A copy of the course test blueprint for each course.

(k) A description of the activities and procedures that will be used for conducting the hands-on skills assessment for each course.

(*l*) A copy of the quality control plan as defined in rules promulgated by the department.

(5) The department shall approve an application for accreditation of a training program within 180 days after receiving a complete application from the training program if the department determines that the applicant meets the requirements of this part and the rules promulgated under this part. In the case of approval, the department shall send a certificate of accreditation to the applicant. Before disapproving an application, the department may advise the applicant as to specific inadequacies in the application for accreditation or specific instances where the training program does not meet the requirements of this part or the rules promulgated under this part, or both. The department may request additional information or materials from the training program under this section.

If the department disapproves a training program's application for accreditation, the applicant may reapply for accreditation at any time.

(6) A training program shall meet all of the following requirements in order to become accredited to offer courses in lead-based paint activities:

(a) Employ a training manager who has training, education, and experience as described in rules promulgated by the department.

(b) Provide that the training manager described in subdivision (a) designate a qualified principal instructor for each course who has training, education, and experience as described in rules promulgated by the department.

(c) Provide that the principal instructor described in subdivision (b) be responsible for the organization of the course and oversight of the teaching of all course material. A training manager may designate guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

(7) The following documents are recognized by the department as evidence that a training manager or a principal instructor has the education, work experience, training requirements, or demonstrated experience specifically listed in rules promulgated by the department, which documentation is not required to be submitted with the accreditation application but, if not submitted, must be retained by the training program as required by the record-keeping requirements contained in this part:

(a) An official academic transcript or diploma as evidence of meeting the education requirements.

(b) A resume, letter of reference, or documentation of work experience, as evidence of meeting the work experience requirements.

(c) A certificate from a train-the-trainer course or a lead-specific training course, or both, as evidence of meeting the training requirements.

(8) A training program accredited under this part shall ensure the availability of, and provide adequate facilities for, the delivery of the lecture, course test, hands-on training, and assessment activities including, but not limited to, providing training equipment that reflects current work practices and maintaining or updating the equipment and facilities of the training program, as needed.

333.5463 Training program; training hour requirements for accreditation in certain disciplines; rules; course test; hands-on skills assessment; course completion certificates; quality control plan; teaching work practice standards; duties of training manager.

Sec. 5463. (1) A training program accredited under section 5462 shall provide training courses that meet the following training hour requirements in order to become accredited in the following disciplines:

(a) An inspector course shall last a minimum of 24 training hours, with a minimum of 8 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the inspector course.

(b) A risk assessor course shall last a minimum of 16 training hours, with a minimum of 4 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the risk assessor course.

(c) A supervisor course shall last a minimum of 32 training hours, with a minimum of 8 hours devoted to hands-on activities. The department shall promulgate rules to determine the minimum curriculum requirements for the supervisor course.

(d) A project designer course shall last a minimum of 8 training hours. The department shall promulgate rules to determine the minimum curriculum requirements for the project designer course.

(e) An abatement worker course shall last a minimum of 16 training hours, with a minimum of 8 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the abatement worker course.

(f) A clearance technician course shall last a minimum of 8 training hours, with a minimum of 2 hours devoted to hands-on training activities. The department shall promulgate rules to determine the minimum curriculum requirements for the clearance technician course. Until rules are promulgated, a clearance technician course shall use the curriculum for the lead sampling technician course approved by the EPA under subpart Q of part 745 of title 40 of the code of federal regulations.

(2) The department may promulgate rules to modify 1 or more of the requirements imposed under subsection (1) if changes are needed to comply with federal mandates or for another reason considered appropriate by the department.

(3) For each course offered, the training program shall conduct a course test at the completion of the course and, if applicable, a hands-on skills assessment. Each individual enrolled in the training program must successfully complete the hands-on skills assessment, if conducted for that course, and receive a passing score on the course test in order to pass a course.

(4) The training manager shall maintain the validity and integrity of a hands-on skills assessment to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics contained in rules promulgated under this section and the course test to ensure that it accurately evaluates the trainees' knowledge and retention of the course topics.

(5) A training program's course test shall be developed in accordance with the test blueprint submitted with the training program accreditation application.

(6) A training program shall issue course completion certificates to each individual who passes the training course. The course completion certificates shall include:

(a) The name and address of the individual, along with a unique identification number.

(b) The name of the particular course that the individual passed.

(c) Dates of course completion and test passage.

(d) Expiration date of course certificate.

(e) The name, address, and telephone number of the training program.

(7) The training manager shall develop and implement a quality control plan designed to maintain and improve the quality of the training program. The quality control plan shall contain at least both of the following elements:

(a) Procedures for periodic revision of training materials and the course test to reflect innovations in the field.

(b) Procedures for the training manager's annual review of each principal instructor's competence.

(8) The training program shall offer courses that teach the work practice standards for conducting lead-based paint activities and other standards developed by the EPA pursuant to title IV of the toxic substances control act and considered appropriate or necessary by the department. The work practice standards shall be taught in the appropriate

courses to provide trainees with the knowledge needed to perform the lead-based paint activities.

(9) The training manager shall ensure that the training program complies at all times with all of the requirements of this section and the rules promulgated under this section.

(10) The training manager shall allow the department to audit the training program to verify the contents of the application for accreditation.

333.5467 Accreditation training program; availability and retention of records; notice of change of address.

Sec. 5467. (1) An accredited training program shall maintain, and make available to the department, upon request, all of the following records:

(a) Each document that demonstrates the qualifications of a training manager or a principal instructor.

(b) Current curriculum and course materials and documents reflecting changes made to these materials.

(c) The course test blueprint.

(d) Information regarding how the hands-on skills assessment is conducted including, but not limited to, all of the following:

(*i*) The person conducting the hands-on skills assessment.

(*ii*) The method of grading the hands-on skills.

(*iii*) A description of the facilities used.

(*iv*) The pass/fail rate.

(e) The quality control plan.

(f) The results of the students' hands-on skills assessments and course tests and a record of each student's participation, including name, social security number, and score, within 10 calendar days of the last day of the course taken.

(g) Any other material that was submitted to the department as part of the program's application for accreditation.

(2) A training program shall retain the records described in subsection (1) for at least 3-1/2 years at the address specified on the training program accreditation application.

(3) The training program shall notify the department in writing within 30 days of changing the address specified on its training program accreditation application or transferring the records from that address.

333.5468 Certification to engage in lead-based paint activities; fees; application; requirements for certification in specific discipline.

Sec. 5468. (1) An individual seeking certification by the department to engage in lead-based paint activities shall pay the appropriate fees required under section 5471 and submit an application to the department demonstrating either of the following:

(a) Compliance with the requirements of this part and the rules promulgated under this part for the particular discipline for which certification is sought.

(b) A copy of a valid lead-based paint activities certification or its equivalent, as determined by the department, from a training program that has been authorized by the EPA pursuant to 40 C.F.R. part 745 along with proof of the applicant's third party examination results.

(2) Following the submission of an application demonstrating that the requirements of this part and the rules promulgated under this part have been met, the department shall certify an applicant in 1 or more of the following disciplines:

(a) Inspector.

(b) Risk assessor.

(c) Supervisor.

(d) Project designer.

(e) Abatement worker.

(f) Clearance technician.

(3) Upon receiving the department certification in 1 or more of the disciplines described in subsection (2), an individual conducting lead-based paint activities shall comply with the work practice standards for performing that discipline as established under this part and the rules promulgated under this part.

(4) An individual shall not conduct a lead-based paint activity unless that individual is certified by the department under this section in the appropriate discipline.

(5) An individual shall do all of the following in order to become certified by the department as an inspector, risk assessor, abatement worker, or supervisor:

(a) Successfully complete a course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Pass the third party exam in the appropriate discipline.

(c) Meet the experience or education requirements, or both, as described in rules promulgated by the department.

(6) After an individual passes the appropriate certification exam and submits an application demonstrating that he or she meets the appropriate training, education, and experience requirements and passes the appropriate certification exam, the department shall issue a certificate to the individual in the specific discipline for which certification is sought. To maintain certification, an individual must be recertified pursuant to this part.

(7) An individual shall pass the third party exam within 6 months after receiving a course completion certificate in order to be eligible for certification. An individual is not eligible to take the third party exam more than 3 times within the 6 months after receiving a course completion certificate. An individual who does not pass the third party exam after 3 attempts shall repeat the appropriate course from an accredited training program in order to be eligible to retake the exam.

(8) An individual shall do both of the following in order to become certified by the department as a project designer:

(a) Successfully complete a course in the appropriate discipline and receive a course completion certificate from an accredited training program.

(b) Meet the experience or education requirements, or both, as described in rules promulgated by the department.

(9) After an individual has successfully completed the appropriate training courses, applied to the department, and met the requirements of this part and the rules promulgated under this part, the department shall issue a certificate to the individual in the discipline of project designer. To maintain certification, the individual must be periodically recertified pursuant to this part.

(10) An individual who received training in a lead-based paint activity between October 1, 1990 and March 1, 1999 and an individual who has received lead-based paint

activities training at an EPA-authorized accredited training program are eligible for certification by the department under rules promulgated by the department.

(11) In order to maintain certification in a particular discipline, a certified individual shall apply to and be recertified in that discipline by the department every 3 years.

(12) An individual shall do both of the following in order to become a certified clearance technician:

(a) Successfully complete an approved course for the discipline of clearance technician and receive a course completion certificate.

(b) Pass the third party exam for the discipline of clearance technician.

333.5471 Training program or refresher courses; fees.

Sec. 5471. (1) Subject to subsection (7), fees for a person accredited or seeking accreditation for a training program offering courses or refresher courses in lead-based paint abatement are as follows:

(a) Initial application processing fee ..... $100.00.

(b) Initial accreditation fee ..... $475.00 per discipline.

(c) Reaccreditation fee, annual ..... $265.00 per discipline.

(2) Fees for an individual certified or seeking certification to engage in lead-based paint abatement are as follows:

(a) Initial application processing fee ..... $ 25.00.

(b) Certification fee, per year:

(*i*) Inspector ..... $150.00.

(*ii*) Risk assessor ..... $150.00.

(*iii*) Supervisor ..... $ 50.00.

(*iv*) Project designer ..... $150.00.

(*v*) Abatement worker/laborer ..... $ 25.00.

(*vi*) Clearance technician ..... $ 50.00.

(3) Fees for a person certified or seeking certification to engage in lead-based paint abatement are as follows:

(a) Initial application processing fee ..... $100.00.

(b) Certification fee, per year ..... $220.00.

(4) If the department increases fees under subsection (5), the increase shall be effective for that fiscal year. The increased fees shall be used by the department as the basis for calculating fee increases in subsequent fiscal years.

(5) By August 1 of each year, the department shall provide to the director of the department of management and budget and to the chairpersons of the appropriations committees of the senate and house of representatives a complete schedule of fees to be collected under this section.

(6) The fees imposed under this part shall not exceed the actual cost of administering this part.

(7) The department may waive the fees for an accredited training program for a person who has demonstrated that no part of its net earnings benefit any private shareholder or individual.

333.5472 Notice of lead-based paint abatement.

Sec. 5472. Before beginning a lead-based paint abatement, a person conducting lead-based paint abatement shall notify the department, on forms provided by the department or through electronic methods approved by the department, regarding information the department considers necessary in order to conduct an unannounced site inspection. The person shall send notification not less than 3 business days before commencing the lead-based paint abatement.

333.5473a Administration and enforcement of part by department; rules; establishment of programs; recommendations; disclosure; exemption.

Sec. 5473a. (1) The department shall administer this part and promulgate rules as may be necessary for the administration and enforcement of this part pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) The department shall authorize, coordinate, and conduct programs to educate persons including, but not limited to, homeowners and remodelers of lead hazards associated with remodeling target housing and methods of lead-hazard reduction activities.

(3) The department shall establish a program that provides an opportunity for property owners, managers, and maintenance staff to learn about lead-safe practices and the avoidance of creating lead-based paint hazards during minor painting, repair, or renovation.

(4) Not later than January 1, 2000, the department shall recommend appropriate maintenance practices for owners of residential property, day care facilities, and secured lenders that are designed to prevent lead poisoning among children 6 years of age or less and pregnant women. In making its recommendations, the department shall consult with affected stakeholders and shall consider the effects of those maintenance practices on the availability and affordability of housing and credit.

(5) The following information required to be submitted to the department by certified individuals and persons under this part and rules promulgated under this part is exempt from disclosure as a public record under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246:

(a) The name, street address, and telephone number of the owner, agent, or tenant of a residential dwelling where lead-based paint investigations have been conducted.

(b) Information that could be used to identify 1 or more children with elevated blood lead levels that have been reported to the department.

(c) Information contained in an EBL investigation report that could be used to identify 1 or more children with elevated blood lead levels.

333.5475 Alleged violations or complaints; actions by department.

Sec. 5475. (1) The department shall receive or initiate complaints of alleged violations of this part or rules promulgated under this part and take action with respect to alleged violations or complaints as prescribed by this part.

(2) The department, in its own discretion, or upon the written complaint of an aggrieved party or of a state agency or political subdivision of this state, may investigate the acts of an accredited training program, an individual or other person certified under this part, or a person allegedly engaged in lead-based paint activity. The department may deny, suspend, or revoke certification or accreditation issued under this part if a certified person, accredited training program, certified individual, or a person allegedly engaged in lead-based paint activity is found to be not in compliance with this part or the rules promulgated under this part. In addition, the department may deny, suspend, or revoke a certification or accreditation issued under this part for 1 or more of the following:

(a) Willful or negligent acts that cause a person to be exposed to a lead-containing substance in violation of this part, the rules promulgated under this part, or other state or federal law pertaining to the public health and safety aspects of lead abatement.

(b) Falsification of records required under this part.

(c) Continued failure to obtain or renew certification or accreditation under this part.

(d) Deliberate misrepresentation of facts or information in applying for certification or accreditation under this part.

(e) Permitting a person who has not received the proper training and certification under this part or other applicable state or federal law to come in contact with lead or be responsible for a lead abatement project.

333.5476 Violation of part; fine; citation; administrative hearing.

Sec. 5476. (1) A person who violates this part or a rule promulgated under this part is subject to an administrative fine up to the following amounts for each violation or each day that a violation continues:

(a) For a first violation ..... $ 2,000.00.

(b) For a second violation ..... $ 5,000.00.

(c) For a third or subsequent violation ..... $ 10,000.00.

(2) If the department has reasonable cause to believe that a person has violated this part or a rule promulgated under this part, the department may issue a citation at that time or not later than 180 days after discovery of the alleged violation. The citation shall be written and shall state with particularity the nature of the violation as provided for by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. An alleged violator may request an administrative hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

333.5477 Violation; failure to correct violation after notice as misdemeanor; sanctions, penalties, or other provisions.

Sec. 5477. (1) A person who engages in a lead-based paint activity as provided for by this part and who willfully or repeatedly violates this part or a rule promulgated under this part or a person who fails to correct the violation after notice from the department under this part is guilty of a misdemeanor, punishable by a fine of not more than $5,000.00, and upon conviction for a second or subsequent offense, not more than $10,000.00, or imprisonment for not more than 6 months, or both. A violation of this subsection may be prosecuted by either the attorney general or the prosecuting attorney of the judicial district in which the violation was committed.

(2) The application of sanctions under this part is cumulative and does not preclude the application of other sanctions or penalties contained in the provisions of any other federal, state, or political subdivision statute, rule, regulation, or ordinance.

(3) This part does not diminish the responsibilities of an owner or occupant, or the authority of enforcing agents under state, county, city, municipal, or other local building, housing, or health and safety codes.

(4) The requirements of this part are in addition to other pertinent provisions of a code listed in subsection (3).

This act is ordered to take immediate effect.

Approved December 22, 2002.

Filed with Secretary of State December 23, 2002.

[No. 645]

(HB 5371)

AN ACT to amend 1973 PA 116, entitled "An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts," (MCL 722.111 to 722.128) by adding section 11b.

The People of the State of Michigan enact:

722.121b Database on child care options.

Sec. 11b. (1) The department of consumer and industry services shall establish and maintain a database of child care centers, family day care homes, and group day care homes as a central clearinghouse for persons seeking information on child care options. The database shall include, at a minimum, all of the following information:

(a) The name, address, and telephone number of the child care center, family day care home, or group day care home.

(b) The days and general hours of operation of the child care center, family day care home, or group day care home.

(c) The license or registration number, effective date, and expiration date of the child care center, family day care home, or group day care home.

(d) The number and nature of any adverse action taken against the child care center, family day care home, or group day care home by the department of consumer and industry services.

(2) The department of consumer and industry services shall make the database available to the public on the internet, without charge, through that department's website.

(3) The department of consumer and industry services shall inform the public, through press releases or other media avenues, of the information available in the database established under subsection (1) and how to access that database.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 646]

(HB 5242)

AN ACT to amend 1994 PA 203, entitled "An act to establish certain standards for foster care and adoption services for children and their families; and to prescribe powers and duties of certain state agencies and departments and adoption facilitators," by amending section 8 (MCL 722.958).

The People of the State of Michigan enact:

722.958 Rules; training; directory of children available for adoption; registry of adoptive homes; fee for maintaining directory information; foster parent resource centers; pilot project; report.

Sec. 8. (1) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to ensure the comprehensive, high-quality

training of foster care and adoption workers. It shall consult and may contract with colleges and universities, child placing agencies, and professional organizations for the design and implementation of the training. The training shall stress cultural sensitivity, interagency cooperation, and respect for individuals and families.

(2) The department shall produce or contract with another person to produce a directory of children under the jurisdiction of the department who are available for adoption. The department shall make copies available throughout the state to ensure that interested individuals have reasonable access to the directory.

(3) The department shall establish and maintain a registry of adoptive homes to be used as a central clearinghouse for information about prospective adoptive parents. The department shall accept information from a prospective adoptive parent who has received a preplacement assessment with a finding that the individual is suitable to be the parent of an adoptee. The information shall be filed in a form and manner that will permit it to be readily accessible to biological parents or child placing agencies seeking adoptive homes for children. The department shall charge a prospective adoptive parent an initial fee of $100.00 for maintaining the information in the registry and a renewal fee of $50.00 for each year the prospective adoptive parent remains in the registry. The department shall provide information in the registry without charge to biological parents or child placing agencies who request it.

(4) The department may establish as pilot projects foster parent resource centers. Each resource center shall provide at least support for and coordination of respite care and assistance to foster parents in obtaining day care. Resource center staff shall pursue other activities designed to promote permanency for children, particularly children with special needs, such as support aimed at retaining foster parents. The department may fund the pilot foster parent resource centers using money appropriated to the department for the current fiscal year. After the pilot project has been in operation for 2 years, the department shall evaluate the pilot project on its organization, effectiveness, and success. The department shall report the results of this evaluation to the legislature, including in the report the number of foster parents who utilized the particular resource center and the top 10 concerns raised by those foster parents and how those concerns were handled.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 647]

(SB 1390)

AN ACT to amend 1990 PA 187, entitled "An act to regulate the equipment, maintenance, operation, and use of school buses and pupil transportation vehicles; to prescribe the qualifications of school bus and pupil transportation vehicle drivers; to prescribe the powers and duties of certain state and local governmental agencies; to create an advisory committee and to prescribe its powers and duties; and to prescribe remedies and penalties," by amending section 53 (MCL 257.1853).

The People of the State of Michigan enact:

257.1853 Regular and substitute drivers of school buses; qualifications; records; background check; smoking; alcoholic liquor or controlled substance.

Sec. 53. (1) All regular drivers and substitute drivers of school buses transporting passengers and pupil transportation vehicles used for the regularly scheduled trans-

portation of passengers to and from home shall, at a minimum, meet the following qualifications:

(a) The requirements of sections 49 and 51.

(b) For a school bus or pupil transportation vehicle operating in intrastate transportation, the annual physical requirements for school bus and pupil transportation vehicle drivers as authorized by the superintendent of public instruction. In meeting these physical requirements, the driver shall be examined by a licensed physician or physicians' assistant and shall present the physician's certificate to the employer.

(c) An employer who has reason to believe that a driver is not physically qualified to drive may require a physical examination for that driver in accordance with subdivision (b) at more frequent intervals. If an employer requests a physical examination under this subdivision, the employer shall indicate in writing what physical impairment covered under the requirements of subdivision (b) the driver is to be examined for and shall only be entitled to that portion of the examination results which pertain to that impairment. An examination requested by the employer under this subdivision shall be paid for by the employer.

(d) A copy of the physician's certificate for a driver shall be carried by that driver while he or she is operating a school bus or pupil transportation vehicle.

(2) A record of each employed school bus or pupil transportation vehicle driver, including a copy of his or her physician's certificate, department of education certification, driver license, certificate of road test application for employment, and any other information that relates to driver qualification or ability to safely drive a school bus or pupil transportation vehicle, shall be maintained in the employer's administrative office.

(3) A school shall submit transportation safety related documents, such as driver qualification records, and vehicle maintenance records upon request for inspection and copying to motor carrier officers or vehicle inspectors of the department of state police.

(4) Upon receipt of an application from a person for the position of school bus driver or pupil transportation vehicle driver, a school shall request from the department of state police a background check to determine whether the person was convicted of any of the following offenses:

(a) Criminal sexual conduct in any degree.

(b) Assault with intent to commit criminal sexual conduct.

(c) An attempt to commit criminal sexual conduct in any degree.

(d) Felonious assault on a child, child abuse, or cruelty, torture, or indecent exposure involving a child.

(e) A violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(5) A person shall not smoke on a school bus or pupil transportation vehicle.

(6) A person shall not possess or consume alcoholic liquor or a controlled substance on a school bus or pupil transportation vehicle.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 648]

(SB 1505)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to

poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," by amending sections 115f, 115g, 115i, 115j, 115*l*, and 115m (MCL 400.115f, 400.115g, 400.115i, 400.115j, 400.115*l*, and 400.115m), section 115f as amended by 1998 PA 22, section 115g as amended and sections 115i and 115*l* as added by 1994 PA 238, section 115j as amended by 2000 PA 61, and section 115m as added by 1994 PA 207, and by adding sections 115r and 115s.

The People of the State of Michigan enact:

400.115f Definitions.

Sec. 115f. As used in this section and sections 115g to 115s:

(a) "Adoptee" means the child who is to be adopted or who is adopted.

(b) "Adoption assistance" means a support subsidy or medical assistance, or both.

(c) "Adoption assistance agreement" means an agreement between the department and an adoptive parent regarding adoption assistance.

(d) "Adoption code" means the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(e) "Adoptive parent" means the parent or parents who adopt a child under the adoption code.

(f) "Certification" means a determination of eligibility by the department that an adoptee is eligible for a support subsidy or a medical subsidy or both.

(g) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(h) "Child with special needs" means an individual under the age of 18 years for whom the state has determined all of the following:

(*i*) The child cannot or should not be returned to the home of the child's parents.

(*ii*) A specific factor or condition, or a combination of factors and conditions, exists with respect to the child so that it is reasonable to conclude that the child cannot be placed with an adoptive parent without providing adoption assistance under this act. The factors or conditions to be considered may include ethnic or family background, age, membership in a minority or sibling group, medical condition, physical, mental, or emotional disability, or length of time the child has been waiting for an adoptive home.

(*iii*) A reasonable but unsuccessful effort was made to place the adoptee with an appropriate adoptive parent without providing adoption assistance under this act or a prospective placement is the only placement in the best interest of the child.

(i) "Compact" means the interstate compact on adoption and medical assistance as enacted in sections 115r and 115s.

(j) "Court" means the family division of circuit court.

(k) "Department" means the family independence agency.

(*l*) "Foster care" means placement of a child outside the child's parental home by and under the supervision of a child placing agency, the court, the department, or the department of community health.

(m) "Medical assistance" means the federally aided medical assistance program under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6 and 1396r-8 to 1396v.

(n) "Medical subsidy" means payment for medical, surgical, hospital, and related expenses necessitated by a specified physical, mental, or emotional condition of a child who has been placed for adoption.

(o) "Medical subsidy agreement" means an agreement between the department and an adoptive parent regarding a medical subsidy.

(p) "Nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs. Nonrecurring adoption expenses do not include costs or expenses incurred in violation of state or federal law or that have been reimbursed from other sources or funds.

(q) "Other expenses that are directly related to the legal adoption of a child with special needs" means adoption costs incurred by or on behalf of the adoptive parent and for which the adoptive parent carries the ultimate liability for payment, including the adoption study, health and psychological examinations, supervision of the placement before adoption, and transportation and reasonable costs of lodging and food for the child or adoptive parent if necessary to complete the adoption or placement process.

(r) "Party state" means a state that becomes a party to the interstate compact on adoption and medical assistance.

(s) "Residence state" means the state in which the child is a resident by virtue of the adoptive parent's residency.

(t) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

(u) "Support subsidy" means payment for support of a child who has been placed for adoption.

400.115g Support subsidy; payment; requirements; determination of amount; completion of certification process.

Sec. 115g. (1) The department may pay a support subsidy to an adoptive parent of an adoptee who is placed in the home of the adoptive parent under the adoption code or under the adoption laws of another state or a tribal government, if all of the following requirements are met:

(a) The department has certified that the adoptee is eligible for a support subsidy, based on all of the following:

(*i*) The adoptee is a child with special needs.

(*ii*) An adoptive parent requests a support subsidy.

(*iii*) The adoptee is in foster care at the time the department certifies the support subsidy.

(b) Certification is made before the adoptee's eighteenth birthday.

(c) Certification is made before the petition for adoption is filed.

(d) The adoptive parent requests the support subsidy not later than the date of confirmation of the adoption.

(2) The department shall determine eligibility for the support subsidy without regard to the income of the adoptive parent or parents. The amount shall be equal to the family foster care rate, including the difficulty of care rate, that was paid for the adoptee while the adoptee was in family foster care, except that the amount shall be increased to reflect increases made in the standard age appropriate foster care rate paid by the department.

(3) The department shall complete the certification process within 30 days after it receives a request for a support subsidy.

400.115i Adoptive assistance; agreement; medical subsidy eligibility; copies; modification or discontinuance; legal status, rights, and responsibilities not affected; report.

Sec. 115i. (1) If adoption assistance is to be paid, the department and the adoptive parent or parents shall enter into an adoption assistance agreement covering all of the following:

(a) The duration of the adoption assistance to be paid.

(b) The amount to be paid and, if appropriate, eligibility for medical assistance.

(c) Conditions for continued payment of the adoption assistance as established by statute.

(2) If medical subsidy eligibility is certified, the department and the adoptive parent shall enter into a medical subsidy agreement covering all of the following:

(a) Identification of the physical, mental, or emotional condition covered by the medical subsidy.

(b) The duration of the medical subsidy agreement.

(c) Conditions for continued eligibility for the medical subsidy as established by statute.

(3) The department shall give a copy of the adoption assistance agreement or medical subsidy agreement, or both, to the adoptive parent or parents.

(4) Unless the medical condition of the adoptee no longer exists, or an event described in section 115j has occurred, as indicated in a report filed under subsection (6) or as otherwise determined by the department, the department shall not modify or discontinue a medical subsidy.

(5) An adoption assistance agreement or medical subsidy agreement does not affect the legal status of the adoptee or the legal rights and responsibilities of the adoptive parent or parents.

(6) The adoptive parent or parents shall file a verified report with the department at least once each year as to the location of the adoptee and other matters relating to the continuing eligibility of the adoptee for adoption assistance or a medical subsidy, or both.

400.115j Adoption assistance; medical subsidy; duration.

Sec. 115j. (1) Adoption assistance or a medical subsidy, or both, shall continue until 1 of the following occurs:

(a) The adoptee becomes 18 years of age.

(b) The adoptee is emancipated.

(c) The adoptee dies.

(d) The adoption is terminated.

(e) A determination of ineligibility is made by the department.

(2) If sufficient money is appropriated, the department may continue adoption assistance or a medical subsidy, or both, for an adoptee under 21 years of age if the department determines that the adoptee is a student regularly attending a high school, college, university, or vocational school in pursuance of a course of study leading to a high school diploma, college degree, or gainful employment.

(3) Adoption assistance and a medical subsidy shall continue even if the adoptive parent leaves the state.

(4) An adoption support subsidy shall continue during a period in which the adoptee is removed for delinquency from his or her home as a temporary court ward based on proceedings under section 2(a) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(5) Upon the death of the adoptive parent, the department shall continue making support subsidy payments or continue medical subsidy eligibility, or both, to the guardian of the adoptee if a guardian is appointed as provided in section 5202 or 5204 of the estates and protected individuals code, 1998 PA 386, MCL 700.5202 and 700.5204.

400.115*l* Child with special needs; agreement for payment of nonrecurring adoption expenses; limitation; signature; filing claims; notice to potential claimants.

Sec. 115*l*. (1) The department shall enter into an agreement with the adoptive parent or parents of a child with special needs under this section for the payment of nonrecurring adoption expenses incurred by or on behalf of the adoptive parent or parents. The agreement may be a separate document or part of an adoption assistance agreement under section 115i. The agreement under this section shall indicate the nature and amount of nonrecurring adoption expenses to be paid by the department, which shall not exceed $2,000.00 for each adoptive placement meeting the requirements of this section. The department shall make payment as provided in the agreement.

(2) An agreement under this section shall be signed at or before entry of an order of adoption under the adoption code. Claims for payment shall be filed with the department within 2 years after entry of the order of adoption.

(3) The department shall take all actions necessary and appropriate to notify potential claimants under this section, including compliance with federal regulations.

400.115m Pamphlet describing adoption process and adoption assistance and medical subsidy programs; preparation; distribution; contents.

Sec. 115m. (1) The department shall prepare and distribute to adoption facilitators and other interested persons a pamphlet describing the adoption process and the adoption assistance and medical subsidy programs established under sections 115f to 115s. The state department shall provide a copy of the pamphlet to each prospective adoptive parent before placing a child with that parent.

(2) The description of the adoption process required under subsection (1) shall include at least all of the following:

(a) The steps that must be taken under the adoption code to complete an adoption, and a description of all of the options available during the process.

(b) A description of the services that are typically available from each type of adoption facilitator.

(c) Recommended questions for a biological parent or prospective adoptive parent to ask an adoption facilitator before engaging that adoption facilitator's services.

(d) A list of the rights and responsibilities of biological parents and prospective adoptive parents.

(e) A description of the information services available to biological and prospective adoptive parents including, but not limited to, all of the following:

(*i*) The registry of adoptive homes established and maintained by the department under section 8 of the foster care and adoption services act, 1994 PA 203, MCL 722.958.

(*ii*) The directory of children produced under section 8 of the foster care and adoption services act, 1994 PA 203, MCL 722.958.

(*iii*) The public information forms maintained by the department pursuant to section 14d of 1973 PA 116, MCL 722.124d.

(f) A statement about the existence of the children's ombudsman and its authority as an investigative body.

(g) A statement about the importance and availability of counseling for all parties to an adoption and that a prospective adoptive parent must pay for counseling for a birth parent or guardian unless the birth parent or guardian waives the counseling.

400.115r Interstate compact on adoption and medical assistance; citation of §§ 400.115r and 400.115s.

Sec. 115r. (1) Sections 115r and 115s shall be known and may be cited as the "interstate compact on adoption and medical assistance".

(2) By the enactment of sections 115r and 115s, this state becomes a party state.

(3) Sections 115r and 115s shall be liberally construed to accomplish all of the following:

(a) Strengthen protections for each adoptee who is a child with special needs on behalf of whom a party state commits to pay adoption assistance when that child's residence state is a state other than the state committed to provide the adoption assistance.

(b) Provide substantive assurances and operating procedures that promote the delivery of medical assistance and other services to a child on an interstate basis through medical assistance programs established by the laws of each state that is a party to the compact.

400.115s Interstate compacts; authorization; force and effect; contents.

Sec. 115s. (1) The family independence agency is authorized to negotiate and enter into interstate compacts with agencies of other states for the provision of adoption assistance for an adoptee who is a child with special needs, who moves into or out of this state, and on behalf of whom adoption assistance is being provided by this state or another state party to such a compact.

(2) When a compact is so entered into and for as long as it remains in force, the compact has the force and effect of law.

(3) A compact authorized under this act must include:

(a) A provision making it available for joinder by all states.

(b) A provision or provisions for withdrawal from the compact upon written notice to the parties, but with a period of 1 year between the date of the notice and effective date of the withdrawal.

(c) A requirement that the protections under the compact continue in force for the duration of the adoption assistance and are applicable to all children and their adoptive parents who on the effective date of the withdrawal are receiving adoption assistance from a party state other than the one in which they are resident and have their principal place of abode.

(d) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state that undertakes to provide the adoption assistance. An agreement required by this subdivision shall be expressly for the benefit of the adopted child and be enforceable by the adoptive parents and the state agency providing the adoption assistance.

(e) Other provisions as may be appropriate to implement the proper administration of the compact.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 649]

(SB 1000)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 252a (MCL 257.252a), as amended by 2000 PA 306.

The People of the State of Michigan enact:

257.252a Abandoned vehicle; duties of police agency; contest by registered owner; hearing; request; obtaining release of vehicle; public sale; inability to determine ownership of abandoned vehicle.

Sec. 252a. (1) As used in this section, "abandoned vehicle" means a vehicle that has remained on public property or private property for a period of 48 hours, after a police agency or other governmental agency designated by the police agency has affixed a

written notice to the vehicle or on a state trunk line highway as described in section 1 of 1951 PA 51, MCL 247.651, as follows:

(a) If a valid registration plate is affixed to the vehicle, for a period of 18 hours.

(b) If a valid registration plate is not affixed to the vehicle.

(2) If a vehicle has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

(a) Determine if the vehicle has been reported stolen.

(b) Affix a written notice to the vehicle. The written notice shall contain the following information:

(*i*) The date and time the notice was affixed.

(*ii*) The name and address of the police agency taking the action.

(*iii*) The name and badge number of the police officer affixing the notice.

(*iv*) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.

(*v*) The year, make, and vehicle identification number of the vehicle, if available.

(3) If the vehicle is an abandoned vehicle, the police agency may have the vehicle taken into custody.

(4) A police agency that has a vehicle taken into custody shall do all of the following:

(a) Recheck to determine if the vehicle has been reported stolen.

(b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.

(c) Within 7 days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle is considered abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:

(*i*) The year, make, and vehicle identification number of the vehicle if available.

(*ii*) The location from which the vehicle was taken into custody.

(*iii*) The date on which the vehicle was taken into custody.

(*iv*) The name and address of the police agency that had the vehicle taken into custody.

(*v*) The business address of the custodian of the vehicle.

(*vi*) The procedure to redeem the vehicle.

(*vii*) The procedure to contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees.

(*viii*) A form petition that the owner may file in person or by mail with the specified court that requests a hearing on the police agency's action.

(*ix*) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(5) The registered owner may contest the fact that the vehicle is considered abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted under sections 252e and 252f. An owner

who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly considered abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(6) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(7) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.

(8) Not less than 20 days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 252g.

(9) If the ownership of a vehicle that is considered abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 252g, not less than 30 days after public notice of the sale has been published.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 650]

(SB 795)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 32504a.

The People of the State of Michigan enact:

324.32504a Restoration or maintenance of lighthouse; lease or agreement for use of lands; "approved organization" defined.

Sec. 32504a. (1) The department may accept an application under this part from an approved organization, whether or not the approved organization is a riparian landowner, and may enter into a lease or agreement for the use of lands described in section 32502 on which a lighthouse is located, including the use of water over those lands immediately adjacent to the lighthouse.

(2) As used in this section, "approved organization" means a lawful nonprofit entity as approved by the department, a local unit of government, a federal or state agency or department, an educational agency, or a community development organization, that is seeking to secure a lease or agreement under this section for the purpose of restoring or maintaining a lighthouse.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 651]

(SB 705)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.1100) by adding section 75.

The People of the State of Michigan enact:

250.1075 "Veterans Memorial Highway."

Sec. 75. That portion of highway US-10 in Mason county beginning at the city of Scottville and continuing west to the city of Ludington shall be named the "Veterans Memorial Highway".

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 652]

(HB 5364)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain

purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 11, 217, 235, 310, 312e, and 401 (MCL 257.11, 257.217, 257.235, 257.310, 257.312e, and 257.401), section 11 as amended by 1990 PA 154, section 217 as amended by 2002 PA 552, section 235 as amended by 1988 PA 470, section 310 as amended by 2002 PA 554, section 312e as amended by 2002 PA 534, and section 401 as amended by 1995 PA 98, and by adding sections 4c, 35c, and 248j.

The People of the State of Michigan enact:

257.4c "Buy back vehicle" defined.

Sec. 4c. "Buy back vehicle" means a motor vehicle reacquired by a manufacturer as the result of an arbitration proceeding, pursuant to a customer satisfaction policy adopted by the manufacturer, or under 1986 PA 87, MCL 257.1401 to 257.1410, or a similar law of another state.

257.11 "Dealer" defined.

Sec. 11. (1) Except as provided in this section, "dealer" means a person who is 1 or more of the following:

(a) A person who in a 12-month period did 1 or more of the following:

(*i*) Engaged in the business of purchasing, selling, exchanging, brokering, leasing, or dealing in vehicles of a type required to be titled under this act.

(*ii*) Engaged in the business of purchasing, selling, exchanging, brokering, or dealing in salvageable parts of 5 or more vehicles.

(*iii*) Engaged in the business of buying 5 or more vehicles to sell vehicle parts or process into scrap metal.

(b) A person engaged in the actual remanufacturing of engines or transmissions.

(2) There is a rebuttable presumption that a person who in a 12-month period buys and sells, exchanges, brokers, leases, or deals in 5 or more vehicles, or buys and sells, exchanges, brokers, or deals in salvageable parts for 5 or more vehicles, or buys 5 or more vehicles to sell vehicle parts or to process into scrap metal is engaged in a business described in subsection (1).

(3) Dealer does not include any of the following:

(a) A financial institution, as defined in section 10 of 1909 PA 99, MCL 129.40, or an entity wholly owned by 1 or more financial institutions.

(b) A bank holding company.

(c) A person who buys or sells remanufactured vehicle engine and transmission salvageable vehicle parts or who receives in exchange used engines or transmissions if the primary business of the person is the selling of new vehicle parts and the person is not engaged in any other activity that requires a dealer license under this act.

(d) For purposes of dealer licensing, a person who negotiates the lease of a vehicle of a type required to be titled under this act for a lease term of less than 120 days.

(e) A person whose business is the financing of the purchase, sale, or lease of vehicles of a type required to be titled under this act and that is not otherwise engaged in activities described in subsection (1).

(f) An employee or agent of a dealer acting in the scope of his or her employment or agency.

(g) An insurer, as defined in section 106 of the insurance code of 1956, 1956 PA 218, MCL 500.106.

(h) A person engaged in leasing vehicles solely for commercial or other nonhousehold use.

257.35c "Off lease vehicle" defined.

Sec. 35c. "Off lease vehicle" means a motor vehicle leased for a term of more than 30 days that the lessee elects to purchase.

257.217 Application for registration and certificate of title; out-of-state vehicle; form; fee; signature of owner; contents; leased pickup truck or vehicle; duties of dealer and person selling or leasing certain vehicles; off lease or buy back vehicle; temporary registration; copy of security agreement; service fee; imprint on back side of check or bank draft; liability for damages.

Sec. 217. (1) An owner of a vehicle that is subject to registration under this act shall apply to the secretary of state, upon an appropriate form furnished by the secretary of state, for the registration of the vehicle and issuance of a certificate of title for the vehicle. A vehicle brought into this state from another state or jurisdiction that has a rebuilt, salvage, scrap, flood, or comparable certificate of title issued by that other state or jurisdiction shall be issued a rebuilt, salvage, scrap, or flood certificate of title by the secretary of state. The application shall be accompanied by the required fee. An application for a certificate of title shall bear the signature of the owner. The application shall contain all of the following:

(a) The owner's name, the owner's bona fide residence, and either of the following:

(*i*) If the owner is an individual, the owner's mailing address.

(*ii*) If the owner is a firm, association, partnership, limited liability company, or corporation, the owner's business address.

(b) A description of the vehicle including the make or name, style of body, and model year; the number of miles, not including the tenths of a mile, registered on the vehicle's odometer at the time of transfer; whether the vehicle is a flood vehicle or another state previously issued the vehicle a flood certificate of title; whether the vehicle is to be or has been used as a taxi or police vehicle, or by a political subdivision of this state, unless the vehicle is owned by a dealer and loaned or leased to a political subdivision of this state for use as a driver education vehicle; whether the vehicle has previously been issued a salvage or rebuilt certificate of title from this state or a comparable certificate of title from any other state or jurisdiction; vehicle identification number; and the vehicle's weight fully equipped, if a passenger vehicle registered in accordance with section 801(1)(a), and, if a trailer coach or pickup camper, in addition to the weight, the manufacturer's serial number, or in the absence of the serial number, a number assigned by the secretary of state. A number assigned by the secretary of state shall be permanently placed on the trailer coach or pickup camper in the manner and place designated by the secretary of state.

(c) A statement of the applicant's title and the names and addresses of the holders of security interests in the vehicle and in an accessory to the vehicle, in the order of their priority.

(d) Further information that the secretary of state reasonably requires to enable the secretary of state to determine whether the vehicle is lawfully entitled to registration and the owner entitled to a certificate of title. If the secretary of state is not satisfied as to the

ownership of a late model vehicle or other vehicle having a value over $2,500.00, before registering the vehicle and issuing a certificate of title, the secretary of state may require the applicant to file a properly executed surety bond in a form prescribed by the secretary of state and executed by the applicant and a company authorized to conduct a surety business in this state. The bond shall be in an amount equal to twice the value of the vehicle as determined by the secretary of state and shall be conditioned to indemnify or reimburse the secretary of state, any prior owner, and any subsequent purchaser or lessee of the vehicle and their successors in interest against any expense, loss, or damage, including reasonable attorney's fees, by reason of the issuance of a certificate of title for the vehicle or on account of any defect in the right, title, or interest of the applicant in the vehicle. An interested person has a right of action to recover on the bond for a breach of the conditions of the bond, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of 3 years, or before 3 years if the vehicle is no longer registered in this state and the currently valid certificate of title is surrendered to the secretary of state, unless the secretary of state has received notification of the pendency of an action to recover on the bond. If the secretary of state is not satisfied as to the ownership of a vehicle that is valued at $2,500.00 or less and that is not a late model vehicle, the secretary of state shall require the applicant to certify that the applicant is the owner of the vehicle and entitled to register and title the vehicle.

(e) Except as provided in subdivision (f), an application for a commercial vehicle shall also have attached a scale weight receipt of the motor vehicle fully equipped as of the time the application is made. A scale weight receipt is not necessary if there is presented with the application a registration receipt of the previous year that shows on its face the empty weight of the motor vehicle as registered with the secretary of state that is accompanied by a statement of the applicant that there has not been structural change in the motor vehicle that has increased the empty weight and that the previous registered weight is the true weight.

(f) An application for registration of a vehicle on the basis of elected gross weight shall include a declaration by the applicant specifying the elected gross weight for which application is being made.

(g) If the application is for a certificate of title of a motor vehicle registered in accordance with section 801(1)(p), the application shall include the manufacturer's suggested base list price for the model year of the vehicle. Annually, the secretary of state shall publish a list of the manufacturer's suggested base list price for each vehicle being manufactured. Once a base list price is published by the secretary of state for a model year for a vehicle, the base list price shall not be affected by subsequent increases in the manufacturer's suggested base list price but shall remain the same throughout the model year unless changed in the annual list published by the secretary of state. If the secretary of state's list has not been published for that vehicle by the time of the application for registration, the base list price shall be the manufacturer's suggested retail price as shown on the label required to be affixed to the vehicle under section 3 of the automobile information disclosure act, Public Law 85-506, 15 U.S.C. 1232. If the manufacturer's suggested retail price is unavailable, the application shall list the purchase price of the vehicle as defined in section 801(4).

(2) An applicant for registration of a leased pickup truck or passenger vehicle that is subject to registration under this act, except a vehicle that is subject to registration tax under section 801g, shall disclose in writing to the secretary of state the lessee's name, the lessee's bona fide residence, and either of the following:

(a) If the lessee is an individual, the lessee's Michigan driver license number or Michigan personal identification number or, if the lessee does not have a Michigan driver license or Michigan personal identification number, the lessee's mailing address.

(b) If the lessee is a firm, association, partnership, limited liability company, or corporation, the lessee's business address.

(3) The secretary of state shall maintain the information described in subsection (2) on the secretary of state's computer records.

(4) Except as provided in subsection (5), a dealer selling, leasing, or exchanging vehicles required to be titled, within 15 days after delivering a vehicle to the purchaser or lessee, and a person engaged in the sale of vessels required to be numbered by part 801 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 to 324.80199, within 15 days after delivering a boat trailer weighing less than 2,500 pounds to the purchaser or lessee, shall apply to the secretary of state for a new title, if required, and transfer or secure registration plates and secure a certificate of registration for the vehicle or boat trailer, in the name of the purchaser or lessee. The dealer's license may be suspended or revoked in accordance with section 249 for failure to apply for a title when required or for failure to transfer or secure registration plates and certificate of registration within the 15 days required by this section. If the dealer or person fails to apply for a title when required, and to transfer or secure registration plates and secure a certificate of registration and pay the required fees within 15 days of delivery of the vehicle or boat trailer, a title and registration for the vehicle or boat trailer may subsequently be acquired only upon the payment of a transfer fee of $15.00 in addition to the fees specified in section 806. The purchaser or lessee of the vehicle or the purchaser of the boat trailer shall sign the application, including, when applicable, the declaration specifying the maximum elected gross weight, as required by subsection (1)(f), and other necessary papers to enable the dealer or person to secure the title, registration plates, and transfers from the secretary of state. If the secretary of state mails or delivers a purchaser's certificate of title to a dealer, the dealer shall mail or deliver the certificate of title to the purchaser not more than 5 days after receiving the certificate of title from the secretary of state.

(5) A dealer selling or exchanging an off lease or buy back vehicle shall apply to the secretary of state for a new title for the vehicle within 15 days after it receives the certificate of title from the lessor or manufacturer under section 235 and transfer or secure registration plates and secure a certificate of registration for the vehicle in the name of the purchaser. The dealer's license may be suspended or revoked in accordance with section 249 for failure to apply for a title when required or for failure to transfer or secure registration plates and certificate of registration within the 15-day period. If the dealer or person fails to apply for a title when required, and to transfer or secure registration plates and secure a certificate of registration and pay the required fees within the 15-day time period, a title and registration for the vehicle may subsequently be acquired only upon the payment of a transfer fee of $15.00 in addition to the fees specified in section 806. The purchaser of the vehicle shall sign the application, including, when applicable, the declaration specifying the maximum elected gross weight, as required by subsection (1)(f), and other necessary papers to enable the dealer or person to secure the title, registration plates, and transfers from the secretary of state. If the secretary of state mails or delivers a purchaser's certificate of title to a dealer, the dealer shall mail or deliver the certificate of title to the purchaser not more than 5 days after receiving the certificate of title from the secretary of state.

(6) If a vehicle is delivered to a purchaser or lessee who has valid Michigan registration plates that are to be transferred to the vehicle, and an application for title, if

required, and registration for the vehicle is not made before delivery of the vehicle to the purchaser or lessee, the registration plates shall be affixed to the vehicle immediately, and the dealer shall provide the purchaser or lessee with an instrument in writing, on a form prescribed by the secretary of state, which shall serve as a temporary registration for the vehicle for a period of 15 days from the date the vehicle is delivered.

(7) An application for a certificate of title that indicates the existence of a security interest in the vehicle or in an accessory to the vehicle, if requested by the security interest holder, shall be accompanied by a copy of the security agreement which need not be signed. The request may be made of the seller on an annual basis. The secretary of state shall indicate on the copy the date and place of filing of the application and return the copy to the person submitting the application who shall forward it to the holder of the security interest named in the application.

(8) If the seller does not prepare the credit information, contract note, and mortgage, and the holder, finance company, credit union, or banking institution requires the installment seller to record the lien on the title, the holder, finance company, credit union, or banking institution shall pay the seller a service fee of not more than $10.00. The service fee shall be paid from the finance charges and shall not be charged to the buyer in addition to the finance charges. The holder, finance company, credit union, or banking institution shall issue its check or bank draft for the principal amount financed, payable jointly to the buyer and seller, and there shall be imprinted on the back side of the check or bank draft the following:

"Under Michigan law, the seller must record a first lien in favor of (name of lender) _____ on the vehicle with vehicle identification number _____ and title the vehicle only in the name(s) shown on the reverse side." On the front of the sales check or draft, the holder, finance company, credit union, or banking institution shall note the name(s) of the prospective owner(s). Failure of the holder, finance company, credit union, or banking institution to comply with these requirements frees the seller from any obligation to record the lien or from any liability that may arise as a result of the failure to record the lien. A service fee shall not be charged to the buyer.

(9) In the absence of actual malice proved independently and not inferred from lack of probable cause, a person who in any manner causes a prosecution for larceny of a motor vehicle; for embezzlement of a motor vehicle; for any crime an element of which is the taking of a motor vehicle without authority; or for buying, receiving, possessing, leasing, or aiding in the concealment of a stolen, embezzled, or converted motor vehicle knowing that the motor vehicle has been stolen, embezzled, or converted, is not liable for damages in a civil action for causing the prosecution. This subsection does not relieve a person from proving any other element necessary to sustain his or her cause of action.

257.235 Dealer as transferee of vehicle; requirements; duties; liability of dealer or transferee; transfer of title or interest to another dealer; duties of dealer; dealer reassignment of title form; buy back or off lease vehicle.

Sec. 235. (1) If the transferee of a vehicle is a new motor vehicle dealer or a used vehicle dealer that acquires the vehicle for resale, the dealer is not required to obtain a new registration of the vehicle or forward the certificate of title to the secretary of state, but shall retain and have in the dealer's immediate possession the assigned certificate of title with the odometer information properly completed. A dealer shall obtain a certificate of title for a vehicle having a salvage certificate of title before the dealer may operate the vehicle under dealer's license plates. Upon transferring title or interest to another person that is not a dealer, the dealer shall complete an assignment and warranty of title upon

the certificate of title, salvage certificate of title, or dealer reassignment of title form and make an application for registration and a new title as provided in section 217(4).

(2) The dealer or transferee is liable for all damages arising from the operation of the vehicle while the vehicle is in the dealer's or transferee's possession.

(3) Upon transferring title or interest to another dealer, the dealer shall complete an assignment and warranty of title upon the certificate of title, salvage certificate of title, or dealer reassignment of title form and deliver it to the licensed dealer to which the transfer is made.

(4) The secretary of state shall prescribe the dealer reassignment of title form. The form shall contain the title number of the accompanying title; the name, address, and, if applicable, dealer license number of the transferee; the year, make, model, body type, and vehicle identification number of the vehicle; the name, address, dealer number, and signature of the transferor; an odometer mileage statement pursuant to section 233a; and any other information the secretary of state requires.

(5) This section does not prohibit a dealer from selling a buy back vehicle while the certificate of title is in the possession of a manufacturer that obtained the certificate of title under the manufacturer's buy back vehicle program. The manufacturer shall mail the certificate of title to the dealer within 5 business days after the manufacturer's receipt of a signed statement from the purchaser of the vehicle acknowledging he or she was informed by the dealer that the manufacturer acquired title to the vehicle as the result of an arbitration proceeding, pursuant to a customer satisfaction policy adopted by the manufacturer, or under 1986 PA 87, MCL 257.1401 to 257.1410, or a similar law of another state.

(6) This section does not prohibit a dealer from selling an off lease vehicle while the certificate of title is in the possession of a lessor. The lessor shall mail the certificate of title to the dealer within 21 days after the lessor receives the purchase price of the vehicle and any other fees and charges due under the lease.

257.248j Acting as dealer without license; warning; administrative fine; notice of assessment; actions; informal conference; administrative hearing; payment of administrative fine; reduction.

Sec. 248j. (1) In addition to any other remedies provided by law, if the secretary of state determines that a person has acted as a dealer without a dealer license, he or she may issue the person a verbal or written warning or assess an administrative fine of not more than $5,000.00 for a first violation, and not more than $7,500.00 for each subsequent violation occurring within 7 years of a prior violation.

(2) If the secretary of state assesses an administrative fine under subsection (1), the secretary of state shall provide notice of the assessment in writing pursuant to section 212. At a minimum, the notice of assessment shall contain all of the following:

(a) A unique identification number.

(b) A description of the alleged violation that is the basis for the assessment, including the date the alleged violation occurred and a reference to the specific section or rule alleged to have been violated.

(c) The administrative fine established for the violation.

(d) A statement indicating that if the fine is not paid, the secretary of state may refer the fine to the department of treasury for collection.

(e) A statement indicating that if the alleged violation is contested, the person has a right to request an informal conference before an administrative hearing, accompanied by simple instructions informing the person how to request or waive the informal conference.

(3) Not later than 20 days after receiving the written notice of assessment, the alleged violator shall do 1 of the following:

(a) Pay the administrative fine to the secretary of state. A payment waives the person's right to an informal conference and an administrative hearing.

(b) Request the secretary of state to conduct an informal conference.

(c) Waive the right to an informal conference and request the secretary of state to conduct an administrative hearing.

(d) If the person is not a licensed dealer, pay the administrative fine to the secretary of state and submit a properly completed dealer license application to the secretary of state.

(4) A person's request for an informal conference or an administrative hearing shall comply with all of the following:

(a) Be in writing.

(b) Be postmarked or received by the department within 20 days after the date the person received the written notice of assessment.

(c) State the name, address, and telephone number of the person requesting the informal conference or administrative hearing.

(d) State the written notice of assessment's unique identification number.

(e) State the reason for the request.

(f) If the request is for an administrative hearing without an informal conference, state the person is waiving his or her right to an informal conference.

(5) If the secretary of state receives a request for an informal conference or an administrative hearing that meets all of the conditions prescribed in subsection (4), the secretary of state shall schedule an informal conference or an administrative hearing, as applicable. If the request fails to meet all of the conditions prescribed in subsection (4), the secretary of state may in writing deny the request. A denial shall be served on the person by first-class mail and shall do both of the following:

(a) State the reason for the denial.

(b) Grant the person 14 days to submit a valid request to the secretary of state.

(6) The secretary of state shall conduct an informal conference under this section within 45 days after receiving a valid request for the conference. The secretary of state shall serve upon the alleged violator, by first-class mail not less than 5 days before the conference, a written notice that includes time, place, and date of the informal conference. The notice shall state that the alleged violator may be represented by an attorney at the informal conference.

(7) After the informal conference, the secretary of state shall evaluate the validity of the assessment of the administrative fine and affirm, modify, or dismiss the assessment. In making the evaluation, the secretary of state may consider 1 or more of the following:

(a) Whether there is reason to believe the alleged violation did in fact occur.

(b) The severity of the alleged violation and its impact on the public.

(c) The number of prior or related violations by the person.

(d) The likelihood of future compliance by the person.

(e) Any other considerations the secretary of state considers appropriate.

(8) Within 20 days after conducting the informal conference, the secretary of state shall serve upon the person by first-class mail a written statement describing whether the assessment of the administrative fine is affirmed, modified, or dismissed and the basis of the action. If the assessment is affirmed or modified, this statement shall also advise the person that he or she will receive a notice of hearing where the validity of the assessment may be contested or he or she may immediately pay the fine to the secretary of state and that payment of the fine will prevent scheduling of an administrative hearing.

(9) A notice of hearing under this section shall be served on the person by first-class mail not less than 5 days before the date scheduled for the administrative hearing and, at a minimum, advise the person of all of the following:

(a) The time, place, and date of hearing.

(b) That an impartial hearing officer will conduct the hearing and allow the person an opportunity to examine the secretary of state's evidence and present evidence in person or in writing.

(c) That the person has a right to be represented by an attorney at the administrative hearing.

(d) The common reasons why the secretary of state could dismiss an assessment of an administrative fine.

(e) That the hearing officer conducting the administrative hearing will be authorized to do all of the following:

(*i*) Affirm, modify, or dismiss the assessment of an administrative fine.

(*ii*) Correct any errors in the department's records that relate directly to the assessment.

(*iii*) Refer or not refer the fine to the department of treasury for collection.

(*iv*) Take or order any other action or resolution considered appropriate by the hearing officer.

(f) That if the department of treasury takes enforcement action against the person, he or she may seek a review in the court of claims.

(10) The secretary of state shall conduct an administrative hearing under this section pursuant to the contested case provisions of the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If an administrative fine assessed under this section is affirmed by the decision of the hearing officer, the hearing officer may assess the person costs of not more than $500.00, to reimburse the secretary of state for proving the validity of the alleged violation, in addition to any other penalties, sanctions, or costs imposed as provided by law.

(11) An administrative fine assessed under this section becomes final upon the first to occur of the following:

(a) The secretary of state does not receive a valid request for an informal conference or an administrative hearing within the time period described in subsection (4).

(b) Twenty days after a person waives his or her right to an administrative hearing.

(c) An administrative hearing decision is served upon the person.

(12) After a person pays the secretary of state the fine imposed, the secretary of state shall forward the money to the department of treasury for deposit in a separate fund within the general fund. Upon appropriation, this money shall be used first to defray the expense of the secretary of state in administering this chapter.

(13) If an administrative fine assessed under this section is not paid within 60 days after it becomes final, the secretary of state may refer the matter to the department of

treasury for collection as a state debt through the offset of state tax refunds and may use the services of the department of treasury to levy the salary, wages, or other income or assets of the person as provided by law.

(14) Payment of an administrative fine assessed under this section does not constitute an admission of responsibility or guilt by the person. Payment of an administrative fine assessed under this section does not prevent the secretary of state from charging a violation described in the assessment of the administrative fine in a subsequent or concurrent contested case proceeding conducted by the secretary of state pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(15) If the person submits a properly completed application and appropriate fee for a dealer license within 20 days after an administrative fine under subsection (1) is assessed, and if the secretary of state issues the person a dealer license within 45 days of receiving the properly completed application and fee, the secretary of state shall reduce the amount of the administrative fine by 50%.

(16) The secretary of state shall serve a notice, denial, decision, or statement under this section in compliance with section 212.

(17) An informal conference under this section is not a compliance conference under section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292.

257.310 Operator's or chauffeur's license; issuance; motorcycle indorsement or vehicle group designation or indorsement application; contents of license; digitized license; unlawful acts; penalties; temporary driver's permit; medical data or anatomical gift; designation of patient advocate or emancipated status; duplicates of license.

Sec. 310. (1) The secretary of state shall issue an operator's license to each person licensed as an operator and a chauffeur's license to each person licensed as a chauffeur. An applicant for a motorcycle indorsement under section 312a or a vehicle group designation or indorsement shall first qualify for an operator's or chauffeur's license before the indorsement or vehicle group designation application is accepted and processed. Beginning on and after July 1, 2003, an original license or the first renewal of an existing license issued to a person less than 21 years of age shall be portrait or vertical in form and an original license or the first renewal of an existing license issued to a person 21 years of age or over shall be landscape or horizontal in form.

(2) The license issued under subsection (1) shall contain all of the following information:

(a) The distinguishing number permanently assigned to the licensee.

(b) The full name, date of birth, address of residence, height, eye color, sex, an image, and the signature of the licensee.

(c) An indication that the license contains 1 or more of the following:

(*i*) The blood type of the licensee.

(*ii*) Immunization data of the licensee.

(*iii*) Medication data of the licensee.

(*iv*) A statement that the licensee is deaf.

(*v*) A statement that the licensee is an organ and tissue donor pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(*vi*) Emergency contact information of the licensee.

(*vii*) A sticker or decal as specified by the secretary of state to indicate that the licensee has designated 1 or more patient advocates in accordance with section 5506 of the

estates and protected individuals code, 1998 PA 386, MCL 700.5506, or a statement that the licensee carries an emergency medical information card.

(d) If the licensee has made a statement described in subdivision (c)(*v*), the signature of the licensee following the indication of his or her organ and tissue donor intent identified in subdivision (c)(*v*), along with the signature of at least 1 witness.

(e) The sticker or decal described in subdivision (c)(*vii*) may be provided by any person, hospital, school, medical group, or association interested in assisting in implementing the emergency medical information card, but shall meet the specifications of the secretary of state. The emergency medical information card may contain the information described in subdivision (c)(*vi*), information concerning the licensee's patient advocate designation, other emergency medical information, or an indication as to where the licensee has stored or registered emergency medical information.

(f) Beginning July 1, 2003, in the case of a licensee who is less than 18 years of age at the time of issuance of the license, the date on which the licensee will become 18 years of age and 21 years of age.

(g) Beginning July 1, 2003, in the case of a licensee who is at least 18 years of age but less than 21 years of age at the time of issuance of the license, the date on which the licensee will become 21 years of age.

(3) Except as otherwise required in this chapter, other information required on the license pursuant to this chapter may appear on the license in a form prescribed by the secretary of state.

(4) The license shall not contain a fingerprint or finger image of the licensee.

(5) A digitized license may contain an identifier for voter registration purposes. The digitized license may contain information appearing in electronic or machine readable codes needed to conduct a transaction with the secretary of state. The information shall be limited to the person's driver license number, birth date, license expiration date, and other information necessary for use with electronic devices, machine readers, or automatic teller machines and shall not contain the person's name, address, driving record, or other personal identifier. The license shall identify the encoded information.

(6) The license shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the license without ready detection. In addition, a license with a vehicle group designation shall contain the information required pursuant to 49 C.F.R. part 383.

(7) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates a license photograph, the negative of the photograph, an image, a license, or the electronic data contained on a license or a part of a license or who uses a license, an image, or photograph that has been reproduced, altered, counterfeited, forged, or duplicated is subject to 1 of the following:

(a) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for 10 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than $20,000.00, or both.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a felony punishable by imprisonment for less than 10 years or a misdemeanor punishable by imprisonment for 6 months or more, the person committing the reproduction, alteration, counterfeiting,

forging, duplication, or use is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than $10,000.00, or both.

(c) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense that is a misdemeanor punishable by imprisonment for less than 6 months, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(8) Except as provided in subsection (16), a person who sells, or who possesses with the intent to deliver to another, a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both.

(9) Except as provided in subsection (16), a person who is in possession of 2 or more reproduced, altered, counterfeited, forged, or duplicated license photographs, negatives of the photograph, images, licenses, or electronic data contained on a license or part of a license is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both.

(10) Except as provided in subsection (16), a person who is in possession of a reproduced, altered, counterfeited, forged, or duplicated license photograph, negative of the photograph, image, license, or electronic data contained on a license or part of a license is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(11) Subsections (7)(a) and (b), (8), and (9) do not apply to a minor whose intent is to violate section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(12) The secretary of state, upon determining after an examination that an applicant is mentally and physically qualified to receive a license, may issue to that person a temporary driver's permit entitling the person while having the permit in his or her immediate possession to drive a motor vehicle upon the highway for a period not exceeding 60 days before issuance to the person of an operator's or chauffeur's license by the secretary of state.

(13) An operator or chauffeur may indicate on the license in a place designated by the secretary of state his or her blood type, emergency contact information, immunization data, medication data, or a statement that the licensee is deaf, or a statement that the licensee is an organ and tissue donor and has made an anatomical gift pursuant to part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10109.

(14) An operator or chauffeur may indicate on the license in a place designated by the secretary of state that he or she has designated a patient advocate in accordance with sections 5506 to 5513 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5513.

(15) If the applicant provides proof to the secretary of state that he or she is a minor who has been emancipated pursuant to 1968 PA 293, MCL 722.1 to 722.6, the license shall bear the designation of the individual's emancipated status in a manner prescribed by the secretary of state.

(16) Subsections (8), (9), and (10) do not apply to a person who is in possession of 1 or more photocopies, reproductions, or duplications of a license to document the identity of the licensee for a legitimate business purpose.

257.312e Group commercial motor vehicle designation; tests; holder of unexpired operator's or chauffeur's license; qualifications

and fees for vehicle group designation and indorsement; F vehicle indorsement; exceptions; former indorsements; expiration; disposition of money received and collected under subsection (7); refund to county or municipality; compliance with §§ 257.303 and 257.319b.

Sec. 312e. (1) Except as otherwise provided in this section, a person, before operating a commercial motor vehicle, shall obtain the required vehicle group designation as follows:

(a) A person, before operating a combination of vehicles with a gross combination weight rating of 26,001 pounds or more including a towed vehicle with a gross vehicle weight rating of more than 10,000 pounds, shall procure a group A vehicle designation on his or her operator's or chauffeur's license. Unless an indorsement or the removal of restrictions is required, a person licensed to operate a group A vehicle may operate a group B or C vehicle without taking another test.

(b) A person, before operating a vehicle having a gross vehicle weight rating of 26,001 pounds or more, shall procure a group B vehicle designation on his or her operator's or chauffeur's license. Unless an indorsement or the removal of restrictions is required, a person licensed to operate a group B vehicle may operate a group C vehicle without taking another test.

(c) A person, before operating a single vehicle having a gross vehicle weight rating under 26,001 pounds or a vehicle having a gross vehicle weight rating under 26,001 pounds towing a trailer or other vehicle and carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, or designed to transport 16 or more passengers including the driver, shall procure a group C vehicle designation and a hazardous material or passenger vehicle indorsement on his or her operator's or chauffeur's license.

(2) An applicant for a vehicle group designation shall take knowledge and driving skills tests that comply with minimum federal standards prescribed in 49 C.F.R. part 383 as required under this act.

(3) The license shall be issued, suspended, revoked, canceled, or renewed in accordance with this act.

(4) Except as provided in this subsection, all of the following apply:

(a) If a person operates a group B passenger vehicle while taking his or her driving skills test for a P indorsement, he or she is restricted to operating only group B or C passenger vehicles under that P indorsement.

(b) If a person operates a group C passenger vehicle while taking his or her driving skills test for a P indorsement, he or she is restricted to operating only group C passenger vehicles under that P indorsement.

(c) A person who fails the air brake portion of the written or driving skills test provided under section 312f or who takes the driving skills test provided under that section in a commercial motor vehicle that is not equipped with air brakes shall not operate a commercial motor vehicle equipped with air brakes.

(5) A person, before operating a commercial motor vehicle, shall obtain required vehicle indorsements as follows:

(a) A person, before operating a commercial motor vehicle pulling double trailers, shall procure the appropriate vehicle group designation and a T vehicle indorsement under this act.

(b) A person, before operating a commercial motor vehicle that is a tank vehicle, shall procure the appropriate vehicle group designation and an N vehicle indorsement under this act.

(c) A person, before operating a commercial motor vehicle carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, shall procure the appropriate vehicle group designation and an H vehicle indorsement under this act.

(d) A person, before operating a commercial motor vehicle that is a tank vehicle carrying hazardous material, shall procure the appropriate vehicle group designation and both an N and H vehicle indorsement, which shall be designated by the code letter X on the person's operator's or chauffeur's license.

(e) A person, before operating a vehicle designed to transport 16 or more passengers including the driver, shall procure the appropriate vehicle group designation and a P vehicle indorsement under this act. An applicant for a P vehicle indorsement shall take the driving skills test in a vehicle designed to transport 16 or more passengers including the driver.

(6) An applicant for an indorsement shall take the knowledge and driving skills tests described and required pursuant to 49 C.F.R. part 383.

(7) The holder of an unexpired operator's or chauffeur's license may be issued a vehicle group designation and indorsement valid for the remainder of the license upon meeting the qualifications of section 312f and payment of the original vehicle group designation fee of $20.00 and an indorsement fee of $5.00 per indorsement, and a corrected license fee of $6.00. A person required to procure an F vehicle indorsement pursuant to subsection (9) shall pay an indorsement fee of $5.00.

(8) Except as otherwise provided in subsections (9) and (10), this section does not apply to a driver or operator of a vehicle under all of the following conditions:

(a) The vehicle is controlled and operated by a farmer or an employee or family member of the farmer.

(b) The vehicle is used to transport agricultural products, farm machinery, farm supplies, or a combination of these items, to or from a farm.

(c) The vehicle is not used in the operation of a common or contract motor carrier.

(d) The vehicle is operated within 150 miles of the farm.

(9) A person, before driving or operating a combination of vehicles having a gross vehicle weight rating of 26,001 pounds or more on the power unit that is used as described in subsection (8)(a) to (d), shall obtain an F vehicle indorsement. The F vehicle indorsement shall be issued upon successful completion of a knowledge test only.

(10) A person, before driving or operating a single vehicle truck having a gross vehicle weight rating of 26,001 pounds or more or a combination of vehicles having a gross vehicle weight rating of 26,001 pounds or more on the power unit that is used as described in subsection (8)(a) to (d) for carrying hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199, shall successfully complete both a knowledge test and a driving skills test. Upon successful completion of the knowledge test and driving skills test, the person shall be issued the appropriate vehicle group designation and any vehicle indorsement necessary under this act.

(11) This section does not apply to a police officer operating an authorized emergency vehicle or to a firefighter operating an authorized emergency vehicle who has met the driver training standards of the Michigan fire fighters' training council.

(12) This section does not apply to a person operating a motor home or a vehicle used exclusively to transport personal possessions or family members for nonbusiness purposes.

(13) The money received and collected under subsection (7) for a vehicle group designation or indorsement shall be deposited in the state treasury to the credit of the general fund. The secretary of state shall refund out of the fees collected to each county

or municipality acting as an examining officer or examining bureau $3.00 for each applicant examined for a first designation or indorsement to an operator's or chauffeur's license and $1.50 for each renewal designation or indorsement to an operator's or chauffeur's license, whose application is not denied, on the condition that the money refunded shall be paid to the county or local treasurer and is appropriated to the county, municipality, or officer or bureau receiving that money for the purpose of carrying out this act.

(14) Notwithstanding any other provision of this section, a person operating a vehicle described in subsections (8) and (9) is subject to the provisions of sections 303 and 319b.

257.401 Civil actions; liability of owner; liability of lessor; construction of subsections (3) and (4); "motor vehicle" defined; liability for off lease vehicle.

Sec. 401. (1) This section shall not be construed to limit the right of a person to bring a civil action for damages for injuries to either person or property resulting from a violation of this act by the owner or operator of a motor vehicle or his or her agent or servant. The owner of a motor vehicle is liable for an injury caused by the negligent operation of the motor vehicle whether the negligence consists of a violation of a statute of this state or the ordinary care standard required by common law. The owner is not liable unless the motor vehicle is being driven with his or her express or implied consent or knowledge. It is presumed that the motor vehicle is being driven with the knowledge and consent of the owner if it is driven at the time of the injury by his or her spouse, father, mother, brother, sister, son, daughter, or other immediate member of the family.

(2) A person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle under a lease providing for the use of the motor vehicle by the lessee for a period that is greater than 30 days, or a dealer acting as agent for that lessor, is not liable at common law for damages for injuries to either person or property resulting from the operation of the leased motor vehicle, including damages occurring after the expiration of the lease if the vehicle is in the possession of the lessee.

(3) Notwithstanding subsection (1), a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle under a lease providing for the use of the motor vehicle by the lessee for a period of 30 days or less is liable for an injury caused by the negligent operation of the leased motor vehicle only if the injury occurred while the leased motor vehicle was being operated by an authorized driver under the lease agreement or by the lessee's spouse, father, mother, brother, sister, son, daughter, or other immediate family member. Unless the lessor, or his or her agent, was negligent in the leasing of the motor vehicle, the lessor's liability under this subsection is limited to $20,000.00 because of bodily injury to or death of 1 person in any 1 accident and $40,000.00 because of bodily injury to or death of 2 or more persons in any 1 accident.

(4) A person engaged in the business of leasing motor vehicles as provided under subsection (3) shall notify a lessee that the lessor is liable only up to the maximum amounts provided for in subsection (3), and only if the leased motor vehicle was being operated by the lessee or other authorized driver or by the lessee's spouse, father, mother, brother, sister, son, daughter, or other immediate family member, and that the lessee may be liable to the lessor up to amounts provided for in subsection (3), and to an injured person for amounts awarded in excess of the maximum amounts provided for in subsection (3).

(5) Subsections (3) and (4) shall not be construed to expand or reduce, except as otherwise provided by this act, the liability of a person engaged in the business of leasing motor vehicles or to impair that person's right to indemnity or contribution, or both.

(6) As used in subsections (3), (4), and (5), "motor vehicle" means a self-propelled device by which a person or property may be transported upon a public highway. Motor vehicle does not include a bus, power shovel, road machinery, agricultural machinery, or other machinery or vehicle not designed primarily for highway transportation. Motor vehicle also does not include a device that moves upon or is guided by a track.

(7) A lessee in possession of an off lease vehicle, and not the dealer of the vehicle, is liable as the owner of the vehicle for any damages awarded for an injury to a person or property resulting from the operation of the vehicle. The dealer of an off lease vehicle may be liable at common law for damages awarded for an injury to a person or property resulting from the operation of the vehicle only if the dealer is in possession of the vehicle and the certificate of title and has acknowledged possession of the certificate of title to the lessor.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 653]

(SB 694)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 725a (MCL 257.725a), as amended by 1980 PA 311.

The People of the State of Michigan enact:

257.725a Transportation of farm machinery or implements by dealer; annual permit; condition.

Sec. 725a. Upon application, the state transportation department may issue an annual permit authorizing a farm implement dealer to transport by truck, truck tractor, semitrailer, or trailer upon a state highway during daylight hours, including Saturday,

farm machinery or implements of a greater width or height than authorized by this act if the transportation is otherwise permitted under those rules promulgated pursuant to section 716 that do not conflict with this section.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 654]

(SB 1221)

AN ACT to amend 1967 PA 150, entitled "An act to provide for the militia of this state and its organization, command, personnel, administration, training, supply, discipline, deployment, employment, and retirement; and to repeal acts and parts of acts," by amending section 302 (MCL 32.702).

The People of the State of Michigan enact:

32.702 Adjutant general; appointment; qualifications; tenure; pay and allowances; oath of office.

Sec. 302. The governor shall appoint the adjutant general from among qualified federally recognized officers of the national guard. The adjutant general shall have served as an officer of field or general grade in the state military establishment for not less than 5 years before appointment. The adjutant general shall serve at the pleasure of the governor, and unless sooner relieved, shall serve until the age of 64. The adjutant general shall receive pay and allowances equal to those of an active army or air force officer of like grade and service. Not later than 10 days after the appointment, the adjutant general shall file his or her constitutional oath of office with the secretary of state.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 655]

(SB 883)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an

insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding chapter 16.

The People of the State of Michigan enact:

CHAPTER 16. Creditor-Placed Insurance

500.1601 Insurer or producer transacting creditor-placed insurance; scope.

Sec. 1601. (1) This chapter applies to an insurer or producer transacting creditor-placed insurance as defined in this chapter.

(2) All creditor-placed insurance written in connection with credit transactions for personal, family, or household purposes is subject to the provisions of this chapter, except for the following:

(a) Transactions involving extensions of credit primarily for business or commercial purposes.

(b) Insurance on collateralized real property.

(c) Insurance offered by the creditor and elected by the debtor at the debtor's option.

(d) Insurance for which no specific charge is made to the debtor or the debtor's account.

(e) Blanket insurance, whether paid for by the debtor or the creditor.

500.1603 Private cause of action not created.

Sec. 1603. This chapter does not create or imply a private cause of action for violation of this chapter and does not extinguish any debtor rights available under common law or other state statute.

500.1605 Definitions.

Sec. 1605. As used in this chapter:

(a) "Actual cash value" means the cost of replacing damaged or destroyed property with comparable new property, minus depreciation and obsolescence.

(b) "Blanket insurance" means insurance that provides coverage on collateral as defined in a policy issued to a creditor, without specifically listing the collateral covered.

(c) "Collateral" means personal property that is pledged as security for the satisfaction of a debt.

(d) "Credit agreement" means the written document that sets forth the terms of the credit transaction and includes the security agreement.

(e) "Credit transaction" means a transaction by the terms of which the repayment of money loaned or credit commitment made, or payment of goods, services, or properties sold or leased, is to be made at a future date or dates.

(f) "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction, or any successor to the right, title, or interest of a lender, vendor, or lessor.

(g) "Creditor-placed insurance" means insurance that is purchased unilaterally by the creditor, who is the named insured, subsequent to the date of the credit transaction, providing coverage against loss, expense, or damage to collateralized personal property as a result of fire, theft, collision, or other risks of loss that would either impair a creditor's interest or adversely affect the value of collateral covered by limited dual interest insurance. Creditor-placed insurance is purchased according to the terms of the credit agreement as a result of the debtor's failure to provide required physical damage insurance, with the cost of the coverage being charged to the debtor. It is either single interest insurance or limited dual interest insurance.

(h) "Debtor" means the borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction.

(i) "Insurance tracking" means monitoring evidence of insurance on collateralized credit transactions to determine whether insurance required by the credit agreement has lapsed, and communicating with debtors concerning the status of insurance coverage.

(j) "Lapse" means that the insurance coverage required by the credit agreement is not in force.

(k) "Limited dual interest insurance" means insurance purchased by the creditor to insure its interest in the collateral securing the debtor's credit transaction. Limited dual interest insurance waives the 3 conditions for loss payment under single interest insurance and extends coverage on the collateral while in the possession of the debtor.

(*l*) "Loss ratio" means the ratio of incurred losses to earned premium.

(m) "Net debt" means the amount necessary to liquidate the remaining debt in a single lump-sum payment, excluding all unearned interest and other unearned charges.

(n) "Producer" means a person who receives a commission for insurance placed or written or who, on behalf of an insurer or creditor, solicits, negotiates, effects, procures,

delivers, renews, continues, or binds policies of insurance to which this chapter applies, but does not include the following:

(*i*) A regular salaried officer, employee, or other representative of an insurer who devotes substantially all working time to activities other than those specified in this subdivision and who receives no compensation that is directly dependent on the amount of insurance business written.

(*ii*) A regular salaried officer or employee of a creditor who receives no compensation that is directly dependent on the amount of insurance effected or procured.

(o) "Single interest insurance" means insurance purchased by the creditor to insure its interest in the collateral securing a debtor's credit transaction where the following 3 conditions must be met for payment of loss under the policy:

(*i*) The debtor has defaulted in payment.

(*ii*) The creditor has legally repossessed the collateral, unless collateral has been stolen from the debtor.

(*iii*) The creditor has suffered an impairment of interest.

500.1607 Dates on which insurance effective or terminated.

Sec. 1607. (1) Creditor-placed insurance shall become effective on the latest of the following dates:

(a) The date of the credit transaction.

(b) The date prior coverage, including prior creditor-placed insurance coverage, lapsed.

(c) One year before the date on which the related insurance charge is made to the debtor's account.

(d) A later date provided for in the agreement between the creditor and insurer.

(2) Creditor-placed insurance shall terminate on the earliest of the following dates:

(a) The date other acceptable insurance becomes effective, subject to the debtor providing acceptable evidence of the other insurance to the creditor.

(b) The date the collateralized personal property is repossessed, unless the property is returned to the debtor within 10 days of the repossession.

(c) The date the collateralized personal property is determined by the insurer to be a total loss.

(d) The date the debt is completely extinguished.

(e) An earlier date specified in the individual policy or certificate of insurance.

(3) An insurance charge shall not be made to a debtor for a term longer than the scheduled term of the creditor-placed insurance when it becomes effective, and an insurance charge shall not be made to the debtor for creditor-placed insurance before the effective date of the insurance.

(4) If a charge is made to a debtor for creditor-placed insurance coverage that exceeds a term of 1 year, the debtor shall be notified at least annually that the insurance will be canceled and a refund or credit of unearned charges made if evidence of acceptable insurance secured by the debtor is provided.

500.1609 Premiums; calculation; limitation; charges creating balloon payment prohibited.

Sec. 1609. (1) Premiums for creditor-placed insurance coverage may be calculated based on an amount not exceeding the net debt even though the coverage may limit the

insurer's liability to the net debt, actual cash value, or cost of repair, or other premium calculation methods that more closely reflect the exposure of each item insured and approximate the premium calculation method of the coverage required by the credit agreement.

(2) An insurer shall not write creditor-placed insurance for which the premium rate differs from that determined by the schedules of the insurer on file with the commissioner. The premium or amount charged to the debtor for creditor-placed insurance shall not exceed the premiums charged by the insurer, computed at the time the charge to the debtor is determined.

(3) A method of billing insurance charges to the debtor on closed-end credit transactions that creates a balloon payment at the end of the credit transaction or extends the credit transaction's maturity date is prohibited, unless specifically disclosed at the time of the origination of the credit agreement and specifically agreed to by the debtor at the time the charge is added to the outstanding credit balance.

500.1611 Exclusions.

Sec. 1611. (1) Creditor-placed insurance coverage does not include any of the following:

(a) Coverage for the cost of repossession.

(b) Skip, confiscation, and conversion coverage.

(c) Coverage for payment of mechanics' or other liens that do not arise from a covered loss occurrence.

(d) Coverage that requires a debtor's insurance deductible to be less than $250.00.

(e) Coverage that is broader than the insurance coverages that meet the minimum insurance requirements of the credit agreement.

(2) This section does not prohibit the issuance of a separate policy or endorsement providing the coverages listed in subsection (1). However, no charge shall be passed along to the debtor for these coverages.

500.1613 Evidence of insurance coverage.

Sec. 1613. Creditor-placed insurance shall be set forth in an individual policy or certificate of insurance. A copy of the individual policy, certificate of insurance coverage, or other evidence of insurance coverage shall be mailed, first-class mail, or delivered in person to the last known address of the debtor.

500.1615 Policy forms and certificates of insurance; filing; schedule of premium rates; withdrawal of approval.

Sec. 1615. (1) All policy forms and certificates of insurance to be delivered or issued for delivery in this state and the schedules of premium rates pertaining to them shall be filed with the commissioner.

(2) Within 30 days after the filing of the policy forms and certificates of insurance, the commissioner shall disapprove a form that does not conform to this act. Within 30 days of filing, the commissioner shall disapprove a schedule of premium rates pertaining to the form if it does not conform to the standard set forth in subsection (5).

(3) If the commissioner disapproves a form or schedule of premium rates, the commissioner shall promptly notify the insurer in writing of the disapproval, and the insurer shall not issue or use the form or schedule. The commissioner shall specify the reasons for disapproval in the notice and state that a hearing will be granted upon request pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Unless the commissioner disapproves the form or schedule of premium rates as provided in this section or gives written approval of the form or schedule within 30 days after the filing, the form or schedule is considered approved 31 days after the filing.

(5) A schedule of premium rates shall provide for premiums that are not unreasonable in relation to the benefits provided by the form to which the schedule applies. A premium rate or schedule of premium rates is reasonable for purposes of this section if the rate or schedule of rates produces or may reasonably be expected to produce a loss ratio of 60% or greater. This subsection does not prohibit the commissioner from approving other loss ratios he or she finds reasonable.

(6) The commissioner may withdraw approval of an approved form or schedule of premium rates when the commissioner would be required to disapprove the form or schedule of premium rates if it were filed at the time of the withdrawal. The withdrawal shall be in writing and shall specify the reasons for withdrawal and the effective date of the withdrawal. An insurer adversely affected by a withdrawal may, within 30 days after receiving the written notification of the withdrawal, request a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to determine whether the withdrawal should be annulled, modified, or confirmed. Unless the commissioner grants an extension in writing in the withdrawal or subsequently grants an extension, the withdrawal, in the absence of a request for hearing, shall become effective prospectively and not retroactively, 91 days after delivery of the notice of withdrawal and, if the request for hearing is filed, 91 days after delivery of written notice of the commissioner's determination.

500.1617 Refund of unearned premium or other charges; statement of refund; amount.

Sec. 1617. (1) Not later than 60 days after the termination of creditor-placed insurance coverage, and in accordance with sections 2833(1)(h) and 3020(1)(c), an insurer shall refund any unearned premium or other identifiable charges.

(2) Not later than 60 days after the termination date of creditor-placed insurance coverage, the insurer shall provide to the debtor a statement of refund disclosing the effective date, the termination date, the amount of premium being refunded, and the amount of premium charged for the coverage provided.

(3) If coverage under this chapter is not provided, the entire amount of premiums, minimum premiums, fees, or charges of any kind shall be refunded.

500.1619 Loss incurred; payment; reduced net debt or actual cash value amounts; subrogation; written statement; towing and storage charges.

Sec. 1619. (1) If a loss is incurred under a creditor-placed insurance policy, the insurer shall pay, at a minimum, the lesser of the following, determined as of the date of loss:

(a) The cost to repair the collateral less any applicable deductible.

(b) The actual cash value of the collateral, less any applicable deductible.

(c) The net debt, less any applicable deductible. The method of calculation of net debt payable pursuant to this subdivision shall be identical to the method of calculation of net debt for payment of premiums pursuant to section 1609(1).

(d) If single interest insurance is provided, the amount by which the creditor's interest is impaired.

(2) The net debt or actual cash value amounts in subsection (1) may be reduced by the value of salvage if the insurer does not take possession of the insured property.

(3) In the event of a loss, no subrogation shall run against the debtor from the insurer.

(4) Whenever a claim is made on a creditor-placed insurance policy, the insurer shall furnish to the claimant a written statement of the loss explaining the settlement amount and the method of settlement.

(5) A creditor or insurer shall not abandon salvage to a towing or storage facility in lieu of payment of storage fees without the consent of the facility and the claimant. The insurer shall be responsible for the payment of towing and storage charges for a covered loss occurrence from the time the claim is reported to the insurer in accordance with the terms of the policy to the time the claim is paid. The insurer shall give written notice to the claimant when the claim is paid that the claimant may incur storage charges after the date the claim is paid.

500.1621 Insurance on collateral; conditions.

Sec. 1621. (1) For a creditor to place insurance on collateral pledged by the debtor and pass the cost of the insurance on to the debtor, all of the following must be met:

(a) The creditor must have a security interest in the collateral.

(b) The credit agreement must require the debtor to maintain insurance on the collateral to protect the creditor's interest.

(c) The credit agreement must authorize the creditor to place the insurance if the debtor fails to provide evidence of the insurance.

(d) The requirements listed in subdivisions (a) to (c) must be clearly disclosed to the debtor at the inception of the credit transaction.

(2) A debtor has the right to provide required insurance through existing policies of insurance owned or controlled by the debtor or of procuring and furnishing the required coverage through an insurer authorized to transact insurance within this state. However, a creditor may establish maximum acceptable deductibles, insurer solidity standards, and other reasonable conditions with respect to the required insurance.

500.1623 Rebates or inducements; prohibitions.

Sec. 1623. (1) The entire amount of the premium due from a creditor shall be remitted to the insurer or its producer in accordance with the insurer's requirements. No commissions may be paid to, or retained by, a person or entity except a licensed and appointed producer.

(2) A creditor shall not retain unearned premiums upon cancellation of the insurance without crediting to the debtor's account the amount of unearned insurance charges.

(3) Rebates to the creditor of a portion of the premium charged to the debtor are prohibited as are other inducements provided to the creditor by an insurer or producer. All of the following activities are prohibited rebates or inducements:

(a) Allowing insurers or producers to purchase certificates of deposit from the creditor or to maintain accounts with the creditor at less than the market interest rates and charges that the creditor applies to other customers for deposit accounts of similar amounts and duration.

(b) Paying a commission to a person, including a creditor, who is not appropriately licensed as a producer in this state.

(c) Purchasing or offering to purchase certificates of deposit from, or maintaining or offering to maintain deposit accounts or investment accounts with a creditor as part of a creditor-placed insurance solicitation.

(d) Any other activity identified by the commissioner and prohibited by rule, regulation, or order.

(4) Prohibited rebates or inducements do not include any of the following:

(a) The paying of commissions and other compensation to a duly licensed and appointed producer, whether or not affiliated with the creditor.

(b) The paying to the creditor policyholder of group experience rated refunds or policy dividends.

(c) The providing of insurance tracking and other services incidental to the creditor-placed insurance program.

(d) The paying to the creditor of amounts intended to reimburse the creditor for its expenses incurred incidental to the creditor-placed insurance program, such as costs of data processing, mail processing, telephone service, insurance tracking, billing, collection, and related activities, provided that these payments are approved in a manner consistent with the procedures in section 1615 and are calculated in a manner that does not exceed an amount reasonably estimated to equal the expenses incurred by the creditor.

(5) An insurer that pays commissions to producers for creditor-placed insurance that are greater than 20% of the net written premium shall demonstrate to the commissioner that the commissions are not unreasonably high in relation to the value of the services rendered.

(6) This section does not prohibit or restrict an insurer or producer from maintaining a demand, premium deposit, or other account or accounts with a creditor for which the insurer or producer provides insurance if the accounts pay the market interest rate and charges that the creditor applies to other customers for deposit accounts of similar amounts and duration.

500.1625 Adequate disclosure of requirement to maintain insurance; notice; final notice; noncompliance.

Sec. 1625. (1) A creditor shall not impose charges, including premium costs and related interest and finance charges, on a debtor for creditor-placed insurance coverage unless adequate disclosure of the requirement to maintain insurance has been made to the debtor. Adequate disclosure is accomplished if all of the following occur:

(a) The credit agreement sets forth the requirement that the debtor must maintain insurance on the collateral as provided for in section 1621.

(b) The creditor makes reasonable efforts to notify the debtor of the requirement to maintain insurance and allows a reasonable time for compliance with this requirement.

(c) A final notice as required by this chapter is sent to the debtor.

(d) If creditor-placed insurance coverage is issued, a copy of the policy or certificate is sent to the debtor as provided for in section 1613.

(2) After adequate disclosure of the request to maintain insurance has been made to the debtor as required by this section, a creditor may proceed to impose charges for creditor-placed insurance if the debtor fails to provide evidence of insurance. A creditor may impose charges no earlier than 10 days after sending the final notice.

(3) Reasonable efforts to notify the debtor under subsection (1)(b) are accomplished if the creditor does all of the following:

(a) Mails a notice by first-class mail to the debtor's last known address as contained in the creditor's records, stating that the creditor intends to charge the debtor for creditor-

placed insurance coverage on the collateral if the debtor fails to provide evidence of the property insurance to the creditor.

(b) Allows the debtor at least 20 days to respond to the notice and provide evidence of acceptable insurance coverage before sending a final notice.

(c) Sends a final notice in compliance with this section by first-class mail to the debtor's last known address as contained in the creditor's records at least 10 days before the cost of insurance is charged to the debtor by the creditor. Proof of the mailing of the final notice shall be retained for at least 3 years following the expiration or termination of the coverage or as otherwise required by law.

(4) The initial notice under this section shall be in a form determined by the creditor to remind the debtor of the requirement to maintain insurance on the collateral. The final notice under this section shall be as complete as the following notice, printed in not less than 12-point type, and modified where necessary to fit the nature of the credit transaction:

FINAL NOTICE

Your credit agreement with us requires you to have property insurance on the collateral until you pay off your loan. You have not given us proof you have insurance on the property. You can ask your insurance company or agent to give us proof of insurance or you can send us proof you have property insurance within 10 calendar days after the date this letter was postmarked. If you do not, we will buy the insurance and charge the cost to you.

You must pay for the property insurance we buy. It may cost more than insurance you can buy on your own. The cost of the insurance we buy may be added to your loan balance and we may charge you interest on it. If we do, you will pay interest at the same rate you pay on your loan.

The insurance we buy will pay claims to us (the creditor) for physical damage to your property. It will not pay any claims made against you [and it may not pay you for any claims you make (delete if limited dual interest coverage)]. The insurance we buy will not give you any liability insurance coverage and will not meet the requirements of a state's financial responsibility law.

We may receive compensation for placing this insurance, which is included in the cost of coverage charged to you.

The property coverage we buy will start on the date shown in the policy or certificate, which may go back to the date of the loan or the date your prior coverage stopped. We will cancel the insurance we bought for you and give you a refund or credit of unearned charges if you give us proof you have bought property insurance somewhere else or if you have paid off the loan.

(5) All creditor-placed insurance shall be set forth in an individual policy or certificate of insurance. Not earlier than the sending of the final notice nor 25 days after a charge is made to the debtor for creditor-placed insurance coverage, the creditor shall cause a copy of the individual policy, certificate, or other evidence of insurance coverage evidencing the creditor-placed insurance coverage to be sent, first-class mail, to the debtor's last known address.

(6) A creditor's compliance with or failure to comply with this chapter shall not be construed to require the creditor to purchase insurance coverage on the collateral, and the creditor is not liable to the debtor or a third party as a result of its failure to purchase the insurance.

500.1627 Investigations or examinations; enforcement; hearing; consent agreement; injunctive relief.

Sec. 1627. (1) In addition to other powers under this act, the commissioner may conduct investigations or examinations of insurers and producers to ensure compliance with and enforcement of the provisions of this chapter.

(2) Upon finding that an insurer or producer has violated a provision of this chapter or a regulation promulgated under this chapter, the commissioner may issue an order directing that the insurer or producer cease and desist from committing the violations, impose a civil penalty for the violations, provide an equitable remedy for past violations, or any combination of these.

(3) Upon the issuance of an order under subsection (2), the insurer or producer may request a hearing. At the hearing, the burden shall be on the insurer or producer to show cause why an order issued pursuant to subsection (2) should be annulled, modified, or confirmed. Pending the hearing and the decision by the commissioner, the commissioner shall suspend the effective date of the order. Not more than 60 days after the hearing, the commissioner shall enter an order of final determination that shall specify all relevant findings of fact, conclusions of law, and orders. With the agreement of each affected insurer or producer, and in lieu of a hearing, the commissioner may enter into a consent agreement disposing of the matters that would be the subject of the hearing and order.

(4) The commissioner may bring an action in the circuit court for Ingham county for an injunction or other appropriate relief to enjoin threatened or existing violations of this chapter or of the commissioner's orders or regulations or for restitution on behalf of persons aggrieved by a violation of this chapter or of the commissioner's orders or regulations.

500.1629 Judicial review; court order.

Sec. 1629. (1) A person aggrieved by a final order, decision, finding, ruling, action, or inaction provided for under this chapter may seek judicial review as provided in section 244.

(2) To the extent that the order or final determination of the commissioner is affirmed, the court shall issue its own order commanding obedience to the terms of the commissioner's order or final determination. If either party applies to the court for leave to produce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to produce the evidence in the proceeding before the commissioner, the court may order the additional evidence to be taken before the commissioner and to be produced in a hearing in the manner and upon the terms and conditions the court considers proper. The commissioner may modify the findings of fact or make new findings by reason of the additional evidence taken and shall file the modified or new findings with a recommendation, if any, for the modification or setting aside of the original order or final determination, with the return of the additional evidence.

(3) An order issued by the commissioner under section 1627 shall become final upon the expiration of the time allowed for filing a petition for review if no petition has been duly filed within that time, except that the commissioner may thereafter modify or set aside the order to the extent provided in section 1627 or upon the final decision of the court if the court directs that the order of the commissioner be affirmed or the petition for review dismissed.

(4) An order of the commissioner under this chapter or an enforcement order of a court does not relieve or absolve any person affected by the order from liability under any other laws of this state.

500.1631 Violation of order of commission; penalty.

Sec. 1631. An insurer that violates an order of the commissioner under this chapter shall be afforded a hearing before the commissioner under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If the commissioner finds a violation has occurred, the commissioner may order either or both of the following:

(a) Payment of a monetary penalty of not more than $1,000.00 for each violation, but not to exceed an aggregate penalty of $100,000.00, unless the violation was committed in a conscious and flagrant disregard of this chapter, in which case the commissioner may order the payment of a monetary penalty of not more than $25,000.00 for each violation, but not to exceed an aggregate penalty of $250,000.00.

(b) Suspension or revocation of the insurer's license.

Effective date.

Enacting section 1. This amendatory act takes effect 90 days after it is enacted into law.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 656]

(SB 1428)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify

the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 3341 (MCL 500.3341), as added by 2002 PA 251.

The People of the State of Michigan enact:

500.3341 Coverage for certain convictions; premium surcharges.

Sec. 3341. As part of its secondary or merit rating plan, the facility shall provide for premium surcharges for any or all coverages, other than comprehensive coverage, for convictions for 1 or more of the following, when that information becomes available to the facility:

(a) A violation of section 904 of the Michigan vehicle code, 1949 PA 300, MCL 257.904.

(b) A violation of section 904a of the Michigan vehicle code, 1949 PA 300, MCL 257.904a.

(c) A violation of section 91 of the Michigan penal code, 1931 PA 328, MCL 750.91, resulting from or in connection with the operation of a motor vehicle.

(d) A violation of section 316 of the Michigan penal code, 1931 PA 328, MCL 750.316, resulting from or in connection with the operation of a motor vehicle.

(e) A violation of section 317 of the Michigan penal code, 1931 PA 328, MCL 750.317, resulting from or in connection with the operation of a motor vehicle.

(f) A violation of section 321 of the Michigan penal code, 1931 PA 328, MCL 750.321, resulting from or in connection with the operation of a motor vehicle.

(g) A violation of section 324 of the Michigan penal code, 1931 PA 328, MCL 750.324.

(h) A violation of section 382 of the Michigan penal code, 1931 PA 328, MCL 750.382, resulting from or in connection with the operation of a motor vehicle.

(i) A violation of section 413 of the Michigan penal code, 1931 PA 328, MCL 750.413.

(j) A violation of section 626c of the motor vehicle code, 1949 PA 300, MCL 257.626c.

(k) A violation substantially similar to any of the violations listed in subdivisions (a) through (j) under the laws of another state or a local unit of government of this state or another state.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 657]

(SB 1446)

AN ACT to amend 1941 PA 122, entitled "An act to establish a revenue division of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to create the position and to define the powers and duties of the state commissioner of revenue; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act," by amending the title and sections 1, 3, 4, 12, 19, 21, 24, 25, 26, 27a, 28, and 31 (MCL 205.1, 205.3, 205.4, 205.12, 205.19, 205.21, 205.24, 205.25, 205.26, 205.27a, 205.28, and 205.31), the title as amended by 1999 PA 182, sections 3, 12, 25, and 26 as amended by 1986 PA 58, section 4 as added and section 27a as amended by 1993 PA 14, section 19 as amended by 1996 PA 479, section 21 as amended by 1993 PA 13, sections 24 and 31 as amended by 2001 PA 168, and section 28 as amended by 2000 PA 308; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

TITLE

An act to establish the revenue collection duties of the department of treasury; to prescribe its powers and duties as the revenue collection agency of the state; to prescribe certain powers and duties of the state treasurer; to regulate the importation, stamping, and disposition of certain tobacco products; to provide for the transfer of powers and duties now vested in certain other state boards, commissions, departments and offices; to prescribe certain duties of and require certain reports from the department of treasury; to provide procedures for the payment, administration, audit, assessment, levy of interests or penalties on, and appeals of taxes and tax liability; to prescribe its powers and duties if an agreement to act as agent for a city to administer, collect, and enforce the city income tax act on behalf of a city is entered into with any city; to provide an appropriation; to abolish the state board of tax administration; to prescribe penalties and provide remedies; and to declare the effect of this act.

205.1 Department of treasury as agency responsible for tax collection.

Sec. 1. (1) The department of treasury is the agency of this state responsible for the collection of taxes and is responsible for all of the following:

(a) Coordinated collection of state taxes, assessments, licenses, fees, and other money as may be designated by law.

(b) Specialized service for tax enforcement, through establishment and maintenance of uniformity in definition, regulation, return, and payment.

(c) Avoidance of duplication in state facilities for tax collections that involve seasonal or occasional increases of staff, duplication of audits, and wasteful travel expenses.

(d) Safeguarding tax and other collections wherever received until duly deposited in the state treasury.

(e) Providing an advisory service on fiscal status, processes, and needs of state government, including periodic reports on payments, receipts, and debts.

(f) Development of a state revenue enforcement service by means of a staff that is permanent, qualified by training and experience, protected by merit system procedure, and so organized as to serve the public with efficiency, economy, consistency, and equity.

(2) Any reference to the department of revenue in this act or any other act shall mean the state treasurer. Any reference to the state commissioner of revenue in this act or any other act shall mean the state treasurer.

(3) As used in this act, "department" means the department of treasury.

205.3 Department of treasury and state treasurer; powers and duties generally.

Sec. 3. The department shall have all the powers and perform the duties formerly vested in any department, board, commission, or other agency, in connection with taxes due to or claimed by the state and in connection with unpaid accounts or amounts due to the state or any of its departments, institutions, or agencies which may be made payable to or collectible by the department created by this act, and the power and authority incidental to the performance of the following acts, duties, and services:

(a) The state treasurer or any of the duly appointed agents of the state treasurer may examine the books, records, and papers touching the matter at issue of any person or taxpayer subject to any tax, unpaid account, or amount the collection of which is charged to the department. The state treasurer or any of the duly appointed agents of the state treasurer may issue a subpoena requiring a person to appear and be examined with reference to a matter within the scope of the inquiry or investigation being conducted by the department and to produce any books, records, or papers. The state treasurer or any of the duly appointed agents, referees, or examiners of the state treasurer may administer an oath to a witness in any matter before the department. The department may invoke the aid of the circuit court of this state in requiring the attendance and testimony of witnesses and the producing of books, papers, and documents. The circuit court of the state within the jurisdiction of which an inquiry is carried on, in case of contumacy or refusal to obey a subpoena, may issue an order requiring the person to appear before the department and produce books and papers if so ordered and any evidence touching the matter in question, and failure to obey the order of the court may be punished by the court as a contempt. A person shall not be excused from testifying or from producing any books, papers, records, or memoranda in any investigation, or upon any hearing when ordered to do so by the state treasurer, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate or subject him or her to a criminal penalty, however, a person shall not be prosecuted or subjected to any criminal penalty for or on account of any transaction made or thing concerning which he or she may testify or produce evidence, documentary or otherwise, before the board or its agent. A person so testifying shall not be exempt from prosecution and punishment for perjury committed while testifying.

(b) After reasonable notice and public hearing to promulgate rules consistent with this act in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as may be necessary to the enforcement of the provisions of tax and other revenue measures which are administered by the department.

(c) Consult with the governor and the legislature upon the subject of taxation, revenue, and the administration of the laws in relation to taxation and revenue, and the progress of the work of the department, including the furnishing of reports, information, and other assistance as the governor may require.

(d) Investigate and study all matters of taxation and revenue as the basis of recommending to the governor and the legislature those changes and alterations in the tax laws of the state as in the state treasurer's judgment may bring about a more adequate and just system of state and local taxation.

(e) Formulate a standard procedure whereby the departments, commissions, boards, institutions, and the agencies of this state which collect taxes, fees, or accounts for this state shall report all sums of money due and uncollected and those uncollected items as may be prescribed by law and by the state treasurer. The procedure prescribed in this subdivision shall include a standard practice for receiving, receipting, safeguarding, and periodically reporting all state revenue receipts, whether current, delinquent, penalty, interest, or otherwise, and the amounts, kinds, and terms of items either collected, compromised, or still outstanding, to be summarized, studied, and reported upon as the state treasurer considers advisable.

(f) The department may periodically issue bulletins that index and explain current department interpretations of current state tax laws. The department may charge a reasonable fee for subscriptions to this service not to exceed the cost of printing. The money received from the sale of such subscription shall revert to the department and be placed in the taxation manual revolving fund.

205.4 Submitting rules for public hearing; developing and assembling guidelines into employee handbook; publishing and distributing handbook for taxpayers and tax preparers.

Sec. 4. (1) Not later than 1 year after the effective date of this section, the department of treasury shall submit rules for a public hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that provide for all of the following:

(a) Standards to be followed by department officers and employees for the fair and courteous treatment of the public, and a system for monitoring compliance with those standards.

(b) The procedures governing an informal conference held under section 21. These procedures shall include at least all of the following:

(*i*) A method by which the department attempts to schedule the informal conference at a mutually convenient time and place.

(*ii*) A requirement that the department include in the notice for the informal conference the scope and nature of the subject of the informal conference.

(*iii*) Authorization for the taxpayer at whose request the informal conference is being held to make a sound recording of the informal conference with prior notice to the department and for the department to do the same with prior notice to the taxpayer.

(2) Not later than 1 year after the effective date of this section, the department shall develop guidelines to govern departmental employee responses to inquiries from the public and standards for tax audit activities. The guidelines shall explicitly exclude the use of a collection goal or quota for evaluating an employee. The department shall assemble the guidelines required by this subsection into an employee handbook. However, the handbook shall not disclose information or parameters excluded from disclosure under

section 28(1)(f). The department shall distribute the handbook to all departmental employees involved in the collection or auditing of taxes and shall make the handbook available to the public.

(3) The department shall publish a handbook for taxpayers and tax preparers. The handbook shall be made available at a reasonable cost, not to exceed the actual cost of publication, and shall contain all of the following:

(a) The audit and collection procedures used by the department.

(b) The procedures governing departmental communications with taxpayers in the audit and collection process.

205.12 Signing orders, certificates, jeopardy assessments, and subpoenas.

Sec. 12. All orders, certificates, jeopardy assessments, and subpoenas made or issued by the department shall be signed by the state treasurer or the state treasurer's designee.

205.19 Remittances of taxes; income tax withholding; failure to remit tax; penalties; disposition of money not paid to department of treasury; allocation of payment.

Sec. 19. (1) All remittances of taxes administered by this act shall be made to the department payable to the state of Michigan by bank draft, check, cashier's check, certified check, money order, cash, or electronic funds transfer. The money received shall be credited as provided by law. A remittance other than cash or electronic funds transfer shall not be a final discharge of liability for the tax assessed and levied until the instrument remitted has been honored.

(2) For reporting periods beginning after August 31, 1991, a taxpayer other than a city or a county who paid in the immediately preceding calendar year an average of $40,000.00 or more per month in income tax withholding pursuant to the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, shall deposit Michigan income tax withholding either in the same manner and according to the same schedule as deposits of federal income tax withholding or in another manner that has been approved by the department.

(3) For failure to remit a tax administered by this act with a negotiable remittance, the following penalty may be added in addition to any other penalties imposed by this act:

(a) For notices of intent to assess issued on or before February 28, 2003, 25% of the tax due.

(b) For notices of intent to assess issued after February 28, 2003, $50.00.

(4) The department may require that all money collected by the taxpayer for taxes administered by this act that has not been paid to the department of treasury is public money and the property of this state, and shall be held in trust in a separate account and fund for the sole use and benefit of this state until paid over to the department of treasury.

(5) For tax years after the 1995 tax year for which taxes are collected under an agreement entered into pursuant to section 9 of the city income tax act, 1964 PA 284, MCL 141.509, if a taxpayer pays, when filing his or her annual return, an amount less than the sum of the declared tax liability under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, and the declared tax liability under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and if there is no indication of the allocation of payment between the tax liabilities against which the payment should be applied, the amount paid shall first be applied against the taxpayer's tax liability under the city income tax act, 1964 PA 284, MCL 141.501 to 141.787, and any remaining amount of the payment shall be applied to the

taxpayer's tax liability under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. The taxpayer's designation of a payee on a payment is not a dispositive determination of the allocation of that payment under this subsection.

205.21 Failure or refusal to make return or payment; obtaining information on which to base assessment; procedure; frivolous protest; penalty.

Sec. 21. (1) If a taxpayer fails or refuses to make a return or payment as required, in whole or in part, or if the department has reason to believe that a return made or payment does not supply sufficient information for an accurate determination of the amount of tax due, the department may obtain information on which to base an assessment of the tax. By its duly authorized agents, the department may examine the books, records, and papers and audit the accounts of a person or any other records pertaining to the tax.

(2) In carrying out this section, the department and the taxpayer shall comply with the following procedure:

(a) The department shall send to the taxpayer a letter of inquiry stating, in a courteous and nonintimidating manner, the department's opinion that the taxpayer needs to furnish further information or owes taxes to the state, and the reason for that opinion. A letter of inquiry shall also explain the procedure by which the person may initiate communication with the department to resolve any dispute. This subdivision does not apply in any of the following circumstances:

(*i*) The taxpayer files a return showing a tax due and fails to pay that tax.

(*ii*) The deficiency resulted from an audit of the taxpayer's books and records by this state.

(*iii*) The taxpayer otherwise affirmatively admits that a tax is due and owing.

(b) If the dispute is not resolved within 30 days after the department sends the taxpayer a letter of inquiry or if a letter of inquiry is not required pursuant to subdivision (a), the department, after determining the amount of tax due from a taxpayer, shall give notice to the taxpayer of its intent to assess the tax. The notice shall include the amount of the tax the department believes the taxpayer owes, the reason for that deficiency, and a statement advising the taxpayer of a right to an informal conference, the requirement of a written request by the taxpayer for the informal conference that includes the taxpayer's statement of the contested amounts and an explanation of the dispute, and the 30-day time limit for that request.

(c) If the taxpayer serves written notice upon the department within 30 days after the taxpayer receives a notice of intent to assess, remits the uncontested portion of the liability, and provides a statement of the contested amounts and an explanation of the dispute, the taxpayer is entitled to an informal conference on the question of liability for the assessment.

(d) Upon receipt of a taxpayer's written notice, the department shall set a mutually agreed upon or reasonable time and place for the informal conference and shall give the taxpayer reasonable written notice not less than 20 days before the informal conference. The notice shall specify the intent to assess, type of tax, and tax year that is the subject of the informal conference. The informal conference provided for by this subdivision is not subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, but is subject to the rules governing informal conferences as promulgated by the department in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The taxpayer may appear or be represented by any person before the department at an informal conference, and may present testimony and argument. At

the party's own expense and with advance notice to the other party, a taxpayer or the department, or both, may make an audio recording of an informal conference.

(e) After the informal conference, the department shall render a decision and order in writing, setting forth the reasons and authority, and shall assess the tax, interest, and penalty found to be due and payable. The decision and order are limited to the subject of the informal conference as included in the notice under subdivision (d).

(f) If the taxpayer does not protest the notice of intent to assess within the time provided in subdivision (c), the department may assess the tax and the interest and penalty on the tax that the department believes are due and payable. An assessment under this subdivision or subdivision (e) is final and subject to appeal as provided in section 22. The final notice of assessment shall include a statement advising the person of a right to appeal.

(3) If a protest to the notice of intent to assess the tax is determined by the department to be a frivolous protest or a desire by the taxpayer to delay or impede the administration of taxes administered under this act, a penalty of $25.00 or 25% of the amount of tax under protest, whichever is greater, shall be added to the tax.

205.24 Failure or refusal to file return or pay tax; assessment; notice; penalty; interest; waiver; penalty for failure or refusal to file informational report; failure to pay estimated tax payment.

Sec. 24. (1) If a taxpayer fails or refuses to file a return or pay a tax administered under this act within the time specified, the department, as soon as possible, shall assess the tax against the taxpayer and notify the taxpayer of the amount of the tax. A liability for a tax administered under this act is subject to the interest and penalties prescribed in subsections (2) to (5).

(2) Except as provided in subsections (3) and (6), if a taxpayer fails or refuses to file a return or pay a tax within the time specified for notices of intent to assess issued on or before February 28, 2003, a penalty of $10.00 or 5% of the tax, whichever is greater, shall be added if the failure is for not more than 1 month, with an additional 5% penalty for each additional month or fraction of a month during which the failure continues or the tax and penalty is not paid, to a maximum of 50%. Except as provided in subsections (3) and (6), if a taxpayer fails or refuses to file a return or pay a tax within the time specified for notices of intent to assess issued after February 28, 2003, a penalty of 5% of the tax shall be added if the failure is for not more than 2 months, with an additional 5% penalty for each additional month or fraction of a month during which the failure continues or the tax and penalty is not paid, to a maximum of 25%. In addition to the penalty, interest at the rate provided in section 23 for deficiencies in tax payments shall be added on the tax from the time the tax was due, until paid. After June 30, 1994, the penalty prescribed by this subsection shall not be imposed until the department submits for public hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, a rule defining what constitutes reasonable cause for waiver of the penalty under subsection (4), which definition shall include illustrative examples.

(3) If a person is required to remit tax due pursuant to section 19(2) and fails or refuses to pay the tax within the time specified, a penalty of 0.167% of the tax shall be added for each day during which the failure continues or the tax and penalty are not paid as follows:

(a) For notices of intent to assess issued on or before February 28, 2003, to a maximum of 50% of the tax.

(b) For notices of intent to assess issued after February 28, 2003, to a maximum of 25% of the tax.

(4) If a return is filed or remittance is paid after the time specified and it is shown to the satisfaction of the department that the failure was due to reasonable cause and not to willful neglect, the state treasurer or an authorized representative of the state treasurer shall waive the penalty prescribed by subsection (2).

(5) For failure or refusal to file an information return or other informational report required by a tax statute, within the time specified, a penalty of $10.00 per day for each day for each separate failure or refusal may be added. The total penalty for each separate failure or refusal shall not exceed $400.00.

(6) If a taxpayer fails to pay an estimated tax payment as may be required by the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, a penalty shall not be imposed if the taxpayer was not required to make estimated tax payments in the taxpayer's immediately preceding tax year.

205.25 Demand for payment; warrant; levy on and sale of property; refusal or failure to surrender property; personal liability; penalty; reduction of obligation; exemptions; effect of levy on salary or wages; service of warrant-notice of levy.

Sec. 25. (1) The state treasurer, or an authorized representative of the state treasurer, may cause a demand to be made on a taxpayer for the payment of a tax, unpaid account, or amount due the state or any of its departments, institutions, or agencies, subject to administration under this act. If the liability remains unpaid for 10 days after the demand and proceedings are not taken to review the liability, the state treasurer or an authorized representative of the state treasurer may issue a warrant under the official seal of that office. Except as provided in subsection (5), the state treasurer or an authorized representative of the state treasurer, through any state officer authorized to serve process or through his or her authorized employees, may levy on all property and rights to property, real and personal, tangible and intangible, belonging to the taxpayer or on which a lien is provided by law for the amount of the deficiency, and sell the real and personal property of the taxpayer found within the state for the payment of the amount due, the cost of executing the warrant, and the additional penalties and interest. Except as provided in subsection (6), the officer or agent serving the warrant shall proceed upon the warrant in all respects and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record. The state, through the state treasurer or an authorized representative of the state treasurer, may bid for and purchase any property sold pursuant to this section.

(2) A person who refuses or fails to surrender any property or rights to property subject to levy, upon demand by the state treasurer or an authorized representative of the state treasurer, is personally liable to the state in a sum equal to the value of the property or rights not surrendered, but not exceeding the amount due for which the levy was made, together with costs and interest on the sum at the rate provided in section 23(2) from the date of the levy. Any amount, other than costs, recovered under this subsection shall be credited against the liability for the collection of which the levy was made.

(3) In addition to the personal liability imposed by subsection (2), if a person required to surrender property or rights to property fails or refuses to surrender the property or rights to property without reasonable cause, the person shall be liable for a penalty equal to 50% of the amount recoverable under subsection (2), none of which penalty shall be credited against the liability for the collection of which the levy was made.

(4) A person in possession of, or obligated with respect to, property or property rights subject to levy and upon which a levy has been made who, upon demand of the state

treasurer or an authorized representative of the state treasurer, surrenders the property or rights to property or discharges the obligation to the state treasurer or an authorized representative of the state treasurer or who pays a liability under subsection (1) shall have his or her obligation to a person delinquent in payment of a tax or other account reduced in an amount equal to the property or rights to property surrendered or amounts paid to the state.

(5) There shall be exempt from levy under this section:

(a) For an unpaid tax, the type of property and the amount of that property as provided in section 6334 of the internal revenue code of 1986.

(b) For an unpaid account, or amount due the state or any of its departments other than an unpaid tax, disposable earnings to the extent provided in section 303 of title III of the consumer credit protection act, 82 Stat. 163, 15 U.S.C. 1673.

(c) The effect of a levy on salary or wages shall be continuous from the date the levy is first made until the liability out of which the levy arose is satisfied.

(6) A warrant-notice of levy may be served by certified mail, return receipt requested, on any person in possession of, or obligated with respect to, property and rights to property, real and personal, tangible and intangible, belonging to the taxpayer or on which a lien is provided by law. The date of delivery on the receipt shall be the date the levy is made. A person may, upon written notice to the state treasurer, have all notices of levy by mail sent to 1 designated office.

205.26 Demand for immediate return and payment of tax; jeopardy assessment; warrant or warrant-notice of levy; time for payment.

Sec. 26. If the state treasurer or the state treasurer's designated representative finds that a person liable for a tax administered under this act intends quickly to depart from the state or to remove property from this state, to conceal the person or the person's property in this state, or to do any other act tending to render wholly or partly ineffectual proceedings to collect the tax unless proceedings are brought without delay, the state treasurer or the state treasurer's designated representative shall give notice of the findings to the person, together with a demand for an immediate return and immediate payment of the tax. A warrant or warrant-notice of levy may issue immediately upon issuance of a jeopardy assessment. In that instance, the tax shall become immediately due and payable. If the person is not in default in making a return or paying a tax prescribed by this act, and furnishes evidence satisfactory to the state treasurer or the state treasurer's designated representative under rules promulgated by the department that the return will be filed and the tax to which the state treasurer's or the state treasurer's designated representative's finding relates will be paid, then the tax shall not be payable before the time otherwise fixed for payment.

205.27a Selling or quitting business; final return; escrow account for payment of taxes; liability for taxes, interest, and penalties; assessment of deficiency, interest, or penalty; claim for refund; fraud or failure to notify of alteration or modification of federal tax liability; assessment and payment of tax, penalties, and interest; suspension of statute of limitations; personal liability of corporate officers; conditions to paying claim for refund.

Sec. 27a. (1) If a person liable for a tax administered under this act sells out his or her business or its stock of goods or quits the business, the person shall make a final return within 15 days after the date of selling or quitting the business. The purchaser or succeeding

purchasers, if any, who purchase a going or closed business or its stock of goods shall escrow sufficient money to cover the amount of taxes, interest, and penalties as may be due and unpaid until the former owner produces a receipt from the state treasurer or the state treasurer's designated representative showing that the taxes due are paid, or a certificate stating that taxes are not due. Upon the owner's written waiver of confidentiality, the department may release to a purchaser a business's known tax liability for the purposes of establishing an escrow account for the payment of taxes. If the purchaser or succeeding purchasers of a business or its stock of goods fail to comply with the escrow requirements of this subsection, the purchaser is personally liable for the payment of the taxes, interest, and penalties accrued and unpaid by the business of the former owner. The purchaser's or succeeding purchaser's personal liability is limited to the fair market value of the business less the amount of any proceeds that are applied to balances due on secured interests that are superior to the lien provided for in section 29(1).

(2) A deficiency, interest, or penalty shall not be assessed after the expiration of 4 years after the date set for the filing of the required return or after the date the return was filed, whichever is later. The taxpayer shall not claim a refund of any amount paid to the department after the expiration of 4 years after the date set for the filing of the original return. A person who has failed to file a return is liable for all taxes due for the entire period for which the person would be subject to the taxes. If a person subject to tax fraudulently conceals any liability for the tax or a part of the tax, or fails to notify the department of any alteration in or modification of federal tax liability, the department, within 2 years after discovery of the fraud or the failure to notify, shall assess the tax with penalties and interest as provided by this act, computed from the date on which the tax liability originally accrued. The tax, penalties, and interest are due and payable after notice and hearing as provided by this act.

(3) The running of the statute of limitations is suspended for the following:

(a) The period pending a final determination of tax, including audit, conference, hearing, and litigation of liability for federal income tax or a tax administered by the department and for 1 year after that period.

(b) The period for which the taxpayer and the state treasurer have consented to in writing that the period be extended.

(4) The running of the statute of limitations is suspended only as to those items that were the subject of the audit, conference, hearing, or litigation for federal income tax or a tax administered by the department.

(5) If a corporation liable for taxes administered under this act fails for any reason to file the required returns or to pay the tax due, any of its officers having control or supervision of, or charged with the responsibility for, making the returns or payments is personally liable for the failure. The signature of any corporate officers on returns or negotiable instruments submitted in payment of taxes is prima facie evidence of their responsibility for making the returns and payments. The dissolution of a corporation does not discharge an officer's liability for a prior failure of the corporation to make a return or remit the tax due. The sum due for a liability may be assessed and collected under the related sections of this act.

(6) Notwithstanding the provisions of subsection (2), a claim for refund based upon the validity of a tax law based on the laws or constitution of the United States or the state constitution of 1963 shall not be paid unless the claim is filed within 90 days after the date set for filing a return.

(7) Subsection (6) does not apply to a claim for the refund of a tax paid for the 1984 tax year or a tax year after the 1984 tax year on income received as retirement or pension

benefits from a public retirement system of the United States government if the claimant waives any claim for the refund of such a tax paid for a tax year before 1984. Claims for refunds to which this subsection applies shall be paid in accordance with the following schedule:

Refunds for tax year:	Payable on or after:
1988 and 1987	July 1, 1990
1986	July 1, 1991
1985	July 1, 1992
1984	July 1, 1993

205.28 Conditions applicable to administration of taxes; violation; penalties; records required; "adjusted gross receipts" and "wagering tax" defined.

Sec. 28. (1) The following conditions apply to all taxes administered under this act unless otherwise provided for in the specific tax statute:

(a) Notice, if required, shall be given either by personal service or by certified mail addressed to the last known address of the taxpayer. Service upon the department may be made in the same manner.

(b) An injunction shall not issue to stay proceedings for the assessment and collection of a tax.

(c) In addition to the mode of collection provided in this act, the department may institute an action at law in any county in which the taxpayer resides or transacts business.

(d) The state treasurer may request in writing information or records in the possession of any other department, institution, or agency of state government for the performance of duties under this act. Departments, institutions, or agencies of state government shall furnish the information and records upon receipt of the state treasurer's request. Upon request of the state treasurer, any department, institution, or agency of state government shall hold a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to consider withholding a license or permit of a person for nonpayment of taxes or accounts collected under this act.

(e) Except as otherwise provided in section 30c, the state treasurer or an employee of the department shall not compromise or reduce in any manner the taxes due to or claimed by this state or unpaid accounts or amounts due to any department, institution, or agency of state government. This subdivision does not prevent a compromise of interest or penalties, or both.

(f) Except as otherwise provided in this subdivision, an employee, authorized representative, or former employee or authorized representative of the department or anyone connected with the department shall not divulge any facts or information obtained in connection with the administration of a tax or information or parameters that would enable a person to ascertain the audit selection or processing criteria of the department for a tax administered by the department. An employee or authorized representative shall not willfully inspect any return or information contained in a return unless it is appropriate for the proper administration of a tax law administered under this act. A person may disclose information described in this subdivision if the disclosure is required for the proper administration of a tax law administered under this act, pursuant to a judicial order sought by an agency charged with the duty of enforcing or investigating support obligations pursuant to an order of a court in a domestic relations matter as that term is

defined in section 2 of the friend of the court act, 1982 PA 294, 552.502, or pursuant to a judicial order sought by an agency of the federal, state, or local government charged with the responsibility for the administration or enforcement of criminal law for purposes of investigating or prosecuting criminal matters or for federal or state grand jury proceedings or a judicial order if the taxpayer's liability for a tax administered under this act is to be adjudicated by the court that issued the judicial order. A person may disclose the adjusted gross receipts and the wagering tax paid by a casino licensee licensed under the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226, pursuant to section 18, sections 341, 342, and 386 of the management and budget act, 1984 PA 431, MCL 18.1341, 18.1342, and 18.1386, or authorization by the executive director of the gaming control board. However, the state treasurer or a person designated by the state treasurer may divulge information set forth or disclosed in a return or report or by an investigation or audit to any department, institution, or agency of state government upon receipt of a written request from a head of the department, institution, or agency of state government if it is required for the effective administration or enforcement of the laws of this state, to a proper officer of the United States department of treasury, and to a proper officer of another state reciprocating in this privilege. The state treasurer may enter into reciprocal agreements with other departments of state government, the United States department of treasury, local governmental units within this state, or taxing officials of other states for the enforcement, collection, and exchange of data after ascertaining that any information provided will be subject to confidentiality restrictions substantially the same as the provisions of this act.

(2) A person who violates subsection (1)(e) or (1)(f) is guilty of a felony, punishable by a fine of not more than $5,000.00, or imprisonment for not more than 5 years, or both, together with the costs of prosecution. In addition, if the offense is committed by an employee of this state, the person shall be dismissed from office or discharged from employment upon conviction.

(3) A person liable for any tax administered under this act shall keep accurate and complete records necessary for the proper determination of tax liability as required by law or rule of the department.

(4) As used in subsection (1), "adjusted gross receipts" and "wagering tax" mean those terms as described in the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

205.31 Waiver of criminal and civil penalties; conditions; amnesty program; prohibition; notice; payment in installments.

Sec. 31. (1) If a taxpayer does not satisfy a tax liability or makes an excessive claim for a refund as a result of reliance on erroneous current written information provided by the department, the state treasurer shall waive all criminal and civil penalties provided by law for failing or refusing to file a return, for failing to pay a tax, or for making an excessive claim for a refund for a tax administered by the department of treasury pursuant to this act if the taxpayer makes a written request for a waiver, files a return or an amended return, and makes full payment of the tax and interest.

(2) For a period to be designated by the state treasurer of not less than 30 days and not more than 60 days, and ending before September 30, 2002, there shall be an amnesty period during which the state treasurer shall waive all criminal and civil penalties provided by law for failing or refusing to file a return, for failing to pay a tax, or for making an excessive claim for a refund for a tax administered by the revenue division of the department of treasury under this act if the taxpayer makes a written request for a waiver, files a return or an amended return, and makes full payment in either a lump sum or installments as provided under subsection (9), of the tax and interest due for any prior tax year.

(3) This section applies to the nonreporting and underreporting of tax liabilities and to the nonpayment of taxes previously determined to be due, but only to the extent of the penalties attributable to the taxes that were previously due and that are paid during the amnesty period provided for in subsection (2).

(4) The department shall administer this section.

(5) Subsection (2) does not apply to taxes due after June 1, 2001.

(6) There is appropriated from the revenues generated by taxes paid under subsection (2) the sum of $1,500,000.00 to the department of treasury for administration of the amnesty program created by the amendatory act that added this subsection. This appropriation is allotted for expenditure on and after October 1, 2001. Only general purpose revenue generated by the amendatory act that added this subsection may be used to finance this appropriation.

(7) The state treasurer shall not waive criminal and civil penalties applicable to a tax under subsection (2) if 1 or more of the following circumstances apply:

(a) If the taxpayer is eligible to enter into a voluntary disclosure agreement under section 30c for that tax.

(b) If the tax is attributable to income derived from a criminal act, if the taxpayer is under criminal investigation or involved in a civil action or criminal prosecution for that tax, or if the taxpayer has been convicted of a felony under this act or the internal revenue code of 1986.

(8) The department shall provide reasonable notice to taxpayers that may be eligible for the amnesty program at least 30 days before the start of the designated amnesty period. Notification shall include, but is not limited to, a description of the amnesty program on appropriate tax instruction forms and on the internet.

(9) Under the amnesty program described in subsection (2), a taxpayer may pay tax and interest due in installments if the taxpayer meets 1 of the following:

(a) The taxpayer is an individual and submits the greater of $10,000.00 or 50% of the tax and interest due with the request for waiver under subsection (2) and pays the remaining tax and interest due in 2 equal installments, the first installment due no later than August 15, 2002 and the second installment due no later than September 15, 2002.

(b) A taxpayer that is not an individual submits the greater of $100,000.00 or 50% of the tax and interest due with the request for waiver under subsection (2) and pays the remaining tax and interest due in 2 equal installments, the first installment due no later than August 15, 2002 and the second installment due no later than September 15, 2002.

Repeal of § 205.2.

Enacting section 1. Section 2 of 1941 PA 122, MCL 205.2, is repealed.

This act is ordered to take immediate effect.
Approved December 22, 2002.
Filed with Secretary of State December 23, 2002.

[No. 658]

(SB 1251)

AN ACT to amend 1993 PA 354, entitled "An act to revise, consolidate, and codify the laws relating to railroads and their employees; to prescribe powers and duties of certain

state and local agencies and officials; to prescribe fees; to create certain funds; to provide for the disposition of certain money; to provide remedies and penalties; and to repeal certain acts and parts of acts," by amending sections 105, 109, 353, 357, 359, 361, and 365 (MCL 462.105, 462.109, 462.353, 462.357, 462.359, 462.361, and 462.365); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

462.105 Definitions; A to G.

Sec. 105. (1) "Active traffic control devices" means those traffic control devices located at or in advance of grade crossings, activated by the approach or presence of a train, such as flashing light signals, automatic gates and similar devices, manually operated devices, and a crossing watchperson, all of which display to operators of approaching vehicles positive warning of the approach or presence of a train.

(2) "Alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code, 1998 PA 58, MCL 436.1105.

(3) "Bridge" means a structure including supports erected over a depression or an obstruction, such as water, a highway, or a railway, having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of openings for multiple boxes where the clear distance between openings is less than half of the smaller contiguous opening.

(4) "Bridge carrying railroad traffic" means any bridge carrying a railroad track on which locomotives, railroad cars, or railroad maintenance machinery may be operated or moved. Bridge carrying railroad traffic includes unloading pits, turntables, and ferry aprons which meet the physical criteria for the definition of a bridge.

(5) "Department" means the Michigan department of transportation.

(6) "Diagnostic study team" means a group of knowledgeable individuals from the department, road authorities, railroads, and others who meet and, using crossing safety management principles, evaluate conditions at proposed or existing crossings and assist the department in making determinations concerning safety needs.

(7) "Flagger" means a person, other than a railroad employee, clearly visible to approaching traffic at all times, who controls highway traffic through work areas using a hand-held paddle sign during daylight hours and approved lights and reflectorized paddle signs at night.

(8) "Grade crossing" means the point at which any railroad intersects with any public street or highway, or a nonmotorized trail.

(9) "Grade separation" means an intersection of a railroad and a highway at different levels with either the railroad above or below the highway.

462.109 Definitions; R to W.

Sec. 109. (1) "Railroad" means a person, partnership, association, or corporation, their respective lessees, trustees, or receivers, appointed by a court, or other legal entity operating in this state either as a common carrier for hire or for private use as a carrier of persons or property upon cars operated upon stationary rails and includes any person, partnership, association, corporation, trustee, or receiver appointed by a court or any other legal entity owning railroad tracks.

(2) "Road authority" means a governmental agency having jurisdiction over public streets and highways. Road authority includes the department, any other state agency,

and county, city, and village governmental agencies responsible for the construction, repair, and maintenance of streets and highways.

(3) "Serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(4) "Street railway" means an organization formed under the laws of this state for the purpose of operating a street railway system other than a railroad train for transporting persons or property. A street railway system is operated upon rails principally within a municipality utilizing streetcars, trolleys, and trams for the transportation of persons or property. Such organizations may accumulate, store, manufacture, conduct, use, sell, furnish, and supply electricity and electric power.

(5) "Street railway system" means the facilities, equipment, and personnel required to provide and maintain a public transportation service.

(6) "Traffic control device" means a sign, signal, marking, or other device placed on or adjacent to a street or highway by the road authority having jurisdiction over that street or highway to regulate, warn, or guide traffic.

(7) "Watchperson" means a railroad employee who is stationed at an at-grade crossing to signal to operators of vehicles approaching the crossing of the impending movement of a train or other railroad on-track equipment over the crossing.

462.353 Locomotive engine; operation by person under influence of alcoholic liquor or controlled substance.

Sec. 353. (1) A person who is under the influence of alcoholic liquor or a controlled substance, or a combination of alcoholic liquor and a controlled substance, or whose ability to operate a locomotive engine is visibly impaired due to the consumption of alcoholic liquor or a controlled substance or both shall not operate a locomotive engine upon the railroad tracks of this state. A peace officer may, without a warrant, arrest a person when the peace officer has probable cause to believe that the person, at the time of an accident, was the operator of a locomotive engine involved in the accident and was operating the locomotive engine upon the railroad tracks of this state while impaired by or under the influence of alcoholic liquor or a controlled substance, or a combination of alcoholic liquor and a controlled substance.

(2) A person who has an alcohol content of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine shall not operate a locomotive engine upon the railroad tracks of this state.

(3) Except as otherwise provided, a person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than $100.00 nor more than $500.00, or both, together with costs of the prosecution.

(4) A person who violates this section within 7 years of a prior conviction may be sentenced to imprisonment for not more than 1 year, or a fine of not less than $200.00 or more than $1,000.00, or both, together with costs of the prosecution.

(5) A person who violates this section within 10 years of 2 or more prior convictions is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not less than $500.00 or more than $5,000.00, or both, together with costs of the prosecution.

(6) A person who operates a locomotive engine in violation of subsection (1) or (2) and by the operation of that locomotive engine causes the death of another person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than $2,500.00 or more than $10,000.00, or both.

(7) A person who operates a locomotive engine in violation of subsection (1) or (2) and by the operation of that locomotive engine causes a serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than $1,000.00 or more than $5,000.00, or both.

(8) As part of the sentence for a violation of this section, the court may order the person to perform service to the community, as designated by the court, without compensation, for a period not to exceed 45 days. The person shall reimburse the state or appropriate local unit of government for the cost of insurance incurred by the state or local unit of government as a result of the person's activities under this subsection.

(9) Before imposing sentence for a violation of this section, the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(10) Before accepting a plea of guilty under this section, the court shall advise the accused of the statutory consequences possible as the result of a plea of guilty in respect to the penalty imposed for violation of this section.

(11) As used in this section, "prior conviction" means a conviction under this section, a local ordinance substantially corresponding to subsection (1) or (2), or a law of another state or the United States substantially corresponding to subsection (1) or (2).

462.357 Locomotive engine; authorization or knowledge of operation by person under influence of alcoholic liquor or controlled substance.

Sec. 357. The owner of a locomotive engine or the person in charge or in control of a locomotive engine, or a person acting as a conductor of any train of cars, shall not knowingly authorize or knowingly permit the locomotive engine to be operated upon the railroad tracks of this state by a person who is impaired by or under the influence of alcoholic liquor or a controlled substance, or a combination of alcoholic liquor and a controlled substance or who has an alcohol content of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine. A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than $100.00 nor more than $500.00, or both, together with costs of the prosecution.

462.359 Chemical test and analysis of operator's blood, urine, or breath.

Sec. 359. (1) The amount of alcohol or presence of a controlled substance or both in the operator's blood at the time alleged as shown by chemical analysis of that person's blood, urine, or breath shall be admissible into evidence in a criminal prosecution for any of the following:

(a) A violation of section 353 or 357 or of a local ordinance substantially corresponding to section 353(1) or (2) or 357.

(b) Manslaughter or murder resulting from the operation of a locomotive engine while the operator is alleged to have been impaired by or under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance,

or to have had a blood alcohol content of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) If a test is given, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the report at least 2 days before the day of the trial and the results shall be offered as evidence by the prosecution in that trial. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.

(3) Except in a prosecution relating solely to a violation of section 353(2), the amount of alcohol in the operator's blood at the time alleged as shown by chemical analysis of that person's blood, urine, or breath shall give rise to the following presumptions:

(a) If there was at the time less than 0.04% grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, it shall be presumed that the person was not impaired by or under the influence of intoxicating liquor.

(b) If there was at the time 0.04% grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, it shall be presumed that the person was impaired by or under the influence of intoxicating liquor.

(4) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician under section 16215 of the public health code, 1978 PA 368, MCL 333.16215, and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this section. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures shall not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws blood or analyzes blood or assists in the withdrawal or analysis in accordance with this section unless the withdrawal or analysis is performed in a negligent manner.

(5) The tests shall be administered at the request of a peace officer having probable cause to believe the person has committed a crime described in subsection (1). A person who takes a chemical test administered at the request of a peace officer, as provided in this section, shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this section within a reasonable time after his or her detention. The results of the test shall be admissible and shall be considered with other admissible evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample. The person charged shall be informed that after taking a test administered at the request of a peace officer he or she has the right to demand that a person of his or her own choosing administer 1 of the tests provided for in subsection (1), that the results of the test shall be admissible and shall be considered with other admissible evidence in determining the innocence or guilt of the defendant, and that the person charged is responsible for obtaining a chemical analysis of the test sample.

(6) The person charged shall be advised that if the person refuses the request of a peace officer to take a test described in this section, a test shall not be given without a court order, but the officer may seek to obtain the court order.

(7) This section shall not be construed as limiting the introduction of any other competent evidence, including a video tape recording taken of, and with prior notice to the person, bearing upon the question of whether or not the person was impaired by or under

the influence of alcoholic liquor or a controlled substance, or a combination of alcoholic liquor and a controlled substance, or whether the person had a blood alcohol content of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(8) If a jury instruction regarding a defendant's refusal to submit to a chemical test under this section is requested by the prosecution or the defendant, the jury instruction shall be given as follows:

"Evidence was admitted in this case which, if believed by the jury, could prove that the defendant had exercised his or her right to refuse a chemical test. You are instructed that such a refusal is within the statutory rights of the defendant and is not evidence of his or her guilt. You are not to consider such a refusal in determining the guilt or innocence of the defendant.".

(9) If after an accident the operator of a locomotive engine involved in the accident is transported to a medical facility and a sample of the operator's blood is withdrawn at that time for the purpose of medical treatment, the result of a chemical analysis of that sample is admissible in any criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.

(10) If after an accident the operator of a locomotive engine involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn by the medical examiner or attending personnel of the medical facility in a manner directed by the medical examiner for the purpose of determining the amount of alcohol or presence of a controlled substance or both. The results of the blood testing shall be released to a prosecuting attorney for use in a criminal prosecution as provided in this section. A medical facility disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.

(11) The obtaining or analysis of a person's blood, breath, or urine under this section shall not be performed in a manner prohibited by the federal railroad administration, United States department of transportation.

462.361 Chemical tests of blood, breath, or urine; consent; administration.

Sec. 361. (1) A person who operates a locomotive engine upon the railroad tracks of this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood if:

(a) The person is arrested for a violation of section 353 or a local ordinance substantially corresponding to section 353(1) or (2).

(b) The person is arrested for murder or manslaughter resulting from the operation of a locomotive engine, and the peace officer had probable cause to believe that the person was operating the locomotive engine while impaired by or under the influence of alcoholic liquor or a controlled substance or a combination of alcoholic liquor and a controlled substance, or while having a blood alcohol content of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

(3) The chemical tests shall be administered as provided in section 359.

462.365 Report of certain convictions; form.

Sec. 365. If a person is convicted of a violation of section 353 or of a local ordinance substantially corresponding to section 353(1) or (2), a report of the conviction shall be forwarded by the court in which the conviction occurred to the United States department of transportation. The form of the report shall be prescribed and furnished by the department of state police.

Repeal of § 462.355.

Enacting section 1. Section 355 of the railroad code of 1993, 1993 PA 354, MCL 462.355, is repealed.

Effective date.

Enacting section 2. This amendatory act takes effect April 1, 2003.

Approved December 23, 2002.
Filed with Secretary of State December 23, 2002.

[No. 659]

(SB 1250)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 26 and 28 of chapter V, section 36 of chapter IX, and section 14m of chapter XVII (MCL 765.26, 765.28, 769.36, and 777.14m), section 36 of chapter IX as added by 2001 PA 246 and section 14m of chapter XVII as added by 2002 PA 29.

The People of the State of Michigan enact:

CHAPTER V

765.26 Release of surety; arrest or detention of accused; mittimus.

Sec. 26. (1) In all criminal cases where a person has entered into any recognizance for the personal appearance of another and such bail and surety afterwards desires to be relieved from responsibility, he or she may, with or without assistance, arrest or detain the accused and deliver him or her to any jail or to the sheriff of any county. In making the arrest or detainment, he or she is entitled to the assistance of any peace officer.

(2) The sheriff or keeper of any jail is authorized to receive the principal and detain him or her in jail until he or she is discharged. Upon delivery of his or her principal at the jail by the surety or his or her agent or any officer, the surety shall be released from the conditions of his or her recognizance.

(3) Whenever the prosecuting attorney of a county is satisfied that a person who has been recognized to appear for trial has absconded, or is about to abscond, and that his or her sureties or either of them have become worthless, or are about to dispose or have disposed of their property for the purpose of evading the payment or the obligation of such bond or recognizance or with intent to defraud their creditors, and that prosecuting attorney makes a satisfactory showing to this effect to the court having jurisdiction of that person, the court or judge shall promptly grant a mittimus to the sheriff or any peace officer of that county, commanding him or her forthwith to arrest the person so recognized and bring him or her before the officer issuing the mittimus and on the return of that mittimus may, after a hearing on the merits, order him or her to be recommitted to the county jail until such time as he or she gives additional and satisfactory sureties, or is otherwise discharged.

765.28 Default in recognizance; record; notice; summary judgment, execution; set aside of forfeiture order; discharge of bail or surety bond; conditions.

Sec. 28. (1) If default is made in any recognizance in a court of record, the default shall be entered on the record by the clerk of the court. After the default is entered, the court, upon the motion of the attorney general, prosecuting attorney, or the attorney for the local unit of government, shall give each surety immediate notice not to exceed 7 days after the date of the failure to appear. The notice shall be served upon each surety in person or left at the surety's last known business address. Each surety shall be given an opportunity to appear before the court on a day certain and show cause why judgment should not be entered against the surety for the full amount of the recognizance. If good cause is not shown, the court shall enter judgment against the surety on the recognizance for an amount determined appropriate by the court but not more than the full amount of the recognizance. Execution shall be awarded and executed upon the judgment in the manner provided for in personal actions.

(2) Except as provided in subsection (3), the court shall set aside the forfeiture and discharge the bail or surety bond within 1 year from the date of forfeiture judgment if the defendant has been apprehended, the ends of justice have not been thwarted, and the county has been repaid its costs for apprehending the person. If the bond or bail is discharged, the court shall enter an order to that effect with a statement of the amount to be returned to the surety.

(3) Subsection (2) does not apply if the defendant was apprehended more than 56 days after the bail or bond was ordered forfeited and judgment entered and the surety did not fully pay the forfeiture judgment within that 56-day period.

CHAPTER IX

769.36 Deaths arising out of same criminal transaction; crimes to which person may be charged and convicted; consecutive terms; definitions.

Sec. 36. (1) A person may be charged with and convicted of any of the following for each death arising out of the same criminal transaction, and the court may order the terms of imprisonment to be served consecutively to each other:

(a) Section 602a(5), 617(3), 625(4), or 904(4) of the Michigan vehicle code, 1949 PA 300, MCL 257.602a, 257.617, 257.625, and 257.904.

(b) Section 317 or 321 of the Michigan penal code, 1931 PA 328, MCL 750.317 and 750.321, where death results from the operation of a vehicle, vessel, ORV, snowmobile, aircraft, or locomotive, or section 479a(5) of the Michigan penal code, 1931 PA 328, MCL 750.479a.

(c) Section 80176(4), 81134(7), or 82127(4) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, 324.81134, and 324.82127.

(d) Section 185(4) of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185.

(e) Section 353(6) of the railroad code of 1993, 1993 PA 354, MCL 462.353.

(2) As used in this section:

(a) "Aircraft" means that term as defined in section 2 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.2.

(b) "ORV" means that term as defined in section 81101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101.

(c) "Snowmobile" means that term as defined in section 82101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82101.

(d) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

(e) "Vessel" means that term as defined in section 80104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80104.

CHAPTER XVII

777.14m Applicability of chapter to certain felonies; §§ 462.257(1) to 472.36.

Sec. 14m. This chapter applies to the following felonies enumerated in chapters 460 to 473 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
462.257(1)	Person	A	Trains — endangering travel	Life
462.353(5)	Pub saf	E	Operating a locomotive under the influence — third or subsequent offense	5
462.353(6)	Person	C	Operating locomotive under the influence or while impaired causing death	15
462.353(7)	Person	E	Operating locomotive under the influence or while impaired causing serious impairment	5
472.36	Pub saf	A	Street railways — obstruction of track	Life

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 1251 of the 91st Legislature is enacted into law.

Approved December 23, 2002.
Filed with Secretary of State December 23, 2002.

Compiler's note: Senate Bill No. 1251, referred to in enacting section 2, was filed with the Secretary of State December 23, 2002, and became P.A. 2002, No. 658, Eff. Apr. 1, 2003.

[No. 660]

(HB 6121)

AN ACT to prohibit certain lending practices; to require disclosure of certain information for home loans; to prescribe certain duties and obligations of the lender in a home loan transaction; to prescribe the powers and duties of certain state agencies and officials; and to prescribe penalties and provide for remedies.

The People of the State of Michigan enact:

445.1631 Short title.

Sec. 1. This act shall be known and may be cited as the "consumer mortgage protection act".

445.1632 Definitions.

Sec. 2. As used in this act:

(a) "Commissioner" means the commissioner of the office of financial and insurance services of the department of consumer and industry services.

(b) "Depository institution" means a bank, savings and loan association, savings bank, or a credit union chartered under state or federal law.

(c) "Home improvement installment contract" means an agreement of 1 or more documents covering the sale of goods or furnishing of services to a buyer for improvements to the buyer's principal dwelling located in this state used for occupancy of 4 or fewer families under which the buyer promises to pay in installments all or any part of the price of the goods or services.

(d) "Mortgage loan" means a loan or home improvement installment contract secured by a first or subordinate mortgage or any other form of lien or a land contract covering real property located in this state used as the borrower's principal dwelling and designed for occupancy by 4 or fewer families. Mortgage loan does not include any of the following:

(*i*) Loans in which the proceeds are used to acquire the dwelling.

(*ii*) Reverse-mortgage transactions.

(*iii*) An open-end credit plan being a loan in which the lender reasonably contemplates repeated advances.

(e) "Person" means an individual, corporation, partnership, association, governmental entity, or any other legal entity.

(f) "Reverse-mortgage" means a nonrecourse loan under which both of the following apply:

(*i*) A mortgage or other form of lien securing 1 or more advances is created in the borrower's principal dwelling.

(*ii*) The principal, interest, or shared appreciation or equity is payable only after the borrower dies, the dwelling is transferred, or the borrower ceases to occupy the dwelling as a principal dwelling.

(g) "Regulated lender" means a depository institution or a licensee or a registrant under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, 1984 PA 379, MCL 493.101 to 493.114, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, or the mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, and a seller under the home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.

(h) "State and federal laws" means, individually and collectively, 1 or more of the laws or regulations of this state or the federal government which regulate or are applicable to a mortgage loan or a person when brokering, making, servicing, or collecting a mortgage loan, including, without limitation, the federal truth in lending act, title I of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1601 to 1608, 1610 to 1613, 1615, 1631 to 1635, 1637 to 1649, and 1661 to 1667f, real estate settlement procedures act of 1974, Public Law 93-533, 88 Stat. 1724, equal credit opportunity act, title VII of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1691 to 1691f, fair housing act, title VIII of the civil rights act of 1968, Public Law 90-284, 82 Stat. 81, fair credit report act, title VI of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1681 to 1681v, the homeowners protection act of 1998, Public Law 105-216, 112 Stat. 897, the fair debt collection practices act, title VIII of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1601nt and 1692 to 1692o, consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072, mortgage brokers, lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to 445.1684, the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, 1977 PA 135, MCL 445.1601 to 445.1614, and home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1422.

445.1633 Compliance with state and federal laws.

Sec. 3. A person shall broker, make, or service mortgage loans in accordance with all applicable state and federal laws.

445.1634 Person making mortgage loan; prohibited conduct.

Sec. 4. (1) A person offering to make or making a mortgage loan shall not do either of the following:

(a) Charge a fee for a product or service if the product or service is not actually provided to the customer.

(b) Misrepresent the amount charged by or paid to a third party for a product or service.

(2) A lender in making a mortgage loan shall not finance as part of the loan single premium coverage for any credit life, credit disability, or credit unemployment.

(3) A person, appraiser, or real estate agent shall not make, directly or indirectly, any false, deceptive, or misleading statement or representation in connection with a mortgage

loan including, but not limited to, the borrower's ability to qualify for a mortgage loan or the value of the dwelling that will secure repayment of the mortgage loan.

(4) A lender shall not insert or change information on an application for a mortgage loan if the lender knows that the information is false and misleading and intended to deceive a third party that the borrower is qualified for the loan when in fact the third party would not approve the loan without the insertion or change.

(5) A statement or representation is deceptive or misleading if it has the capacity to deceive or mislead a borrower or potential borrower. The commissioner shall consider any of the following factors in deciding whether a statement or misrepresentation is deceptive or misleading:

(a) The overall impression that the statement or representation reasonably creates.

(b) The particular type of audience to which the statement is directed.

(c) Whether it may be reasonably comprehended by the segment of the public to which the statement is directed.

(6) A lender shall not condition the payment of an appraisal upon a predetermined value or the closing of the mortgage loan which is the basis of the appraisal.

(7) A person shall not directly or indirectly compensate, coerce, or intimidate an appraiser for the purpose of influencing the independent judgment of the appraiser with respect to the value of the dwelling offered as security for repayment of the mortgage loan.

(8) A mortgage loan note shall not contain blanks regarding payments, interest rates, maturity date, or amount borrowed to be filled in after the note is signed by the borrower.

445.1635 Mortgage loan with term less than 5 years; payment schedule.

Sec. 5. A mortgage loan with a term of less than 5 years shall not have a payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance. This section does not apply to loans with maturities of less than 1 year, if the purpose of the loan is a "bridge" loan connected with the acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

445.1636 "Borrowers Bill of Rights" document.

Sec. 6. At the time a person applies for a mortgage loan, the lender shall provide the applicant the following document:

"BORROWERS BILL OF RIGHTS

1. You have the RIGHT to shop for the best loan for you and compare the charges of different mortgage brokers and lenders.

2. You have the RIGHT to be informed about the total cost of your loan including the interest rate, points, and other fees.

3. You have the RIGHT to obtain a "Good Faith Estimate" of all loan and settlement charges before you agree to the loan or pay any fees.

4. You have the RIGHT to know what fees are nonrefundable if you decide to withdraw your loan application.

5. You have the RIGHT to ask your mortgage broker to explain exactly what the mortgage broker will do for you.

6. You have the RIGHT to know how much the mortgage broker is getting paid by you and the lender for your loan.

7. You have the RIGHT to ask questions about charges and loan terms that you do not understand.

8. You have the RIGHT to a credit decision that is not based on your race, color, religion, national origin, sex, marital status, age, or whether any income is derived from public assistance.

9. You have the RIGHT to know the reason if your loan application is turned down.

10. You have the RIGHT to receive the HUD settlement costs booklet "Buying Your Home"."

445.1637 Credit counseling; notice.

Sec. 7. At the time a person applies for a mortgage loan, the lender shall provide the applicant the following written notice regarding the value of receiving credit counseling before taking out a mortgage loan and a list of the nearest available HUD-approved credit counseling agencies:

"CONSUMER CAUTION AND HOME OWNERSHIP COUNSELING NOTICE

If you obtain this loan, the lender will have a mortgage on your home. You could lose your home, and all money you have invested in it, if you do not meet your obligations under the loan, including making all your payments.

Mortgage loans rates and closing costs and fees vary based on many factors, including your particular credit and financial circumstances, your earnings history, the loan-to-value requested, and the type of property that will secure your loan. Higher rates and fees may be applicable depending on the individual circumstances of a particular consumer's application.

You should shop around and compare loan rates and fees. This particular loan may have a higher rate and total points and fees than other mortgage loans. You should consider consulting a qualified independent credit counselor or other experienced financial adviser regarding the rate, fees, and provisions of this mortgage loan before you proceed. For information on contacting a qualified credit counselor, ask your lender or call the United States Department of Housing and Urban Development's counseling hotline at 1-888-466-3487 for a list of counselors.

You are not required to complete any loan agreement merely because you have received these disclosures or have signed a loan application. If you proceed with this mortgage loan, you should also remember that you may face serious financial risks if you use this loan to pay off credit card debts and other debts in connection with this transaction and then subsequently incur significant new credit card charges or other debts.

Property taxes and homeowner's insurance are your responsibility. Not all lenders provide escrow services for these payments. You should ask your lender about these services.

Your payments on existing debts contribute to your credit ratings. You should not accept any advice to ignore your regular payments to your existing creditors."

45.1638 Examinations and investigations by commissioner.

Sec. 8. The commissioner may conduct examinations and investigations of a person over whom the commissioner has regulatory authority as necessary to determine whether the person is brokering, making, servicing, or collecting mortgage loans as required by this act.

445.1639 Violation of act.

Sec. 9. If the commissioner determines that a person is brokering, making, servicing, or collecting mortgage loans in violation of this act, the commissioner shall do 1 or more of the following:

(a) Initiate a cause of action under section 10.

(b) If the person is chartered, licensed, registered, regulated, or administered by the commissioner under a law of this state, the commissioner shall enforce the penalties and remedies under that law.

(c) Forward a complaint to the appropriate regulatory or investigatory authority.

445.1640 Action by attorney general or prosecuting attorney.

Sec. 10. The attorney general or the prosecuting attorney for the county where an alleged violation occurred may bring an action against a person to do 1 or more of the following:

(a) Obtain a declaratory judgment that a method, act, or practice of the person is a violation of this act.

(b) Enjoin a person who is engaging or about to engage in a method, act, or practice that is a violation of this act.

(c) Obtain a civil fine of not more than $10,000.00 for the first offense and not more than $20,000.00 for the second and any subsequent offense.

445.1641 Unintentional and bona fide error.

Sec. 11. (1) A person is not liable for a violation under section 10 if the person shows that the violation was an unintentional and bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error. Examples of a bona fide error include clerical, calculation, computer malfunction, programming, or printing errors. An error in legal judgment with respect to a person's obligations under this act is not a bona fide error.

(2) A person is not liable for a violation under section 10 if, within 60 days after discovery of the violation and before the institution of an action under section 10, the person notifies the borrower or buyer of the violation and corrects the violation in a manner that, to the extent it is reasonably possible to do so, restores the borrower or buyer to the position in which the borrower or buyer would have been if the violation had not occurred.

(3) The person alleged to have violated this act has the burden of proving that he or she is not liable as provided under this section.

445.1642 Enforcement not limited.

Sec. 12. This act does not limit the authority of the commissioner, the attorney general, or a county prosecutor to enforce any law under which a person is chartered, organized, licensed, registered, regulated, or otherwise authorized to do business in this state.

445.1643 Model programs for financial education.

Sec. 13. (1) No later than December 31, 2003, the office of financial and insurance services shall develop and make available to local units of government, financial institutions, and other interested persons 1 or more model programs for financial education.

(2) The program required under this section shall be designed to teach personal financial management skills and the basic principles involved with saving, borrowing, investing, and protection against predatory and other fraudulent lending practices.

445.1644 Municipal actions; statutory conflict; preemption; severability.

Sec. 14. (1) The federal government and state solely regulate the business of brokering, making, servicing, and collecting mortgage loans in this state and the manner in which any such business is conducted.

(2) Any charter, ordinance, resolution, regulation, rule, or other action by a municipal corporation or other political subdivision of this state to regulate, directly or indirectly, the brokering, making, servicing, or collecting of mortgage loans constitutes a statutory conflict with the uniform operation throughout the state of residential mortgage lending and is preempted.

(3) Any charter, ordinance, resolution, regulation, rule, or other action by a municipal corporation or other political subdivision of this state to collect information about, require reporting of, pledges regarding, notices, or certifications concerning loans, lenders, applicants, deposits, or credit experiences, character, and criminal background checks of employees, agents, customers, or other persons is preempted by this act.

(4) Any charter, ordinance, resolution, regulation, rule, or other action by a municipal corporation or other political subdivision of this state that attempts to regulate the brokering, making, servicing, or collecting of mortgage loans constitutes a statutory conflict and is preempted, including, without limitation, if the ordinance, resolution, regulation, or other action does either of the following:

(a) Disqualifies a person, or its subsidiaries or affiliates, from doing business with the municipal corporation or other political subdivision based upon the acts or practices of the person or its subsidiaries or affiliates in brokering, making, servicing, or collecting mortgage loans.

(b) Imposes reporting requirements or other obligations upon a person, or its subsidiaries or affiliates, based upon the person's, or its subsidiaries' or affiliates', acts or practices in brokering, making, servicing, or collecting mortgage loans.

(5) If any provision of this section, or any application of any provision of this section, is for any reason held to be illegal or invalid, the illegality or invalidity shall not affect any legal and valid provision or application of this section, and the provisions and applications of this section shall be severable.

445.1645 Standards; uniformity; preemption.

Sec. 15. (1) The laws of this state relating to the brokering, making, servicing, and collecting of mortgage loans prescribe rules of conduct upon citizens generally, comprise a comprehensive regulatory framework intended to operate uniformly throughout the state under the same circumstances and conditions, and constitute general laws of this state.

(2) Silence in the statutes of this state with respect to any act or practice in the brokering, making, servicing, or collecting of mortgage loans shall not be interpreted to mean that the state has not completely occupied the field or has only set minimum standards in its regulation of brokering, making, servicing, or collecting of mortgage loans.

(3) It is the intent of the legislature to entirely preempt municipal corporations and other political subdivisions from the regulation and licensing of persons engaged in the brokering, making, servicing, or collecting of mortgage loans in this state.

This act is ordered to take immediate effect.
Approved December 23, 2002.
Filed with Secretary of State December 23, 2002.

[No. 661]

(HB 5372)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending sections 2, 3, 7, 8a, and 8d (MCL 722.622, 722.623, 722.627, 722.628a, and 722.628d), sections 2, 7, and 8d as amended by 2000 PA 45, section 3 as amended by 2002 PA 10, and section 8a as added by 1992 PA 39.

The People of the State of Michigan enact:

722.622 Definitions.

Sec. 2. As used in this act:

(a) "Adult foster care location authorized to care for a child" means an adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703, in which a child is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.

(b) "Attorney" means, if appointed to represent a child under the provisions referenced in section 10, an attorney serving as the child's legal advocate in the manner defined and described in section 13a of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

(c) "Central registry" means the system maintained at the department that is used to keep a record of all reports filed with the department under this act in which relevant and accurate evidence of child abuse or neglect is found to exist.

(d) "Central registry case" means a child protective services case that the department classifies under sections 8 and 8d as category I or category II. For a child protective services case that was investigated before July 1, 1999, central registry case means an allegation of child abuse or neglect that the department substantiated.

(e) "Child" means a person under 18 years of age.

(f) "Child abuse" means harm or threatened harm to a child's health or welfare by a parent, a legal guardian, or any other person responsible for the child's health or welfare, or by a teacher or teacher's aide, that occurs through nonaccidental physical or mental injury; sexual abuse; sexual exploitation; or maltreatment.

(g) "Child care organization" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(h) "Child care provider" means an owner, operator, employee, or volunteer of a child care organization or of an adult foster care location authorized to care for a child.

(i) "Child care regulatory agency" means the department of consumer and industry services or a successor state department that is responsible for the licensing or registration of child care organizations or the licensing of adult foster care locations authorized to care for a child.

(j) "Child neglect" means harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:

(*i*) Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care.

(*ii*) Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.

(k) "Citizen review panel" means a panel established as required by section 106 of title I of the child abuse prevention and treatment act, Public Law 93-247, 42 U.S.C. 5106a.

(*l*) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(m) "CPSI system" means the child protective service information system, which is an internal data system maintained within and by the department, and which is separate from the central registry and not subject to section 7.

(n) "Department" means the family independence agency.

(o) "Director" means the director of the department.

(p) "Expunge" means to physically remove or eliminate and destroy a record or report.

(q) "Lawyer-guardian ad litem" means an attorney appointed under section 10 who has the powers and duties referenced by section 10.

(r) "Local office file" means the system used to keep a record of a written report, document, or photograph filed with and maintained by a county or a regionally based office of the department.

(s) "Nonparent adult" means a person who is 18 years of age or older and who, regardless of the person's domicile, meets all of the following criteria in relation to a child:

(*i*) Has substantial and regular contact with the child.

(*ii*) Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.

(*iii*) Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

(t) "Person responsible for the child's health or welfare" means a parent, legal guardian, person 18 years of age or older who resides for any length of time in the same home in which the child resides, or, except when used in section 7(2)(e) or 8(8), nonparent adult; or an owner, operator, volunteer, or employee of 1 or more of the following:

(*i*) A licensed or registered child care organization.

(*ii*) A licensed or unlicensed adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(u) "Relevant evidence" means evidence having a tendency to make the existence of a fact that is at issue more probable than it would be without the evidence.

(v) "Sexual abuse" means engaging in sexual contact or sexual penetration as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.

(w) "Sexual exploitation" includes allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photo-

graphing, filming, or depicting of a child engaged in a listed sexual act as defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(x) "Specified information" means information in a central registry case record that relates specifically to referrals or reports of child abuse or neglect. Specified information does not include any of the following:

(*i*) Except as provided in this subparagraph regarding a perpetrator of child abuse or neglect, personal identification information for any individual identified in a child protective services record. The exclusion of personal identification information as specified information prescribed by this subparagraph does not include personal identification information identifying an individual alleged to have perpetrated child abuse or neglect, which allegation has been classified as a central registry case.

(*ii*) Information in a law enforcement report as provided in section 7(8).

(*iii*) Any other information that is specifically designated as confidential under other law.

(y) "Structured decision-making tool" means the department document labeled "DSS-4752 (P3) (3-95)" or a revision of that document that better measures the risk of future harm to a child.

(z) "Substantiated" means a child protective services case classified as a central registry case.

(aa) "Unsubstantiated" means a child protective services case the department classifies under sections 8 and 8d as category III, category IV, or category V.

722.623 Persons required to report child abuse or neglect; written report; transmitting report and results of investigation to prosecuting attorney or county family independence agency; pregnancy of or venereal disease in child less than 12 years of age.

Sec. 3. (1) An individual is required to report under this act as follows:

(a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, certified social worker, social worker, social work technician, school administrator, school counselor or teacher, law enforcement officer, or regulated child care provider who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or neglect to the department. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school shall be considered adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

(b) A department employee who is 1 of the following and has reasonable cause to suspect child abuse or neglect shall make a report of suspected child abuse or neglect to the department:

(*i*) Eligibility specialist.

(*ii*) Family independence manager.

(*iii*) Family independence specialist.

(*iv*) Social services specialist.

(*v*) Social work specialist.

(*vi*) Social work specialist manager.

(*vii*) Welfare services specialist.

(2) The written report shall contain the name of the child and a description of the abuse or neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the abuse or neglect, and the manner in which the abuse or neglect occurred.

(3) The department shall inform the reporting person of the required contents of the written report at the time the oral report is made by the reporting person.

(4) The written report required in this section shall be mailed or otherwise transmitted to the county family independence agency of the county in which the child suspected of being abused or neglected is found.

(5) Upon receipt of a written report of suspected child abuse or neglect, the department may provide copies to the prosecuting attorney and the probate court of the counties in which the child suspected of being abused or neglected resides and is found.

(6) If the report or subsequent investigation indicates a violation of sections 136b and 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and 750.520b to 750.520g, or if the report or subsequent investigation indicates that the suspected abuse was not committed by a person responsible for the child's health or welfare, and the department believes that the report has basis in fact, the department shall transmit a copy of the written report and the results of any investigation to the prosecuting attorney of the counties in which the child resides and is found. If a written report or subsequent investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the department believes that the report has basis in fact, the department shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child.

(7) If a local law enforcement agency receives a written report of suspected child abuse or neglect, whether from the reporting person or the department, the report or subsequent investigation indicates that the abuse or neglect was committed by a person responsible for the child's health or welfare, and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall provide a copy of the written report and the results of any investigation to the county family independence agency of the county in which the abused or neglected child is found. If a written report or subsequent investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child. Nothing in this subsection or subsection (6) shall be construed to relieve the department of its responsibility to investigate reports of suspected child abuse or neglect under this act.

(8) For purposes of this act, the pregnancy of a child less than 12 years of age or the presence of a venereal disease in a child who is over 1 month of age but less than 12 years of age is reasonable cause to suspect child abuse and neglect have occurred.

722.627 Central registry; availability of confidential records; closed court proceeding not required; notice to individuals; amending or expunging certain reports and records; hearing; evidence; release of reports compiled by law enforcement agency; information obtained by citizen review panel.

Sec. 7. (1) The department shall maintain a statewide, electronic central registry to carry out the intent of this act.

(2) Unless made public as specified information released under section 7d, a written report, document, or photograph filed with the department as provided in this act is a confidential record available only to 1 or more of the following:

(a) A legally mandated public or private child protective agency investigating a report of known or suspected child abuse or neglect.

(b) A police or other law enforcement agency investigating a report of known or suspected child abuse or neglect.

(c) A physician who is treating a child whom the physician reasonably suspects may be abused or neglected.

(d) A person legally authorized to place a child in protective custody when the person is confronted with a child whom the person reasonably suspects may be abused or neglected and the confidential record is necessary to determine whether to place the child in protective custody.

(e) A person, agency, or organization, including a multidisciplinary case consultation team, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record under this act, or who is responsible for the child's health or welfare.

(f) A person named in the report or record as a perpetrator or alleged perpetrator of the child abuse or neglect or a victim who is an adult at the time of the request, if the identity of the reporting person is protected as provided in section 5.

(g) A court that determines the information is necessary to decide an issue before the court.

(h) A grand jury that determines the information is necessary in the conduct of the grand jury's official business.

(i) A person, agency, or organization engaged in a bona fide research or evaluation project. The person, agency, or organization shall not release information identifying a person named in the report or record unless that person's written consent is obtained. The person, agency, or organization shall not conduct a personal interview with a family without the family's prior consent and shall not disclose information that would identify the child or the child's family or other identifying information. The department director may authorize the release of information to a person, agency, or organization described in this subdivision if the release contributes to the purposes of this act and the person, agency, or organization has appropriate controls to maintain the confidentiality of personally identifying information for a person named in a report or record made under this act.

(j) A lawyer-guardian ad litem or other attorney appointed as provided by section 10.

(k) A child placing agency licensed under 1973 PA 116, MCL 722.111 to 722.128, for the purpose of investigating an applicant for adoption, a foster care applicant or licensee or an employee of a foster care applicant or licensee, an adult member of an applicant's or licensee's household, or other persons in a foster care or adoptive home who are directly responsible for the care and welfare of children, to determine suitability of a home for adoption or foster care. The child placing agency shall disclose the information to a foster care applicant or licensee under 1973 PA 116, MCL 722.111 to 722.128, or to an applicant for adoption.

(*l*) Juvenile court staff authorized by the court to investigate foster care applicants and licensees, employees of foster care applicants and licensees, adult members of the applicant's or licensee's household, and other persons in the home who are directly responsible for the care and welfare of children, for the purpose of determining the suitability of the home for foster care. The court shall disclose this information to the applicant or licensee.

(m) Subject to section 7a, a standing or select committee or appropriations subcommittee of either house of the legislature having jurisdiction over protective services matters for children.

(n) The children's ombudsman appointed under the children's ombudsman act, 1994 PA 204, MCL 722.921 to 722.935.

(o) A child fatality review team established under section 7b and authorized under that section to investigate and review a child death.

(p) A county medical examiner or deputy county medical examiner appointed under 1953 PA 181, MCL 52.201 to 52.216, for the purpose of carrying out his or her duties under that act.

(q) A citizen review panel established by the department. Access under this subdivision shall be limited to information the department determines is necessary for the panel to carry out its prescribed duties.

(r) A child care regulatory agency.

(3) Subject to subsection (9), a person or entity to whom information described in subsection (2) is disclosed shall make the information available only to a person or entity described in subsection (2). This subsection does not require a court proceeding to be closed that otherwise would be open to the public.

(4) If the department classifies a report of suspected child abuse or neglect as a central registry case, the department shall maintain a record in the central registry and, within 30 days after the classification, shall notify in writing each individual who is named in the record as a perpetrator of the child abuse or neglect. The notice shall set forth the individual's right to request expunction of the record and the right to a hearing if the department refuses the request. The notice shall state that the record may be released under section 7d. The notice shall not identify the person reporting the suspected child abuse or neglect.

(5) A person who is the subject of a report or record made under this act may request the department to amend an inaccurate report or record from the central registry and local office file. A person who is the subject of a report or record made under this act may request the department to expunge from the central registry a report or record in which no relevant and accurate evidence of abuse or neglect is found to exist. A report or record filed in a local office file is not subject to expunction except as the department authorizes, when considered in the best interest of the child.

(6) If the department refuses a request for amendment or expunction under subsection (5), or fails to act within 30 days after receiving the request, the department shall hold a hearing to determine by a preponderance of the evidence whether the report or record in

whole or in part should be amended or expunged from the central registry on the grounds that the report or record is not relevant or accurate evidence of abuse or neglect. The hearing shall be before a hearing officer appointed by the department and shall be conducted as prescribed by the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(7) If the investigation of a report conducted under this act fails to disclose evidence of abuse or neglect, the information identifying the subject of the report shall be expunged from the central registry. If evidence of abuse or neglect exists, the department shall maintain the information in the central registry until the department receives reliable information that the perpetrator of the abuse or neglect is dead.

(8) In releasing information under this act, the department shall not include a report compiled by a police agency or other law enforcement agency related to an ongoing investigation of suspected child abuse or neglect. This subsection does not prevent the department from releasing reports of convictions of crimes related to child abuse or neglect.

(9) A member or staff member of a citizen review panel shall not disclose identifying information about a specific child protection case to an individual, partnership, corporation, association, governmental entity, or other legal entity. A member or staff member of a citizen review panel is a member of a board, council, commission, or statutorily created task force of a governmental agency for the purposes of section 7 of 1964 PA 170, MCL 691.1407. Information obtained by a citizen review panel is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

722.628a Execution of notices by prosecuting attorney of individuals bound over to circuit court for certain crimes; notification upon final disposition; confidentiality.

Sec. 8a. (1) If an individual is bound over to circuit court for any of the following crimes, the prosecuting attorney shall execute the notices as prescribed by subsections (2) to (5):

(a) Criminal sexual conduct in the first, second, or third degree in violation of section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d.

(b) Assault with intent to commit criminal sexual conduct in violation of section 520g of the Michigan penal code, 1931 PA 328, MCL 750.520g.

(c) A felonious attempt or a felonious conspiracy to commit criminal sexual conduct.

(d) An assault on a child that is punishable as a felony.

(e) Child abuse in the first, second, or third degree, in violation of section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

(f) Involvement in child sexually abusive material or child sexually abusive activity in violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(2) If the individual is an employee of a nonpublic school as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5, the prosecuting attorney shall notify the governing body of the nonpublic school.

(3) If the individual is an employee of a school district or intermediate school district, the prosecuting attorney shall notify the superintendent of the school district or intermediate school district.

(4) If the individual is an employee of the department who provides a service to children and youth as described in section 115 of the social welfare act, 1939 PA 280, MCL 400.115, the prosecuting attorney shall notify the county director of social services or the superintendent of the training school.

(5) If the individual is a child care provider, the prosecuting attorney shall notify the department, the owner or operator of the child care provider's child care organization or adult foster care location authorized to care for a child, and the child care regulatory agency with authority over that child care organization or adult foster care location authorized to care for a child.

(6) Upon final disposition of a criminal matter for which a notice was given under subsections (2) to (5), the prosecuting attorney shall notify each person previously notified under subsections (2) to (5) of that disposition.

(7) A person who is notified or otherwise receives information under this section shall keep the information received confidential except so far as disclosure is necessary to take appropriate action in response to the information.

722.628d Categories and departmental response; listing in child abuse or neglect registry; report to legislature.

Sec. 8d. (1) For the department's determination required by section 8, the categories, and the departmental response required for each category, are the following:

(a) Category V - services not needed. Following a field investigation, the department determines that there is no evidence of child abuse or neglect.

(b) Category IV - community services recommended. Following a field investigation, the department determines that there is not a preponderance of evidence of child abuse or neglect, but the structured decision-making tool indicates that there is future risk of harm to the child. The department shall assist the child's family in voluntarily participating in community-based services commensurate with the risk to the child.

(c) Category III - community services needed. The department determines that there is a preponderance of evidence of child abuse or neglect, and the structured decision-making tool indicates a low or moderate risk of future harm to the child. The department shall assist the child's family in receiving community-based services commensurate with the risk to the child. If the family does not voluntarily participate in services, or the family voluntarily participates in services, but does not progress toward alleviating the child's risk level, the department shall consider reclassifying the case as category II.

(d) Category II - child protective services required. The department determines that there is evidence of child abuse or neglect, and the structured decision-making tool indicates a high or intensive risk of future harm to the child. The department shall open a protective services case and provide the services necessary under this act. The department shall also list the perpetrator of the child abuse or neglect, based on the report that was the subject of the field investigation, on the central registry, either by name or as "unknown" if the perpetrator has not been identified.

(e) Category I - court petition required. The department determines that there is evidence of child abuse or neglect and 1 or more of the following are true:

(*i*) A court petition is required under another provision of this act.

(*ii*) The child is not safe and a petition for removal is needed.

(*iii*) The department previously classified the case as category II and the child's family does not voluntarily participate in services.

(*iv*) There is a violation, involving the child, of a crime listed or described in section 8a(1)(b), (c), (d), or (f) or of child abuse in the first or second degree as prescribed by section 136b of the Michigan penal code, 1931 PA 328, MCL 750.136b.

(2) In response to a category I classification, the department shall do all of the following:

(a) If a court petition is not required under another provision of this act, submit a petition for authorization by the court under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(b) Open a protective services case and provide the services necessary under this act.

(c) List the perpetrator of the child abuse or neglect, based on the report that was the subject of the field investigation, on the central registry, either by name or as "unknown" if the perpetrator has not been identified.

(3) The department is not required to use the structured decision-making tool for a nonparent adult who resides outside the child's home who is the victim or alleged victim of child abuse or neglect or for an owner, operator, volunteer, or employee of a licensed or registered child care organization or a licensed or unlicensed adult foster care family home or adult foster care small group home as those terms are defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(4) If following a field investigation the department determines that there is a preponderance of evidence that an individual listed in subsection (3) was the perpetrator of child abuse or neglect, the department shall list the perpetrator of the child abuse or neglect on the central registry.

(5) The department shall furnish a written report described in subsection (6) to the appropriate legislative standing committees and the house and senate appropriations subcommittees for the department within 4 months after each of the following time periods:

(a) Beginning October 1, 1999 and ending September 30, 2000.

(b) Beginning October 1, 2000 and ending September 30, 2001.

(c) Beginning October 1, 2001 and ending September 30, 2002.

(6) The department shall include in a report required by subsection (5) at least all of the following information regarding all families that were classified in category III at some time during the time period covered by the report:

(a) The total number of families classified in category III.

(b) The number and percentage classified in category III that voluntarily participated in services and that did not participate in services.

(c) The number for which the department entered more than 1 determination that there was evidence of child abuse or neglect.

(d) The number the department reclassified from category III to category II.

This act is ordered to take immediate effect.
Approved December 23, 2002.
Filed with Secretary of State December 23, 2002.

[No. 662]

(HB 4007)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an

insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 3104 (MCL 500.3104), as amended by 2001 PA 3.

The People of the State of Michigan enact:

500.3104 Catastrophic claims association.

Sec. 3104. (1) An unincorporated, nonprofit association to be known as the catastrophic claims association, hereinafter referred to as the association, is created. Each insurer engaged in writing insurance coverages that provide the security required by section 3101(1) within this state, as a condition of its authority to transact insurance in this state, shall be a member of the association and shall be bound by the plan of operation of the association. Each insurer engaged in writing insurance coverages that provide the security required by section 3103(1) within this state, as a condition of its authority to transact insurance in this state, shall be considered a member of the association, but only for purposes of premiums under subsection (7)(d). Except as expressly provided in this section, the association is not subject to any laws of this state with respect to insurers, but in all other respects the association is subject to the laws of this state to the extent that the association would be if it were an insurer organized and subsisting under chapter 50.

(2) The association shall provide and each member shall accept indemnification for 100% of the amount of ultimate loss sustained under personal protection insurance coverages in excess of the following amounts in each loss occurrence:

(a) For a motor vehicle accident policy issued or renewed before July 1, 2002, $250,000.00.

(b) For a motor vehicle accident policy issued or renewed during the period July 1, 2002 to June 30, 2003, $300,000.00.

(c) For a motor vehicle accident policy issued or renewed during the period July 1, 2003 to June 30, 2004, $325,000.00.

(d) For a motor vehicle accident policy issued or renewed during the period July 1, 2004 to June 30, 2005, $350,000.00.

(e) For a motor vehicle accident policy issued or renewed during the period July 1, 2005 to June 30, 2006, $375,000.00.

(f) For a motor vehicle accident policy issued or renewed during the period July 1, 2006 to June 30, 2007, $400,000.00.

(g) For a motor vehicle accident policy issued or renewed during the period July 1, 2007 to June 30, 2008, $420,000.00.

(h) For a motor vehicle accident policy issued or renewed during the period July 1, 2008 to June 30, 2009, $440,000.00.

(i) For a motor vehicle accident policy issued or renewed during the period July 1, 2009 to June 30, 2010, $460,000.00.

(j) For a motor vehicle accident policy issued or renewed during the period July 1, 2010 to June 30, 2011, $480,000.00.

(k) For a motor vehicle accident policy issued or renewed during the period July 1, 2011 to June 30, 2013, $500,000.00. Beginning July 1, 2013, this $500,000.00 amount shall be increased biennially on July 1 of each odd-numbered year, for policies issued or renewed before July 1 of the following odd-numbered year, by the lesser of 6% or the consumer price index, and rounded to the nearest $5,000.00. This biennial adjustment shall be calculated by the association by January 1 of the year of its July 1 effective date.

(3) An insurer may withdraw from the association only upon ceasing to write insurance that provides the security required by section 3101(1) in this state.

(4) An insurer whose membership in the association has been terminated by withdrawal shall continue to be bound by the plan of operation, and upon withdrawal, all unpaid premiums that have been charged to the withdrawing member are payable as of the effective date of the withdrawal.

(5) An unsatisfied net liability to the association of an insolvent member shall be assumed by and apportioned among the remaining members of the association as provided in the plan of operation. The association has all rights allowed by law on behalf of the remaining members against the estate or funds of the insolvent member for sums due the association.

(6) If a member has been merged or consolidated into another insurer or another insurer has reinsured a member's entire business that provides the security required by section 3101(1) in this state, the member and successors in interest of the member remain liable for the member's obligations.

(7) The association shall do all of the following on behalf of the members of the association:

(a) Assume 100% of all liability as provided in subsection (2).

(b) Establish procedures by which members shall promptly report to the association each claim that, on the basis of the injuries or damages sustained, may reasonably be anticipated to involve the association if the member is ultimately held legally liable for the injuries or damages. Solely for the purpose of reporting claims, the member shall in all instances consider itself legally liable for the injuries or damages. The member shall also

advise the association of subsequent developments likely to materially affect the interest of the association in the claim.

(c) Maintain relevant loss and expense data relative to all liabilities of the association and require each member to furnish statistics, in connection with liabilities of the association, at the times and in the form and detail as may be required by the plan of operation.

(d) In a manner provided for in the plan of operation, calculate and charge to members of the association a total premium sufficient to cover the expected losses and expenses of the association that the association will likely incur during the period for which the premium is applicable. The premium shall include an amount to cover incurred but not reported losses for the period and may be adjusted for any excess or deficient premiums from previous periods. Excesses or deficiencies from previous periods may be fully adjusted in a single period or may be adjusted over several periods in a manner provided for in the plan of operation. Each member shall be charged an amount equal to that member's total written car years of insurance providing the security required by section 3101(1) or 3103(1), or both, written in this state during the period to which the premium applies, multiplied by the average premium per car. The average premium per car shall be the total premium calculated divided by the total written car years of insurance providing the security required by section 3101(1) or 3103(1) written in this state of all members during the period to which the premium applies. A member shall be charged a premium for a historic vehicle that is insured with the member of 20% of the premium charged for a car insured with the member. As used in this subdivision:

(*i*) "Car" includes a motorcycle but does not include a historic vehicle.

(*ii*) "Historic vehicle" means a vehicle that is a registered historic vehicle under section 803a or 803p of the Michigan vehicle code, 1949 PA 300, MCL 257.803a and 257.803p.

(e) Require and accept the payment of premiums from members of the association as provided for in the plan of operation. The association shall do either of the following:

(*i*) Require payment of the premium in full within 45 days after the premium charge.

(*ii*) Require payment of the premiums to be made periodically to cover the actual cash obligations of the association.

(f) Receive and distribute all sums required by the operation of the association.

(g) Establish procedures for reviewing claims procedures and practices of members of the association. If the claims procedures or practices of a member are considered inadequate to properly service the liabilities of the association, the association may undertake or may contract with another person, including another member, to adjust or assist in the adjustment of claims for the member on claims that create a potential liability to the association and may charge the cost of the adjustment to the member.

(8) In addition to other powers granted to it by this section, the association may do all of the following:

(a) Sue and be sued in the name of the association. A judgment against the association shall not create any direct liability against the individual members of the association. The association may provide for the indemnification of its members, members of the board of directors of the association, and officers, employees, and other persons lawfully acting on behalf of the association.

(b) Reinsure all or any portion of its potential liability with reinsurers licensed to transact insurance in this state or approved by the commissioner.

(c) Provide for appropriate housing, equipment, and personnel as may be necessary to assure the efficient operation of the association.

(d) Pursuant to the plan of operation, adopt reasonable rules for the administration of the association, enforce those rules, and delegate authority, as the board considers necessary to assure the proper administration and operation of the association consistent with the plan of operation.

(e) Contract for goods and services, including independent claims management, actuarial, investment, and legal services, from others within or without this state to assure the efficient operation of the association.

(f) Hear and determine complaints of a company or other interested party concerning the operation of the association.

(g) Perform other acts not specifically enumerated in this section that are necessary or proper to accomplish the purposes of the association and that are not inconsistent with this section or the plan of operation.

(9) A board of directors is created, hereinafter referred to as the board, which shall be responsible for the operation of the association consistent with the plan of operation and this section.

(10) The plan of operation shall provide for all of the following:

(a) The establishment of necessary facilities.

(b) The management and operation of the association.

(c) Procedures to be utilized in charging premiums, including adjustments from excess or deficient premiums from prior periods.

(d) Procedures governing the actual payment of premiums to the association.

(e) Reimbursement of each member of the board by the association for actual and necessary expenses incurred on association business.

(f) The investment policy of the association.

(g) Any other matters required by or necessary to effectively implement this section.

(11) Each board shall include members that would contribute a total of not less than 40% of the total premium calculated pursuant to subsection (7)(d). Each director shall be entitled to 1 vote. The initial term of office of a director shall be 2 years.

(12) As part of the plan of operation, the board shall adopt rules providing for the composition and term of successor boards to the initial board, consistent with the membership composition requirements in subsections (11) and (13). Terms of the directors shall be staggered so that the terms of all the directors do not expire at the same time and so that a director does not serve a term of more than 4 years.

(13) The board shall consist of 5 directors, and the commissioner shall be an ex officio member of the board without vote.

(14) Each director shall be appointed by the commissioner and shall serve until that member's successor is selected and qualified. The chairperson of the board shall be elected by the board. A vacancy on the board shall be filled by the commissioner consistent with the plan of operation.

(15) After the board is appointed, the board shall meet as often as the chairperson, the commissioner, or the plan of operation shall require, or at the request of any 3 members of the board. The chairperson shall retain the right to vote on all issues. Four members of the board constitute a quorum.

(16) An annual report of the operations of the association in a form and detail as may be determined by the board shall be furnished to each member.

(17) Not more than 60 days after the initial organizational meeting of the board, the board shall submit to the commissioner for approval a proposed plan of operation consistent with the objectives and provisions of this section, which shall provide for the economical, fair, and nondiscriminatory administration of the association and for the prompt and efficient provision of indemnity. If a plan is not submitted within this 60-day period, then the commissioner, after consultation with the board, shall formulate and place into effect a plan consistent with this section.

(18) The plan of operation, unless approved sooner in writing, shall be considered to meet the requirements of this section if it is not disapproved by written order of the commissioner within 30 days after the date of its submission. Before disapproval of all or any part of the proposed plan of operation, the commissioner shall notify the board in what respect the plan of operation fails to meet the requirements and objectives of this section. If the board fails to submit a revised plan of operation that meets the requirements and objectives of this section within the 30-day period, the commissioner shall enter an order accordingly and shall immediately formulate and place into effect a plan consistent with the requirements and objectives of this section.

(19) The proposed plan of operation or amendments to the plan of operation are subject to majority approval by the board, ratified by a majority of the membership having a vote, with voting rights being apportioned according to the premiums charged in subsection (7)(d) and are subject to approval by the commissioner.

(20) Upon approval by the commissioner and ratification by the members of the plan submitted, or upon the promulgation of a plan by the commissioner, each insurer authorized to write insurance providing the security required by section 3101(1) in this state, as provided in this section, is bound by and shall formally subscribe to and participate in the plan approved as a condition of maintaining its authority to transact insurance in this state.

(21) The association is subject to all the reporting, loss reserve, and investment requirements of the commissioner to the same extent as would a member of the association.

(22) Premiums charged members by the association shall be recognized in the rate-making procedures for insurance rates in the same manner that expenses and premium taxes are recognized.

(23) The commissioner or an authorized representative of the commissioner may visit the association at any time and examine any and all the association's affairs.

(24) The association does not have liability for losses occurring before July 1, 1978.

(25) As used in this section:

(a) "Consumer price index" means the percentage of change in the consumer price index for all urban consumers in the United States city average for all items for the 24 months prior to October 1 of the year prior to the July 1 effective date of the biennial adjustment under subsection (2)(k) as reported by the United States department of labor, bureau of labor statistics, and as certified by the commissioner.

(b) "Motor vehicle accident policy" means a policy providing the coverages required under section 3101(1).

(c) "Ultimate loss" means the actual loss amounts that a member is obligated to pay and that are paid or payable by the member, and do not include claim expenses. An ultimate loss is incurred by the association on the date that the loss occurs.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2003.

Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

[No. 663]

(HB 6447)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 8001, 8003, 8005, and 8011 (MCL 600.8001, 600.8003, 600.8005, and 600.8011), as added by 2001 PA 262, and by adding section 2962a.

The People of the State of Michigan enact:

600.2962a Definitions; injunction; damages; civil action; court actions; actual damages or convictions not prerequisite to action; additional penalties or remedies; separate causes of action.

Sec. 2962a. (1) As used in this section:

(a) "Telecommunications service" means that term as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

(b) "Telecommunications service provider" means that term as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

(c) "Telecommunications system" means that term as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

(d) "Unauthorized connection" means any physical, electrical, mechanical, acoustical, or other connection to a telecommunications system, without the specific authority of the telecommunications service provider. An unauthorized connection does not include any of the following:

(*i*) An internal connection made by a person within his or her residence for the purpose of receiving authorized telecommunications service.

(*ii*) The physical connection of a cable or other device by a person located within his or her residence which was initially placed there by the telecommunications service provider.

(*iii*) The physical connection of a cable or other device by a person located within his or her residence which the person had reason to believe was an authorized connection.

(e) "Unauthorized receipt of telecommunications service" means the interception or receipt by any means of a telecommunications service over a telecommunications system without the specific authorization of the telecommunications service provider.

(f) "Unlawful telecommunications access device" means that term as defined in section 219a of the Michigan penal code, 1931 PA 328, MCL 750.219a.

(2) A telecommunications service provider may bring an action to enjoin a person from the unauthorized receipt of any telecommunications service, using an unlawful telecommunications access device, or the making of an unauthorized connection, and may seek 1 or more of the following damages:

(a) Actual damages.

(b) Exemplary damages of not more than $1,000.00.

(c) If the person's acts were for direct or indirect commercial advantage or financial gain, exemplary damages of not more than $50,000.00.

(d) Reasonable attorney fees and costs.

(3) A person injured by a violation of sections 219a, 540c, and 540g of the Michigan penal code, 1931 PA 328, MCL 750.219a, 750.540c, and 750.540g, may bring a civil action in any court of competent jurisdiction. The court may do any of the following:

(a) Grant preliminary and final injunctions to prevent or restrain the violations.

(b) At any time while an action is pending, order the impounding, on terms as the court considers reasonable, of any telecommunications access device or unlawful telecommunications access device that is in the custody or control of the alleged violator and that the court has reasonable cause to believe was involved in the alleged violation.

(c) Award damages as provided under subdivision (f).

(d) In its discretion, award reasonable attorney fees and costs, including, but not limited to, costs for investigation, testing, and expert witness fees.

(e) As part of a final judgment or decree finding a violation, order the modification or destruction of any telecommunications access device or unlawful telecommunications access device involved in the violation.

(f) Award damages computed as 1 of the following upon the election of the complaining party at any time before final judgment:

(*i*) The actual damages suffered by the complaining party as a result of the violation of this section and any profits of the violator that are attributable to the violation and are not taken into account in computing the actual damages. In determining the violator's profits, the complaining party shall be required to prove only the violator's gross revenue, and the violator shall be required to prove any deductible expenses and the elements of profit attributable to factors other than the violation.

(*ii*) Damages of between $250.00 to $10,000.00 for each telecommunications access device or unlawful telecommunications access device involved in the action, with the amount of the damages to be determined by the court. Where the court finds that the violation of this section was committed willfully and for commercial advantage or financial gain, the court may increase the award of damages by an amount of not more than $50,000.00 for each telecommunications access device or unlawful telecommunications access device involved in the action.

(4) It is not a necessary prerequisite to bring an action under this section that the telecommunications service provider or other injured party has suffered actual damages or that the defendant has been convicted of any violations of the Michigan penal code, 1931 PA 328, MCL 750.1 to 750.568.

(5) An action under this section is in addition to any other penalties or remedies provided by law.

(6) Each act prohibited by this section is a separate cause of action.

600.8001 Cyber court; creation; court of record; purpose; location; electronic communications; internet broadcast; staff and support services; funding.

Sec. 8001. (1) The cyber court is created and is a court of record.

(2) The purpose of the cyber court is to do all of the following:

(a) Establish judicial structures that will help to strengthen and revitalize the economy of this state.

(b) Allow business or commercial disputes to be resolved with the expertise, technology, and efficiency required by the information age economy.

(c) Assist the judiciary in responding to the rapid expansion of information technology in this state.

(d) Establish a technology-rich system to serve the needs of a judicial system operating in a global economy.

(e) Maintain the integrity of the judicial system while applying new technologies to judicial proceedings.

(f) Supplement other state programs designed to make the state attractive to technology-driven companies.

(g) Permit alternative dispute resolution mechanisms to benefit from the technology changes.

(h) Establish virtual courtroom facilities, and allow the conducting of court proceedings electronically and the electronic filing of documents.

(3) The cyber court shall be located in 1 or more counties as determined by the supreme court. The cyber court shall sit in facilities designed to allow all hearings and proceedings to be conducted by means of electronic communications, including, but not limited to, video and audio conferencing and internet conferencing.

(4) The cyber court shall hold session and shall schedule hearings or other proceedings to accommodate parties or witnesses who are located outside of this state. A cyber court facility is open to the public to the same extent as a circuit court facility. When technologically feasible, and at the discretion of the judge, pursuant to the court rules, all proceedings of the cyber court shall be broadcast on the internet.

(5) The cyber court shall maintain its staff and support services at the seat of government.

(6) The cyber court shall be funded from annual appropriations to the supreme court.

600.8003 Assignment of judges; clerk.

Sec. 8003. (1) The supreme court shall assign to the cyber court persons who have been elected to and served as judges in this state and who have requested to be considered for that assignment. In making assignments to the cyber court, the supreme court shall consider a person's experience in presiding over commercial litigation and his or her experience and interest in the application of technology to the administration of justice. The supreme court shall endeavor to reflect the ethnic and racial diversity of the state population and the statewide judicial bench when making the assignments under this subsection.

(2) The total number of judges assigned to the cyber court shall reasonably reflect the caseload of the cyber court.

(3) The duration of a judge's assignment to the cyber court shall be at least 3 years.

(4) The county clerk of the county in which the cyber court sits shall be the clerk for the cyber court. The cyber court clerk shall deputize staff designated by the supreme court to receive all pleadings filed in the cyber court.

(5) The Michigan judicial institute shall provide appropriate training for judges who are assigned as judges of the cyber court.

600.8005 Jurisdiction; business or commercial disputes; definitions; actions; exclusions.

Sec. 8005. (1) The cyber court has concurrent jurisdiction over business or commercial disputes in which the amount in controversy exceeds $25,000.00.

(2) An action that involves a business or commercial dispute may be maintained in the cyber court although it also involves claims that are not business or commercial disputes.

(3) For purposes of this section:

(a) "Business enterprise" means a sole proprietorship, partnership, limited partnership, joint venture, limited liability company, limited liability partnership, for-profit or not-for-profit corporation or professional corporation, business trust, real estate investment trust, or any other entity in which a business may lawfully be conducted in the jurisdiction in which the business is being conducted. Business enterprise does not include an ecclesiastical or religious organization.

(b) "Business or commercial dispute" means any of the following actions:

(*i*) An action in which all of the parties are business enterprises.

(*ii*) An action in which 1 or more of the parties is a business enterprise and the other parties are its or their present or former owners, managers, shareholders, members, directors, officers, agents, employees, suppliers, customers, or competitors, and the claims arise out of those relationships.

(*iii*) An action in which 1 of the parties is a nonprofit organization, and the claims arise out of that party's organizational structure, governance, or finances.

(*iv*) An action involving the sale, merger, purchase, combination, dissolution, liquidation, organizational structure, governance, or finances of a business enterprise.

(4) Business or commercial disputes include, but are not limited to, the following types of actions:

(a) Those involving information technology, software, or website development, maintenance, or hosting.

(b) Those involving the internal organization of business entities and the rights or obligations of shareholders, partners, members, owners, officers, directors, or managers.

(c) Those arising out of contractual agreements or other business dealings, including licensing, trade secret, noncompete, nonsolicitation, and confidentiality agreements.

(d) Those arising out of commercial transactions, including commercial bank transactions.

(e) Those arising out of business or commercial insurance policies.

(f) Those involving commercial real property.

(5) Notwithstanding subsections (3) and (4), business or commercial disputes expressly exclude the following types of actions:

(a) Personal injury actions involving only physical injuries to 1 or more individuals, including wrongful death and malpractice actions against any health care provider.

(b) Product liability actions in which any of the claimants are individuals.

(c) Matters within the jurisdiction of the family division of circuit court.

(d) Proceedings under the probate code of 1939, 1939 PA 288, MCL 710.21 to 712A.32.

(e) Proceedings under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102.

(f) Criminal matters.

(g) Condemnation matters.

(h) Appeals from lower courts or any administrative agency.

(i) Proceedings to enforce judgments of any kind.

(j) Landlord-tenant matters involving only residential property.

600.8011 Transfer to circuit court.

Sec. 8011. (1) A defendant in an action commenced in the cyber court, a plaintiff against whom a counterclaim is filed in that action, or any party added by motion of the original parties as a plaintiff, defendant, or third-party defendant, may cause the entire case to be transferred to the circuit court in a county in which venue is proper by filing a notice of transfer with the clerk of the cyber court within 28 days after the date on which the party was served with the pleading that gives it the right to transfer.

(2) Within 14 days after the filing of an answer to a complaint or a motion by a defendant for summary disposition, whichever is earlier, the judge to whom the case has been assigned shall make a determination, based solely upon the complaint and answer or the motion, whether the case is primarily a business or commercial dispute. If the judge determines that it is not, the court shall notify the plaintiff of that decision, and the plaintiff has 14 days after service of the court's notification to transfer the case to the circuit court in a county in which venue is proper. If the plaintiff does not transfer the case to the circuit court, the judge of the cyber court shall do so. Subject to subsection (3), if the judge determines that it is primarily a business or commercial dispute, the case shall proceed in cyber court.

(3) If, at the time of or after the filing of the defendant's answer or motion for summary disposition, parties or claims are added or deleted, the judge to whom the case is assigned, not later than 14 days after the answer or motion is filed, shall again make a determination, based solely upon the pleadings as they then exist, whether the case is then primarily a business or commercial dispute. If the judge determines that it is not, the court shall notify the plaintiff of that decision, and the plaintiff has 14 days after service of the court's notification to transfer the case to the circuit court in a county in which venue is proper. If the plaintiff does not transfer the case to the circuit court, the judge of the cyber court shall do so. If the judge determines that it is primarily a business or commercial dispute, the case shall proceed in cyber court. However, if parties or claims are later added or deleted, the procedures in this subsection apply again.

(4) Any determination by a judge of the cyber court made under subsections (2) and (3) is final and may not be reviewed or altered by the circuit court to which a case is transferred.

(5) If a defendant in an action commenced in cyber court, a plaintiff against whom a counterclaim is filed in such an action, or any party added by motion of the original parties as a plaintiff, defendant, or third-party defendant transfers the action to the circuit court as provided in subsection (1), or the judge determines under subsection (2) or (3) that the case is not primarily a business or commercial dispute and the case is transferred to the circuit court, the clerk of the cyber court shall forward to the circuit court, as a filing fee, a portion of the filing fee paid at the commencement of the action in the cyber court that is equal to the filing fee otherwise required in the circuit court.

This act is ordered to take immediate effect.
Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

[No. 664]

(SB 1213)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or

formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 456, 2236, 2401, and 2601 (MCL 500.456, 500.2236, 500.2401, and 500.2601), section 456 as amended by 2002 PA 26, section 2236 as amended by 1993 PA 200, and section 2401 as amended by 1982 PA 8.

The People of the State of Michigan enact:

500.456 Legal process served on resident agent effective as personal service on company, association, or group; stipulation; filing copy of appointment; fee; duration of appointment; service of process.

Sec. 456. (1) Every insurance company, association, risk retention group, or purchasing group not organized under the statutes of this state shall file with the commissioner, as a condition precedent to doing business in this state, the name and address of a resident agent upon which any local process affecting the company, association, or group may be served. Service upon the resident agent designated under this section is service on the company, association, or group. This designation shall remain in force as long as any liability remains within this state.

(2) As a condition of doing business in this state, an unauthorized insurer who does not have a resident agent shall file with the commissioner an irrevocable written stipulation agreeing that any legal process affecting the company, association, or group that is served upon the commissioner or his or her designee has the same effect as if personally served upon the company, association, or group. A copy of the appointment shall be filed with the commissioner. Service upon the commissioner is service upon the company, association, or group and the fee for service is $10.00 payable at time of service. This appointment remains in force as long as any liability remains within this state.

(3) Every insurance company not organized under the statutes of this state that provides a surety bond required or permitted under the laws of the United States shall irrevocably appoint the commissioner or his or her designee as the company's agent to receive service of process in any action in United States district court on the surety bond. Service upon the commissioner is service upon the company, and the commissioner may establish a reasonable fee, payable at the time of service, for the acceptance of service. Upon receipt of service of process, the commissioner or his or her designee shall forward the service of process to the resident agent designated under subsection (1). Service of process on the commissioner under this subsection only applies for a bond provided within this state and is in addition to and not in place of any other method of service authorized by law or court rule.

500.2236 Forms generally; filing; approval; type size; effect of membership in or subscription to rating organization; substitute form; readability score and other requirements; approval of changes or additions; notice of disapproval or withdrawal of approval; hearing; separate violation; penalty; applicability of filing requirements; "exempt commercial policyholder" defined; court review of order.

Sec. 2236. (1) A basic insurance policy form or annuity contract form shall not be issued or delivered to any person in this state, and an insurance or annuity application form if a written application is required and is to be made a part of the policy or contract, a printed rider or indorsement form or form of renewal certificate, and a group certificate in connection with the policy or contract, shall not be issued or delivered to a person in this state, until a copy of the form is filed with the insurance bureau and approved by the commissioner as conforming with the requirements of this act and not inconsistent with the law. Failure of the commissioner to act within 30 days after submittal constitutes approval. All such forms, except policies of disability insurance as defined in section 3400, shall be plainly printed with type size not less than 8-point unless the commissioner determines that portions of such a form printed with type less than 8-point is not deceptive or misleading.

(2) An insurer may satisfy its obligations to make form filings by becoming a member of, or a subscriber to, a rating organization, licensed under section 2436 or 2630, which makes such filings and by filing with the commissioner a copy of its authorization of the rating organization to make the filings on its behalf. Every member of or subscriber to a rating organization shall adhere to the form filings made on its behalf by the organization except that an insurer may file with the commissioner a substitute form, and thereafter if a subsequent form filing by the rating organization affects the use of the substitute form, the insurer shall review its use and notify the commissioner whether to withdraw its substitute form.

(3) Beginning January 1, 1992, the commissioner shall not approve a form filed pursuant to this section providing for or relating to an insurance policy or an annuity contract

for personal, family, or household purposes if the form fails to obtain the readability score or meet the other requirements of this subsection, as applicable:

(a) The readability score for a form for which approval is required by this section shall not be less than 45, as determined by the method provided in subdivisions (b) and (c).

(b) The readability score for a form shall be determined as follows:

(*i*) For a form containing not more than 10,000 words, the entire form shall be analyzed. For a form containing more than 10,000 words, not less than two 200-word samples per page shall be analyzed instead of the entire form. The samples shall be separated by at least 20 printed lines.

(*ii*) Count the number of words and sentences in the form or samples and divide the total number of words by the total number of sentences. Multiply this quotient by a factor of 1.015.

(*iii*) Count the total number of syllables in the form or samples and divide the total number of syllables by the total number of words. Multiply this quotient by a factor of 84.6. As used in this subparagraph, "syllable" means a unit of spoken language consisting of 1 or more letters of a word as indicated by an accepted dictionary. If the dictionary shows 2 or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

(*iv*) Add the figures obtained in subparagraphs (*ii*) and (*iii*) and subtract this sum from 206.835. The figure obtained equals the readability score for the form.

(c) For the purposes of subdivision (b)(*ii*) and (*iii*), the following procedures shall be used:

(*i*) A contraction, hyphenated word, or numbers and letters when separated by spaces shall be counted as 1 word.

(*ii*) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as 1 sentence.

(d) In determining the readability score, the method provided in subdivisions (b) and (c):

(*i*) Shall be applied to an insurance policy form or an annuity contract, together with a rider or indorsement form usually associated with such an insurance policy form or annuity contract.

(*ii*) Shall not be applied to words or phrases that are defined in an insurance policy form, an annuity contract, or riders, indorsements, or group certificates pursuant to an insurance policy form or annuity contract.

(*iii*) Shall not be applied to language specifically agreed upon through collective bargaining or required by a collective bargaining agreement.

(*iv*) Shall not be applied to language that is prescribed by state or federal statute or by rules or regulations promulgated pursuant to a state or federal statute.

(e) Each form for which approval is required by this section shall contain both of the following:

(*i*) Topical captions.

(*ii*) An identification of exclusions.

(f) Each insurance policy and annuity contract that has more than 3,000 words printed on not more than 3 pages of text or that has more than 3 pages of text regardless of the number of words shall contain a table of contents. This subdivision does not apply to indorsements.

(g) Each rider or indorsement form that changes coverage shall do all of the following:

(*i*) Contain a properly descriptive title.

(*ii*) Reproduce either the entire paragraph or the provision as changed.

(*iii*) Be accompanied by an explanation of the change.

(h) If a computer system approved by the commissioner calculates the readability score of a form as being in compliance with this subsection, the form is considered in compliance with the readability score requirements of this subsection.

(4) After January 1, 1992, any change or addition to a policy or annuity contract form for personal, family, or household purposes, whether by indorsement, rider, or otherwise, or a change or addition to a rider or indorsement form to such policy or annuity contract form, which policy or annuity contract form has not been previously approved under subsection (3), shall be submitted for approval pursuant to subsection (3).

(5) Upon written notice to the insurer, the commissioner may disapprove, withdraw approval or prohibit the issuance, advertising, or delivery of any form to any person in this state if it violates any provisions of this act, or contains inconsistent, ambiguous, or misleading clauses, or contains exceptions and conditions that unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the policy. The notice shall specify the objectionable provisions or conditions and state the reasons for the commissioner's decision. If the form is legally in use by the insurer in this state, the notice shall give the effective date of the commissioner's disapproval, which shall not be less than 30 days subsequent to the mailing or delivery of the notice to the insurer. If the form is not legally in use, then disapproval shall be effective immediately.

(6) If a form is disapproved or approval is withdrawn under the provisions of this act, the insurer is entitled upon demand to a hearing before the commissioner or a deputy commissioner within 30 days after the notice of disapproval or of withdrawal of approval. After the hearing, the commissioner shall make findings of fact and law, and either affirm, modify, or withdraw his or her original order or decision.

(7) Any issuance, use, or delivery by an insurer of any form without the prior approval of the commissioner as required by subsection (1) or after withdrawal of approval as provided by subsection (5) constitutes a separate violation for which the commissioner may order the imposition of a civil penalty of $25.00 for each offense, but not to exceed the maximum penalty of $500.00 for any 1 series of offenses relating to any 1 basic policy form, which penalty may be recovered by the attorney general as provided in section 230.

(8) The filing requirements of this section do not apply to any of the following:

(a) Insurance against loss of or damage to:

(*i*) Imports, exports, or domestic shipments.

(*ii*) Bridges, tunnels, or other instrumentalities of transportation and communication.

(*iii*) Aircraft and attached equipment.

(*iv*) Vessels and watercraft under construction or owned by or used in a business or having a straight-line hull length of more than 24 feet.

(b) Insurance against loss resulting from liability, other than worker's compensation or employers' liability arising out of the ownership, maintenance, or use of:

(*i*) Imports, exports, or domestic shipments.

(*ii*) Aircraft and attached equipment.

(*iii*) Vessels and watercraft under construction or owned by or used in a business or having a straight-line hull length of more than 24 feet.

(c) Surety bonds other than fidelity bonds.

(d) Policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or that relate to the manner of distri-

bution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. Beginning September 1, 1968, the commissioner by order may exempt from the filing requirements of this section and sections 2242, 3606, and 4430 for so long as he or she considers proper any insurance document or form, except that portion of the document or form that establishes a relationship between group disability insurance and personal protection insurance benefits subject to exclusions or deductibles pursuant to section 3109a, as specified in the order to which this section practicably may not be applied, or the filing and approval of which are considered unnecessary for the protection of the public. Insurance documents or forms providing medical payments or income replacement benefits, except that portion of the document or form that establishes a relationship between group disability insurance and personal protection insurance benefits subject to exclusions or deductibles pursuant to section 3109a, exempt by order of the commissioner from the filing requirements of this section and sections 2242 and 3606 are considered approved by the commissioner for purposes of section 3430.

(e) Insurance that meets both of the following:

(*i*) Is sold to an exempt commercial policyholder.

(*ii*) Contains a prominent disclaimer that states "This policy is exempt from the filing requirements of section 2236 of the insurance code of 1956, 1956 PA 218, MCL 500.2236." or words that are substantially similar.

(9) As used in this section and sections 2401 and 2601, "exempt commercial policyholder" means an insured that purchases the insurance for other than personal, family, or household purposes.

(10) Every order made by the commissioner under the provisions of this section is subject to court review as provided in section 244.

500.2401 Applicability of chapter; insurance or coverage subject to regulation by another rate regulatory chapter; filing designation with commissioner; order for prior approval; absence of reasonable degree of competition.

Sec. 2401. (1) Except as provided in subsection (2), this chapter applies to the following kinds of insurance or coverages on risks or operations in this state:

(a) Casualty insurance, as defined in section 624, except as to livestock insurance.

(b) Surety and fidelity.

(c) Automobile insurance, as defined or included under the following sections:

(*i*) 624 (general definition of casualty insurance).

(*ii*) 7202 (insuring powers of reciprocal insurers).

(*iii*) 620 (automobile insurance (limited) defined).

(*iv*) 614 (marine insurance defined).

(d) Worker's compensation insurance, as defined or included under the following sections:

(*i*) 624 (general definition of casualty insurance).

(*ii*) 7202 (insuring powers of reciprocal insurers).

(e) To all insurance transacted by a reciprocal insurer pursuant to section 7202 (insuring powers of reciprocal insurers).

(f) Personal property floaters.

(g) Title insurance.

(2) This chapter does not apply to any of the following:

(a) Reinsurance, other than joint reinsurance to the extent stated in section 2464.

(b) Disability insurance.

(c) Insurance against loss of or damage to aircraft or against liability, other than worker's compensation and employers' liability, arising out of the ownership, maintenance, or use of aircraft.

(d) Insurance that meets both of the following and is not worker's compensation insurance:

(*i*) Is sold to an exempt commercial policyholder.

(*ii*) Contains a prominent disclaimer that states "This policy is exempt from the filing requirements of section 2236 of the insurance code of 1956, 1956 PA 218, MCL 500.2236." or words that are substantially similar.

(3) This chapter applies to all classes of insurers admitted to do business in this state, including stock, mutual, reciprocal, and interinsurers authorized to write any of the kinds of insurance to which this chapter applies under this act.

(4) If any kind of insurance, subdivision, or combination thereof, or type of coverage, subject to this chapter, is also subject to regulation by another rate regulatory chapter of this act, an insurer to which both chapter 24 and chapter 26 are otherwise applicable shall file with the commissioner, a designation as to which rate regulatory chapter shall be applicable to the insurer with respect to such kind of insurance, subdivision, or combination thereof, or type of coverage.

(5) If, pursuant to subsection (6), the commissioner certifies the absence of a reasonable degree of competition for a specified classification, type, or kind of insurance, the commissioner may order that each insurer file for prior approval, subject to the provisions of this chapter, any changes to its manuals of classification, manuals of rules and rates, and rating plans the insurer proposes to use for that specified classification, type, or kind of insurance. The order shall state, in writing, the reasons for the commissioner's decision to order the filing. An order issued under this subsection expires 2 years after the date of issuance. If such an order is in effect, rates to which the order applies shall be filed at least 30 days before their proposed effective date. Failure of the commissioner to act within 30 days after submittal constitutes approval.

(6) A determination concerning the absence of a reasonable degree of competition shall take into account a reasonable spectrum of relevant economic tests, including the number of insurers actively engaged in writing the insurance in question, the present availability of that insurance compared to the availability in comparable past periods, the underwriting return of that insurance over a reasonable period of time sufficient to assure reliability in relation to the risk associated with that insurance, and the difficulty encountered by new insurers entering the market in order to compete for the writing of that insurance.

500.2601 Scope of chapter.

Sec. 2601. (1) This chapter applies to the following kinds of insurance as written on risks located in this state by and companies, associations, or other carriers, including reciprocals:

(a) Property insurance, as defined in section 610.

(b) Marine insurance, as defined in section 614.

(c) Inland navigation and transportation insurance, as defined in section 616.

(d) Automobile insurance (limited), as defined in section 620.

(2) "Inland marine insurance" shall be considered to include:

(a) Insurance against loss of or damage to domestic shipments, bridges, tunnels, and other inland instrumentalities of transportation or communication, excluding buildings, their furniture and furnishings, fixed contents, and supplies held in storage.

(b) Insurance defined by ruling of the commissioner as inland marine insurance.

(3) This chapter does not apply to any of the following:

(a) Reinsurance, other than joint reinsurance to the extent stated in section 2658.

(b) Insurance against loss of or damage to:

(*i*) Imports, exports, or domestic shipments.

(*ii*) Bridges, tunnels, or other instrumentalities of transportation and communication.

(*iii*) Aircraft and attached equipment.

(*iv*) Vessels and watercraft under construction or owned by or used in a business or having a straight-line hull length of more than 24 feet.

(c) Insurance against loss resulting from liability arising out of the ownership, maintenance, or use of:

(*i*) Imports, exports, or domestic shipments.

(*ii*) Aircraft and attached equipment.

(*iii*) Vessels and watercraft that are under construction or owned by or used in a business or having a straight-line hull length of more than 24 feet.

(d) Motor vehicle insurance, nor to insurance against liability arising out of the ownership, maintenance, or use of motor vehicles.

(e) Companies organized and doing business under chapter 68.

(f) Insurance that meets both of the following:

(*i*) Is sold to an exempt commercial policyholder.

(*ii*) Contains a prominent disclaimer that states "This policy is exempt from the filing requirements of section 2236 of the insurance code of 1956, 1956 PA 218, MCL 500.2236." or words that are substantially similar.

(4) If any kind of insurance, subdivision, or combination thereof, or type of coverage, subject to this chapter, is also subject to regulation by another rate regulatory chapter of this act, an insurer to which both chapters are otherwise applicable shall file with the commissioner a designation as to which rate regulatory chapter shall be applicable to it with respect to such kind of insurance, subdivision, or combination thereof, or type of coverage.

(5) If, pursuant to subsection (6), the commissioner certifies the absence of a reasonable degree of competition for a specified classification, type, or kind of insurance, the commissioner may order that each insurer file for prior approval, subject to the provisions of this chapter, any changes to its manuals of classification, manuals of rules and rates, and rating plans the insurer proposes to use for that specified classification, type, or kind of insurance. The order shall state, in writing, the reasons for the commissioner's decision to order the filing. An order issued under this subsection expires 2 years after the date of issuance. If such an order is in effect, rates to which the order applies shall be filed at least 30 days before their proposed effective date. Failure of the commissioner to act within 30 days after submittal constitutes approval.

(6) A determination concerning the existence of a reasonable degree of competition shall take into account a reasonable spectrum of relevant economic tests, including the number of insurers actively engaged in writing the insurance in question, the present availability of that insurance compared to the availability in comparable past periods, the underwriting return of that insurance over a reasonable period of time sufficient to assure reliability in relation to the risk associated with that insurance, and the difficulty encountered by new insurers entering the market in order to compete for the writing of that insurance.

Approved December 25, 2002.

Filed with Secretary of State December 26, 2002.

Compiler's note: In subsection (1), of MCL 500.2601, the phrase "as written on risks located in this state by and companies," evidently should read "as written on risks located in this state by any companies,".

[No. 665]

(HB 5394)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 7401 and 7403 (MCL 333.7401 and 333.7403), as amended by 2001 PA 236.

The People of the State of Michigan enact:

333.7401 Manufacturing, creating, delivering, or possessing with intent to manufacture, create, or deliver controlled substance, prescription form, or counterfeit prescription form; dispensing, prescribing, or administering controlled substance; violations; penalties; consecutive sentence; discharge from lifetime probation; "plant" defined.

Sec. 7401. (1) Except as authorized by this article, a person shall not manufacture, create, deliver, or possess with intent to manufacture, create, or deliver a controlled substance, a prescription form, or a counterfeit prescription form. A practitioner licensed by the administrator under this article shall not dispense, prescribe, or administer a controlled substance for other than legitimate and professionally recognized therapeutic or scientific purposes or outside the scope of practice of the practitioner, licensee, or applicant.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*) and:

(*i*) Which is in an amount of 1,000 grams or more of any mixture containing that substance is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $1,000,000.00, or both.

(*ii*) Which is in an amount of 450 grams or more, but less than 1,000 grams, of any mixture containing that substance is guilty of a felony and punishable by imprisonment for not more than 30 years or a fine of not more than $500,000.00, or both.

(*iii*) Which is in an amount of 50 grams or more, but less than 450 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $250,000.00, or both.

(*iv*) Which is in an amount less than 50 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $25,000.00, or both.

(b) Either of the following:

(*i*) A substance described in section 7214(c)(*ii*) is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $25,000.00, or both.

(*ii*) Any other controlled substance classified in schedule 1, 2, or 3, except marihuana is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than $10,000.00, or both.

(c) A substance classified in schedule 4 is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(d) Marihuana or a mixture containing marihuana is guilty of a felony punishable as follows:

(*i*) If the amount is 45 kilograms or more, or 200 plants or more, by imprisonment for not more than 15 years or a fine of not more than $10,000,000.00, or both.

(*ii*) If the amount is 5 kilograms or more but less than 45 kilograms, or 20 plants or more but fewer than 200 plants, by imprisonment for not more than 7 years or a fine of not more than $500,000.00, or both.

(*iii*) If the amount is less than 5 kilograms or fewer than 20 plants, by imprisonment for not more than 4 years or a fine of not more than $20,000.00, or both.

(e) A substance classified in schedule 5 is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(f) A prescription form or a counterfeit prescription form is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than $5,000.00, or both.

(3) A term of imprisonment imposed under subsection (2)(a) may be imposed to run consecutively with any term of imprisonment imposed for the commission of another felony.

(4) If an individual was sentenced to lifetime probation under subsection (2)(a)(*iv*) before the effective date of the amendatory act that added this subsection and the individual has served 5 or more years of that probationary period, the probation officer for that individual may recommend to the court that the court discharge the individual from probation. If an individual's probation officer does not recommend discharge as provided in this subsection, with notice to the prosecutor, the individual may petition the court seeking resentencing under the court rules. The court may discharge an individual from probation as provided in this subsection. An individual may file more than 1 motion seeking resentencing under this subsection.

(5) As used in this section, "plant" means a marihuana plant that has produced cotyledons or a cutting of a marihuana plant that has produced cotyledons.

333.7403 Knowingly or intentionally possessing controlled substance, controlled substance analogue, or prescription form; violations; penalties; discharge from lifetime probation.

Sec. 7403. (1) A person shall not knowingly or intentionally possess a controlled substance, a controlled substance analogue, or a prescription form unless the controlled

substance, controlled substance analogue, or prescription form was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this article.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*), and:

(*i*) Which is in an amount of 1,000 grams or more of any mixture containing that substance is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $1,000,000.00, or both.

(*ii*) Which is in an amount of 450 grams or more, but less than 1,000 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 30 years or a fine of not more than $500,000.00, or both.

(*iii*) Which is in an amount of 50 grams or more, but less than 450 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $250,000.00, or both.

(*iv*) Which is in an amount of 25 grams or more, but less than 50 grams of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $25,000.00, or both.

(*v*) Which is in an amount less than 25 grams of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $25,000.00, or both.

(b) Either of the following:

(*i*) A substance described in section 7214(c)(*ii*) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00, or both.

(*ii*) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance for which a penalty is prescribed in subdivision (a), (b)(*i*), (c), or (d), or a controlled substance analogue is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5 is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(d) Marihuana is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(e) A prescription form is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(3) If an individual was sentenced to lifetime probation under subsection (2)(a)(*iv*) before the effective date of the amendatory act that added this subsection and the individual has served 5 or more years of that probationary period, the probation officer for that individual may recommend to the court that the court discharge the individual from probation. If an individual's probation officer does not recommend discharge as provided in this subsection, with notice to the prosecutor, the individual may petition the court seeking resentencing under the court rules. The court may discharge an individual from probation as provided in this subsection. An individual may file more than 1 motion seeking resentencing under this subsection.

Effective date.

Enacting section 1. This amendatory act takes effect March 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 5395.

(b) House Bill No. 6510.

This act is ordered to take immediate effect.
Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

Compiler's note: House Bill No. 5395, referred to in enacting section 2, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 666, Eff. Mar. 1, 2003.

House Bill No. 6510, also referred to in enacting section 2, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 670, Eff. Mar. 1, 2003.

[No. 666]

(HB 5395)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 34 of chapter IX, sections 1 and 2 of chapter XI, and sections 13m, 43, 45, and 57 of chapter XVII (MCL 769.34, 771.1, 771.2, 777.13m, 777.43, 777.45, and 777.57), section 34 of chapter IX and section 43 of chapter XVII as amended by 2000 PA 279, section 1 of chapter XI as amended by 2002 PA 483, section 2 of chapter XI as amended by 1998 PA 520, section 13m of chapter XVII as added by 2002 PA 30, section 45 of chapter XVII as added by 1998 PA 317, and section 57 of chapter XVII as amended by 1999 PA 227.

The People of the State of Michigan enact:

CHAPTER IX

769.34 Sentencing guidelines; duties of court.

Sec. 34. (1) The sentencing guidelines promulgated by order of the Michigan supreme court do not apply to felonies enumerated in part 2 of chapter XVII committed on or after January 1, 1999.

(2) Except as otherwise provided in this subsection or for a departure from the appropriate minimum sentence range provided for under subsection (3), the minimum sentence imposed by a court of this state for a felony enumerated in part 2 of chapter XVII committed on or after January 1, 1999 shall be within the appropriate sentence range under the version of those sentencing guidelines in effect on the date the crime was committed. Both of the following apply to minimum sentences under this subsection:

(a) If a statute mandates a minimum sentence for an individual sentenced to the jurisdiction of the department of corrections, the court shall impose sentence in accordance with that statute. Imposing a mandatory minimum sentence is not a departure under this section. If a statute mandates a minimum sentence for an individual sentenced to the jurisdiction of the department of corrections and the statute authorizes the sentencing judge to depart from that minimum sentence, imposing a sentence that exceeds the recommended sentence range but is less than the mandatory minimum sentence is not a departure under this section. If the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, mandates a minimum sentence for an individual sentenced to the jurisdiction of the department of corrections and the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, authorizes the sentencing judge to impose a sentence that is less than that minimum sentence, imposing a sentence that exceeds the recommended sentence range but is less than the mandatory minimum sentence is not a departure under this section.

(b) The court shall not impose a minimum sentence, including a departure, that exceeds 2/3 of the statutory maximum sentence.

(3) A court may depart from the appropriate sentence range established under the sentencing guidelines set forth in chapter XVII if the court has a substantial and compelling reason for that departure and states on the record the reasons for departure. All of the following apply to a departure:

(a) The court shall not use an individual's gender, race, ethnicity, alienage, national origin, legal occupation, lack of employment, representation by appointed legal counsel, representation by retained legal counsel, appearance in propria persona, or religion to depart from the appropriate sentence range.

(b) The court shall not base a departure on an offense characteristic or offender characteristic already taken into account in determining the appropriate sentence range unless the court finds from the facts contained in the court record, including the presentence investigation report, that the characteristic has been given inadequate or disproportionate weight.

(4) Intermediate sanctions shall be imposed under this chapter as follows:

(a) If the upper limit of the recommended minimum sentence range for a defendant determined under the sentencing guidelines set forth in chapter XVII is 18 months or less, the court shall impose an intermediate sanction unless the court states on the record a substantial and compelling reason to sentence the individual to the jurisdiction of the department of corrections. An intermediate sanction may include a jail term that does not exceed the upper limit of the recommended minimum sentence range or 12 months, whichever is less.

(b) If an attempt to commit a felony designated in offense class H in part 2 of chapter XVII is punishable by imprisonment for more than 1 year, the court shall impose an intermediate sanction upon conviction of that offense absent a departure.

(c) If the upper limit of the recommended minimum sentence exceeds 18 months and the lower limit of the recommended minimum sentence is 12 months or less, the court shall sentence the offender as follows absent a departure:

(*i*) To imprisonment with a minimum term within that range.

(*ii*) To an intermediate sanction that may include a term of imprisonment of not more than 12 months.

(5) If a crime has a mandatory determinant penalty or a mandatory penalty of life imprisonment, the court shall impose that penalty. This section does not apply to sentencing for that crime.

(6) As part of the sentence, the court may also order the defendant to pay any combination of a fine, costs, or applicable assessments. The court shall order payment of restitution as provided by law.

(7) If the trial court imposes on a defendant a minimum sentence that is longer or more severe than the appropriate sentence range, as part of the court's advice of the defendant's rights concerning appeal, the court shall advise the defendant orally and in writing that he or she may appeal the sentence as provided by law on grounds that it is longer or more severe than the appropriate sentence range.

(8) All of the following shall be part of the record filed for an appeal of a sentence under this section:

(a) An entire record of the sentencing proceedings.

(b) The presentence investigation report. Any portion of the presentence investigation report exempt from disclosure by law shall not be a public record.

(c) Any other reports or documents the sentencing court used in imposing sentence.

(9) An appeal of a sentence under this section does not stay execution of the sentence.

(10) If a minimum sentence is within the appropriate guidelines sentence range, the court of appeals shall affirm that sentence and shall not remand for resentencing absent an error in scoring the sentencing guidelines or inaccurate information relied upon in determining the defendant's sentence. A party shall not raise on appeal an issue challenging the scoring of the sentencing guidelines or challenging the accuracy of information relied upon in determining a sentence that is within the appropriate guidelines sentence range unless the party has raised the issue at sentencing, in a proper motion for resentencing, or in a proper motion to remand filed in the court of appeals.

(11) If, upon a review of the record, the court of appeals finds the trial court did not have a substantial and compelling reason for departing from the appropriate sentence range, the court shall remand the matter to the sentencing judge or another trial court judge for resentencing under this chapter.

(12) Time served on the sentence appealed under this section is considered time served on any sentence imposed after remand.

CHAPTER XI

771.1 Requirements for probation; delayed sentence; fee; applicability of section to certain juveniles.

Sec. 1. (1) In all prosecutions for felonies or misdemeanors other than murder, treason, criminal sexual conduct in the first or third degree, armed robbery, and major controlled

substance offenses not described in subsection (4), if the defendant has been found guilty upon verdict or plea and the court determines that the defendant is not likely again to engage in an offensive or criminal course of conduct and that the public good does not require that the defendant suffer the penalty imposed by law, the court may place the defendant on probation under the charge and supervision of a probation officer.

(2) In an action in which the court may place the defendant on probation, the court may delay sentencing the defendant for not more than 1 year to give the defendant an opportunity to prove to the court his or her eligibility for probation or other leniency compatible with the ends of justice and the defendant's rehabilitation. When sentencing is delayed, the court shall enter an order stating the reason for the delay upon the court's records. The delay in passing sentence does not deprive the court of jurisdiction to sentence the defendant at any time during the period of delay.

(3) If a defendant is before the circuit court and the court delays imposing sentence under subsection (2), the court shall include in the delayed sentence order that the department of corrections shall collect a supervision fee of not more than $135.00 multiplied by the number of months of delay ordered, but not more than 12 months. The fee is payable when the delayed sentence order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that defendant. In determining the amount of the fee, the court shall consider the defendant's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

Projected Monthly Income	Amount of Fee
$ 0-249.99	$ 10.00
$ 250.00-499.99	$ 10.00
$ 500.00-749.99	$ 25.00
$ 750.00-999.99	$ 40.00
$1,000.00 or more	5% of projected monthly income, but not more than $135.00

The court may order a higher amount than indicated by the table, up to the maximum of $135.00 multiplied by the number of months of delay ordered but not more than 12 months, if the court determines that the defendant has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(4) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

771.2 Probation period; order fixing period and conditions of probation; registration pursuant to sex offenders registration act; reduction in probation period; subsection (1) inapplicable to certain juveniles.

Sec. 2. (1) Except as provided in section 2a of this chapter, if the defendant is convicted for an offense that is not a felony, the probation period shall not exceed 2 years. Except as provided in section 2a of this chapter, if the defendant is convicted of a felony, the probation period shall not exceed 5 years.

(2) The court shall by order, to be filed or entered in the cause as the court may direct by general rule or in each case, fix and determine the period and conditions of probation. The order is part of the record in the cause. The court may amend the order in form or substance at any time.

(3) A defendant who was placed on probation under section 1(4) of this chapter prior to the effective date of the act that amended this section is subject to the conditions of probation specified in section 3 of this chapter, including payment of a probation supervision fee as prescribed in section 3c of this chapter, and to revocation for violation of these conditions, but the probation period shall not be reduced other than by a revocation that results in imprisonment or as otherwise provided by law.

(4) If an individual is placed on probation for a listed offense enumerated in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the individual's probation officer shall register the individual or accept the individual's registration as provided in that act.

(5) Subsection (1) does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

CHAPTER XVII

777.13m Applicability of chapter to certain felonies; §§ 333.7341(8) to 333.7410a.

Sec. 13m. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.7341(8)	CS	G	Delivery or manufacture of imitation controlled substance	2
333.7401(2)(a)(*i*)	CS	A	Delivery or manufacture of 1,000 or more grams of certain schedule 1 or 2 controlled substances	Life
333.7401(2)(a)(*ii*)	CS	A	Delivery or manufacture of 450 or more but less than 1,000 grams of certain schedule 1 or 2 controlled substances	30
333.7401(2)(a)(*iii*)	CS	B	Delivery or manufacture of 50 or more but less than 450 grams of certain schedule 1 or 2 controlled substances	20
333.7401(2)(a)(*iv*)	CS	D	Delivery or manufacture of less than 50 grams of certain schedule 1 or 2 controlled substances	20
333.7401(2)(b)(*i*)	CS	B	Delivery or manufacture of methamphetamine	20
333.7401(2)(b)(*ii*)	CS	E	Delivery or manufacture of certain schedule 1, 2, or 3 controlled substances	7
333.7401(2)(c)	CS	F	Delivery or manufacture of schedule 4 controlled substance	4

333.7401(2)(d)(*i*)	CS	C	Delivery or manufacture of 45 or more kilograms of marijuana	15
333.7401(2)(d)(*ii*)	CS	D	Delivery or manufacture of 5 or more but less than 45 kilograms of marijuana	7
333.7401(2)(d)(*iii*)	CS	F	Delivery or manufacture of less than 5 kilograms or 20 plants of marijuana	4
333.7401(2)(e)	CS	G	Delivery or manufacture of schedule 5 controlled substance	2
333.7401(2)(f)	CS	D	Delivery or manufacture of an official or counterfeit prescription form	20
333.7401(2)(g)	CS	D	Delivery or manufacture of prescription or counterfeit form (other than official)	7
333.7401a	Person	B	Delivering a controlled substance or GBL with intent to commit criminal sexual conduct	20
333.7401b(3)(a)	CS	E	Delivery or manufacture of GBL	7
333.7401b(3)(b)	CS	G	Possession of GBL	2
333.7401c(2)(a)	CS	D	Operating or maintaining controlled substance laboratory	10
333.7401c(2)(b)	CS	B	Operating or maintaining controlled substance laboratory in presence of minor	20
333.7401c(2)(c)	CS	B	Operating or maintaining controlled substance laboratory involving hazardous waste	20
333.7401c(2)(d)	CS	B	Operating or maintaining controlled substance laboratory near certain places	20
333.7401c(2)(e)	CS	A	Operating or maintaining controlled substance laboratory involving firearm or other harmful device	25
333.7402(2)(a)	CS	D	Delivery or manufacture of certain imitation controlled substances	10
333.7402(2)(b)	CS	E	Delivery or manufacture of schedule 1, 2, or 3 imitation controlled substance	5
333.7402(2)(c)	CS	F	Delivery or manufacture of imitation schedule 4 controlled substance	4
333.7402(2)(d)	CS	G	Delivery or manufacture of imitation schedule 5 controlled substance	2
333.7402(2)(e)	CS	C	Delivery or manufacture of controlled substance analogue	15
333.7403(2)(a)(*i*)	CS	A	Possession of 1,000 or more grams of certain schedule 1 or 2 controlled substances	Life

333.7403(2)(a)(*ii*)	CS	A	Possession of 450 or more but less than 1,000 grams of certain schedule 1 or 2 controlled substances	30
333.7403(2)(a)(*iii*)	CS	B	Possession of 50 or more but less than 450 grams of certain schedule 1 or 2 controlled substances	20
333.7403(2)(a)(*iv*)	CS	G	Possession of 25 or more but less than 50 grams of certain schedule 1 or 2 controlled substances	4
333.7403(2)(a)(*v*)	CS	G	Possession of less than 25 grams of certain schedule 1 or 2 controlled substances	4
333.7403(2)(b)(*i*)	CS	D	Possession of methamphetamine	10
333.7403(2)(b)(*ii*)	CS	G	Possession of certain schedule 1, 2, 3, or 4 controlled substances or controlled substances analogue	2
333.7403(2)(e)	CS	H	Possession of official prescription form	1
333.7405(a)	CS	G	Controlled substance violations by licensee	2
333.7405(b)	CS	G	Manufacturing or distribution violations by licensee	2
333.7405(c)	CS	G	Refusing lawful inspection	2
333.7405(d)	CS	G	Maintaining drug house	2
333.7407(1)(a)	CS	G	Controlled substance violations by licensee	4
333.7407(1)(b)	CS	G	Use of fictitious, revoked, or suspended license number	4
333.7407(1)(c)	CS	G	Obtaining controlled substance by fraud	4
333.7407(1)(d)	CS	G	False reports under controlled substance article	4
333.7407(1)(e)	CS	G	Possession of counterfeiting implements	4
333.7407(1)(f)	CS	F	Disclosing or obtaining prescription information	4
333.7407(1)(g)	CS	F	Possession of counterfeit prescription form	4
333.7407(2)	CS	G	Refusing to furnish records under controlled substance article	4
333.7410a	CS	G	Controlled substance offense or offense involving GBL in or near a park	2

777.43 Continuing pattern of criminal behavior.

Sec. 43. (1) Offense variable 13 is continuing pattern of criminal behavior. Score offense variable 13 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offense was part of a pattern of felonious criminal activity involving 3 or more sexual penetrations against a person or persons less than 13 years of age ..... 50 points

(b) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against a person ..... 25 points

(c) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more crimes against a person or property or a violation of section 7401(2)(a)(*i*) to (*iii*) or section 7403(2)(a)(*i*) to (*iii*) ..... 10 points

(d) The offense was part of a pattern of felonious criminal activity directly related to membership in an organized criminal group..... 10 points

(e) The offense was part of a pattern of felonious criminal activity involving a combination of 3 or more violations of section 7401(2)(a)(*i*) to (*iii*) or section 7403(2)(a)(*i*) to (*iii*) ..... 10 points

(f) The offense was part of a pattern of felonious criminal activity involving 3 or more crimes against property ..... 5 points

(g) No pattern of felonious criminal activity existed..... 0 points

(2) All of the following apply to scoring offense variable 13:

(a) For determining the appropriate points under this variable, all crimes within a 5-year period, including the sentencing offense, shall be counted regardless of whether the offense resulted in a conviction.

(b) The presence or absence of multiple offenders, the age of the offenders, or the degree of sophistication of the organized criminal group is not as important as the fact of the group's existence, which may be reasonably inferred from the facts surrounding the sentencing offense.

(c) Except for offenses related to membership in an organized criminal group, do not score conduct scored in offense variable 11 or 12.

(d) Score 50 points only if the sentencing offense is first degree criminal sexual conduct.

(e) Do not count more than 1 controlled substance offense arising out of the criminal episode for which the person is being sentenced.

(f) Do not count more than 1 crime involving the same controlled substance. For example, do not count conspiracy and a substantive offense involving the same amount of controlled substances or possession and delivery of the same amount of controlled substances.

777.45 Aggravated controlled substance offenses.

Sec. 45. (1) Offense variable 15 is aggravated controlled substance offenses. Score offense variable 15 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offense involved the manufacture, creation, delivery, possession, or possession with intent to manufacture, create, or deliver of 1,000 or more grams of any mixture containing a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*) ..... 100 points

(b) The offense involved the manufacture, creation, delivery, possession, or possession with intent to manufacture, create, or deliver of 450 grams or more but less than 1,000 grams of any mixture containing a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*)..... 75 points

(c) The offense involved the manufacture, creation, delivery, possession, or possession with intent to manufacture, create, or deliver of 50 or more grams but less than 450 grams of any mixture containing a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*) ..... 50 points

(d) The offense involved the sale or delivery of a controlled substance other than marihuana or a mixture containing a controlled substance other than marihuana by the offender who was 18 years of age or older to a minor who was 3 or more years younger than the offender ..... 25 points

(e) The offense involved the sale, delivery, or possession with intent to sell or deliver 45 kilograms or more of marihuana or 200 or more of marihuana plants ..... 10 points

(f) The offense is a violation of section 7401(2)(a)(*i*) to (*iii*) pertaining to a controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*) and was committed in a minor's abode, settled home, or domicile, regardless of whether the minor was present ..... 10 points

(g) The offense involved the delivery or possession with intent to deliver marihuana or any other controlled substance or a counterfeit controlled substance or possession of controlled substances or counterfeit controlled substances having a value or under such circumstances as to indicate trafficking ..... 5 points

(h) The offense was not an offense described in subdivisions (a) through (g) ..... 0 points

(2) As used in this section:

(a) "Deliver" means the actual or constructive transfer of a controlled substance from 1 individual to another regardless of remuneration.

(b) "Minor" means an individual 17 years of age or less.

(c) "Trafficking" means the sale or delivery of controlled substances or counterfeit controlled substances on a continuing basis to 1 or more other individuals for further distribution.

777.57 Subsequent or concurrent felony convictions.

Sec. 57. (1) Prior record variable 7 is subsequent or concurrent felony convictions. Score prior record variable 7 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) The offender has 2 or more subsequent or concurrent convictions ..... 20 points

(b) The offender has 1 subsequent or concurrent conviction ..... 10 points

(c) The offender has no subsequent or concurrent convictions ..... 0 points

(2) All of the following apply to scoring record variable 7:

(a) Score the appropriate point value if the offender was convicted of multiple felony counts or was convicted of a felony after the sentencing offense was committed.

(b) Do not score a felony firearm conviction in this variable.

(c) Do not score a concurrent felony conviction if a mandatory consecutive sentence or a consecutive sentence imposed under section 7401(3) of the public health code, 1978 PA 368, MCL 333.7401, will result from that conviction.

Effective date.

Enacting section 1. This amendatory act takes effect March 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 5394.

(b) House Bill No. 6510.

This act is ordered to take immediate effect.
Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

Compiler's note: House Bill No. 5394, referred to in enacting section 2, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 665, Eff. Mar. 1, 2003.

House Bill No. 6510, also referred to in enacting section 2, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 670, Eff. Mar. 1, 2003.

[No. 667]

(HB 5734)

AN ACT to amend 1980 PA 119, entitled "An act to prescribe a privilege tax for the use of public roads and highways of this state by motor carriers by imposing a specific tax upon the use of motor fuel within this state; to provide for certain credits against this tax and certain mechanisms for paying, collecting, and enforcing this tax; to provide for the licensing of motor carriers and for exemptions from licensure; to require the keeping and providing for the examination of certain reports; to provide review procedures for the assessment of the tax and revocation of a license; to impose certain duties upon and confer certain powers to certain state departments and agencies; to prescribe certain penalties for the violation of this act; and to make appropriations," by amending sections 1, 2, and 4 (MCL 207.211, 207.212, and 207.214), sections 1 and 4 as amended by 2000 PA 406 and section 2 as amended by 1996 PA 584.

The People of the State of Michigan enact:

207.211 Definitions.

Sec. 1. As used in this act:

(a) "Axle" means any 2 or more load-carrying wheels mounted in a single transverse vertical plane.

(b) "Commissioner" means the state commissioner of revenue.

(c) "Department" means the revenue division of the department of treasury.

(d) "Motor carrier" means:

(*i*) A person who operates or causes to be operated a qualified commercial motor vehicle on a public road or highway in this state and at least 1 other state or Canadian province.

(*ii*) A person who operates or causes to be operated a qualified commercial motor vehicle on a public road or highway in this state and who is licensed under the international fuel tax agreement.

(e) "Motor fuel" means diesel fuel as defined by the motor fuel tax act.

(f) "Nonprofit private, parochial, denominational, or public school, college, or university" means an elementary, secondary, or postsecondary educational facility.

(g) "Person" means a natural person, partnership, firm, association, joint stock company, limited liability company, limited liability partnership, syndicate, or corporation, and any receiver, trustee, conservator, or officer, other than a unit of government, having jurisdiction and control of property by virtue of law or by appointment of a court.

(h) "Public roads or highways" means a road, street, or place maintained by this state or a political subdivision of this state and generally open to use by the public as a matter of right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel restricted for the purpose of construction, maintenance, repair, or reconstruction.

(i) "Qualified commercial motor vehicle", subject to subdivision (j), means a motor vehicle used, designed, or maintained for transportation of persons or property and 1 of the following:

(*i*) Having 3 or more axles regardless of weight.

(*ii*) Having 2 axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 12,000 kilograms.

(*iii*) Is used in a combination of vehicles, if the weight of that combination exceeds 26,000 pounds or 12,000 kilograms gross vehicle or registered gross vehicle weight.

(j) "Qualified commercial motor vehicle" shall not include a recreational vehicle, a road tractor, truck, or truck tractor used exclusively in this state, a road tractor, truck, or truck tractor owned by a farmer and used in connection with the farmer's farming operation and not used for hire, a school bus, a bus defined and certificated under the motor bus transportation act, 1982 PA 432, MCL 474.101 to 474.141, or a bus operated by a public transit agency operating under any of the following:

(*i*) A county, city, township, or village as provided by law, or other authority incorporated under 1963 PA 55, MCL 124.351 to 124.359. Each authority and governmental agency incorporated under 1963 PA 55, MCL 124.351 to 124.359, has the exclusive jurisdiction to determine its own contemplated routes, hours of service, estimated transit vehicle miles, costs of public transportation services, and projected capital improvements or projects within its service area.

(*ii*) An authority incorporated under the metropolitan transportation authorities act of 1967, 1967 PA 204, MCL 124.401 to 124.426, or that operates a transportation service pursuant to an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(*iii*) A contract entered into pursuant to 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536, or 1951 PA 35, MCL 124.1 to 124.13.

(*iv*) An authority incorporated under the public transportation authority act, 1986 PA 196, MCL 124.451 to 124.479, or a nonprofit corporation organized under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, that provides transportation services.

(*v*) An authority financing public improvements to transportation systems under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(k) Qualified commercial motor vehicle includes a vehicle operated on a public road or highway owned by a farmer and used in connection with the farmer's farming operation if the vehicle bears out of state registration plates of a state that does not give similar treatment to vehicles from this state.

207.212 Motor carrier fuel tax; calculation; rate; quarterly return and tax payment; form determining amount of motor fuel consumed and average miles per gallon; presumption; remittance; filing returns and paying tax for other than quarterly periods.

Sec. 2. (1) A motor carrier licensed under this act shall pay a road tax calculated on the amount of motor fuel consumed in qualified commercial motor vehicles on the public roads or highways within this state. The tax shall be at the rate of 15 cents per gallon on motor fuel consumed on the public roads or highways within this state. In addition, qualified commercial motor vehicles licensed under this act that travel in interstate commerce will be subject to the definition of taxable motor fuels and rates as defined by the respective international fuel tax agreement member jurisdictions. A return shall be filed, and the tax due paid, quarterly to the department on or before the last day of January, April, July, and October of each year on a form prescribed and furnished by the department. Each quarterly return and tax payment shall cover the liability for the annual quarter ending on the last day of the preceding month.

(2) The amount of motor fuel consumed in the operation of a motor carrier on public roads or highways within this state shall be determined by dividing the miles traveled within Michigan by the average miles per gallon of motor fuel. The average miles per gallon of motor fuel shall be determined by dividing the miles traveled within and outside of Michigan by the total amount of motor fuel consumed within and outside of Michigan.

(3) In the absence of records showing the average number of miles operated per gallon of motor fuel, it shall be presumed that 1 gallon of motor fuel is consumed for every 4 miles traveled.

(4) The quarterly tax return shall be accompanied by a remittance covering any tax due.

(5) The commissioner, when he or she considers it necessary to ensure payment of the tax or to provide a more efficient administration of the tax, may require the filing of returns and payment of the tax for other than quarterly periods.

207.214 Tax credit; refund; receipt required; false statement as misdemeanor; penalty.

Sec. 4. (1) A person filing a return pursuant to section 2 who purchased motor fuel in this state upon which a tax was imposed and not refunded pursuant to the motor fuel tax act, shall be entitled to a credit against the tax imposed by this act equal to the tax paid when purchasing the motor fuel pursuant to the motor fuel tax act. The excess of a credit allowed by this subsection over tax liabilities imposed by this act shall be refunded to the taxpayer.

(2) In order to secure credit under subsection (1) for motor fuel purchased in this state the motor carrier shall secure a receipt showing the seller's name, the number of gallons of motor fuel, the type of motor fuel, the address of the seller, the license number or unit number of the commercial motor vehicle, and the date of sale.

(3) A refund, when approved by the department, shall be payable from the revenue received under this act.

(4) A person, or an agent, employee, or representative of the person, who makes a false statement in any return under this act or who submits or provides an invoice or invoices in support of the false statement upon which alterations or changes exist in the date, name of seller or purchaser, number of gallons, identity of the qualified commercial motor vehicle into which fuel was delivered or the amount of tax that was paid, or who knowingly presents any return or invoice containing a false statement, or who collects or causes to

be paid a refund without being entitled to the refund, forfeits the full amount of the claim and is guilty of a misdemeanor, punishable by a fine of not more than $5,000.00 or imprisonment for not more than 1 year, or both.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 5735.

(b) House Bill No. 5736.

Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

Compiler's note: House Bill No. 5735, referred to in enacting section 2, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 668, Eff. Apr. 1, 2003.

House Bill No. 5736, also referred to in enacting section 2, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 669, Eff. Mar. 31, 2003.

[No. 668]

(HB 5735)

AN ACT to amend 2000 PA 403, entitled "An act to prescribe a tax on the sale and use of certain types of fuel in motor vehicles on the public roads or highways of this state and on certain other types of gas; to prescribe the manner and the time of collection and payment of this tax and the duties of officials and others pertaining to the payment and collection of this tax; to provide for the licensing of persons involved in the sale, use, or transportation of motor fuel and the collection and payment of the tax imposed by this act; to prescribe fees; to prescribe certain other powers and duties of certain state agencies and other persons; to provide for exemptions and refunds and for the disposition of the proceeds of this tax; to provide for appropriations from the proceeds of this tax; to prescribe remedies and penalties for the violation of this act; and to repeal acts and parts of acts," by amending sections 2, 3, 4, 5, 8, 30, 37, 38, 92, 121, and 122 (MCL 207.1002, 207.1003, 207.1004, 207.1005, 207.1008, 207.1030, 207.1037, 207.1038, 207.1092, 207.1121, and 207.1122); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

207.1002 Definitions; A to E.

Sec. 2. As used in this act:

(a) "Alcohol" means fuel grade ethanol or a mixture of fuel grade ethanol and another product.

(b) "Blendstock" means and includes any petroleum product component of motor fuel, such as naphtha, reformate, or toluene; or any oxygenate that can be blended for use in a motor fuel.

(c) "Blended motor fuel" means a mixture of motor fuel and another liquid, other than a de minimis amount of a product including, but not limited to, carburetor detergent or oxidation inhibitor, that can be used as motor fuel in a motor vehicle.

(d) "Blender" means and includes any person who produces blended motor fuel outside of the bulk transfer/terminal system.

(e) "Blends" or "blending" means the mixing of 1 or more petroleum products, with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle, an airplane, or a marine vessel. Blending does not include mixing that occurs in the process of refining by the original refiner of crude petroleum or the blending of products known as lubricating oil in the production of lubricating oils and greases.

(f) "Bulk end user" means a person who receives into the person's own storage facilities by transport truck or tank wagon motor fuel for the person's own consumption.

(g) "Bulk plant" means a motor fuel storage and distribution facility that is not a terminal and from which motor fuel may be withdrawn by a tank wagon, a transport truck, or a marine vessel.

(h) "Bulk transfer" means a transfer of motor fuel from 1 location to another by pipeline tender or marine delivery within the bulk transfer/terminal system, including, but not limited to, all of the following transfers:

(*i*) A marine vessel movement of motor fuel from a refinery or terminal to a terminal.

(*ii*) Pipeline movements of motor fuel from a refinery or terminal to a terminal.

(*iii*) Book transfers of motor fuel within a terminal between licensed suppliers before completion of removal across the terminal rack.

(*iv*) Two-party exchanges between licensed suppliers.

(i) "Bulk transfer/terminal system" means the motor fuel distribution system consisting of refineries, pipelines, marine vessels, and terminals. Motor fuel in a refinery, pipeline, terminal, or a marine vessel transporting motor fuel to a refinery or terminal is in the bulk transfer/terminal system. Motor fuel in a fuel storage facility including, but not limited to, a bulk plant that is not part of a refinery or terminal, in the fuel supply tank of any engine or motor vehicle, in a marine vessel transporting motor fuel to a fuel storage facility that is not in the bulk transfer/terminal system, or in any tank car, rail car, trailer, truck, or other equipment suitable for ground transportation is not in the bulk transfer/terminal system.

(j) "Carrier" means an operator of a pipeline or marine vessel engaged in the business of transporting motor fuel above the terminal rack.

(k) "Commercial motor vehicle" means a motor vehicle licensed under the motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234.

(*l*) "Dead storage" is the amount of motor fuel that cannot be pumped out of a motor fuel storage tank because the motor fuel is below the mouth of the tank's draw pipe. The amount of motor fuel in dead storage is 200 gallons for a tank with a capacity of less than 10,000 gallons and 400 gallons for a tank with a capacity of 10,000 gallons or more.

(m) "Denaturants" means and includes gasoline, natural gasoline, gasoline components, or toxic or noxious materials added to fuel grade ethanol to make it unsuitable for beverage use but not unsuitable for automotive use.

(n) "Department" means the bureau of revenue within the department of treasury or its designee.

(o) "Destination state" means the state, Canadian province or territory, or foreign country to which motor fuel is directed for export.

(p) "Diesel fuel" means any liquid other than gasoline that is capable of use as a fuel or a component of a fuel in a motor vehicle that is propelled by a diesel-powered engine or in a diesel-powered train. Diesel fuel includes number 1 and number 2 fuel oils, kerosene, dyed diesel fuel, and mineral spirits. Diesel fuel also includes any blendstock or additive that is sold for blending with diesel fuel, any liquid prepared, advertised, offered for sale, sold for use as, or used in the generation of power for the propulsion of a diesel-powered engine, airplane, or marine vessel. An additive or blendstock is presumed to be sold for blending unless a certification is obtained for federal purposes that the substance is for a use other than blending for diesel fuel. Diesel fuel does not include an excluded liquid.

(q) "Dyed diesel fuel" means diesel fuel that is dyed in accordance with internal revenue service rules or pursuant to any other internal revenue service requirements, including any invisible marker requirements.

(r) "Eligible purchaser" means a person who has been authorized by the department under section 75 to make the election under section 74.

(s) "Excluded liquid" means that term as defined in 26 C.F.R. 48.4081-1.

(t) "Export" means to obtain motor fuel in this state for sale or other distribution outside of this state. Motor fuel delivered outside of this state by or for the seller constitutes an export by the seller and motor fuel delivered outside of this state by or for the purchaser constitutes an export by the purchaser.

(u) "Exporter" means a person who exports motor fuel.

207.1003 Definitions; F to I.

Sec. 3. As used in this act:

(a) "Fuel feedstock user" means a person who receives motor fuel for the person's own use in the manufacture or production of any substance other than motor fuel.

(b) "Fuel grade ethanol" means the American society for testing and materials standard in effect on the effective date of this act as the D-4806 specification for denatured fuel grade ethanol for blending with gasoline.

(c) "Fuel transportation vehicle" means a vehicle designed or used to transport motor fuel on the public roads or highways. Fuel transportation vehicle includes, but is not limited to, a transport truck and a tank wagon. Fuel transportation vehicle does not include a vehicle transporting a nurse tank or limited volume auxiliary-mounted supply tank used for fueling an implement of husbandry.

(d) "Gallon" means a unit of liquid measure as customarily used in the United States containing 231 cubic inches, or 4 quarts, or its metric equivalent expressed in liters. Where the term gallon appears in this act, the term liters is interchangeable so long as the equivalence of a gallon and 3.785 liters is preserved. A quantity required to be furnished under this act may be specified in liters when authorized by the department.

(e) "Gasohol" means a blended motor fuel composed of gasoline and fuel grade ethanol.

(f) "Gasoline" means and includes gasoline, alcohol, gasohol, casing head or natural gasoline, benzol, benzine, naphtha, and any blendstock additive, or other product including methanol that is sold for blending with gasoline or for use on the road other than products typically sold in containers of less than 5 gallons. Gasoline also includes a liquid prepared, advertised, offered for sale, sold for use as, or used in the generation of power for the propulsion of a motor vehicle, airplane, or marine vessel, including a product obtained by

blending together any 1 or more products of petroleum, with or without another product, and regardless of the original character of the petroleum products blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle, airplane, or marine vessel. The blending of all of the above named products, regardless of their name or characteristics, shall conclusively be presumed to have been done to produce motor fuel, unless the product obtained by the blending is entirely incapable of use as motor fuel. Gasoline also includes transmix. Gasoline does not include diesel fuel. An additive or blendstock is presumed to be sold for blending unless a certification is obtained for federal purposes that the substance is for a use other than blending for gasoline.

(g) "Gross gallons" means the total measured product, exclusive of any temperature or pressure adjustments, considerations, or deductions, in gallons.

(h) "Heating oil" means a motor fuel including dyed diesel fuel that is burned in a boiler, furnace, or stove for heating, agricultural, or industrial processing purposes.

(i) "Implement of husbandry" means and includes a farm tractor, a vehicle designed to be drawn or pulled by a farm tractor or animal, a vehicle that directly harvests farm products, and a vehicle that directly applies fertilizer, spray, or seeds to a farm field. Implement of husbandry does not include a motor vehicle licensed for use on the public roads or highways of this state.

(j) "Import" means to bring motor fuel into this state by motor vehicle, marine vessel, pipeline, or any other means. However, import does not include bringing motor fuel into this state in the fuel supply tank of a motor vehicle if the motor fuel is used to power that motor vehicle. Motor fuel delivered into this state from outside of this state by or for the seller constitutes an import by the seller, and motor fuel delivered into this state from out of this state by or for the purchaser constitutes an import by the purchaser.

(k) "Importer" means a person who imports motor fuel into this state.

(*l*) "Import verification number" means the number assigned by the department to an individual delivery of motor fuel by a transport truck, tank wagon, marine vessel, or rail car in response to a request for a number from an importer or transporter carrying motor fuel into this state for the account of an importer.

(m) "In this state" means the area within the borders of this state, including all territories within the borders owned by, held in trust by, or added to the United States of America.

(n) "Invoiced gallons" means the number of gallons actually billed on an invoice.

207.1004 Definitions; K to P.

Sec. 4. As used in this act:

(a) "Kerosene" means all grades of kerosene, including, but not limited to, the 2 grades of kerosene, No. 1-K and No. 2-K, commonly known as K-1 kerosene and K-2 kerosene respectively, described in American society for testing and materials specifications D-3699, in effect on January 1, 1999, and kerosene-type jet fuel described in American society for testing and materials specification D-1655 and military specifications MIL-T-5624r and MIL-T-83133d (grades jp-5 and jp-8), and any successor internal revenue service rules or regulations, as the specification for kerosene and kerosene-type jet fuel. Kerosene does not include an excluded liquid.

(b) "Liquid" means any substance that is liquid in excess of 60 degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute.

(c) "Motor fuel" means gasoline, diesel fuel, kerosene, a mixture of gasoline, diesel fuel, or kerosene, or a mixture of gasoline, diesel fuel, or kerosene and any other substance.

(d) "Motor vehicle" means a vehicle that is propelled by an internal combustion engine or motor and is designed to permit the vehicle's mobile use on the public roads or highways of this state. Motor vehicle does not include any of the following:

(*i*) An implement of husbandry.

(*ii*) A train or other vehicle operated exclusively on rails.

(*iii*) Machinery designed principally for off-road use and not licensed for on-road use.

(*iv*) A stationary engine.

(e) "Net gallons" means the remaining product, after all considerations and deductions have been made, measured in gallons, corrected to a temperature of 60 degrees Fahrenheit, 13 degrees Celsius, and a pressure of 14.7 pounds per square inch, the ultimate end amount.

(f) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which may be used as a fuel or fuel supplement.

(g) "Permissive supplier" means a person who may not be subject to the taxing jurisdiction of this state but who does meet both of the following requirements:

(*i*) Is a position holder in a federally registered terminal located outside of this state, or a person who acquires from a position holder motor fuel in an out-of-state terminal in a transaction that otherwise qualifies as a 2-party exchange under this act.

(*ii*) Is registered under section 4101 of the internal revenue code for transactions in motor fuel in the bulk transfer/terminal system.

(h) "Person" means and includes an individual, cooperative, partnership, firm, association, limited liability company, limited liability partnership, joint stock company, syndicate, and corporation, both private and municipal, and any receiver, trustee, conservator, or any other officer having jurisdiction and control of property by law or by appointment of a court other than units of government.

(i) "Position holder" means a person who has a contract with a terminal operator for the use of storage facilities and other terminal services for motor fuel at the terminal, as reflected in the records of the terminal operator. Position holder includes a terminal operator who owns motor fuel in the terminal.

(j) "Public roads or highways" means a road, street, or place maintained by this state or a political subdivision of this state and generally open to use by the public as a matter of right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel is restricted for the purpose of construction, maintenance, repair, or reconstruction.

207.1005 Definitions; R to S.

Sec. 5. (1) As used in this act:

(a) "Rack" means a mechanism for delivering motor fuel from a refinery, a terminal, or a marine vessel into a railroad tank car, a transport truck, a tank wagon, the fuel supply tank of a marine vessel, or other means of transfer outside of the bulk transfer/terminal system.

(b) "Refiner" means a person who owns, operates, or otherwise controls a refinery within the United States.

(c) "Refinery" means a facility used to produce motor fuel from crude oil, unfinished oils, natural gas liquids, or other hydrocarbons and from which motor fuel may be removed by pipeline, by marine vessel, or at a rack.

(d) "Removal" or "removed" means a physical transfer other than by evaporation, loss, or destruction of motor fuel from a terminal, manufacturing plant, customs custody, pipeline, marine vessel, or refinery that stores motor fuel.

(e) "Retail diesel dealer" means a person who sells or distributes diesel fuel to an end user in this state.

(f) "Retail marine diesel dealer" means a person who sells or distributes diesel fuel to an end user in this state for use in boats or other marine vessels.

(g) "Source state" means the state, Canadian province or territory, or foreign country from which motor fuel is imported.

(h) "Stationary engine" means a temporary or permanently affixed engine designed and used to supply power primarily for agricultural or construction work. Stationary engine includes, but is not limited to, an engine powering irrigation equipment, generators, or earth-moving equipment.

(i) "Supplier", in addition to subsection (2), means a person who meets all of the following requirements:

(*i*) Is subject to the general taxing jurisdiction of this state.

(*ii*) Is registered under section 4101 of the internal revenue code for transactions in motor fuel in the bulk transfer/terminal distribution system.

(*iii*) Is any 1 of the following:

(A) The position holder in a terminal or refinery in this state.

(B) A person who imports fuel grade ethanol into this state.

(C) A person who acquires motor fuel from a terminal or refinery in this state from a position holder pursuant to a 2-party exchange.

(D) The position holder in a terminal or refinery outside this state with respect to motor fuel which that person imports into this state on its account.

(2) Supplier also means a person who either produces alcohol or alcohol derivative substances in this state or produces alcohol or alcohol derivative substances for import into a terminal in this state, or who acquires immediately upon import by transport truck, tank wagon, rail car, or marine vessel into a terminal or refinery or other storage facility that is not part of a terminal or refinery, alcohol or alcohol derivative substances. A terminal operator is not considered a supplier merely because the terminal operator handles motor fuel consigned to it within a terminal. Supplier includes a permissive supplier unless otherwise specifically provided in this act.

207.1008 Tax on motor fuel; rates; collection or payment; exception; manner and time; imposition of rate on net gallons; legislative intent.

Sec. 8. (1) Subject to the exemptions provided for in this act, tax is imposed on motor fuel imported into or sold, delivered, or used in this state at the following rates:

(a) Nineteen cents per gallon on gasoline.

(b) Fifteen cents per gallon on diesel fuel.

(2) Tax shall not be imposed under this section on motor fuel that is in the bulk transfer/terminal system.

(3) The collection, payment, and remittance of the tax imposed by this section shall be accomplished in the manner and at the time provided for in this act.

(4) Tax is also imposed at the rate described in subsection (1)(a) or (b) on net gallons of motor fuel, including transmix, lost or unaccounted for, at each terminal in this state. The tax shall be measured annually and shall apply to the net gallons of motor fuel lost or unaccounted for that are in excess of 1/2 of 1% of all net gallons of fuel removed from the terminal across the rack or in bulk.

(5) It is the intent of this act:

(a) To require persons who operate a motor vehicle on the public roads or highways of this state to pay for the privilege of using those roads or highways.

(b) To impose on suppliers a requirement to collect and remit the tax imposed by this act at the time of removal of motor fuel unless otherwise specifically provided in this act.

(c) To allow persons who pay the tax imposed by this act and who use the fuel for a nontaxable purpose to seek a refund or claim a deduction as provided in this act.

(d) That the tax imposed by this act be collected and paid at those times, in the manner, and by those persons specified in this act.

207.1030 Tax exemption.

Sec. 30. (1) Motor fuel is exempt from the tax imposed by section 8 and the tax shall not be collected by the supplier if the motor fuel:

(a) Is dyed diesel fuel or dyed kerosene.

(b) Is gasoline or diesel fuel that is sold directly by the supplier to the federal government, the state government, or a political subdivision of the state for use in a motor vehicle owned and operated or leased and operated by the federal or state government or a political subdivision of the state.

(c) Is sold directly by the supplier to a nonprofit, private, parochial, or denominational school, college, or university and is used in a school bus owned and operated or leased and operated by the educational institution that is used in the transportation of students to and from the institution or to and from school functions authorized by the administration of the institution.

(d) Is fuel for which proof of export is available in the form of a terminal-issued destination state shipping paper under any of the following circumstances:

(*i*) The motor fuel is exported by a supplier who is licensed in the destination state.

(*ii*) Until December 31, 2000, the motor fuel is sold by a supplier to a licensed exporter for immediate export.

(*iii*) The motor fuel is sold by a supplier to another person for immediate export to a state for which the destination state fuel tax has been paid to the supplier who is licensed to remit tax to that destination state.

(e) Is gasoline removed from a pipeline or marine vessel by a taxable fuel registrant with the internal revenue service as a fuel feedstock user.

(f) Is motor fuel that is sold for use in aircraft but only if the purchaser paid the tax imposed on that fuel under the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208, and the purchaser is registered under section 94 if required to be registered under that section.

(2) Motor fuel is exempt from the tax imposed by section 8 if it is acquired by an end user outside of this state and brought into this state in the fuel supply tank of a motor vehicle that is not a commercial motor vehicle, but only if the fuel is retained within and consumed from that same fuel supply tank.

(3) A person who uses motor fuel for a taxable purpose where the tax imposed by this act was not collected shall pay to the department the tax imposed by section 8 and any applicable penalties or interest. The payment shall be made on a form or in a format prescribed by the department.

207.1037 Tax refund on motor fuel exported out of bulk plant in tank wagon; tax refund or deduction on tax-free K-1 kerosene sold through blocked pump.

Sec. 37. (1) A person may seek a refund for tax paid under this act on motor fuel that the person exported out of a bulk plant in this state in a tank wagon if proof of reporting of import to the destination state and proof of payment of the tax imposed by this act have been provided. The refund is subject to conditions established by the department.

(2) A person who is registered with the federal government under section 4101 of the internal revenue code as an ultimate vendor may apply for a refund or claim a deduction for tax paid under this act on K-1 kerosene that is sold tax-free by that person through a blocked pump if he or she meets the requirements described in section 6427 of the internal revenue code and any regulations concerning a blocked pump. The department may revoke a person's license under this act if the person allows anyone to fuel a motor vehicle from a blocked pump or allows anyone to purchase K-1 kerosene from a blocked pump for a taxable purpose. As used in this subsection, "blocked pump" means that term as defined in 65 F.R. 48.6427-10, p. 17162 (March 31, 2000).

207.1038 Sale of tax-free undyed diesel fuel; deduction.

Sec. 38. A retail diesel dealer may claim a refund for tax paid under this act on sales of undyed diesel fuel in amounts of 100 gallons or less sold tax-free for a nontaxable purpose. If a sale of undyed diesel fuel for a nontaxable purpose exceeds 100 gallons, tax shall be charged and collected by the retail diesel dealer, and the end user may file a claim for a refund. A sale for a nontaxable purpose shall meet the invoicing requirement of the department.

207.1092 Retail marine diesel dealer license; fee; filing; report; payment date; waiver.

Sec. 92. (1) A person shall not deliver diesel fuel into the fuel supply tank of an end user's boat or other marine vessel or make a bulk delivery of diesel fuel to an unlicensed end user unless licensed as a retail marine diesel dealer under this act.

(2) The fee for a retail marine diesel dealer license is $50.00.

(3) A retail marine diesel dealer shall file with the department on forms or in a format prescribed by the department a quarterly report containing the information the department requires as reasonably necessary for the department to determine the amount of diesel fuel tax due. A licensed retail marine diesel dealer shall report the amount of dyed diesel fuel sold for a taxable purpose.

(4) The report shall be filed and the tax paid to the department on or before the twentieth day of the month following the close of the reporting period.

(5) The department may waive the requirement for filing a report under this section.

207.1121 Dyed diesel fuel or other exempt fuel; use.

Sec. 121. A person shall not sell or use or hold for sale or use dyed diesel fuel or other exempt fuel, including, but not limited to, excluded liquid, undyed diesel fuel that is repackaged into a container that holds 55 gallons or less, or aviation, aircraft, or jet fuel, for any use that the person knows or has reason to know is a taxable use of the diesel fuel under this act or the motor carrier fuel tax act, 1980 PA 119, MCL 207.211 to 207.234.

207.1122 Dyed diesel fuel; use in motor vehicle on public roads or highways; exception; penalty.

Sec. 122. (1) A person shall not operate or maintain a motor vehicle on the public roads or highways of this state with dyed diesel fuel in the vehicle's fuel supply tank.

(2) This section does not apply to dyed diesel fuel used in any of the following:

(a) A motor vehicle owned and operated or leased and operated by the federal or state government or a political subdivision of this state.

(b) A motor vehicle used exclusively by the American red cross.

(c) An implement of husbandry.

(d) A passenger vehicle that has a capacity of 10 or more and that operates over regularly traveled routes expressly provided for in 1 or more of the following that applies to the passenger vehicle:

(*i*) A certificate of authority issued by the state transportation department.

(*ii*) A municipal franchise.

(*iii*) A municipal license.

(*iv*) A municipal permit.

(*v*) A municipal agreement.

(*vi*) A municipal grant.

(3) An owner, operator, or driver of a vehicle who uses dyed diesel fuel on the public roads or highways of this state is subject to a civil penalty of $200.00 for each of the first 2 violations within a 12-month period. For a third violation within a 12-month period, and for each subsequent violation thereafter, the person is subject to a civil penalty of $5,000.00. An owner, operator, or driver of a motor vehicle who knowingly violates the prohibition against the sale or use of dyed diesel fuel upon the public roads or highways of this state is subject to a civil penalty equal to that imposed by section 6714 of the internal revenue code.

Repeal of §§ 207.1090 and 207.1091.

Enacting section 1. Sections 90 and 91 of the motor fuel tax act, 2000 PA 403, MCL 207.1090 and 207.1091, are repealed.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 5734.

(b) House Bill No. 5736.

Effective date.

Enacting section 3. This amendatory act takes effect April 1, 2003.

Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

Compiler's note: House Bill No. 5734, referred to in enacting section 2, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 667, Eff. Apr. 1, 2003.

House Bill No. 5736, also referred to in enacting section 2, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 669, Eff. Mar. 31, 2003.

[No. 669]

(HB 5736)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of

tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending sections 2, 3, 4, and 4k (MCL 205.92, 205.93, 205.94, and 205.94k), sections 2 and 3 as amended by 2002 PA 511, section 4 as amended by 2002 PA 456, and section 4k as amended by 2000 PA 200.

The People of the State of Michigan enact:

205.92 Definitions.

Sec. 2. As used in this act:

(a) "Person" means an individual, firm, partnership, joint venture, association, social club, fraternal organization, municipal or private corporation whether or not organized for profit, company, limited liability company, estate, trust, receiver, trustee, syndicate, the United States, this state, county, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is disclosed by the context.

(b) "Use" means the exercise of a right or power over tangible personal property incident to the ownership of that property including transfer of the property in a transaction where possession is given.

(c) "Storage" means a keeping or retention of property in this state for any purpose after the property loses its interstate character.

(d) "Seller" means the person from whom a purchase is made and includes every person selling tangible personal property or services for storage, use, or other consumption in this state. If, in the opinion of the department, it is necessary for the efficient administration of this act to regard a salesperson, representative, peddler, or canvasser as the agent of a dealer, distributor, supervisor, or employer under whom the person operates or from whom he or she obtains tangible personal property or services sold by him or her for storage, use, or other consumption in this state, irrespective of whether or not he or she is making the sales on his or her own behalf or on behalf of the dealer, distributor, supervisor, or employer, the department may so consider him or her, and may consider the dealer, distributor, supervisor, or employer as the seller for the purpose of this act.

(e) "Purchase" means to acquire for a consideration, whether the acquisition is effected by a transfer of title, of possession, or of both, or a license to use or consume; whether the transfer is absolute or conditional, and by whatever means the transfer is effected; and whether consideration is a price or rental in money, or by way of exchange or barter.

(f) "Price" means the aggregate value in money of anything paid or delivered, or promised to be paid or delivered, by a consumer to a seller in the consummation and complete performance of the transaction by which tangible personal property or services are purchased or rented for storage, use, or other consumption in this state, without a deduction for the cost of the property sold, cost of materials used, labor or service cost, interest or discount paid, or any other expense. The price of tangible personal property, for affixation to real estate, withdrawn by a construction contractor from inventory available for sale to others or made available by publication or price list as a finished product for sale to others is the finished goods inventory value of the property. If a construction contractor manufactures, fabricates, or assembles tangible personal property before affixing it to real estate, the price of the property is equal to the sum of the materials cost of the property and the cost of labor to manufacture, fabricate, or assemble the property but does not include the cost of labor to cut, bend, assemble, or attach property at the site of affixation to real estate. For the purposes of the preceding sentence, for property withdrawn by a construction contractor from inventory available for sale to

others or made available by publication or price list as a finished product for sale to others, the materials cost of the property means the finished goods inventory value of the property. For purposes of this subdivision, "manufacture" means to convert or condition tangible personal property by changing the form, composition, quality, combination, or character of the property and "fabricate" means to modify or prepare tangible personal property for affixation or assembly. The price of a motor vehicle, trailer coach, or titled watercraft is the full retail price of the motor vehicle, trailer coach, or titled watercraft being purchased. The tax collected by the seller from the consumer or lessee under this act is not considered part of the price, but is a tax collection for the benefit of the state, and a person other than the state shall not derive a benefit from the collection or payment of this tax. A price does not include an assessment imposed under the convention and tourism marketing act, 1980 PA 383, MCL 141.881 to 141.889, 1974 PA 263, MCL 141.861 to 141.867, the state convention facility development act, 1985 PA 106, MCL 207.621 to 207.640, the regional tourism marketing act, 1989 PA 244, MCL 141.891 to 141.900, 1991 PA 180, MCL 207.751 to 207.759, or the community convention or tourism marketing act, 1980 PA 395, MCL 141.871 to 141.880, that was added to charges for rooms or lodging otherwise subject, pursuant to section 3a, to tax under this act. Price does not include specific charges for technical support or for adapting or modifying prewritten, standard, or canned computer software programs to a purchaser's needs or equipment if the charges are separately stated and identified. The tax imposed under this act shall not be computed or collected on rental receipts if the tangible personal property rented or leased has previously been subjected to a Michigan sales or use tax when purchased by the lessor.

(g) "Consumer" means the person who has purchased tangible personal property or services for storage, use, or other consumption in this state and includes a person acquiring tangible personal property if engaged in the business of constructing, altering, repairing, or improving the real estate of others.

(h) "Business" means all activities engaged in by a person or caused to be engaged in by a person with the object of gain, benefit, or advantage, either direct or indirect.

(i) "Department" means the revenue division of the department of treasury.

(j) "Tax" includes all taxes, interest, or penalties levied under this act.

(k) "Tangible personal property" includes computer software offered for general use by the public or software modified or adapted to the user's needs or equipment by the seller, only if the software is available from a seller of software on an as is basis or as an end product without modification or adaptation. Tangible personal property does not include computer software originally designed for the exclusive use and special needs of the purchaser. As used in this subdivision, "computer software" means a set of statements or instructions that when incorporated in a machine usable medium is capable of causing a machine or device having information processing capabilities to indicate, perform, or achieve a particular function, task, or result.

(*l*) "Tangible personal property" beginning September 20, 1999, includes electricity, natural or artificial gas, or steam and also the transmission and distribution of electricity used by the consumer or user of the electricity, whether the electricity is purchased from the delivering utility or from another provider.

(m) "Tangible personal property" does not include a commercial advertising element if the commercial advertising element is used to create or develop a print, radio, television, or other advertisement, the commercial advertising element is discarded or returned to the provider after the advertising message is completed, and the commercial advertising element is custom developed by the provider for the purchaser. As used in this subdivision, "commercial advertising element" means a negative or positive photographic image, an

audiotape or videotape master, a layout, a manuscript, writing of copy, a design, artwork, an illustration, retouching, and mechanical or keyline instructions. "Tangible personal property" includes black and white or full color process separation elements, an audiotape reproduction, or a videotape reproduction.

(n) "Textiles" means goods that are made of or incorporate woven or nonwoven fabric, including, but not limited to, clothing, shoes, hats, gloves, handkerchiefs, curtains, towels, sheets, pillows, pillowcases, tablecloths, napkins, aprons, linens, floor mops, floor mats, and thread. Textiles also include materials used to repair or construct textiles, or other goods used in the rental, sale, or cleaning of textiles.

(o) "Interstate motor carrier" means a person who operates or causes to be operated a qualified commercial motor vehicle on a public road or highway in this state and at least 1 other state or Canadian province.

(p) "Qualified commercial motor vehicle" means that term as defined in section 1(i), (j), and (k) of the motor carrier fuel tax act, 1980 PA 119, MCL 207.211.

(q) "Diesel fuel" means that term as defined in section 2(p) of the motor fuel tax act, 2000 PA 403, MCL 207.1002.

205.93 Tax rate; penalties and interest; presumption; collection; price tax base; exemptions; services, information, or records.

Sec. 3. (1) There is levied upon and there shall be collected from every person in this state a specific tax for the privilege of using, storing, or consuming tangible personal property in this state at a rate equal to 6% of the price of the property or services specified in section 3a or 3b. Penalties and interest shall be added to the tax if applicable as provided in this act. For the purpose of the proper administration of this act and to prevent the evasion of the tax, it is presumed that tangible personal property purchased is subject to the tax if brought into the state within 90 days of the purchase date and is considered as acquired for storage, use, or other consumption in this state. Beginning April 1, 2003, as used in this subsection and section 4(1)(a), the term "price" means, with respect to diesel fuel used by interstate motor carriers in a qualified commercial motor vehicle, the statewide average retail price of a gallon of self-serve diesel fuel as determined and certified quarterly by the department, rounded down to the nearest 1/10 of a cent. This use tax on diesel fuel used by interstate motor carriers in a qualified commercial motor vehicle shall be collected under the international fuel tax agreement.

(2) The tax imposed by this section for the privilege of using, storing, or consuming a vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft shall be collected before the transfer of the vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft, except a transfer to a licensed dealer or retailer for purposes of resale that arises by reason of a transaction made by a person who does not transfer vehicles, ORVs, manufactured housing, aircraft, snowmobiles, or watercraft in the ordinary course of his or her business done in this state. The tax on a vehicle, ORV, snowmobile, and watercraft shall be collected by the secretary of state before the transfer of the vehicle, ORV, snowmobile, or watercraft registration. The tax on manufactured housing shall be collected by the department of consumer and industry services, mobile home commission, or its agent before the transfer of the certificate of title. The tax on an aircraft shall be collected by the department of treasury. Notwithstanding any limitation contained in section 2 and except as provided in this subsection, the price tax base of any vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft subject to taxation under this act shall be not less than its retail dollar value at the time of acquisition as fixed pursuant to rules promulgated by the department. The price tax base of a new or previously owned

car or truck held for resale by a dealer and that is not exempt under section 4(1)(c) is the purchase price of the car or truck multiplied by 2.5% plus $30.00 per month beginning with the month that the dealer uses the car or truck in a nonexempt manner.

(3) The following transfers or purchases are not subject to use tax:

(a) A transaction or a portion of a transaction if the transferee or purchaser is the spouse, mother, father, brother, sister, child, stepparent, stepchild, stepbrother, stepsister, grandparent, grandchild, legal ward, or a legally appointed guardian with a certified letter of guardianship, of the transferor.

(b) A transaction or a portion of a transaction if the transfer is a gift to a beneficiary in the administration of an estate.

(c) If a vehicle, ORV, manufactured housing, aircraft, snowmobile, or watercraft that has once been subjected to the Michigan sales or use tax is transferred in connection with the organization, reorganization, dissolution, or partial liquidation of an incorporated or unincorporated business and the beneficial ownership is not changed.

(d) If an insurance company licensed to conduct business in this state acquires ownership of a late model distressed vehicle as defined in section 12a of the Michigan vehicle code, 1949 PA 300, MCL 257.12a, through payment of damages in response to a claim or when the person who owned the vehicle before the insurance company reacquires ownership from the company as part of the settlement of a claim.

(4) The department may utilize the services, information, or records of any other department or agency of state government in the performance of its duties under this act, and other departments or agencies of state government are required to furnish those services, information, or records upon the request of the department.

205.94 Exemptions.

Sec. 4. (1) The tax levied under this act does not apply to the following, subject to subsection (2):

(a) Property sold in this state on which transaction a tax is paid under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, if the tax was due and paid on the retail sale to a consumer. Beginning April 1, 2003, in lieu of the exclusion in this subdivision, an interstate motor carrier shall be entitled to a credit under this act for 6% of the price of diesel fuel purchased in this state and used in a qualified commercial motor vehicle. This credit shall be claimed on the returns filed under the international fuel tax agreement.

(b) Property, the storage, use, or other consumption of which this state is prohibited from taxing under the constitution or laws of the United States, or under the constitution of this state.

(c) Property purchased for resale, demonstration purposes, or lending or leasing to a public or parochial school offering a course in automobile driving except that a vehicle purchased by the school shall be certified for driving education and shall not be reassigned for personal use by the school's administrative personnel. For a dealer selling a new car or truck, exemption for demonstration purposes shall be determined by the number of new cars and trucks sold during the current calendar year or the immediately preceding year without regard to specific make or style according to the following schedule of 0 to 25, 2 units; 26 to 100, 7 units; 101 to 500, 20 units; 501 or more, 25 units; but not to exceed 25 cars and trucks in 1 calendar year for demonstration purposes. Property purchased for resale includes promotional merchandise transferred pursuant to a redemption offer to a person located outside this state or any packaging material, other than promotional merchandise, acquired for use in fulfilling a redemption offer or rebate to a person located outside this state.

(d) Property that is brought into this state by a nonresident person for storage, use, or consumption while temporarily within this state, except if the property is used in this state in a nontransitory business activity for a period exceeding 15 days. Beginning April 1, 2003, this subdivision does not apply to diesel fuel that is used, stored, or consumed in this state by interstate motor carriers in qualified commercial vehicles.

(e) Property the sale or use of which was already subjected to a sales tax or use tax equal to, or in excess of, that imposed by this act under the law of any other state or a local governmental unit within a state if the tax was due and paid on the retail sale to the consumer and the state or local governmental unit within a state in which the tax was imposed accords like or complete exemption on property the sale or use of which was subjected to the sales or use tax of this state. If the sale or use of property was already subjected to a tax under the law of any other state or local governmental unit within a state in an amount less than the tax imposed by this act, this act shall apply, but at a rate measured by the difference between the rate provided in this act and the rate by which the previous tax was computed. Beginning April 1, 2003, this subdivision does not apply to diesel fuel that is used, stored, or consumed in this state by interstate motor carriers in qualified motor vehicles.

(f) Property sold to a person engaged in a business enterprise and using and consuming the property in the tilling, planting, caring for, or harvesting of the things of the soil or in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth. At the time of the transfer of that tangible personal property, the transferee shall sign a statement, in a form approved by the department, stating that the property is to be used or consumed in connection with the production of horticultural or agricultural products as a business enterprise. The statement shall be accepted by the courts as prima facie evidence of the exemption. This exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land used in the production of agricultural products as a business enterprise and includes a portable grain bin, which means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts. This exemption does not include transfers of food, fuel, clothing, or similar tangible personal property for personal living or human consumption. This exemption does not include tangible personal property permanently affixed and becoming a structural part of real estate.

(g) Property or services sold to the United States, an unincorporated agency or instrumentality of the United States, an incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States, the American red cross and its chapters or branches, this state, a department or institution of this state, or a political subdivision of this state.

(h) Property or services sold to a school, hospital, or home for the care and maintenance of children or aged persons, operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans' organization, or a corporation incorporated under the laws of this state, if not operated for profit, and if the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and if the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or a restricted group. The tax levied does not apply to property or services sold to a parent cooperative preschool. As used in this subdivision, "parent cooperative preschool" means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently

enrolled in the preschool that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed by the department of consumer and industry services pursuant to 1973 PA 116, MCL 722.111 to 722.128.

(i) Property or services sold to a regularly organized church or house of religious worship except the following:

(*i*) Sales in which the property is used in activities that are mainly commercial enterprises.

(*ii*) Sales of vehicles licensed for use on the public highways other than a passenger van or bus with a manufacturer's rated seating capacity of 10 or more that is used primarily for the transportation of persons for religious purposes.

(j) A vessel designed for commercial use of registered tonnage of 500 tons or more, if produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of a vessel of 500 tons or more engaged in interstate commerce.

(k) Property purchased for use in this state where actual personal possession is obtained outside this state, the purchase price or actual value of which does not exceed $10.00 during 1 calendar month.

(*l*) A newspaper or periodical classified under federal postal laws and regulations effective September 1, 1985 as second-class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established at least 2 years, and published at least once a week, and a copyrighted motion picture film. Tangible personal property used or consumed in producing a copyrighted motion picture film, a newspaper published more than 14 times per year, or a periodical published more than 14 times per year, and not becoming a component part of that film, newspaper, or periodical is subject to the tax. After December 31, 1993, tangible personal property used or consumed in producing a newspaper published 14 times or less per year or a periodical published 14 times or less per year and that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical is exempt from the tax under this subdivision. A claim for a refund for taxes paid before January 1, 1999 under this subdivision shall be made before June 30, 1999. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical and consequently not subject to tax, includes an advertising supplement inserted into and circulated with a newspaper or periodical that is otherwise exempt from tax under this subdivision, if the advertising supplement is delivered directly to the newspaper or periodical by a person other than the advertiser, or the advertising supplement is printed by the newspaper or periodical.

(m) Property purchased by persons licensed to operate a commercial radio or television station if the property is used in the origination or integration of the various sources of program material for commercial radio or television transmission. This subdivision does not include a vehicle licensed and titled for use on public highways or property used in the transmitting to or receiving from an artificial satellite.

(n) A person who is a resident of this state who purchases an automobile in another state while in the military service of the United States and who pays a sales tax in the state where the automobile is purchased.

(o) A vehicle for which a special registration is secured in accordance with section 226(12) of the Michigan vehicle code, 1949 PA 300, MCL 257.226.

(p) A hearing aid, contact lenses if prescribed for a specific disease that precludes the use of eyeglasses, or any other apparatus, device, or equipment used to replace or substitute for any part of the human body, or used to assist the disabled person to lead a reasonably normal life when the tangible personal property is purchased on a written prescription or order issued by a health professional as defined by section 4 of former 1974 PA 264, or section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501, or eyeglasses prescribed or dispensed to correct the person's vision by an ophthalmologist, optometrist, or optician.

(q) Water when delivered through water mains or in bulk tanks in quantities of not less than 500 gallons.

(r) A vehicle not for resale used by a nonprofit corporation organized exclusively to provide a community with ambulance or fire department services.

(s) Tangible personal property purchased and installed as a component part of a water pollution control facility for which a tax exemption certificate is issued pursuant to part 37 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air pollution control facility for which a tax exemption certificate is issued pursuant to part 59 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5901 to 324.5908.

(t) Tangible real or personal property donated by a manufacturer, wholesaler, or retailer to an organization or entity exempt pursuant to subdivision (h) or (i) or section 4a(a) or (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

(u) The storage, use, or consumption by a domestic air carrier of an aircraft purchased after December 31, 1992 but before October 1, 1996 for use solely in the transport of air cargo that has a maximum certificated takeoff weight of at least 12,500 pounds. For purposes of this subdivision, the term "domestic air carrier" is limited to entities engaged in the commercial transport for hire of cargo or entities engaged in the commercial transport of passengers as a business activity.

(v) The storage, use, or consumption by a domestic air carrier of an aircraft purchased after June 30, 1994 but before October 1, 1996 that is used solely in the regularly scheduled transport of passengers. For purposes of this subdivision, the term "domestic air carrier" is limited to entities engaged in the commercial transport for hire of cargo or entities engaged in the commercial transport of passengers as a business activity.

(w) The storage, use, or consumption by a domestic air carrier of an aircraft, other than an aircraft described under subdivision (v), purchased after December 31, 1994 but before October 1, 1996, that has a maximum certificated takeoff weight of at least 12,500 pounds and that is designed to have a maximum passenger seating configuration of more than 30 seats and used solely in the transport of passengers. For purposes of this subdivision, the term "domestic air carrier" is limited to entities engaged in the commercial transport for hire of cargo or entities engaged in the commercial transport of passengers as a business activity.

(x) The storage, use, or consumption of an aircraft by a domestic air carrier after September 30, 1996 for use solely in the transport of air cargo, passengers, or a combination of air cargo and passengers, that has a maximum certificated takeoff weight of at least 6,000 pounds. For purposes of this subdivision, the term "domestic air carrier" is limited to a person engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity. The state treasurer shall estimate on January 1 each year the revenue lost by this act from the school aid fund and deposit that amount into the school aid fund from the general fund.

(y) The storage, use, or consumption of an aircraft by a person who purchases the aircraft for subsequent lease to a domestic air carrier operating under a certificate issued by the federal aviation administration under 14 C.F.R. part 121, for use solely in the regularly scheduled transport of passengers.

(z) Property or services sold to an organization not operated for profit and exempt from federal income tax under section 501(c)(3) or 501(c)(4) of the internal revenue code of 1986, 26 U.S.C. 501; or to a health, welfare, educational, cultural arts, charitable, or benevolent organization not operated for profit that has been issued before June 13, 1994 an exemption ruling letter to purchase items exempt from tax signed by the administrator of the sales, use, and withholding taxes division of the department. The department shall reissue an exemption letter after June 13, 1994 to each of those organizations that had an exemption letter that shall remain in effect unless the organization fails to meet the requirements that originally entitled it to this exemption. The exemption does not apply to sales of tangible personal property and sales of vehicles licensed for use on public highways, that are not used primarily to carry out the purposes of the organization as stated in the bylaws or articles of incorporation of the exempt organization.

(aa) The use or consumption of services described in section 3a(a) or (c) or 3b by means of a prepaid telephone calling card, a prepaid authorization number for telephone use, or a charge for internet access.

(bb) The purchase, lease, use, or consumption of the following by an industrial laundry after December 31, 1997:

(*i*) Textiles and disposable products including, but not limited to, soap, paper, chemicals, tissues, deodorizers and dispensers, and all related items such as packaging, supplies, hangers, name tags, and identification tags.

(*ii*) Equipment, whether owned or leased, used to repair and dispense textiles including, but not limited to, roll towel cabinets, slings, hardware, lockers, mop handles and frames, and carts.

(*iii*) Machinery, equipment, parts, lubricants, and repair services used to clean, process, and package textiles and related items, whether owned or leased.

(*iv*) Utilities such as electric, gas, water, or oil.

(*v*) Production washroom equipment and mending and packaging supplies and equipment.

(*vi*) Material handling equipment including, but not limited to, conveyors, racks, and elevators and related control equipment.

(*vii*) Wastewater pretreatment equipment and supplies and related maintenance and repair services.

(2) The property or services under subsection (1) are exempt only to the extent that the property or services are used for the exempt purposes if one is stated in subsection (1). The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.

205.94k Tax inapplicable to parts and materials affixed to certain aircraft, rolling stock, and qualified truck or trailer; definitions.

Sec. 4k. (1) The tax levied under this act does not apply to parts and materials, excluding shop equipment or fuel, affixed to or to be affixed to an aircraft owned or used by a domestic air carrier that is any of the following:

(a) An aircraft for use solely in the transport of air cargo or a combination of air cargo and passengers that has a maximum certificated takeoff weight of at least 12,500 pounds for taxes levied before January 1, 1997 and at least 6,000 pounds for taxes levied after December 31, 1996.

(b) An aircraft that is used solely in the regularly scheduled transport of passengers.

(c) An aircraft other than an aircraft described in subdivision (b), that has a maximum certificated takeoff weight of at least 12,500 pounds for taxes levied before January 1, 1997 and at least 6,000 pounds for taxes levied after December 31, 1996, and that is designed to have a maximum passenger seating configuration of more than 30 seats and is used solely in the transport of passengers.

(2) For taxes levied after December 31, 1992, the tax levied under this act does not apply to the storage, use, or consumption of rolling stock used in interstate commerce and purchased, rented, or leased by an interstate fleet motor carrier. A refund for taxes paid before January 1, 1997 shall not be paid under this subsection if the refund claim is made after June 30, 1997.

(3) For taxes levied after December 31, 1996 and before May 1, 1999, the tax levied under this act does not apply to the product of the out-of-state usage percentage and the price otherwise taxable under this act of a qualified truck or a trailer designed to be drawn behind a qualified truck, purchased, rented, or leased in this state by an interstate fleet motor carrier and used in interstate commerce.

(4) As used in this section:

(a) "Domestic air carrier" means a person engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity.

(b) "Interstate fleet motor carrier" means a person engaged in the business of carrying persons or property, other than themselves, their employees, or their own property, for hire across state lines, whose fleet mileage was driven at least 10% outside of this state in the immediately preceding tax year.

(c) "Out-of-state usage percentage" is a fraction, the numerator of which is the number of miles driven outside of this state in the immediately preceding tax year by qualified trucks used by the taxpayer and the denominator of which is the total miles driven in the immediately preceding tax year by qualified trucks used by the taxpayer. Miles driven by qualified trucks used solely in intrastate commerce shall not be included in calculating the out-of-state usage percentage.

(d) "Qualified truck" means a commercial motor vehicle power unit that has 2 axles and a gross vehicle weight rating in excess of 10,000 pounds or a commercial motor vehicle power unit that has 3 or more axles.

(e) "Rolling stock" means a qualified truck, a trailer designed to be drawn behind a qualified truck, and parts affixed to either a qualified truck or a trailer designed to be drawn behind a qualified truck.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 5734.

(b) House Bill No. 5735.

Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

Compiler's note: House Bill No. 5734, referred to in enacting section 1, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 667, Eff. Apr. 1, 2003.

House Bill No. 5735, also referred to in enacting section 1, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 668, Eff. Apr. 1, 2003.

[No. 670]

(HB 6510)

AN ACT to amend 1953 PA 232, entitled "An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending sections 20e and 34 (MCL 791.220e and 791.234), section 20e as amended by 1995 PA 20 and section 34 as amended by 1999 PA 191.

The People of the State of Michigan enact:

791.220e Scott correctional facility; western Wayne correctional facility; capacity limits; increase.

Sec. 20e. (1) Except as provided in subsection (2), not more than 880 prisoners shall be housed at the Scott correctional facility and not more than 925 prisoners shall be housed at the western Wayne correctional facility.

(2) If a new housing unit is constructed within the security perimeter of either facility listed in subsection (1), the capacity limits listed in subsection (1) for that facility are increased by the designated capacity of the new housing unit.

791.234 Prisoners subject to jurisdiction of parole board; indeterminate and other sentences; termination of sentence; interview; release on parole; discretion of parole board; appeal to circuit court; cooperation with law enforcement by prisoner violating § 333.7401; conviction before effective date of amendatory act; definitions.

Sec. 34. (1) Except as provided in section 34a, a prisoner sentenced to an indeterminate sentence and confined in a state correctional facility with a minimum in terms of years other than a prisoner subject to disciplinary time is subject to the jurisdiction of the parole board when the prisoner has served a period of time equal to the minimum sentence imposed by the court for the crime of which he or she was convicted, less good time and disciplinary credits, if applicable.

(2) Except as provided in section 34a, a prisoner subject to disciplinary time sentenced to an indeterminate sentence and confined in a state correctional facility with a minimum in terms of years is subject to the jurisdiction of the parole board when the prisoner has served a period of time equal to the minimum sentence imposed by the court for the crime of which he or she was convicted.

(3) If a prisoner other than a prisoner subject to disciplinary time is sentenced for consecutive terms, whether received at the same time or at any time during the life of the

original sentence, the parole board has jurisdiction over the prisoner for purposes of parole when the prisoner has served the total time of the added minimum terms, less the good time and disciplinary credits allowed by statute. The maximum terms of the sentences shall be added to compute the new maximum term under this subsection, and discharge shall be issued only after the total of the maximum sentences has been served less good time and disciplinary credits, unless the prisoner is paroled and discharged upon satisfactory completion of the parole.

(4) If a prisoner subject to disciplinary time is sentenced for consecutive terms, whether received at the same time or at any time during the life of the original sentence, the parole board has jurisdiction over the prisoner for purposes of parole when the prisoner has served the total time of the added minimum terms. The maximum terms of the sentences shall be added to compute the new maximum term under this subsection, and discharge shall be issued only after the total of the maximum sentences has been served, unless the prisoner is paroled and discharged upon satisfactory completion of the parole.

(5) If a prisoner other than a prisoner subject to disciplinary time has 1 or more consecutive terms remaining to serve in addition to the term he or she is serving, the parole board may terminate the sentence the prisoner is presently serving at any time after the minimum term of the sentence has been served.

(6) A prisoner under sentence for life, other than a prisoner sentenced for life for murder in the first degree or sentenced for life for a violation of chapter XXXIII of the Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a, who has served 10 calendar years of the sentence in the case of a prisoner sentenced for a crime committed before October 1, 1992, or, except as provided in subsection (10), who has served 20 calendar years of the sentence in the case of a prisoner sentenced to imprisonment for life for violating or conspiring to violate section 7401(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7401, who has another conviction for a serious crime, or, except as provided in subsection (10), who has served 17-1/2 calendar years of the sentence in the case of a prisoner sentenced to imprisonment for life for violating or conspiring to violate section 7401(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7401, who does not have another conviction for a serious crime, or who has served 15 calendar years of the sentence in the case of a prisoner sentenced for a crime committed on or after October 1, 1992, is subject to the jurisdiction of the parole board and may be released on parole by the parole board, subject to the following conditions:

(a) At the conclusion of 10 calendar years of the prisoner's sentence and thereafter as determined by the parole board until the prisoner is paroled, discharged, or deceased, and in accordance with the procedures described in subsection (7), 1 member of the parole board shall interview the prisoner. The interview schedule prescribed in this subdivision applies to all prisoners to whom this subsection is applicable, regardless of the date on which they were sentenced.

(b) In addition to the interview schedule prescribed in subdivision (a), the parole board shall review the prisoner's file at the conclusion of 15 calendar years of the prisoner's sentence and every 5 years thereafter until the prisoner is paroled, discharged, or deceased. A prisoner whose file is to be reviewed under this subdivision shall be notified of the upcoming file review at least 30 days before the file review takes place and shall be allowed to submit written statements or documentary evidence for the parole board's consideration in conducting the file review.

(c) A decision to grant or deny parole to a prisoner so sentenced shall not be made until after a public hearing held in the manner prescribed for pardons and commutations in sections 44 and 45. Notice of the public hearing shall be given to the sentencing judge, or

the judge's successor in office, and parole shall not be granted if the sentencing judge, or the judge's successor in office, files written objections to the granting of the parole within 30 days of receipt of the notice of hearing. The written objections shall be made part of the prisoner's file.

(d) A parole granted under this subsection shall be for a period of not less than 4 years and subject to the usual rules pertaining to paroles granted by the parole board. A parole ordered under this subsection is not valid until the transcript of the record is filed with the attorney general whose certification of receipt of the transcript shall be returnable to the office of the parole board within 5 days. Except for medical records protected under section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157, the file of a prisoner granted a parole under this subsection is a public record.

(e) A parole shall not be granted under this subsection in the case of a prisoner who is otherwise prohibited by law from parole consideration. In such cases the interview procedures in section 44 shall be followed.

(7) An interview conducted under subsection (6)(a) is subject to both of the following requirements:

(a) The prisoner shall be given written notice, not less than 30 days before the interview date, stating that the interview will be conducted.

(b) The prisoner may be represented at the interview by an individual of his or her choice. The representative shall not be another prisoner. A prisoner is not entitled to appointed counsel at public expense. The prisoner or representative may present relevant evidence in favor of holding a public hearing as described in subsection (6)(b).

(8) In determining whether a prisoner convicted of violating or conspiring to violate section 7401(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7401, and sentenced to imprisonment for life before October 1, 1998 is to be released on parole, the parole board shall consider all of the following:

(a) Whether the violation was part of a continuing series of violations of section 7401 or 7403 of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, by that individual.

(b) Whether the violation was committed by the individual in concert with 5 or more other individuals.

(c) Any of the following:

(*i*) Whether the individual was a principal administrator, organizer, or leader of an entity that the individual knew or had reason to know was organized, in whole or in part, to commit violations of section 7401 or 7403 of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and whether the violation for which the individual was convicted was committed to further the interests of that entity.

(*ii*) Whether the individual was a principal administrator, organizer, or leader of an entity that the individual knew or had reason to know committed violations of section 7401 or 7403 of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and whether the violation for which the individual was convicted was committed to further the interests of that entity.

(*iii*) Whether the violation was committed in a drug-free school zone.

(*iv*) Whether the violation involved the delivery of a controlled substance to an individual less than 17 years of age or possession with intent to deliver a controlled substance to an individual less than 17 years of age.

(9) Except as provided in section 34a, a prisoner's release on parole is discretionary with the parole board. The action of the parole board in granting a parole is appealable by

the prosecutor of the county from which the prisoner was committed or the victim of the crime for which the prisoner was convicted. The appeal shall be to the circuit court in the county from which the prisoner was committed, by leave of the court.

(10) If the sentencing judge, or his or her successor in office, determines on the record that a prisoner described in subsection (6) sentenced to imprisonment for life for violating or conspiring to violate section 7401(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7401, has cooperated with law enforcement, the prisoner is subject to the jurisdiction of the parole board and may be released on parole as provided in subsection (6), 2-1/2 years earlier than the time otherwise indicated in subsection (6). The prisoner is considered to have cooperated with law enforcement if the court determines on the record that the prisoner had no relevant or useful information to provide. The court shall not make a determination that the prisoner failed or refused to cooperate with law enforcement on grounds that the defendant exercised his or her constitutional right to trial by jury. If the court determines at sentencing that the defendant cooperated with law enforcement, the court shall include its determination in the judgment of sentence.

(11) An individual convicted of violating or conspiring to violate section 7401(2)(a)(*ii*) or 7403(2)(a)(*ii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, before the effective date of the amendatory act that added this subsection is eligible for parole after serving the minimum of each sentence imposed for that violation or 10 years of each sentence imposed for that violation, whichever is less.

(12) An individual convicted of violating or conspiring to violate section 7401(2)(a)(*iii*) or 7403(2)(a)(*iii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, before the effective date of the amendatory act that added this subsection is eligible for parole after serving the minimum of each sentence imposed for that violation or 5 years of each sentence imposed for that violation, whichever is less.

(13) An individual convicted of violating or conspiring to violate section 7401(2)(a)(*iv*) or 7403(2)(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, before the effective date of the amendatory act that added this subsection who is sentenced to a term of imprisonment that is consecutive to a term of imprisonment imposed for any other violation of section 7401(2)(a)(*i*) to (*iv*) or section 7403(2)(a)(*i*) to (*iv*) is eligible for parole after serving 1/2 of the minimum sentence imposed for each violation of section 7401(2)(a)(*iv*) or 7403(2)(a)(*iv*). This subsection does not apply if the sentence was imposed for a conviction for a new offense committed while the individual is on probation or parole.

(14) The parole board shall provide notice to the prosecuting attorney of the county in which the individual was convicted before granting parole to the individual under subsection (11), (12), or (13).

(15) As used in this section:

(a) "Serious crime" means violating or conspiring to violate article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, that is punishable by imprisonment for more than 4 years, or an offense against a person in violation of section 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

(b) "State correctional facility" means a facility that houses prisoners committed to the jurisdiction of the department, and includes a youth correctional facility operated under section 20g by the department or a private vendor.

Effective date.

Enacting section 1. This amendatory act takes effect March 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 5394.

(b) House Bill No. 5395.

This act is ordered to take immediate effect.
Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

Compiler's note: House Bill No. 5394, referred to in enacting section 2, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 665, Eff. Mar. 1, 2003.

House Bill No. 5395, also referred to in enacting section 2, was filed with the Secretary of State December 26, 2002, and became P.A. 2002, No. 666, Eff. Mar. 1, 2003.

[No. 671]

(SB 616)

AN ACT to authorize the state administrative board to convey, exchange, or purchase certain parcels of property in Jackson county; to authorize the department of natural resources to convey certain property in Ottawa county; to authorize the state administrative board to convey certain parcels of property in Washtenaw county; to authorize the state administrative board to convey certain property in Calhoun county; to prescribe conditions for the conveyances; to provide for disposition of the revenue from the conveyances; to provide for the disposal of certain buildings; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Conveyance of state owned property in Leoni charter township, Jackson county, to a wetland bank; consideration; description.

Sec. 1. The state administrative board, on behalf of the state, may convey for consideration of not less than fair market value as determined under section 3 certain state owned property in Leoni charter township, Jackson county, Michigan, consisting of 354.08 acres, of which 31.11 acres will be placed in a wetland bank, and which is more particularly described as follows:

Leoni Township - Parcel # 000-09-07-201-001-00

W 1/2 OF NE 1/4 EXC THEREFROM THAT PART THEREOF LYING N AND W OF CEN OF PORTAGE RIVER ALSO S 1/2 OF NWFRL 1/4 EXC THEREFROM THAT PART THEREOF LYING N AND W OF CEN OF PORTAGE RIVER ALSO SWFRL 1/4 EXC THEREFROM THE R/W OF GRAND TRUNK RAILWAY ALSO W 1/2 OF SE 1/4 EXC THEREFROM THE R/W OF GRAND TRUNK RAILWAY ALSO SE 1/4 OF SE 1/4 SEC 7 T2S R1E.

Description subject to adjustment.

Sec. 2. The description of the property in section 1 is approximate and for purposes of conveyance is subject to adjustment, by a state survey or other legal description, as the state administrative board or attorney general considers necessary.

Appraisal.

Sec. 3. The fair market value of the property described in section 1 shall be determined by an appraisal prepared by the state tax commission or an independent fee appraiser.

Use of property.

Sec. 4. Any conveyance authorized under section 1 shall provide that the property is to be used by the grantee for an industrial park with adjacent wetlands, in conjunction with the enterprise park proposed industrial development plan as presented to the department of management and budget, the department of corrections, Blackman charter township, and Leoni charter township, for review and comment, and with the resolutions of support for that plan from Blackman charter township and Leoni charter township.

Conduct of sale.

Sec. 5. (1) Any sale of property authorized under section 1 shall be conducted in a manner to realize the highest price for the sale and the highest return to the state. The sale shall be done in an open manner that uses 1 or more of the following:

(a) A competitive sealed bid.

(b) Oral bid.

(c) Public auction.

(d) Use of broker services.

(2) Broker services for the sale shall only be used if there are 3 or more bidders for this property. The minimum selling price for the property shall be the higher value of either its fair market value or the result of a professional concept plan value as determined by a real estate professional qualified to make such valuations. This real estate professional shall be selected through a request for proposal and competitive bid process.

(3) A notice of a sealed or oral bid, public auction sale, or use of broker negotiation services, regarding the sale of property under this act shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 days before the sale. The newspaper shall be one that is published in the county where the property is located. If a newspaper is not published in the county where the property is located, the notice shall be published in a newspaper in a county nearest to the county in which the property is located. The notice shall describe the general location of the property and the date, time, and place of the sale.

Quitclaim deed; approval by attorney general.

Sec. 6. A conveyance authorized by section 1 shall be by quitclaim deed approved by the attorney general. To ensure the security and operations of the department of corrections and the state of Michigan, all final sales under section 1 shall be approved by the department of corrections and the department of management and budget.

Net revenue.

Sec. 7. The net revenue received under section 1 shall be deposited in the state treasury and credited to the general fund. As used in this section, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the state associated with the sale of the property.

Conveyance of property to Ottawa county; consideration; jurisdiction; location; description.

Sec. 8. The department of natural resources, on behalf of the state, may convey to Ottawa county, for consideration of $1.00, certain property with improvements under the

jurisdiction of the department of natural resources and located in Grand Haven township, Ottawa county, Michigan, commonly referred to as rosy mound, and further described as follows:

Part of the SW 1/4 of Section 4, Town 7 North, Range 16 West, and part of Section 5, Town 7 North, Range 16 West, Grand Haven Township, Ottawa County, Michigan, described as beginning at a point on the East Line of Section 5 that is 790.00 feet North 00 degrees 07 minutes 54 seconds West of the SE corner of Section 5, thence South 89 degrees 07 minutes 23 seconds West 960.60 feet, thence South 00 degrees 07 minutes 54 seconds East 125.00 feet, thence South 89 degrees 07 minutes 23 seconds West 1,053.06 feet along the South line of the North fractional 1/2 of the South fractional 1/2 of the SE fractional 1/4, thence North 12 degrees 33 minutes 15 seconds West 3,410.00 feet along an intermediate traverse line along Lake Michigan to the North line of Government Lot 2, thence North 89 degrees 25 minutes 48 seconds East 1,364.84 feet, thence South 12 degrees 33 minutes 15 seconds East 2,477.45 feet, thence North 89 degrees 51 minutes 59 seconds East 800.00 feet, thence North 35 degrees 56 minutes 40 seconds East 682.68 feet, thence North 89 degrees 51 minutes 59 seconds East 960.00 feet to the centerline of Lakeshore Drive, thence, South 00 degrees 45 minutes 10 seconds West 183.84 feet, thence along a 17,188.178 foot radius curve to the left 522.67 feet (chord bears South 00 degrees 07 minutes 06 seconds East 522.65 feet), thence South 00 degrees 59 minutes 22 seconds East 73.47 feet, the preceding 3 courses along the centerline of Lakeshore Drive, thence, South 89 degrees 51 minutes 59 seconds West 225.00 feet along the North line of the SW 1/4 of the SW 1/4 of Section 4, thence South 00 degrees 59 minutes 22 seconds East 407.50 feet, thence North 88 degrees 28 minutes 27 seconds East 225.00 feet to the centerline of Lakeshore Drive, thence South 00 degrees 59 minutes 22 seconds East 81.02 feet along the centerline of Lakeshore Drive, thence South 89 degrees 51 minutes 59 seconds West 1,318.07 feet to the West line of Section 4, thence South 00 degrees 07 minutes 54 seconds East 57.00 feet to the point of beginning. Together with all land lying between the intermediate traverse line and the waters edge of Lake Michigan. Containing 160 acres of land more or less except that part taken, used or deeded for Lakeshore Drive.

Provisions.

Sec. 9. The conveyance authorized by section 8 shall provide for all of the following:

(a) The property shall be used exclusively for public park purposes and if any fee, term, or condition for the use of the property is imposed on members of the public, or if any of those fees, terms, or conditions are waived for use of this property, resident and nonresident members of the public shall be subject to the same fees, terms, conditions, and waivers.

(b) Upon termination of the use described in subdivision (a) or use for any other purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(c) If the grantee disputes the state's exercise of its right of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

Disposition of revenue; quitclaim deed; conveyance of mineral rights; royalty interest.

Sec. 10. (1) The revenue received from the conveyance under sections 8 and 9 shall be deposited in the state treasury and credited to the general fund.

(2) The conveyance authorized by sections 8 and 9 shall be by quitclaim deed approved by the attorney general.

(3) The state shall convey the mineral rights to the property conveyed under sections 8 and 9. However, the state shall retain a nonparticipating 1/6 minimum royalty interest. Any revenue derived from the royalty interest shall be deposited in the natural resources trust fund.

Demolition of building.

Sec. 11. (1) The department of management and budget may demolish, dismantle, or otherwise dispose of the following surplus building: department of management and budget building M109 "Central Chiller" located at 615 W. Allegan.

(2) The department of management and budget may use unexpended funds appropriated in 2002 PA 518, the capital outlay budget for fiscal year 2002-2003, for demolition of the facility described in this section.

Conveyance, exchange, or purchase of certain state-owned property located in Blackman township; jurisdiction; description; consideration; approval by state administrative board; exchange; quitclaim deed; reservation of mineral rights; expiration of authority to convey property.

Sec. 12. (1) The state administrative board, on behalf of the state, may convey, exchange, or purchase certain state owned property under the jurisdiction of the department of corrections and privately owned property located in Blackman township, Jackson county, Michigan, and described as those lands separated from the main campus of southern Michigan prison or from the private owner's main parcel of land by the man-made course change from the old Grand river and old Portage river to the new Grand river drain and the Portage river drain respectively, for consideration as determined pursuant to subsection (3).

(2) The property to be conveyed, exchanged, or purchased shall be properties that contribute to cleaning up the property lines along the Grand river drain and the Portage river drain, located in Blackman township, Jackson county, and lying adjacent to the southern Michigan prison campus and shall be more particularly described based on the 2001-2002 survey by the polaris surveying company.

(3) If the parties mutually determine based on tax records or a market study of recent sales that 2 properties are approximately of equal value, an exchange under this section may proceed subject to approval by the state administrative board. If the parties either do not agree, or agree that the properties are not of equal value, or the transaction is solely a conveyance or purchase, then the parties shall select a qualified appraiser who shall determine the value of the properties, with the determination being binding on the parties. If the values for the exchange parcels, as determined by a qualified appraiser, are within 10% of each other, the exchange shall proceed without any further consideration. If the values of the properties are 11% or more apart, the parties may agree that further consideration be given to the owner of the higher valued property or that more or less land may be exchanged. The parties to the exchange shall pay for any survey, environmental studies, and actions required to clear title, and title commitment fees, if any, for the parcel they are receiving in exchange or by purchase.

(4) A conveyance authorized by this section shall be by quitclaim deed approved by the attorney general. The conveyance shall reserve the mineral rights to the grantors.

(5) The authority to convey property under this section expires 5 years after the date on which this act takes effect.

Conveyance of certain state owned property known as Ypsilanti regional psychiatric hospital; jurisdiction; location; description; appraisal; conduct of sale; quitclaim deed; adjustment of descriptions; disposition of revenue; net revenue; relocation of residents.

Sec. 13. (1) The state administrative board, on behalf of the state and subject to the terms stated in this section, may convey for not less than fair market value, except for a parcel of approximately 10.667 acres to be conveyed under section 14, all or portions of certain state owned property now under the jurisdiction of the department of community health, known as the Ypsilanti regional psychiatric hospital, located in the city of Ypsilanti, Washtenaw county, Michigan, and more particular described as follows:

(a) Parcel #1: All of section 2, t4s, r6e, Washtenaw county, Michigan, lying westerly of interstate highway us-23 except the north 1,200 feet thereof. The above-described parcel contains approximately 342 acres, subject to survey, and to all easements and restrictions of record, if any.

(b) Parcel #2: the east 1/2 of section 3, t4s, r6e, Washtenaw county, Michigan, except the north 1/2 of the northeast 1/4 of said section 3, containing approximately 302 acres, subject to survey, and to all easements and restrictions of record, if any.

(c) Parcel #3: the northwest 1/4 of section 3, t4n, r6e, Washtenaw county, Michigan, lying easterly of the Conrail railroad, containing approximately 53 acres, subject to survey, and to all easements and restrictions of record, if any.

(d) Parcel #4: beginning at the north 1/4 corner of section 11, t4s, r6e, Washtenaw county, Michigan, thence south 89 degrees 49' 45" west 1,485.77 feet, on the north line of said section 11; thence south 01 degrees 32' 29" east 948.23 feet; thence north 89 degrees 49' 45" east 490.01 feet; thence north 01 degrees 32' 29" west 239.65 feet; thence north 89 degrees 49' 45" east 998.63 feet, to the north-south 1/4 line of said section 11; thence north 01 degrees 46' 23" west 708.65 feet, on said north-south 1/4 line to the point of beginning; containing 26.88 acres, more or less, subject to survey, and to all easements and restrictions of record, if any.

(2) The fair market value of the property described in subsection (1) shall be determined by an appraisal as prepared by the state tax commission or an independent fee appraiser.

(3) Any sale of property described in subsection (1) shall be conducted in a manner to realize the highest price for the sale and the highest return to the state. The sale shall be done in an open manner that uses 1 or more of the following:

(a) A competitive sealed bid.

(b) Oral bid.

(c) Public auction.

(d) Use of broker services.

(4) Broker services for the sale under this section shall only be used if there are 3 or more bidders for this property. The minimum selling price for the property shall be the higher value of either its fair market value or the result of a professional concept plan value as determined by a real estate professional qualified to make such valuations. This real estate professional shall be selected through a request for proposal and competitive bid process.

(5) A notice of a sealed or oral bid, public auction sale, or use of broker negotiation services, regarding the sale of property under this section, shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, 1961 PA

236, MCL 600.1461, not less than 10 days before the sale. The newspaper shall be one that is published in the county where the property is located. If a newspaper is not published in the county where the property is located, the notice shall be published in a newspaper in a county nearest to the county in which the property is located. The notice shall describe the general location of the property and the date, time, and place of the sale.

(6) The conveyance authorized under this section shall be by quitclaim deed approved by the attorney general and shall reserve oil, gas, and mineral rights to the state.

(7) The descriptions of the parcels in subsection (1) are approximate and for purposes of the conveyance are subject to adjustments as the state administrative board or the attorney general considers necessary by survey or other legal description.

(8) The net revenue received from the sale under this section shall be deposited in the state treasury and credited to the general fund. As used in this subsection, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the state associated with the sale of the property.

(9) Residents of the Ypsilanti regional psychiatric hospital shall not be relocated or housed in facilities of lesser security as a result of any conveyance authorized under this section.

Conveyance of property to York township; jurisdiction; location; description; provisions; quitclaim deed; reservation of mineral rights; disposition of revenue.

Sec. 14. (1) The state administrative board, on behalf of the state, may convey to York township, for $1.00, certain property now under the jurisdiction of the department of community health and located in York township, Washtenaw county, and more specifically described as follows:

A parcel of land in the Northwest 1/4 of section 11, T4S, R6E, York Township, Washtenaw County, Michigan and more particularly described as follows: Commencing at the northwest corner of said section 11; thence N89°49'45"E 1015.98 feet, on the north line of said section 11 to the point of beginning of this description; thence N89°49'45"E 490.01 feet, on the north line of said section 11; thence S01°32'29"E 948.23 feet; thence S89°49'45"W 490.01 feet; thence N01°32'29"W 948.23 feet, to the north line of said section 11 and the point of beginning. The above described parcel contains 10.667 acres, more or less. All bearings are relative and referenced to an adjacent survey as recorded in Liber 1875, Page 575, Washtenaw County records. The above described parcel is subject to any easements and/or rights of record as they may pertain to this parcel.

(2) The conveyance authorized by this section shall provide for all of the following:

(a) The property shall be used exclusively for public recreational purposes and if any fee, term, or condition for the use of the property is imposed on members of the public, or if any of those fees, terms, or conditions are waived for use of this property, resident and nonresident members of the public shall be subject to the same fees, terms, conditions, and waivers.

(b) Upon termination of the use described in subdivision (a) or use for any other purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(c) If the grantee disputes the state's exercise of its right of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

(3) The conveyance authorized by this section shall be by quitclaim deed approved by the attorney general, and shall reserve to the state all rights to oil, coal, gas, or other materials, excluding sand, gravel, clay, or other nonmetallic minerals found on, within, or under the conveyed land.

(4) The revenue received from the conveyance under this section shall be deposited in the state treasury and credited to the general fund.

Conveyance of property located in Calhoun county; description; adjustment; appraisal; quitclaim deed; reservation of mineral rights; disposition of revenue.

Sec. 15. (1) The state administrative board, on behalf of the state, may convey to the city of Springfield, in Calhoun county, for not less than fair market value, certain state owned property located in Calhoun county, Michigan, and more particularly described as:

Lots 183 and 184 of Orchard Acres No. 3, according to the plat thereof recorded in Liber 10 of Plats, Page 40, Calhoun County records.

(2) The description of the parcel in subsection (1) is approximate and for purposes of the conveyance is subject to adjustment as the state administrative board or attorney general considers necessary by survey or other legal description.

(3) The fair market value of the property described in subsection (1) shall be determined by an appraisal as prepared by the state tax commission or an independent fee appraiser.

(4) The conveyance authorized by this section shall be by quitclaim deed approved by the attorney general and shall not reserve mineral rights to the state.

(5) The revenue received under this section shall be deposited in the state treasury and credited to the general fund.

Repeal of 1996 PA 294.

Sec. 16. 1996 PA 294 is repealed.

Conditional effective date.

Sec. 17. This act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) House Bill No. 5456.

(b) House Bill No. 5465.

This act is ordered to take immediate effect.
Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

Compiler's note: House Bill No. 5456, referred to in section 17, was filed with the Secretary of State December 23, 2002, and became P.A. 2002, No. 632, Eff. Dec. 26, 2002.

House Bill No. 5465, also referred to in section 17, was filed with the Secretary of State December 23, 2002, and became P.A. 2002, No. 633, Eff. Dec. 26, 2002.

[No. 672]

(HB 6079)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to

provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 16, 25, 33, 34, 44, 45, 50c, 57, 60, 64, 90c, 113, 114, 123, 125, 138, 140, 149, 150, 151, 153, 172, 173, 183, 184, 191, 192, 197a, 215, 217, 217c, 219, 219a, 220, 240, 263, 264, 287, 288, 294, 295, 298, 301, 302, 304, 305, 306, 314, 330, 331, 335, 335a, 354, 359, 368, 371, 375, 389, 393, 396, 404, 407, 408, 410, 411a, 411d, 414, 428, 429, 430, 454, 466, 478, 482, 490a, 492, 502b, 508, 509, 519, 524, 537, 538, 540c, 540d, 540f, 540g, 540h, and 561 (MCL 750.16, 750.25, 750.33, 750.34, 750.44, 750.45, 750.50c, 750.57, 750.60, 750.64, 750.90c, 750.113, 750.114, 750.123, 750.125, 750.138, 750.140, 750.149, 750.150, 750.151, 750.153, 750.172, 750.173, 750.183, 750.184, 750.191, 750.192, 750.197a, 750.215, 750.217, 750.217c, 750.219, 750.219a, 750.220, 750.240, 750.263, 750.264, 750.287, 750.288, 750.294, 750.295, 750.298, 750.301, 750.302, 750.304, 750.305, 750.306, 750.314, 750.330, 750.331, 750.335, 750.335a, 750.354, 750.359, 750.368, 750.371, 750.375, 750.389, 750.393, 750.396, 750.404, 750.407, 750.408, 750.410, 750.411a, 750.411d, 750.414, 750.428, 750.429, 750.430, 750.454, 750.466, 750.478, 750.482, 750.490a, 750.492, 750.502b, 750.508, 750.509, 750.519, 750.524, 750.537, 750.538, 750.540c, 750.540d, 750.540f, 750.540g, 750.540h, and 750.561), section 50c as added by 1994 PA 336, section 90c as amended by 2001 PA 1, section 125 as amended by 1999 PA 251, sections 215, 371, 524, 537, and 538 as amended by 1991 PA 145, section 217c as added and section 368 as amended by 1998 PA 360, section 219a as amended by 1998 PA 312, sections 263 and 264 as amended by 1997 PA 155, section 302 as amended by 1989 PA 85, section 375 as amended by 1996 PA 206, section 411a as amended by 2000 PA 370, section 411d as added by 1980 PA 490, section 502b as amended by 1991 PA 44, section 508 as amended by 1990 PA 77, section 540c as amended and section 540h as added by 1996 PA 557, section 540d as amended by 1996 PA 329, section 540f as added by 1996 PA 333, and section 540g as amended by 1998 PA 311.

The People of the State of Michigan enact:

750.16 Adulteration; drugs or medicine injurious to health; misdemeanor; penalty.

Sec. 16. A person who fraudulently adulterates, for the purpose of sale, any drug or medicine so as to render the drug or medicine injurious to health is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.25 Adulteration of butter and cream.

Sec. 25. (1) A person who possesses with intent to sell, or offer or expose for sale, or sell as butter or as cream, a product that is adulterated within the meaning of this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

(2) Butter is adulterated within the meaning of this section if 1 or both of the following conditions exist:

(a) The fat content is not exclusively derived from cow's milk.

(b) The butter contains less than 80% of milk fat.

(3) Cream is adulterated within the meaning of this section if 1 or more of the following conditions exist:

(a) The cream contains less than 18% of milk fat.

(b) The cream is not that portion of milk, rich in milk fat, that rises to the surface of milk on standing, or is separated from it by centrifugal force.

(c) The cream is not clean.

750.33 False advertising; penalty; excepted participants in publication.

Sec. 33. (1) A person who, with intent to sell, purchase, dispose of, or acquire merchandise, securities, service, or anything offered or sought by the person, directly or indirectly, to or from the public for sale, purchase, or distribution, or with intent to increase the consumption of merchandise, securities, service, or other thing offered or sought, or to induce the public in any manner to enter into an obligation relating to or interest in the merchandise, securities, service, or other thing offered or sought, makes, publishes, disseminates, circulates, or places before the public, or causes directly or indirectly to be made, published, disseminated, circulated, or placed before or communicated to the public, in a newspaper or by radio broadcast, television, telephone, or telegraph or other mode of communication or publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet, letter, or communication, including communication by telephone or telegraph to 2 or more persons, or in any other way, in advertisement of any sort regarding merchandise, securities, service, or anything so offered to or sought from the public, or regarding the motive or purpose of a sale, purchase, distribution, or acquisition, which advertisement contains an assertion, representation, or statement or illustration, including statements of present or former sale price or value, which is false, deceptive, or misleading, or calculated to subject another person to disadvantage or injury through the publication of false or deceptive statements or as part of a plan or scheme with the intent, design, or purpose not to sell the merchandise, commodities, or service so advertised at the price stated therein, or otherwise communicated, or with intent not to sell the merchandise, commodities, or service so advertised is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

(2) Subsection (1) does not apply to an owner, publisher, printer, agent, or employee of a newspaper or other publication, periodical, or circular, or of a radio station or television station, who in good faith and without knowledge of the falsity or deceptive character thereof, publishes, causes to be published, or takes part in the publication of an advertisement described in subsection (1).

(3) Subsection (1) does not apply to any person, firm, or corporation providing telephone service to subscribers as a public utility.

750.34 Advertising relating to sexual diseases.

Sec. 34. A person who advertises in his or her own name or in the name of another person, firm or pretended firm, association, or corporation or pretended corporation, in a newspaper, pamphlet, circular, periodical, or other written or printed paper, or the owner, publisher, or manager of a newspaper or periodical who permits to be published or inserted in a newspaper or periodical owned or controlled by him or her, an advertisement of the treating or curing of venereal diseases, the restoration of "lost manhood" or "lost vitality or vigor", or advertises in any manner that he or she is a specialist in diseases of the sexual organs, or diseases caused by sexual vice or masturbation, or in any diseases of like cause, or shall advertise in any manner any medicine, drug, compound, appliance, or any means whatever whereby sexual diseases of men or women may be cured or relieved, or miscarriage or abortion produced, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.44 Trick or acrobatic flying.

Sec. 44. An aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering engages in trick or acrobatic flying or in any acrobatic feat or, except while in landing or taking off, flies at such a low level as to endanger the persons on the surface beneath, or drop or release any object or thing that may endanger life or injure property except when necessary to the personal safety of the aeronaut or passenger, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.45 Open air assemblies; operation of aircraft; altitude.

Sec. 45. A person who operates an aircraft over open air assemblies of people at a height of less than 1,500 feet from the ground is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00. This section does not apply to groups assembled for the purpose of witnessing aerial exhibitions and stunt flying, nor to groups assembled at a flying field.

750.50c Police dog or police horse; definitions; violation as felony or misdemeanor; penalty; other violations.

Sec. 50c. (1) As used in this section:

(a) "Dog handler" means a peace officer who has successfully completed training in the handling of a police dog pursuant to a policy of the law enforcement agency that employs that peace officer.

(b) "Physical harm" means any injury to a dog's or horse's physical condition.

(c) "Police dog" means a dog used by a law enforcement agency of this state or of a local unit of government of this state that is trained for law enforcement work and subject to the control of a dog handler.

(d) "Police horse" means a horse used by a law enforcement agency of this state or of a local unit of government of this state for law enforcement work.

(e) "Serious physical harm" means any injury to a dog's or horse's physical condition or welfare that is not necessarily permanent but that constitutes substantial body disfigurement, or that seriously impairs the function of a body organ or limb.

(2) A person shall not intentionally kill or cause serious physical harm to a police dog or police horse.

(3) A person shall not intentionally cause physical harm to a police dog or police horse.

(4) A person shall not intentionally harass or interfere with a police dog or police horse lawfully performing its duties.

(5) A person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $2,500.00, or both.

(6) Except as provided in subsection (7), a person who violates subsection (3) or (4) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(7) A person who violates subsection (3) or (4) while committing a crime is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,500.00, or both.

(8) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law committed by that individual while violating this section.

750.57 Burial of dead animals.

Sec. 57. A person who places a dead animal or part of the carcass of a dead animal into a lake, river, creek, pond, road, street, alley, lane, lot, field, meadow, or common, or in any place within 1 mile of the residence of a person, except the same and every part of the carcass is buried at least 4 feet underground, and the owner or owners thereof who knowingly permits the carcass or part of a carcass to remain in any of those places, to the injury of the health, or to the annoyance of another is guilty of a misdemeanor. Every 24 hours that the owner permits the carcass or part of a carcass to remain after a conviction under this section is an additional offense under this section, a misdemeanor punishable by a fine of not less than $50.00 or more than $500.00 or by imprisonment for not more than 90 days.

750.60 Horses' tails; docking.

Sec. 60. (1) A person who cuts the bone of the tail of a horse for the purpose of docking the tail, or who causes or knowingly permits the cutting to be done upon the premises of which he or she is the owner, lessee, proprietor, or user, or who assists in or is present at such cutting, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00. However, this subsection does not apply to the cutting of the bone of the tail of a horse for the purpose of docking the tail when a certificate of a regularly qualified veterinary surgeon is first obtained certifying that the cutting is necessary for the health or safety of the horse.

(2) If a horse is found with its tail cut and with the wound resulting from the cutting unhealed, upon the premises of any person, those facts shall be prima facie evidence that the person occupying or using the premises on which that horse is found has committed the offense described in subsection (1).

(3) If a horse is found with its tail cut and with the wound resulting therefrom unhealed, in the charge or custody of any person, that fact shall be prima facie evidence that the person having the charge or custody of that horse has committed the offense charged in subsection (1).

750.64 Docked horses; failure to register.

Sec. 64. A person who violates a provision of this chapter by failing to register a docked horse as herein provided is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

750.90c Gross negligence against pregnant individual as crime.

Sec. 90c. A person who commits a grossly negligent act against a pregnant individual is guilty of a crime as follows:

(a) If the act results in a miscarriage or stillbirth by that individual or death to the embryo or fetus, a felony punishable by imprisonment for not more than 15 years or a fine of not more than $7,500.00, or both.

(b) If the act results in great bodily harm to the embryo or fetus, a felony punishable by imprisonment for not more than 5 years or a fine of not more than $2,500.00, or both.

(c) If the act results in serious or aggravated physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $500.00, or both.

(d) If the act results in physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

750.113 Coin or depository box; opening or attempt to open.

Sec. 113. A person who maliciously and willfully, by and with the aid and use of any key, instrument, device, or explosive, blows or attempts to blow, or forces or attempts to force an entrance into any coin box, depository box, or other receptacle established and maintained for the convenience of the public, or of any person or persons, in making payment for any article of merchandise or service, wherein is contained any money or thing of value, or extracts or obtains, or attempts to extract or obtain, therefrom any such money or thing of value so deposited or contained therein, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

750.114 Breaking and entering; outside showcase or counter.

Sec. 114. A person who shall break and enter, or enter without breaking, at any time, any outside showcase or other outside enclosed counter used for the display of goods, wares, or merchandise, with intent to commit the crime of larceny, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

750.123 Officer omitting duty for reward.

Sec. 123. A sheriff, coroner, constable, peace officer, or any other officer authorized to serve process or arrest or apprehend offenders against criminal law who shall receive from a defendant or from any other person any money or other valuable thing or any service or promise to pay or give money or to perform or omit to perform any act as a consideration, reward, or inducement, for omitting or delaying to arrest any defendant, or to carry him or her before a magistrate, or for delaying to take any person to prison, or for postponing the sale of any property under an execution, or for omitting or delaying to perform any duty pertaining to his or her office, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00. However, if that defendant is charged with an offense against the criminal laws of this state, an officer convicted under this section may be punished by any fine or by any term of imprisonment or both a fine and imprisonment, within the limits fixed by the statute that the defendant is charged with having violated.

750.125 Giving, offering, or promising commission, gift, or gratuity to agent, employee, or other person with intent to influence action of agent or employee; requesting or accepting commission, gift, or gratuity; using or giving document containing materially false, erroneous, or defective statement; evidence; use of truthful testimony, evidence, or other information against witness in criminal case; violation as misdemeanor.

Sec. 125. (1) A person shall not give, offer, or promise a commission, gift, or gratuity to an agent, employee, or other person or do or offer to do an act beneficial to an agent, employee, or other person with intent to influence the action of the agent or employee in relation to his or her principal's or employer's business.

(2) An agent or employee shall not request or accept a commission, gift, or gratuity, or a promise of a commission, gift, or gratuity, for the agent, employee, or another person or the doing of an act or offer of an act beneficial to the agent, employee, or another person according to an agreement or understanding between the agent or employee and any other person that the agent or employee shall act in a particular manner in relation to his or her principal's or employer's business.

(3) A person shall not use or give to an agent, employee, or other person, and an agent or employee shall not use, approve, or certify, with intent to deceive the principal or employer, a receipt, account, invoice, or other document concerning which the principal or

employer is interested that contains a statement that is materially false, erroneous, or defective or omits to state fully any commission, money, property, or other valuable thing given or agreed to be given to the agent or employee.

(4) Evidence is not admissible in any proceeding or prosecution under this section to show that a gift or acceptance of a commission, money, property, or other valuable thing described in this section is customary in a business, trade, or calling. The customary nature of a transaction is not a defense in a proceeding or prosecution under this section.

(5) In a proceeding or prosecution under this section, a person shall not be excused from attending and testifying or from producing documentary evidence pursuant to a subpoena on the ground that the testimony or evidence may tend to incriminate him or her or subject him or her to a penalty or forfeiture. Truthful testimony, evidence, or other truthful information compelled under this section and any information derived directly or indirectly from that truthful testimony, evidence, or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to testify or produce evidence as required.

(6) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

750.138 Children; legal custody; interference.

Sec. 138. A person who in any manner interferes or attempts to interfere with the custody of any child who has been adjudged to be dependent, neglected, or delinquent pursuant to chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, after the making of an order of commitment to a state institution or otherwise, in accordance with that act and pending the actual admission and reception of the child as an inmate of the institution, school, or home to which commitment is made; and any person who entices the neglected, dependent, or delinquent child from and out of the custody of the person or persons entitled thereto under the order of the court or who shall in any way interfere or attempt to interfere with the custody; and a person who entices or procures the child committed as aforesaid to leave and depart from any hospital or other place where the child was placed pursuant to the order of the court for the purpose of receiving medical treatment pending admission into the state institution, school, home, or other institution or place to which commitment may have been made, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.140 Children; exhibition; employ; apprentice.

Sec. 140. Any person having the care, custody, or control of any child under 16 years of age, who shall exhibit, use, or employ, or who shall apprentice, give away, let out, or otherwise dispose of the child to any person in or for the vocation, service, or occupation of rope or wire walking, gymnast, contortionist, rider, or acrobat, dancing, or begging in any place whatsoever, or for any obscene, indecent, or immoral purpose, exhibition, or practice whatsoever, or for any exhibition injurious to the health or dangerous to the life or limb of the child, or who shall cause, procure, or encourage the child to engage therein, and any person who shall take, receive, hire, employ, use, exhibit, or have in custody any child for any of the purposes mentioned in this section, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.149 Compounding or concealing offense; penalty.

Sec. 149. Any person having knowledge of the commission of any offense punishable with death, or by imprisonment in the state prison, who shall take any money, or any gratuity or reward, or any engagement therefor, upon an agreement or understanding,

express or implied, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, shall, when such offense of which he or she has knowledge was punishable with death, or imprisonment in the state prison for life, is guilty of a felony; and where the offense, of which he or she so had knowledge, was punishable in any other manner, he or she is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.150 Issue; concealment of death by mother.

Sec. 150. If any unmarried woman conceals the death of any issue of her body, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, she shall be punished by a fine not exceeding $1,000.00 or imprisonment for not more than 1 year.

750.151 Contracts; conspiracy; penalty.

Sec. 151. All contracts, agreements, understandings, and combinations made, entered into, or knowingly assented to, by and between any parties capable of making a contract or agreement which would be valid at law or in equity, the purpose or object or intent of which shall be to limit, control, or in any manner to restrict or regulate the amount of production or the quantity of any article or commodity to be raised, or produced by mining, manufacture, agriculture, or any other branch of business or labor, or to enhance, control or regulate the market price thereof, or in any manner to prevent or restrict free competition in the production or sale of any such article or commodity, shall be illegal and void, and every such contract, agreement, understanding, and combination shall constitute a criminal conspiracy. And every person who, for himself or herself personally, or as a member, or in the name of a partnership, or as a member, agent, or officer of a corporation, or of any association for business purposes of any kind, who shall enter into or knowingly consent to any such void and illegal contract, agreement, understanding, or combination, shall be deemed a party to such conspiracy.

All parties so offending shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 6 months or a fine of not more than $750.00. And the prosecution for offenses under this section may be instituted and the trial had in any county where any of the conspirators become parties to such conspiracy, or in which any 1 of the conspirators shall reside. This section shall in no manner invalidate or affect contracts for what is known and recognized as common law and in equity as contracts for the "good will of a trade or business"; but all such contracts shall be left to stand upon the same terms and within the same limitations recognized at common law and in equity.

750.153 Illegal contracts; carrying into effect.

Sec. 153. The carrying into effect, in whole or in part, of any such illegal contract, agreement, understanding, or combination as mentioned in the first section of this chapter and every act that shall be done for that purpose by any of the parties or through their agency or the agency of any 1 of them, constitutes a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.172 Accepting challenge and abetting duel.

Sec. 172. Any person who shall accept any challenge, or who shall knowingly carry or deliver any challenge or message, whether a duel ensue or not, and every person who shall be present at the fighting of a duel with deadly weapons as an aid or second, or surgeon, or who shall advise, encourage, or promote such duel, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00 and is also disqualified as mentioned in the preceding section.

750.173 Posting for not accepting challenge to duel.

Sec. 173. Any person who shall post or advertise another, or in writing or print, use any reproachful or contemptuous language, to or concerning another, for not fighting a duel, or for not sending or accepting a challenge, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

750.183 Facilitating escape of or assisting prisoners; penalty.

Sec. 183. Any person who conveys into any jail, prison, or other like place of confinement, any disguise or any instrument, tool, weapon, or other thing, adapted or useful to aid any prisoner in making his or her escape, with intent to facilitate the escape of any prisoner there lawfully committed or detained, or shall by any means whatever, aid or assist any prisoner in his or her endeavor to escape therefrom, whether such escape be effected or attempted, or not, and every person who shall forcibly rescue any prisoner, held in custody upon any conviction or charge of an offense, is guilty of a felony punishable by imprisonment in the state prison not more than 7 years; or, if the person whose escape or rescue was effected or intended, was charged with an offense not capital, nor punishable by imprisonment in the state prison, then the offense mentioned in this section shall be a misdemeanor and shall be punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.184 Aiding escape from officer; penalty.

Sec. 184. Any person who shall aid or assist any prisoner in escaping or attempting to escape from any officer or person who shall have the lawful custody of such prisoner is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.191 Refusing, omitting, and delaying to serve process.

Sec. 191. Any officer authorized to serve process, who willfully and corruptly refuses to execute any lawful process to him or her directed, and requiring him or her to apprehend or confine any person convicted or charged with an offense, or who willfully and corruptly omits or delays to execute such process, whereby such person shall escape and go at large, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.192 Prisoners of Wisconsin being transported.

Sec. 192. It shall be lawful for any sheriff, coroner, constable, or other officer of the state of Wisconsin or other person lawfully authorized under the laws of the state of Wisconsin to act as any such officer, having in his or her lawful custody any person or persons, arrested in the state of Wisconsin, under a criminal warrant or process, or under any writ, order, or process in a civil action or proceeding, issued out of or by any court of said state of Wisconsin, or by any officer of said state of Wisconsin, authorized to issue such warrant, writ, process, or order, to convey or transport the prisoner through any portion of the state of Michigan, whenever it shall be necessary or convenient so to do in order to bring the prisoner before any such court or officer of the state of Wisconsin, or to deliver the prisoner to any jailor, or commit the prisoner to any prison of said state of Wisconsin, for any lawful purpose whatsoever. Any such officer of the state of Wisconsin, while in the state of Michigan with any prisoner or prisoners in the officer's custody for the purposes aforesaid, has all the rights and powers in relation to such prisoner or prisoners as would a sheriff of this state.

An officer of this state shall not discharge any such prisoner from custody under writ of habeas corpus or other proceeding brought for that purpose, when it shall be made to appear that the prisoner is in custody as in the preceding paragraph stated. And it shall be a sufficient answer to said writ of habeas corpus or other proceeding, by the officer or person having such custody, that he or she holds the prisoner by virtue of a lawful warrant, writ, process, or order as in the preceding paragraph stated, and he or she shall annex to the answer a copy of the warrant, writ, process, or order under which he or she claims custody of the prisoner.

Any person who shall in any manner aid or assist a prisoner so being conveyed or transported through this state to escape from the officer or person having the prisoner so in lawful custody, or who resists the officer or person while engaged in conveying or transporting the prisoner through this state, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.197a Breaking or escaping from lawful custody under criminal process.

Sec. 197a. A person who breaks or escapes from lawful custody under any criminal process, including periods while at large on bail, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.215 Falsely assuming or pretending to be sheriff, conservation officer, coroner, constable, or police officer; misdemeanor; penalty.

Sec. 215. Any person who falsely assumes or pretends to be a sheriff, deputy sheriff, conservation officer, coroner, constable, police officer, or member of the Michigan state police, and shall take upon himself or herself to act as such, or to require any person to aid and assist him or her in any matter pertaining to the duty of a sheriff, deputy sheriff, conservation officer, coroner, constable, police officer, or member of the Michigan state police, or shall falsely take upon himself or herself to act or officiate in any office or place of authority, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.217 Disguising with intent to intimidate.

Sec. 217. Any person who in any manner disguises himself or herself with intent to obstruct the due execution of the law, or with intent to intimidate, hinder or interrupt any officer or any other person in the legal performance of his or her duty, or the exercise of his or her rights under the constitution and laws of this state, whether such intent be effected or not, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.217c Legal process; impersonation, false representation, or action as public officer or employee; definitions.

Sec. 217c. (1) A person shall not impersonate, falsely represent himself or herself as, or falsely act as a public officer or public employee and prepare, issue, serve, execute, or otherwise act to further the operation of any legal process or unauthorized process that affects or purports to affect persons or property.

(2) Except as provided in subsection (3) or (4), a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(3) A person who violates subsection (1) after a prior conviction for violating subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $1,500.00, or both.

(4) A person who violates subsection (1) after 2 or more prior convictions for violating subsection (1) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(5) This section does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law that individual commits while violating this section.

(6) This section does not prohibit individuals from assembling lawfully or lawful free expression of opinions or designation of group affiliation or association.

(7) As used in this section:

(a) "Lawful tribunal" means a tribunal created, established, authorized, or sanctioned by law or a tribunal of a private organization, association, or entity to the extent that the organization, association, or entity seeks in a lawful manner to affect only the rights or property of persons who are members or associates of that organization, association, or entity.

(b) "Legal process" means a summons, complaint, pleading, writ, warrant, injunction, notice, subpoena, lien, order, or other document issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency that is used as a means of exercising or acquiring jurisdiction over a person or property, to assert or give notice of a legal claim against a person or property, or to direct persons to take or refrain from an action.

(c) "Public employee" means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, court, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(d) "Public officer" means a person who is elected or appointed to any of the following:

(*i*) An office established by the state constitution of 1963.

(*ii*) A public office of a city, village, township, or county in this state.

(*iii*) A department, board, agency, institution, commission, court, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

(e) "Unauthorized process" means either of the following:

(*i*) A document simulating legal process that is prepared or issued by or on behalf of an entity that purports or represents itself to be a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law but that is not a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law.

(*ii*) A document that would otherwise be legal process except that it was not issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency as required by law.

750.219 Financial condition; false statements.

Sec. 219. Any person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, who, either individually or in a representative capacity, does 1 or more of the following:

(a) Knowingly makes a false statement in writing to any person, firm or corporation engaged in banking or other business respecting his or her own financial condition or the

financial condition of any firm or corporation with which he or she is connected as a member, director, officer, employee, or agent, for the purpose of procuring a loan or credit in any form or an extension of credit from the person, firm or corporation to whom the false statement is made, either for his or her own use or for the use of the firm or corporation with which he or she is connected as aforesaid.

(b) Having previously made, or having knowledge that another has previously made a statement in writing to any person, firm, or corporation engaged in banking or other business respecting his or her own financial condition or the financial condition of any firm or corporation with which he or she is connected as aforesaid, shall afterwards procure on faith of such statement from the person, firm, or corporation to whom the previous statement has been made, either for his or her own use or for the use of the firm or corporation with which he or she is so connected, a loan or credit in any form, or an extension of credit, knowing at the time of the procuring that the previously made statement is in any material particular false with respect to the present financial condition of himself or herself or of the firm or corporation with which he or she is so connected.

(c) Delivers to any note broker or other agent for the sale or negotiation of commercial paper, any statement in writing, knowing it to be false, respecting his or her own financial condition or the financial condition of any firm or corporation with which he or she is connected as aforesaid, for the purpose of having the statement used in furtherance of the sale, pledge, or negotiation of any note, bill, or other instrument for the payment of money made or endorsed or accepted or owned in whole or in part by him or her individually or by the firm or corporation with which he or she is so connected.

(d) Having previously delivered or having knowledge that another has previously delivered to any note broker or other agent for the sale or negotiation of commercial paper a statement in writing respecting his or her own financial condition or the financial condition of any firm or corporation with which he or she is connected as aforesaid, shall afterwards deliver to the note broker or other agent for the purpose of sale, pledge, or negotiation on faith of the statement, any note, bill, or other instrument for the payment of money made or endorsed or accepted or owned in whole or in part by himself or herself individually or by the firm or corporation with which he or she is so connected, knowing at the time that such previously delivered statement is in any material particular false as to the present financial condition of himself or herself or of such firm or corporation.

750.219a Obtaining telecommunications services with intent to avoid charge; violation; separate incidents pursuant to scheme or course of conduct; enhanced sentence based on prior convictions; definitions.

Sec. 219a. (1) A person shall not knowingly obtain or attempt to obtain telecommunications service with intent to avoid, attempt to avoid, or cause another person to avoid or attempt to avoid any lawful charge for that telecommunications service by using any of the following:

(a) A telecommunications access device.

(b) An unlawful telecommunications access device.

(c) A fraudulent or deceptive scheme, pretense, method, or conspiracy, or any device or other means, including, but not limited to, any of the following:

(*i*) Using a false, altered, or stolen identification.

(*ii*) The use of a telecommunications access device to violate this section by a person other than the subscriber or lawful holder of the telecommunications access device under

an exchange of anything of value to the subscriber or lawful holder to allow that unlawful use of the telecommunications access device.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) If the total value of the telecommunications service obtained or attempted to be obtained is less than $200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or 3 times the total value of the telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the total value of the telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service obtained or attempted to be obtained is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or former section 219c or a local ordinance substantially corresponding to this section or former section 219c.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the total value of the telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service obtained or attempted to be obtained is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service obtained or attempted to be obtained is $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(3) The values of telecommunications service obtained or attempted to be obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the telecommunications service obtained or attempted to be obtained.

(4) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before

sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(5) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(6) As used in this section:

(a) "Telecommunications" and "telecommunications service" mean any service lawfully provided for a charge or compensation to facilitate the origination, transmission, retransmission, emission, or reception of signs, data, images, signals, writings, sounds, or other intelligence or equivalence of intelligence of any nature over any telecommunications system by any method, including, but not limited to, electronic, electromagnetic, magnetic, optical, photo-optical, digital, or analog technologies.

(b) "Telecommunications access device" means any of the following:

(*i*) Any instrument, device, card, plate, code, telephone number, account number, personal identification number, electronic serial number, mobile identification number, counterfeit number, or financial transaction device as defined in section 157m that alone or with another device can acquire, transmit, intercept, provide, receive, use, or otherwise facilitate the use, acquisition, interception, provision, reception, and transmission of any telecommunications service.

(*ii*) Any type of instrument, device, machine, equipment, technology, or software that facilitates telecommunications or which is capable of transmitting, acquiring, intercepting, decrypting, or receiving any telephonic, electronic, data, internet access, audio, video, microwave, or radio transmissions, signals, telecommunications, or services, including the receipt, acquisition, interception, transmission, retransmission, or decryption of all telecommunications, transmissions, signals, or services provided by or through any cable television, fiber optic, telephone, satellite, microwave, data transmission, radio, internet based or wireless distribution network, system, or facility, or any part, accessory, or component, including any computer circuit, security module, smart card, software, computer chip, pager, cellular telephone, personal communications device, transponder, receiver, modem, electronic mechanism or other component, accessory, or part of any other device that is capable of facilitating the interception, transmission, retransmission, decryption, acquisition, or reception of any telecommunications, transmissions, signals, or services.

(c) "Telecommunications service provider" means any of the following:

(*i*) A person or entity providing a telecommunications service, whether directly or indirectly as a reseller, including, but not limited to, a cellular, paging, or other wireless communications company or other person or entity which, for a fee, supplies the facility, cell site, mobile telephone switching office, or other equipment or telecommunications service.

(*ii*) A person or entity owning or operating any fiber optic, cable television, satellite, internet based, telephone, wireless, microwave, data transmission or radio distribution system, network, or facility.

(*iii*) A person or entity providing any telecommunications service directly or indirectly by or through any distribution systems, networks, or facilities.

(d) "Telecommunications system" means any system, network, or facility owned or operated by a telecommunications service provider, including any radio, telephone, fiber optic, cable television, satellite, microwave, data transmission, wireless, or internet based system, network, or facility.

(e) "Unlawful telecommunications access device" means any of the following:

(*i*) A telecommunications access device that is false, fraudulent, unlawful, not issued to a legitimate telecommunications access device subscriber account, or otherwise invalid or that is expired, suspended, revoked, canceled, or otherwise terminated if notice of the expiration, suspension, revocation, cancellation, or termination has been sent to the telecommunications access device subscriber.

(*ii*) Any phones altered to obtain service without the express authority or actual consent of the telecommunications service provider, a clone telephone, clone microchip, tumbler telephone, tumbler microchip, or wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use, acquisition, interception, or receipt of a telecommunications service without the express authority or actual consent of the telecommunications service provider.

(*iii*) Any telecommunications access device that has been manufactured, assembled, altered, designed, modified, programmed, or reprogrammed, alone or in conjunction with another device, so as to be capable of facilitating the disruption, acquisition, interception, receipt, transmission, retransmission, or decryption of a telecommunications service without the actual consent or express authorization of the telecommunications service provider, including, but not limited to, any device, technology, product, service, equipment, computer software, or component or part, primarily distributed, sold, designed, assembled, manufactured, modified, programmed, reprogrammed, or used for the purpose of providing the unauthorized receipt of, transmission of, interception of, disruption of, decryption of, access to, or acquisition of any telecommunications service provided by any telecommunications service provider.

(*iv*) Any type of instrument, device, machine, equipment, technology, or software that is primarily designed, assembled, developed, manufactured, sold, distributed, possessed, used, or offered, promoted, or advertised, for the purpose of defeating or circumventing any technology, device, or software, or any component or part, used by the provider, owner, or licensee of any telecommunications service or of any data, audio, or video programs or transmissions, to protect any such telecommunications, data, audio, or video services, programs, or transmissions from unauthorized receipt, acquisition, interception, access, decryption, disclosure, communication, transmission, or retransmission.

(f) "Value of the telecommunications service obtained or attempted to be obtained" includes, but is not limited to, all of the following:

(*i*) Any lawful charge for telecommunications services avoided or attempted to be avoided.

(*ii*) The value of any other money, property, or telecommunications service lost, stolen, or rendered unrecoverable by the violation.

(*iii*) Any actual expenditure incurred by the victim to verify that a telecommunications device or telecommunications access device or telecommunications service was not altered, acquired, damaged, disrupted, destroyed, or stolen as a result of the violation.

(*iv*) The value of all telecommunications services available to the violator and others as a result of the violation.

750.220 Property valuation or indebtedness; false statements.

Sec. 220. Any person who willfully and knowingly makes any false statement in writing of his or her property valuation, real or personal, or both, or of his or her indebtedness, for the purpose of obtaining credit from any person, company, co-partnership, association, or corporation, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.240 False alarm of fire.

Sec. 240. Any person who knowingly and willfully commits 1 or more of the following actions is guilty of a misdemeanor punishable by imprisonment for not more than 1 year and a fine of not more than $1,000.00:

(a) Raise a false alarm of fire at any gathering or in any public place.

(b) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof, for the purpose of creating a false alarm of fire.

(c) Raise a false alarm of fire orally, by telephone or in person.

750.263 Counterfeit marks.

Sec. 263. (1) A person who willfully counterfeits an identifying mark with intent to deceive or defraud another person or to represent an item of property or service as bearing or identified by an authorized identifying mark is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(2) Except as provided in subsection (3), a person who willfully delivers, offers to deliver, uses, displays, advertises, or possesses with intent to deliver any item of property or services bearing, or identified by a counterfeit mark, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00 or 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine.

(3) A person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $50,000.00 or 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine, if any of the following apply:

(a) The person has a prior conviction under this section, section 264 or 265a, or former section 265 or a law of the United States or another state substantially corresponding to this section, section 264 or 265a, or former section 265.

(b) The violation involved more than 100 items of property.

(c) The aggregate value of the violation is more than $1,000.00.

(4) A person who willfully manufactures or produces an item of property bearing or identified by a counterfeit mark is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $50,000.00 or 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine.

(5) Willful possession of more than 25 items of property bearing or identified by a counterfeit mark gives rise to a rebuttable presumption that the person possessed those items with intent to deliver them in violation of subsection (2).

(6) Any item of property bearing a counterfeit mark shall be seized under warrant or incident to a lawful arrest. An item of property that bears a counterfeit mark is subject to forfeiture in the same manner as provided in sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. Upon determination that

an item of property bears a counterfeit mark, the court shall order the item forfeited and shall do 1 of the following:

(a) If the owner of the identifying mark requests, return the item to that owner for destruction or another disposition or use approved by the court.

(b) In the absence of a request under subdivision (a), order the seizing law enforcement agency to destroy the item as contraband or order an alternative disposition or use with the consent of the owner of the identifying mark.

(7) As used in this section and section 264:

(a) "Aggregate value of the violation" means the total value of all items of property or services bearing or identified by a counterfeit mark and involved in the violation, determined using the defendant's regular or intended selling price for each item or service or, if an item of property is intended as a component of a finished product, the defendant's regular or intended selling price of the finished product in which the component would be used.

(b) "Counterfeit mark" means either of the following:

(*i*) A copy or imitation of an identifying mark without authorization by the identifying mark's owner.

(*ii*) An identifying mark affixed to an item of property or identifying services without authorization by the identifying mark's owner.

(c) "Deliver" means to actually or constructively transfer or attempt to transfer an item of property from 1 person to another, regardless of whether there is an agency relationship.

(d) "Identifying mark" means a trademark, service mark, trade name, name, label, device, design, symbol, or word, in any combination, lawfully adopted or used by a person to identify items of property manufactured, sold, or licensed by the person or services performed by the person.

(e) "Person" means an individual, partnership, corporation, limited liability company, association, union, or other legal entity. For purposes of ownership of an identifying mark, person includes a governmental entity.

750.264 Possession of counterfeit mark, die, plate, engraving, template, pattern, or material; violation as misdemeanor; penalty.

Sec. 264. A person who possesses a counterfeit mark with intent to use or deliver it, who possesses a die, plate, engraving, template, pattern, or material with intent to create a counterfeit mark, or who possesses an identifying mark without authorization of the identifying mark's owner and with intent to create a counterfeit mark is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

750.287 Sterling or sterling silver marked articles; fraud in sale.

Sec. 287. Any person who knowingly makes or sells, or offers to sell or dispose of, or has in his or her possession with intent to sell or dispose of, any article of merchandise marked, stamped, or branded with the words "sterling" or "sterling silver", or encased or enclosed in any box, package, cover, or wrapper, or other thing in or by which the article is packed, enclosed, or otherwise prepared for sale or disposition, having on it an engraving or printed label, stamp, imprint, mark, or trademark, indicating or denoting by the marking, stamping, branding, engraving, or printing, that the article is silver, sterling silver, or solid silver, unless 925/1000 of the component parts of the metal of which the article is manufactured are pure silver, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.288 Coin or coin silver; fraud in sale of articles marked.

Sec. 288. Any person who knowingly makes or sells, or offers to sell or dispose of, or has in his or her possession with intent to sell or dispose of, any article of merchandise marked, stamped, or branded with the words "coin", or "coin silver", or encased or enclosed in any box, package, cover, or wrapper, or other thing in or by which the article is packed, enclosed or otherwise prepared for sale or disposition, having on it an engraving or printed label, stamp, imprint, mark, or trademark, indicating or denoting by the marking, stamping, branding, engraving, or printing, that the article is coin or coin silver, unless 900/1000 of the component parts of the metal of which the article is manufactured are pure silver, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.294 Animals; fraudulent registration as pure-bred.

Sec. 294. Any person who by fraud or misrepresentation obtains or attempts to obtain the registration of animals as pure-bred upon the herd books of any of the recognized registry associations, when such animals are not entitled to that registration, or who by fraud or misrepresentation obtains or attempts to obtain any false record of the transfer of ownership of the registered animals, or who designedly makes any false statements in reference to the breeding, ownership, color, markings, or registration of animals or in reference to any application for the registration or transfer of animals, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.295 Milk and butter fat production; fraudulent practices.

Sec. 295. Any person who connives at, commits, or attempts to commit any fraudulent or dishonest practice in connection with the making of official or semiofficial records of milk and butter fat production of cows, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.298 Medicine; practicing under false or assumed name.

Sec. 298. Any person who practices medicine or advertises to practice medicine under a false or assumed name, or under a name other than his or her own, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.301 Accepting money or valuable thing contingent on uncertain event.

Sec. 301. Any person or his or her agent or employee who, directly or indirectly, takes, receives, or accepts from any person any money or valuable thing with the agreement, understanding or allegation that any money or valuable thing will be paid or delivered to any person where the payment or delivery is alleged to be or will be contingent upon the result of any race, contest, or game or upon the happening of any event not known by the parties to be certain, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.302 Keeping or occupying common gambling house or building or place where gaming permitted; apparatus used for gaming or gambling; manufacture or possession of gaming or gambling apparatus for sale.

Sec. 302. (1) Except as provided in subsection (2), any person, or his or her agent or employee who, directly or indirectly, keeps, occupies, or assists in keeping or occupying any common gambling house or any building or place where gaming is permitted or

suffered or who suffers or permits on any premises owned, occupied, or controlled by him or her any apparatus used for gaming or gambling or who shall use such apparatus for gaming or gambling in any place within this state, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

(2) This section does not prohibit the manufacture of gaming or gambling apparatus or the possession of gaming or gambling apparatus by the manufacturer of the apparatus solely for sale outside of this state, or for sale to a gambling establishment operating within this state in compliance with the laws of this state, if applicable, and in compliance with the laws of the United States, provided the manufacturer meets or exceeds federal government requirements in regard to manufacture, storage, and transportation.

750.304 Selling pools and registering bets.

Sec. 304. Any person or his or her agent or employee who, directly or indirectly, keeps, maintains, operates, or occupies any building or room or any part of a building or room or any place with apparatus, books, or any device for registering bets or buying or selling pools upon the result of a trial or contest of skill, speed or endurance or upon the result of a game, competition, political nomination, appointment, or election or any purported event of like character or who registers bets or buys or sells pools, or who is concerned in buying or selling pools or who knowingly permits any grounds or premises, owned, occupied, or controlled by him or her to be used for any of the purposes aforesaid, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.305 Publication or distribution of betting odds; penalty.

Sec. 305. (1) Any person, or his or her agent or employee who, directly or indirectly, by means of any newspaper, periodical, poster, notice, or other mode of publication or reproduction, writes, prints, publishes, advertises, delivers, or distributes or offers to deliver or distribute to the public or to any part thereof or to any person, any statement or information concerning the making or laying of wagers or bets or the selling of pools or evidences of betting odds on any contest or game or on the happening of any event not known by the parties to be certain, or any purported event of like character, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

(2) The acts prohibited in subsection (1) constitute violations of subsection (1) when committed before any game, contest, or event. The possession of evidence for the publication of any statement or information concerning the making or laying of wagers or bets or the selling of pools or betting odds also constitutes a violation of subsection (1) when possessed for publication before the act evidenced thereby.

750.306 Pool tickets; declaration as nuisance.

Sec. 306. (1) All policy or pool tickets, slips or checks, memoranda of any combination, or other bet, manifold, or other policy or pool books or sheets are hereby declared a common nuisance and the possession of 1 or more of those items is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

(2) The possession of articles listed in subsection (1), or of any other implements, apparatus, or materials of any other form of gaming, is prima facie evidence of their use, by the person having them in possession, in the form of gaming in which like articles are commonly used. And such article found upon the person of one lawfully arrested for violation of any law relative to lotteries, policy lotteries or policy, the buying or selling of pools or registering of bets or other form of gaming is competent evidence upon the trial of an indictment to which it may be relevant.

750.314 Winning at gambling.

Sec. 314. Any person who by playing at cards, dice, or any other game, or by betting or putting up money on cards, or by any other means or device in the nature of betting on cards, or betting of any kind, wins or obtains any sum of money or any goods, or any article of value whatever, is guilty of a misdemeanor if the money, goods, or articles so won or obtained are of the value of not more than $50.00. If the money, goods, or articles so won or obtained are of the value of more than $50.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.330 Betting odds; publishing and selling.

Sec. 330. Any person, firm, or corporation, who by means of any newspaper, periodical, poster, notice, or other mode of publication or reproduction, publishes or sells reports of betting odds on horse races wherever conducted is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

This section does not apply to trotting or pacing races permitted to be held in this state, nor to races conducted at state or county fairs or other fairs conducted by agricultural societies; nor as prohibiting the publication of matters pertaining to pedigrees, entries or results of races excepted by this section, or programs for the use solely of spectators at races nor to any publication designed solely for the benefit of breeders or purchasers of stock.

750.331 Racing; definition, penalty.

Sec. 331. All running, trotting, or pacing of horses, or any other animals, for any bet or stakes, in money, goods, or other valuable thing, excepting such as are by special laws for that purpose expressly allowed, constitute racing within the meaning of this section, and are hereby declared to be common and public nuisances and all parties concerned therein, either as authors, betters, stakers, stake-holders, judges to determine the speed of animals, riders, contrivers, or abettors thereof, are guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00. However, this section does not apply to the giving of premiums by agricultural and other societies and associations for the running and trotting of horses at fairs or regularly appointed meetings.

Every person who contributes or collects any money, goods, or things in action, for the purpose of making up a purse, plate, or other valuable thing, to be raced for by any animal, contrary to law, is guilty of a misdemeanor.

750.335 Lewd and lascivious cohabitation and gross lewdness.

Sec. 335. Any man or woman, not being married to each other, who lewdly and lasciviously associates and cohabits together, and any man or woman, married or unmarried, who is guilty of open and gross lewdness and lascivious behavior, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than $1,000.00. No prosecution shall be commenced under this section after 1 year from the time of committing the offense.

750.335a Indecent exposure.

Sec. 335a. Any person who shall knowingly make any open or indecent exposure of his or her person or of the person of another is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than $1,000.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable

by imprisonment for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life: Provided, That any other provision of any other statute notwithstanding, said offense shall be triable only in a court of record.

750.354 Insurance with particular company.

Sec. 354. (1) A person doing business in this state or for any of the agents of such person shall not require any of the employees of the person to take out or obtain a life, accident, or life and accident policy in favor of the employee or other person in any particular or designated life, accident, or life and accident company or association.

All contracts hereinafter made between any person and any employee of the person requiring or stipulating that the employee so contracting shall procure, obtain, or have a policy of insurance in any particular or designated company or association are void.

(2) Subsection (1) does not proscribe the employers of labor and the persons employed from voluntarily making agreements with each other for contributions of money by the latter to any fund to be accumulated in their behalf and for their benefit in common with others, and in such case from further agreeing that the employer may deduct from their wages, from time to time, the sums due from them under such agreement.

(3) Any person who violates the provisions of this section is guilty of a misdemeanor, and where such person is a company or corporation, it shall be punished by a fine of not more than $200.00 for each and every offense, and any shareholder, officer, or agent of any such company or corporation violating the provisions of this section shall be punished by imprisonment for not more than 90 days or a fine of not more than $500.00 for each offense.

750.359 Larceny from vacant dwelling.

Sec. 359. Any person or persons who shall steal or unlawfully remove or in any manner damage any fixture, attachment, or other property belonging to, connected with, or used in the construction of any vacant structure or building, whether built or in the process of construction or who shall break into any vacant structure or building with the intention of unlawfully removing, taking therefrom, or in any manner damaging any fixture, attachment, or other property belonging to, connected with, or used in the construction of such vacant structure or building whether built or in the process of construction, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.368 Simulating legal process.

Sec. 368. (1) A person or agent of a person shall not by personal service, mail, or otherwise serve or cause to be served upon a debtor a notice or demand of payment of money on behalf of a creditor that is not authorized by a statute or court of this state and that simulates in form and substance legal process issued out of a court of this state.

(2) A person shall not prepare, issue, serve, execute, or otherwise act to further the operation of any unauthorized process.

(3) Except as provided in subsection (4) or (5), a person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(4) A person who violates subsection (2) after a prior conviction for violating this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(5) A person who violates subsection (2) after 2 or more prior convictions for violating this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(6) This section does not apply to a lien authorized under a statute of this state.

(7) This section does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law that individual commits while violating this section.

(8) This section does not prohibit individuals from assembling lawfully or lawful free expression of opinions or designation of group affiliation or association.

(9) As used in this section:

(a) "Lawful tribunal" means a tribunal created, established, authorized, or sanctioned by law or a tribunal of a private organization, association, or entity to the extent that the organization, association, or entity seeks in a lawful manner to affect only the rights or property of persons who are members or associates of that organization, association, or entity.

(b) "Legal process" means a summons, complaint, pleading, writ, warrant, injunction, notice, subpoena, lien, order, or other document issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency that is used as a means of exercising or acquiring jurisdiction over a person or property, to assert or give notice of a legal claim against a person or property, or to direct persons to take or refrain from an action.

(c) "Public employee" means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, court, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(d) "Public officer" means a person who is elected or appointed to any of the following:

(*i*) An office established by the state constitution of 1963.

(*ii*) A public office of a city, village, township, or county in this state.

(*iii*) A department, board, agency, institution, commission, court, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

(e) "Unauthorized process" means either of the following:

(*i*) A document simulating legal process that is prepared or issued by or on behalf of an entity that purports or represents itself to be a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law but that is not a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law.

(*ii*) A document that would otherwise be legal process except that it was not issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency as required by law. However, this subparagraph does not apply to a document that would otherwise be legal process but for 1 or more technical defects, including, but not limited to, errors involving names, spelling, addresses, or time of issue or filing or other defects that do not relate to the substance of the claim or action underlying the document.

750.371 Second or subsequent violation; penalty.

Sec. 371. Any person who is convicted of a second or subsequent violation of this chapter is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than $50.00 or more than $1,000.00.

750.375 Advertising, printing, or publishing lottery tickets; prohibited conduct; violation as misdemeanor; penalty.

Sec. 375. (1) Except in the case of a lottery or gift enterprise conducted pursuant to section 372(2), a person shall not advertise, print, or publish any lottery ticket or gift enterprise or any share in a lottery ticket for sale either by himself or herself or by another person.

(2) Except in the case of a lottery or gift enterprise conducted pursuant to section 372(2), a person shall not set up or exhibit or devise and make for the purpose of being set up and exhibited any sign, symbol, or any emblematic or other representation of a lottery or gift enterprise or of its drawing in any way indicating where a lottery ticket or a share in a lottery ticket or any such writing, certificate, bill, goods, merchandise or chattels, token, or other device may be purchased or obtained and shall not in any way invite or entice, or attempt to entice, any other person to purchase or receive the lottery ticket or a share in a lottery ticket.

(3) A person violating this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

750.389 False or malicious statements as to insurance companies.

Sec. 389. Any person who shall make, utter, circulate, or transmit to another or others any untrue, false, or malicious statement as to the financial condition of any fraternal beneficiary society, insurance company, reciprocal exchange, or other insurer doing business in this state, and shall thereby injure any such fraternal beneficiary society, insurance company, reciprocal exchange, or other insurer, or who shall counsel, aid, procure, or induce another to originate, make, utter, transmit, or circulate any such statement with like purpose is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.393 Buoy or beacon; willfully removing or destroying.

Sec. 393. Any person who shall willfully remove or destroy any buoy or beacon placed in any of the waters of the state, by the authority of the United States, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.396 Wearing mask or face covering device.

Sec. 396. A person who intentionally conceals his or her identity by wearing a mask or other device covering his or her face for the purpose of facilitating the commission of a crime is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

750.404 Desertion from military service.

Sec. 404. Any person who has enlisted into the service of the United States, or of this state, and who was sworn into such service, or who offers himself or herself as a substitute for a citizen of this state duly drafted into the service of the United States or of this state and after being duly sworn into such service, deserts the same, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.407 Military draft; resisting and inciting resistance.

Sec. 407. Any person who, during any war, rebellion, or insurrection against the United States, or against this state, shall forcibly resist any military draft ordered by the authority of the United States, or of this state, or shall incite, encourage, or command any other person or persons so to resist such draft, or shall unlawfully and willfully dissuade, discourage, or endeavor to hinder any other person or persons from volunteering, enlisting, or mustering into the military service of the United States, or of this state, or shall forcibly resist, or attempt to resist, such volunteering, enlisting, or mustering into such service, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.408 Deserters; concealing or harboring as misdemeanor.

Sec. 408. Any person who shall conceal or harbor any soldier or volunteer enlisted in the service of the United States, or of this state, knowing him or her to have deserted, and with intent to aid him or her in such desertion, or shall refuse to deliver him or her up to the orders of his or her commanding officer, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.410 Solicitation of personal injury claims; validity of contracts; furnishing, selling, or buying information as to identity or treatment of patient.

Sec. 410. (1) A person, firm, copartnership, association, or organization of any kind, either incorporated or unincorporated, or any of the officers, agents, servants, employees, or members of any such person, firm, copartnership, association, or organization of any kind, either incorporated or unincorporated, or of any division, bureau, or committee of that association or organization, either incorporated or unincorporated, who shall directly or indirectly, individually or by agent, servant, employee, or member, solicit a person injured as the result of an accident, his or her administrator, executor, heirs, or assigns, his or her guardian, or members of the family of the injured person, for the purpose of representing that person in making a claim for damages or prosecuting an action or causes of action arising out of a personal injury claim against any other person, firm, or corporation, or to employ counsel for the purpose of that solicitation, is guilty of a misdemeanor, and shall upon conviction thereof, if a natural person, be punished by a fine not to exceed $750.00 or by imprisonment for not more than 6 months, or both. The same penalties apply upon conviction to a member of a copartnership, or an officer or agent of a corporation, association, or other organization, or an officer or agent, who shall consent to, participate in, or aid or abet a violation of this section upon the part of the copartnership of which he or she is a member, or of the corporation, association, or organization of which he or she is such an officer or agent. A contract entered into as a result of such a solicitation is void. This subsection does not apply to an unsolicited contract entered into by a person, firm, or corporation with an attorney duly admitted to practice law in this state.

(2) Except as otherwise provided by law, administrative rule, or valid legal process, any person, firm or corporation who, for any consideration and without the prior written permission of a patient or his or her personal representative, furnishes, receives, buys, offers to buy, sells, or offers to sell, directly or indirectly, the identity of the patient or any information concerning the treatment of the patient, including, but not limited to, information contained in the files or records of a health care facility, health care provider, or insurance company, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00, or both.

750.411a False report of crime; violation; penalty; payment of costs by juvenile.

Sec. 411a. (1) Except as provided in subsection (2), a person who intentionally makes a false report of the commission of a crime to a member of the Michigan state police, a sheriff or deputy sheriff, a police officer of a city or village, or any other peace officer of this state knowing the report is false is guilty of a crime as follows:

(a) If the report is a false report of a misdemeanor, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) If the report is a false report of a felony, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(2) A person shall not do either of the following:

(a) Knowingly make a false report of a violation or attempted violation of chapter XXXIII or section 327 or 328 and communicate the false report to any other person.

(b) Threaten to violate chapter XXXIII or section 327 or 328 and communicate the threat to any other person.

(3) A person who violates subsection (2) is guilty of a felony punishable as follows:

(a) For a first conviction under subsection (2), by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(b) For a second or subsequent conviction under subsection (2), imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both.

(4) The court may order a person convicted under subsection (2) to pay to the state or a local unit of government the costs of responding to the false report including, but not limited to, use of police or fire emergency response vehicles and teams.

(5) If the person ordered to pay costs under subsection (4) is a juvenile under the jurisdiction of the family division of the circuit court under chapter 10 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1001 to 600.1043, all of the following apply:

(a) If the court determines that the juvenile is or will be unable to pay all of the costs ordered, after notice to the juvenile's parent or parents and an opportunity for the parent or parents to be heard, the court may order the parent or parents having supervisory responsibility for the juvenile, at the time of the acts upon which the order is based, to pay any portion of the costs ordered that is outstanding. An order under this subsection does not relieve the juvenile of his or her obligation to pay the costs as ordered, but the amount owed by the juvenile shall be offset by any amount paid by his or her parent. As used in this subsection, "parent" does not include a foster parent.

(b) If the court orders a parent to pay costs under subdivision (a), the court shall take into account the financial resources of the parent and the burden that the payment of the costs will impose, with due regard to any other moral or legal financial obligations that the parent may have. If a parent is required to pay the costs under subdivision (a), the court shall provide for payment to be made in specified installments and within a specified period of time.

(c) A parent who has been ordered to pay the costs under subdivision (a) may petition the court for a modification of the amount of the costs owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent.

(6) As used in this section:

(a) "Local unit of government" means:

(*i*) A city, village, township, or county.

(*ii*) A local or intermediate school district.

(*iii*) A public school academy.

(*iv*) A community college.

(b) "State" includes a state institution of higher education.

750.411d Requesting assistance of ambulance service or advanced mobile emergency care service with intent not to use assistance as misdemeanor; penalty.

Sec. 411d. A person who, with the intent not to use the assistance, knowingly causes or makes a request for the assistance of an ambulance service or an advanced mobile emergency care service is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

750.414 Motor vehicle; use without authority but without intent to steal.

Sec. 414. Any person who takes or uses without authority any motor vehicle without intent to steal the same, or who is a party to such unauthorized taking or using, is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $1,500.00. However, in case of a first offense, the court may reduce the punishment to imprisonment for not more than 3 months or a fine of not more than $500.00. However, this section does not apply to any person or persons employed by the owner of said motor vehicle or anyone else, who, by the nature of his or her employment, has the charge of or the authority to drive said motor vehicle if said motor vehicle is driven or used without the owner's knowledge or consent.

750.428 Dividing fees.

Sec. 428. Any physician or surgeon who shall divide fees with or shall promise to pay a part of his or her fee to or pay a commission to any other physician or surgeon or person who calls him or her in consultation or sends patients to him or her for treatment or operation, and any physician or surgeon who shall receive any money prohibited by this section, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

If a physician or surgeon is convicted of violating this section, the board of registration in medicine, upon a first conviction, may and upon a subsequent conviction shall, revoke the license of the person so convicted.

750.429 Employing solicitors, cappers, or drummers.

Sec. 429. Any physician or surgeon engaged in the practice of medicine in this state who shall employ any solicitor, capper, or drummer for the purpose of procuring patients, or who shall subsidize any hotel or boarding house, or who shall pay or present to any person money or other valuable gift for bringing patients to him or her, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

750.430 Prescribing while intoxicated.

Sec. 430. Any physician or other person who, while in a state of intoxication, prescribes a poison, drug, or medicine to another person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.454 Leasing houses for purposes of prostitution; misdemeanor.

Sec. 454. Any person who shall let any dwelling house, knowing that the lessee intends to use it as a house of ill-fame or place of resort for the purpose of prostitution and lewdness, or for the purpose of gambling for money or other property, or who shall knowingly permit such lessee to use the same for such purpose, or who shall receive any rent for any dwelling, house, room, or apartment which is used as a house of ill-fame or place of resort for prostitutes, or for the purpose of prostitution and lewdness, or for the purpose of gambling for money or other property, having reasonable cause to believe such house, room, or apartment is used for any such purpose, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00. However, no person shall be liable for receiving rent as aforesaid for any period prior to the time when he or she has reasonable cause to believe that such house, room, or apartment is used for any such purpose.

750.466 Selling diseased or unwholesome provisions without notice.

Sec. 466. Any person who shall knowingly sell any kind of diseased, corrupted, or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.478 Willful neglect of duty; public officer or person holding public trust or employment; penalty.

Sec. 478. When any duty is or shall be enjoined by law upon any public officer, or upon any person holding any public trust or employment, every willful neglect to perform such duty, where no special provision shall have been made for the punishment of such delinquency, constitutes a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.482 Neglecting or refusing to pay over moneys collected; penalty.

Sec. 482. Any officer who shall collect or receive any moneys on account of any fine, penalty, forfeiture, or recognizance, and shall neglect or refuse to pay over the same according to law, or shall appropriate or dispose of the same to his or her own use, or in any manner not authorized by law, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.490a Purchase by employee upon public credit for private use.

Sec. 490a. An officer or employee of any governmental agency shall not purchase or cause to be purchased any goods, wares, or merchandise of any description in the name of or on the credit of the governmental agency for any other purpose than for use or resale in the regular course of the official business of the governmental agency; or sell or offer for sale goods, wares, or merchandise purchased in the name of or on the credit of the governmental agency, at any price other than the price at which such goods are offered generally to the public by the governmental agency.

As used in this section, "governmental agency" means any and all branches or departments of the state government; any and all branches or departments of the government of any county, city, village, school district, township, or other municipal corporation in this state; and any commission, board, or other similar body organized to assist in the conduct of the governmental or proprietary functions of state or local government.

Any person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

750.492 Public records; inspection; use; copying; removal.

Sec. 492. Any officer having the custody of any county, city, or township records in this state who shall when requested fail or neglect to furnish proper and reasonable facilities for the inspection and examination of the records and files in his or her office and for making memoranda of transcripts therefrom during the usual business hours, which shall not be less than 4 hours per day, to any person having occasion to make examination of them for any lawful purpose is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00. The custodian of said records and files may make such reasonable rules with reference to the inspection and examination of them as shall be necessary for the protection of said records and files and to prevent interference with the regular discharge of the duties of such officer. The officer shall prohibit the use of pen and ink in making copies or notes of records and files in his or her office. No books, records, and files shall be removed from the office of the custodian thereof, except by the order of the judge of any court of competent jurisdiction, or in response to a subpoena duces tecum issued therefrom, or for audit purposes conducted pursuant to 1919 PA 71, MCL 21.41 to 21.55, 1929 PA 52, MCL 14.141 to 14.145, or 1968 PA 2, MCL 141.421 to 141.440a, with the permission of the official having custody of the records if the official is given a receipt listing the records being removed.

750.502b Sale or attempted sale of kerosene with flash point of less than 100 degrees Fahrenheit as misdemeanor; penalty.

Sec. 502b. A person who knowingly sells or attempts to sell to any person in this state, for use in atmospheric pressure wick-feed illuminating apparatus or atmospheric pressure wick-feed heating stoves or in gravity-feed cook stoves, any kerosene, whether manufactured in this state or not, that has a flash point of less than 100 degrees Fahrenheit as determined by an appropriate closed cup tester method specified in the American standards of testing materials standard for kerosene, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00, or both.

750.508 Equipping vehicle with radio able to receive signals on frequencies assigned for police purposes; permit required; exceptions; misdemeanor; penalty; radar detectors not applicable.

Sec. 508. (1) Any person who shall equip a vehicle with a radio receiving set that will receive signals sent on frequencies assigned by the federal communications commission of the United States of America for police purposes, or use the same in this state unless the vehicle is used or owned by a peace officer, or a bona fide amateur radio operator holding a technician class, general, advanced, or extra class amateur license issued by the federal communications commission, without first securing a permit so to do from the director of the department of state police upon application as he or she may prescribe, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(2) This section does not apply to the use of radar detectors.

750.509 False reports to police broadcasting station.

Sec. 509. Any person who shall willfully make to any radio broadcasting station operated by any law enforcement agency any false, misleading, or unfounded report, for the purpose of interfering with the operation thereof, or with the intention of misleading any peace officer or officers of this state, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.519 Disciplining or discharging on report of railroad detective.

Sec. 519. A common carrier by railroad, its agents, superintendents, managers, or employees owning or operating any line or lines of railroad in this state and engaged in commerce by railroad, employing any special agent, detective, or person commonly known as a spotter for the purpose of investigation and obtaining and reporting to the employer, its agents, superintendents, or managers information concerning its employees shall not discipline or discharge any of its employees if the act of discipline or discharge is based upon the report of such special agent, detective, or spotter, which involves a question of integrity, honesty, or breach of any rule of the employer, unless such employer, its agents, superintendents, or managers first give notice to such employee so reported and grant a hearing to the employee when he or she so requests and, upon demand by said employee, the employer at the hearing shall state the specific charges against the employee, and the accused employee shall have the right to demand and be confronted with the person making such report to his or her employer, have the right at the hearing to cross-examine the agent, detective, or spotter making the report, and have the right to employ counsel to represent him or her at the hearing.

Any common carrier by railroad or any of its agents, superintendents, general managers, officers, or employees that violate this section are guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00. In any case of the violation of this section by any of the officers, agents, or employees of any such common carrier by railroad, the imprisonment provided herein if imposed shall be imposed upon the officers or agents committing the offense.

750.524 Riotous or unlawful assembly; neglecting or refusing to suppress assembly and arrest offenders; penalty.

Sec. 524. Any mayor, alderman, supervisor, president, trustee or member of a common council, sheriff, or deputy sheriff, having notice of any such riotous or tumultuous and unlawful assembly as is mentioned in this chapter, in the township, city, or village in which he or she lives, who shall neglect or refuse immediately to proceed to the place of such assembly, or as near as he or she can with safety, or shall omit or neglect to exercise the authority with which he or she is invested by this chapter, for suppressing such riotous or unlawful assembly, and for arresting and securing the offenders, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $750.00.

750.537 Copper or silver ore; barter, transfer, or sale; memorandum of sale; certificate; applicability; violation as misdemeanor.

Sec. 537. A person working in any copper or silver mine of this state, or any person in behalf of such person, shall not sell, barter, transfer, or ship any copper or silver ore, bullion, pig, or copper or silver in the raw or unmanufactured state, and shall not be a party to any barter, transfer, or sale, or aid or assist therein, unless a memorandum be filed with the county clerk of the county where the barter, transfer, or sale shall take place, giving the names of the parties making such barter, transfer, sale, or shipment, the dates, consideration, and the origin of the copper or silver so bartered, transferred, sold, or shipped, and in all cases where the origin of said copper or silver is not known to the parties, no barter, transfer, sale, or shipment shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk or by a constable or deputy sheriff, judge, stating in substance that he or she has investigated the source or origin of the copper or silver so to be bartered, transferred, sold, or shipped and that in his or her opinion the articles have not been stolen, and that the parties thereto have a right to transfer or sell the articles. This section does not apply to any person authorized to act in behalf of a person, firm, or corporation engaged in the business of mining copper

or silver as owner. Any person violating the provisions of this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.538 Copper or silver ore; sales, transfers, or shipments; memorandum of sale; certificate; violation as misdemeanor; penalty.

Sec. 538. (1) Any sales, transfers, or shipments of copper or silver ore, bullion, pig, or copper or silver in the raw or unmanufactured state in any county of this state where copper and silver are mined, by any person not engaged in the business of mining or producing copper or silver ore, bullion, pig, or copper or silver in the unmanufactured state, shall be unlawful unless and until a memorandum thereof shall be filed with the county clerk of the county where such sale or transfer shall take place, giving the names of the parties, the dates, consideration, and origin of the copper or silver so sold, transferred, or shipped or offered for sale, transfer, or shipping; and in all cases where the origin of the copper or silver is not known, no sale, transfer, or shipment shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk, constable, or deputy sheriff, stating in substance that he or she has investigated the source or origin of the copper or silver offered for sale, transfer, or shipment, and that in his or her opinion the articles have not been stolen, and that the parties thereto have a right to sell, transfer, and ship the same.

(2) Any person violating this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00.

750.540c Prohibited conduct with regard to telecommunications access device; violation as felony; penalty; amateur radio service; forfeiture; order; definitions.

Sec. 540c. (1) A person shall not assemble, develop, manufacture, possess, deliver, offer to deliver, or advertise an unlawful telecommunications access device or assemble, develop, manufacture, possess, deliver, offer to deliver, or advertise a telecommunications device intending to use those devices or to allow the devices to be used to do any of the following or knowing or having reason to know that the devices are intended to be used to do any of the following:

(a) Obtain or attempt to obtain a telecommunications service with the intent to avoid or aid or abet or cause another person to avoid any lawful charge for the telecommunications service in violation of section 219a.

(b) Conceal the existence or place of origin or destination of any telecommunications service.

(c) To receive, disrupt, decrypt, transmit, retransmit, acquire, intercept, or facilitate the receipt, disruption, decryption, transmission, retransmission, acquisition, or interception of any telecommunications service without the express authority or actual consent of the telecommunications service provider.

(2) A person shall not modify, alter, program, or reprogram a telecommunications access device for the purposes described in subsection (1).

(3) A person shall not deliver, offer to deliver, or advertise plans, written instructions, or materials for the manufacture, assembly, or development of an unlawful telecommunications access device or for the manufacture, assembly, or development of a telecommunications access device that the person intends to be used or knows or has reason to know will be used or is likely to be used to violate subsection (1). As used in this subsection, "materials" includes any hardware, cables, tools, data, computer software, or other information or equipment used or intended for use in the manufacture, assembly, or development of an unlawful telecommunications access device or a telecommunications access device.

(4) A person who violates subsection (1), (2), or (3) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both. All fines shall be imposed for each unlawful telecommunications access device or telecommunications access device involved in the offense. Each unlawful telecommunications access device or telecommunications access device is considered a separate violation.

(5) This section does not prohibit or restrict the possession of radio receivers or transceivers by licensees of the federal communications commission in the amateur radio service that are intended primarily or exclusively for use in the amateur radio service.

(6) Any unlawful telecommunications access device involved in violation of this section is subject to forfeiture in the same manner as provided in sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709, and the court may order either of the following:

(a) The unlawful telecommunications access device be destroyed or retained as provided under section 540d.

(b) The unlawful telecommunications access device be returned to the telecommunications service provider if the device is owned or controlled by the provider or disposed of as provided under section 540d.

(7) The court shall order a person convicted of violating subsection (1), (2), or (3) to make restitution in accordance with section 1a of the code of criminal procedure, 1927 PA 175, MCL 769.1a.

(8) A violation of subsection (1), (2), or (3) is considered to have occurred at the place where the person manufactures, assembles, develops, or designs an unlawful telecommunications access device or telecommunications access device, or the places where the unlawful telecommunications access device or telecommunications access device is sold or delivered to another person.

(9) As used in this section and sections 540d, 540f, and 540g:

(a) "Deliver" means to actually or constructively sell, give, loan, lease, or otherwise transfer a telecommunications access device, unlawful telecommunications access device, and plans, written instructions, or materials concerning the devices to another person.

(b) "Telecommunications access device" shall have the same meaning as in section 219a.

(c) "Telecommunications service" shall have the same meaning as in section 219a.

(d) "Telecommunications service provider" shall have the same meaning as in section 219a.

(e) "Telecommunications system" shall have the same meaning as in section 219a.

(f) "Unlawful telecommunications access device" shall have the same meaning as in section 219a.

750.540d Seizure of devices, plans, instructions, or materials.

Sec. 540d. Any telecommunications access device, unlawful telecommunications access device, plans, instructions, or materials described in section 540c may be seized under warrant or incident to a lawful arrest. Upon conviction of a person for violation of section 540c, all of the following apply to the telecommunications device, counterfeit telecommunications device, plans, instructions, or materials involved in the violation that are seized under this section:

(a) The telecommunications access device or materials shall be returned to the lawful owner of that device or materials unless he or she was convicted of the violation or had prior actual knowledge of and consented to the violation or unless the lawful owner cannot be determined or located.

(b) The unlawful telecommunications access device, plans, or instructions and any telecommunications access device or materials not required to be returned to the lawful owner under subdivision (a) may be destroyed as contraband by the seizing law enforcement agency or retained and used by the seizing law enforcement agency for law enforcement purposes.

(c) Any telecommunications access device or materials not required to be returned to the lawful owner under subdivision (a) may be turned over by the seizing law enforcement agency to the telecommunications service provider in the territory in which the seizure occurred.

750.540f Telecommunications access device; use in violation of § 750.219a; misdemeanor; violation of subsection (1) and previous conviction as felony; prior conviction; definitions.

Sec. 540f. (1) Except as provided in subsection (2), a person who knowingly or intentionally publishes a telecommunications access device or unlawful telecommunications access device with the intent that it be used or knowing or having reason to know that it will be used or is likely to be used to violate section 219a is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(2) A person who violates subsection (1) and has a previous conviction for a violation of section 219a or 540c or former section 219c is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both. For purposes of imposing fines under this section for a repeat offender, the fines shall be imposed for each telecommunications access device and unlawful telecommunications access device involved in the violation.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having a prior conviction, the prosecuting attorney shall include on the complaint and information a statement listing that prior conviction. The existence of the defendant's prior conviction shall be determined by the court, without a jury, at sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) As used in this section:

(a) "Publish" means to communicate information or make information available to 1 or more persons orally, in writing, or by means of any telecommunications. Publish includes, but is not limited to, communicating information on a computer bulletin board or similar system.

(b) "Telecommunications access device" shall have the same meaning as in section 219a.

(c) "Unlawful telecommunications access device" shall have the same meaning as in section 219a.

750.540g Telecommunications service; unauthorized use by officer, shareholder, partner, employee, agent, or independent contractor; use in separate incidents pursuant to scheme or course of conduct; enhanced sentence based on prior convictions.

Sec. 540g. (1) An officer, shareholder, partner, employee, agent, or independent contractor of a telecommunications service provider who knowingly and without authority

uses or diverts telecommunications services for his or her own benefit or to the benefit of another person is guilty of a crime as follows:

(a) If the total value of the telecommunications service used or diverted is less than $200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or 3 times the total value of the telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the total value of the telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service used or diverted is $200.00 or more but less than $1,000.00.

(*ii*) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the total value of the telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service used or diverted is $1,000.00 or more but less than $20,000.00.

(*ii*) The person violates subdivision (b)(*i*) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine:

(*i*) The total value of the telecommunications service used or diverted is $20,000.00 or more.

(*ii*) The person violates subdivision (c)(*i*) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation of subdivision (a) or (b)(*ii*).

(2) The values of telecommunications service used or diverted in separate incidents under a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the telecommunications service used or diverted. The courts shall also include the value of all telecommunications services made available to the violator and others as a result of the violation.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(4) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

750.540h Intent to permit or obtain unauthorized receipt of telecommunications service.

Sec. 540h. (1) Evidence of 1 or more of the following facts shall give rise to a rebuttable presumption that the conduct that violated section 540c was engaged in knowingly by the defendant with the intent to permit or obtain the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service:

(a) The presence on the defendant's property or in the actual possession of the defendant of 1 or more unlawful telecommunications access devices.

(b) The defendant installed an unauthorized connection or provided written instructions on such connection to another. An unauthorized connection does not include any of the following:

(*i*) An internal connection made by a person within his or her residence for the purpose of receiving an authorized telecommunications service.

(*ii*) The physical connection of a cable or other device by a person located within his or her residence which was initially placed there by the telecommunications service provider.

(*iii*) The physical connection of a cable or other device by a person located within his or her residence which the person had reason to believe was an authorized connection.

(c) The telecommunications service provider placed written warning labels on its telecommunications access devices explaining that tampering with a telecommunications device is a violation of law and a telecommunications device in the defendant's possession has been tampered with, altered, or modified to permit the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(d) The defendant has published or advertised for sale a plan for an unlawful telecommunications access device and the publication or advertisement states or implies that the plan will enable the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(e) The defendant has advertised for the sale of an unlawful telecommunications access device or kit for an unlawful telecommunications access device and the advertisement states or implies that the unlawful telecommunications access device or kit will permit the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(f) The defendant has sold, leased, or offered for sale or lease an unlawful telecommunications access device, plan, or kit for an unlawful telecommunications access device and during the course of the transaction for sale or lease, the defendant stated or implied to the buyer that the unlawful telecommunications access device will permit the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(g) As used in this section, "unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service" means to do any of those acts without the express authority of the telecommunications service provider.

750.561 False weights and measures.

Sec. 561. Any person who shall offer or expose for sale, sell, or use or retain in his or her possession a false weight or measure or weighing or measuring device or any weight or measure or weighing or measuring device in the buying or selling of any commodity or thing or for hire or reward; or who shall dispose of any condemned weight, measure or weighing or measuring device contrary to law or remove any tags placed thereon by the sealer of weights and measures; or any person who shall sell or offer or expose for sale less than the quantity he or she represents, or sell or offer or expose for sale any such commodity in any manner contrary to law, or any person who shall sell or offer for sale or have in his or her possession for the purpose of selling any device or instrument to be used to, or calculated to, falsify any weight or measure, is guilty of a misdemeanor. Upon a second or subsequent conviction, he or she shall be guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than $100.00 or more than $1,000.00.

Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

[No. 673]

(HB 6268)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," by amending section 109 (MCL 400.109), as amended by 2000 PA 168.

The People of the State of Michigan enact:

400.109 Medical services provided under act; notice and approval of proposed change in method or level of reimbursement; definitions.

Sec. 109. (1) The following medical services may be provided under this act:

(a) Hospital services that an eligible individual may receive consist of medical, surgical, or obstetrical care, together with necessary drugs, X-rays, physical therapy, prosthesis,

transportation, and nursing care incident to the medical, surgical, or obstetrical care. The period of inpatient hospital service shall be the minimum period necessary in this type of facility for the proper care and treatment of the individual. Necessary hospitalization to provide dental care shall be provided if certified by the attending dentist with the approval of the department of community health. An individual who is receiving medical treatment as an inpatient because of a diagnosis of tuberculosis or mental disease may receive service under this section, notwithstanding the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, and 1925 PA 177, MCL 332.151 to 332.164. The department of community health shall pay for hospital services in accordance with the state plan for medical assistance adopted pursuant to section 10 and approved by the United States department of health and human services.

(b) An eligible individual may receive physician services authorized by the department of community health. The service may be furnished in the physician's office, the eligible individual's home, a medical institution, or elsewhere in case of emergency. A physician shall be paid a reasonable charge for the service rendered. Reasonable charges shall be determined by the department of community health and shall not be more than those paid in this state for services rendered under title XVIII.

(c) An eligible individual may receive nursing home services in a state licensed nursing home, a medical care facility, or other facility or identifiable unit of that facility, certified by the appropriate authority as meeting established standards for a nursing home under the laws and rules of this state and the United States department of health and human services, to the extent found necessary by the attending physician, dentist, or certified Christian Science practitioner. An eligible individual may receive nursing services in a short-term nursing care program established under section 22210 of the public health code, 1978 PA 368, MCL 333.22210, to the extent found necessary by the attending physician when the combined length of stay in the acute care bed and short-term nursing care bed exceeds the average length of stay for medicaid hospital diagnostic related group reimbursement. The department of community health shall not make a final payment pursuant to title XIX for benefits available under title XVIII without documentation that title XVIII claims have been filed and denied. The department of community health shall pay for nursing home services in accordance with the state plan for medical assistance adopted pursuant to section 10 and approved by the United States department of health and human services. A county shall reimburse a county maintenance of effort rate determined on an annual basis for each patient day of medicaid nursing home services provided to eligible individuals in long-term care facilities owned by the county and licensed to provide nursing home services. For purposes of determining rates and costs described in this subdivision, all of the following apply:

(*i*) For county owned facilities with per patient day updated variable costs exceeding the variable cost limit for the county facility, county maintenance of effort rate means 45% of the difference between per patient day updated variable cost and the concomitant nursing home-class variable cost limit, the quantity offset by the difference between per patient day updated variable cost and the concomitant variable cost limit for the county facility. The county rate shall not be less than zero.

(*ii*) For county owned facilities with per patient day updated variable costs not exceeding the variable cost limit for the county facility, county maintenance of effort rate means 45% of the difference between per patient day updated variable cost and the concomitant nursing home class variable cost limit.

(*iii*) For county owned facilities with per patient day updated variable costs not exceeding the concomitant nursing home class variable cost limit, the county maintenance of effort rate shall equal zero.

(*iv*) For the purposes of this section: "per patient day updated variable costs and the variable cost limit for the county facility" shall be determined pursuant to the state plan for medical assistance; for freestanding county facilities the "nursing home class variable cost limit" shall be determined pursuant to the state plan for medical assistance and for hospital attached county facilities the "nursing class variable cost limit" shall be determined pursuant to the state plan for medical assistance plus $5.00 per patient day; and "freestanding" and "hospital attached" shall be determined in accordance with the federal regulations.

(*v*) If the county maintenance of effort rate computed in accordance with this section exceeds the county maintenance of effort rate in effect as of September 30, 1984, the rate in effect as of September 30, 1984 shall remain in effect until a time that the rate computed in accordance with this section is less than the September 30, 1984 rate. This limitation remains in effect until December 31, 2007. For each subsequent county fiscal year the maintenance of effort may not increase by more than $1.00 per patient day each year.

(*vi*) For county owned facilities, reimbursement for plant costs will continue to be based on interest expense and depreciation allowance unless otherwise provided by law.

(d) An eligible individual may receive pharmaceutical services from a licensed pharmacist of the person's choice as prescribed by a licensed physician or dentist and approved by the department of community health. In an emergency, but not routinely, the individual may receive pharmaceutical services rendered personally by a licensed physician or dentist on the same basis as approved for pharmacists.

(e) An eligible individual may receive other medical and health services as authorized by the department of community health.

(f) Psychiatric care may also be provided pursuant to the guidelines established by the department of community health to the extent of appropriations made available by the legislature for the fiscal year.

(2) The director shall provide notice to the public, in accordance with applicable federal regulations, and shall obtain the approval of the committees on appropriations of the house of representatives and senate of the legislature of this state, of a proposed change in the statewide method or level of reimbursement for a service, if the proposed change is expected to increase or decrease payments for that service by 1% or more during the 12 months after the effective date of the change.

(3) As used in this act:

(a) "Title XVIII" means title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28, 1395x to 1395yy, and 1395bbb to 1395ggg.

(b) "Title XIX" means title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(c) "Title XX" means title XX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1397 to 1397f.

This act is ordered to take immediate effect.
Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

[No. 674]

(HB 6202)

AN ACT to amend 1973 PA 116, entitled "An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts," (MCL 722.111 to 722.128) by adding section 9.

The People of the State of Michigan enact:

722.119 Child care center, child caring institution, or child placing agency; presence of staff member prohibited; conditions; unsupervised contact by volunteer prohibited; conditions; documentation that staff member or volunteer not named in central registry; policy regarding supervision of volunteers.

Sec. 9. (1) A staff member shall not be present in a child care center, child caring institution, or child placing agency if he or she has been convicted of either of the following:

(a) Child abuse or child neglect.

(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.

(2) A volunteer shall not have unsupervised contact with children who are in the care of a child care center, child caring institution, or child placing agency if he or she has been convicted of either of the following:

(a) Child abuse or child neglect.

(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of offering to volunteer at the child care center, child caring institution, or child placing agency.

(3) Before a staff member or unsupervised volunteer may have contact with a child who is in the care of a child care center, child caring institution, or child placing agency, the staff member or volunteer shall provide the child care center, child caring institution, or child placing agency with documentation from the family independence agency that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. For individuals who are employed by or volunteer at a child care center, child caring institution, or child placing agency, the child care center, child caring institution, or child placing agency shall comply with this subsection not later than the date on which that child care center's, child caring institution's, or child placing agency's license is issued or first renewed after the effective date of the amendatory act that added this section. As used in this subsection, "child abuse" and "child neglect" mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(4) Each child care center, child caring institution, or child placing agency shall establish and maintain a policy regarding supervision of volunteers including volunteers who are parents of a child receiving care at the child care center, child caring institution, or child placing agency.

Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

[No. 675]

(HB 4675)

AN ACT to amend 1992 PA 234, entitled "An act to establish a judges retirement system; to provide for the administration and maintenance of the retirement system; to create a retirement board; to prescribe the powers and duties of the retirement board; to establish certain reserves for the retirement system; to establish certain funds; to prescribe the powers and duties of certain state departments and certain state and local officials and employees; to provide for certain disqualifications; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," (MCL 38.2101 to 38.2670) by adding section 512.

The People of the State of Michigan enact:

38.2512 Supplemented retirement allowance.

Sec. 512. (1) A person may elect to receive a supplemented retirement allowance if the person meets all of the following requirements:

(a) The person is a retirant or beneficiary of a deceased retirant whose effective date of retirement was on or after January 1, 1980 but before January 1, 1993.

(b) The person is not a retirant or beneficiary of a deceased retirant who was a member of the former judges retirement system before September 8, 1961.

(c) The person executes and submits to the retirement system an election form with a waiver agreement in form and substance as required under subsection (7).

(2) Effective June 1, 2003, a person who meets the requirements of subsection (1) and who timely files a fully executed waiver agreement with the retirement system on a form furnished by the retirement system, on or after January 1, 2003, but not later than April 1, 2003, shall receive a retirement allowance supplemented as follows:

Effective Date of Retirement	Percent of Increase
January 1, 1992 to December 31, 1992	3.5%
January 1, 1991 to December 31, 1991	4.0%
January 1, 1990 to December 31, 1990	4.5%
January 1, 1989 to December 31, 1989	5.0%
January 1, 1988 to December 31, 1988	5.5%
January 1, 1987 to December 31, 1987	6.0%
January 1, 1986 to December 31, 1986	6.5%
January 1, 1985 to December 31, 1985	7.0%
January 1, 1984 to December 31, 1984	7.5%
January 1, 1983 to December 31, 1983	8.0%
January 1, 1982 to December 31, 1982	8.0%
January 1, 1981 to December 31, 1981	8.0%
January 1, 1980 to December 31, 1980	8.0%

(3) The supplemental retirement allowance calculated under subsection (2) shall be the basis on which any future adjustments to the retirement allowance are calculated.

(4) The supplement provided by this section shall be calculated under subsection (2) and shall be paid to retirants or beneficiaries of deceased retirants before October 1, 2003.

(5) If a retirant dies before October 1, 2003 and no benefits become payable under section 506 or 508, the retirant's retirement allowance shall not be supplemented.

(6) For purposes of this section, a person who elects to receive a retirement allowance supplemented under this section shall be deemed to have done all of the following:

(a) Waived any past, present, or future claim or claims asserted by the plaintiffs in the case of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI).

(b) Waived any past, present, or future claim or claims that arise from facts that form the basis of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), including, but not limited to, asserted violations of the equal protection clause of section 1 of Amendment XIV of the constitution of the United States, section 2 of article I of the state constitution of 1963, section 604(6), the wasting trust doctrine, and fiduciary duties.

(c) Agreed that he or she will not take any action to question the legal effect of, amend, or rescind the waiver created by his or her election under this section.

(7) The waiver agreement agreed to, executed, and submitted by a person electing a retirement allowance supplemented under this section shall read as follows:

"1. _____ (Name of person) desires to settle and compromise, in their entirety, any past, present, or future claim or claims, either asserted by the plaintiffs in the case of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), or that arise from the facts forming the basis of that case, including, but not limited to, asserted violations of the equal protection clause of the fourteenth amendment of the United States constitution, section 2 of article I of the state constitution of 1963, section 604(6) of the judges retirement act of 1992, 1992 PA 234, MCL 38.2604, the wasting trust doctrine, and fiduciary duties.

2. _____ (Name of person) agrees to settle and compromise these claims for the consideration of receiving a retirement allowance supplemented under section 512 of the judges retirement act of 1992, 1992 PA 234, MCL 38.2512.

3. _____ (Name of person) waives any right or interest in any past, present, or future claim or claims, either asserted by the plaintiffs in the case of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), or that arise from the facts forming the basis of that case.

4. _____ (Name of person) will submit a notarized copy of this waiver agreement to the retirement system no later than 5 p.m. eastern standard time on April 1, 2003 and agrees to not take any action to question the legal effect of, amend, or rescind this waiver agreement.

5. _____ (Name of person) expressly agrees and understands that nothing in this agreement limits the rights of the state or its agencies, employees, and agents to any privilege, immunity, or defense that would otherwise have been available if the claims or potential claims had been actually litigated in any forum.

6. _____ (Name of person) agrees that, if this waiver agreement is challenged, invalidated, or otherwise found to be unenforceable, any retirement supplement under section 512 shall cease for any person for which the waiver is challenged, invalidated, or otherwise determined to be unenforceable.

7. _____ (Name of Person) agrees not to fund, offer advice regarding, or otherwise participate in the case known as Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI) or any successor case raising similar claims, and further agrees to oppose class certification and agrees to opt out of any such class in any such cases and to inform the presiding judge of that opposition and desire to opt out.".

(8) Nothing contained in this section shall create or be construed to create any of the following:

(a) Any obligation or liability of the state or the retirement system to any person who does not timely file or enter a form and waiver agreement under this section.

(b) Any admission of liability to any person in any litigation or future litigation.

(c) Any waiver of any privilege, immunity, or defense that is or would have been available to this state or its agencies, employees, or agents in any litigation or future litigation with any person.

This act is ordered to take immediate effect.
Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

[No. 676]

(HB 5953)

AN ACT to provide for circumstances under which certain forestry operations shall not be found to be a public or private nuisance; to provide for certain forestry management practices; to provide for certain powers and duties for certain state agencies and departments; and to provide remedies.

The People of the State of Michigan enact:

320.2031 Short title.

Sec. 1. This act shall be known and may be cited as the "right to forest act".

320.2032 Legislative findings.

Sec. 2. The legislature finds:

(a) That forestry operations are valuable to the state's economy, provide jobs to its citizens, can be an effective wildlife management tool, are essential to the manufacture of forestry products that are used and enjoyed by the people of the state, and benefit the general welfare of the people of the state.

(b) That forestry operations are adversely affected by the random encroachment of urban and residential land uses throughout rural areas of the state.

(c) That, as a result of random encroachment, conflicts have arisen between traditional forestry land uses and urban and residential land uses.

(d) That conflicts between forestry and urban land uses threaten to permanently convert forestland to other uses, whereby the forestland resources are permanently lost to the economy and the human and physical environments of the state.

(e) That it is in the best interest of the state to ensure that forestry operations using generally accepted forestry management practices are not subject to public and private nuisance actions arising out of conflicts between the forestry operations and urban and residential land uses.

320.2033 Definitions.

Sec. 3. As used in this act:

(a) "Commission" means the commission of natural resources.

(b) "Department" means the department of natural resources.

(c) "Forest" means a tract of land that is at least 10% stocked by trees of any size, whether of commercial or noncommercial species, or formerly having tree cover and not

currently developed for nonforest use, including woodlands, woodlots, windbreaks, and shelter belts.

(d) "Forestry operations" means activities related to the harvesting, reforestation, and other management activities, including, but not limited to, thinning, pest control, fertilization, and wildlife management, that are consistent with principles of sustainable forestry.

(e) "Generally accepted forestry management practices" means those forest management practices as prescribed by the commission. In prescribing generally accepted forestry management practices, the commission shall give due consideration to available department information, written recommendations, and comments from the department and other interested persons that may include, but are not limited to, all of the following:

(*i*) The department of agriculture.

(*ii*) The Michigan state university extension.

(*iii*) The United States department of agriculture agencies, services, and programs.

(*iv*) College and university forestry programs.

(*v*) Professional, industry, and conservation organizations.

(f) "Landowner" means the possessor of a fee interest in land or a tenant, lessee, occupant, or other person in lawful control of land.

(g) "Sustainable forestry" means forestry practices that are designed to meet present and future wood product needs by employing a land stewardship ethic that integrates the reforestation, managing, growing, nurturing, and harvesting of trees for useful products with the conservation of soil, air and water quality, wildlife and fish habitat, and visual changes.

(h) "Timber" means live or dead trees, including, but not limited to, bark, foliage, wood, and firewood.

320.2034 Forestry operations as public or private nuisance.

Sec. 4. (1) Forestry operations shall not be found to be a public or private nuisance if the forestry operations alleged to be a nuisance conform to generally accepted forestry management practices. Generally accepted forestry management practices shall be reviewed annually by the commission and revised as considered necessary.

(2) Forestry operations voluntarily using sustainable forestry practices as approved by the commission shall not be found to be a public or private nuisance if the forestry operations existed before a change in the land use or occupancy of land within 1 mile of the boundaries of the forestland, and if before that change in land use or occupancy, the forestry operations would not have been a nuisance.

(3) Forestry operations that are in conformance with generally accepted forestry management practices shall not be found to be a public or private nuisance as a result of any of the following:

(a) A change in ownership or size.

(b) Cessation or interruption of forestry operations.

(c) Enrollment in governmental forestry or conservation programs.

(d) Adoption of new forestry technology.

(4) As used in this section, a public or private nuisance includes, but is not limited to, allegations of nuisance based on any of the following:

(a) Visual changes due to the removal of vegetation or timber.

(b) Noise from forestry equipment used in normal, generally accepted forestry management practices.

(c) Removal of vegetation or timber on a forest adjoining the property of another landowner.

(d) The use of chemicals normally utilized in forestry operations, and applied under generally accepted forestry management practices.

320.2035 Recovery of costs and attorney fees.

Sec. 5. In any nuisance action in which forestry operations are alleged to be a nuisance, if the defendant landowner or forestry operation prevails, the landowner or forestry operation may recover from the plaintiff the actual amount of costs and expenses determined by the court to have been reasonably incurred by the landowner or forestry operation in connection with the defense of the action, together with reasonable and actual attorney fees.

320.2036 Land, farms, or farming operations subject to §§ 286.471 to 286.474.

Sec. 6. This act does not supersede, negate, or determine any protection of land, farms, or farming operations that are subject to the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

Approved December 25, 2002.
Filed with Secretary of State December 26, 2002.

[No. 677]

(HB 5540)

AN ACT to amend 1995 PA 29, entitled "An act concerning unclaimed property; to provide for the reporting and disposition of unclaimed property; to make uniform the law concerning unclaimed property; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 16 (MCL 567.236).

The People of the State of Michigan enact:

567.236 Unpaid wages.

Sec. 16. (1) Unpaid wages greater than $50.00, including wages represented by unpresented payroll checks greater than $50.00, owing in the ordinary course of the holder's business that remain unclaimed by the owner for more than 1 year after becoming payable are presumed abandoned.

(2) Unpaid wages of $50.00 or less owing in the ordinary course of the holder's business that remain unclaimed by the owner for more than 1 year after becoming payable are not subject to this act.

This act is ordered to take immediate effect.
Approved December 25, 2002.
Filed with Secretary of State December 30, 2002.

[No. 678]

(HB 6260)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 601 and 841 (MCL 600.601 and 600.841), section 601 as amended by 1996 PA 388 and section 841 as amended by 2000 PA 56, and by adding chapter 4 and sections 425 and 8304.

The People of the State of Michigan enact:

CHAPTER 4

TRIAL COURT CONCURRENT JURISDICTION

600.401 Plan of concurrent jurisdiction.

Sec. 401. (1) Within a county or judicial circuit, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, a plan of concurrent jurisdiction may be adopted by a majority vote of each of the following groups of judges for the participating trial courts in that county or judicial circuit:

(a) The circuit judges, the probate judges, and the district judges.

(b) The circuit judges and the probate judges.

(c) The circuit judges and the district judges.

(d) The probate judges and the district judges.

(2) A plan of concurrent jurisdiction may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the district court.

(c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court.

(e) The district court and 1 or more district judges may exercise the power and jurisdiction of the circuit court.

(f) The district court and 1 or more district judges may exercise the power and jurisdiction of the probate court.

(3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

(5) This section does not apply to the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, which have district court districts of the third class.

600.405 Plan of concurrent jurisdiction; adoption; options.

Sec. 405. Sections 406, 407, and 408 provide options for adoption of a plan of concurrent jurisdiction in the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, which have district court districts of the third class.

600.406 Circuit court and probate court; Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne counties; adoption of plan of concurrent jurisdiction.

Sec. 406. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, the circuit judges and the probate judges, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, by a majority vote of each group of judges, may adopt 1 or more plans of concurrent jurisdiction for the circuit court and probate court in that county.

(2) A plan of concurrent jurisdiction under this section may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

600.407 Trial courts; Genesee, Ingham, Kent, Macomb, Oakland, and Washtenaw counties; adoption of plan of concurrent jurisdiction.

Sec. 407. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, and Washtenaw, the circuit judges, the probate judges, and the district judges in the county-funded district court district, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, by a majority vote of each group of judges, may adopt 1 or more plans of concurrent jurisdiction for the participating trial courts in that county.

(2) A plan of concurrent jurisdiction under this section may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the district court within the county-funded district court district.

(c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court within the county-funded district court district.

(e) The district court and 1 or more district judges in the county-funded district court district within the county may exercise the power and jurisdiction of the circuit court.

(f) The district court and 1 or more district judges in the county-funded district court district within the county may exercise the power and jurisdiction of the probate court.

(3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

600.408 Trial courts; Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne counties; adoption of plans of concurrent jurisdiction.

Sec. 408. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, the circuit judges, the probate judges, and the district judges in 1 or more district court districts within the county, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, by a majority vote of each group of judges, may adopt 1 or more plans of concurrent jurisdiction for the participating trial courts in that county.

(2) A plan of concurrent jurisdiction under this section may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the district court within the participating district court districts within the county.

(c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court within the participating district court districts within the county.

(e) The district court and 1 or more district judges in the participating district court districts within the county may exercise the power and jurisdiction of the circuit court.

(f) The district court and 1 or more district judges in the participating district court districts within the county may exercise the power and jurisdiction of the probate court.

(3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction involving district court districts of the third class may include an agreement as to the allocation of court revenue, other than revenue payable by statute to libraries or state funds, and court expenses. This agreement is subject to approval by the county board of commissioners and by each local funding unit of each participating district of the third class.

(5) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

600.410 Plan of concurrent jurisdiction; delegation; prohibition.

Sec. 410. A plan of concurrent jurisdiction adopted under this chapter shall not include a delegation of any of the following:

(a) A power of appointment to a public office delegated by constitution or statute to the circuit court or a circuit judge.

(b) A power of appointment to a public office delegated by constitution or statute to the probate court or a probate judge.

(c) A power of appointment to a public office delegated by constitution or statute to the district court or a district judge.

600.415 Family court plan.

Sec. 415. A plan of concurrent jurisdiction may include a family court plan as provided in chapter 10.

600.420 Record maintenance.

Sec. 420. Unless an alternate method of record maintenance is approved by the county clerk as part of a plan of concurrent jurisdiction, the records of the circuit court, probate court, and district court shall continue to be maintained by that respective county clerk, probate register, or district court clerk in the same manner as the method employed for record management before the plan of concurrent jurisdiction is adopted.

600.425 Approval of plan by local funding units.

Sec. 425. Not later than 30 days before a proposed plan of concurrent jurisdiction under this chapter is submitted to the supreme court for approval, the plan shall be submitted to the local funding unit or units for their review of the plan's financial implications. Consistent with article VII, section 8 of the state constitution of 1963, the cost of implementing a plan of concurrent jurisdiction is subject to approval by the funding unit or units through the funding units' budgeting process.

600.601 Circuit court; jurisdiction and power.

Sec. 601. (1) The circuit court has the power and jurisdiction:

(a) Possessed by courts of record at the common law, as altered by the state constitution of 1963, the laws of this state, and the rules of the supreme court.

(b) Possessed by courts and judges in chancery in England on March 1, 1847, as altered by the state constitution of 1963, the laws of this state, and the rules of the supreme court.

(c) Prescribed by the rules of the supreme court.

(2) The circuit court has exclusive jurisdiction over condemnation cases commenced under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

(3) In a judicial circuit in which the circuit court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the circuit court has concurrent jurisdiction with the probate court or the district court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

(a) The probate court shall have exclusive jurisdiction over trust and estate matters.

(b) The district court shall have exclusive jurisdiction over small claims and civil infraction actions.

(4) The family division of circuit court has jurisdiction as provided in chapter 10.

600.841 Probate court; jurisdiction and power.

Sec. 841. (1) The probate court has jurisdiction and power as follows:

(a) As conferred upon it under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102.

(b) As conferred upon it under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(c) As conferred upon it under this act.

(d) As conferred upon it under another law or compact.

(2) In a judicial circuit in which the probate court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the probate court has concurrent jurisdiction with the circuit court or the district court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

(a) The circuit court shall have exclusive jurisdiction over appeals from the district court and from administrative agencies as authorized by law.

(b) The circuit court shall have exclusive jurisdiction and power to issue, hear, and determine prerogative and remedial writs consistent with section 13 of article VI of the state constitution of 1963.

(c) The circuit court shall have exclusive jurisdiction to hear and decide matters within the jurisdiction of the court of claims under chapter 64.

(d) The district court shall have exclusive jurisdiction over small claims and civil infraction actions.

600.8304 District court; jurisdiction.

Sec. 8304. In a district court district in which the district court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the district court has concurrent jurisdiction with the circuit court or the probate court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

(a) The circuit court shall have exclusive jurisdiction over appeals from the district court and from administrative agencies as authorized by statute.

(b) The circuit court shall have exclusive jurisdiction and power to issue, hear, and determine prerogative and remedial writs consistent with section 13 of article VI of the state constitution of 1963.

(c) The circuit court shall have exclusive jurisdiction to hear and decide matters within the jurisdiction of the court of claims under chapter 64.

(d) The probate court shall have exclusive jurisdiction over trusts and estates.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2003.

Approved December 25, 2002.
Filed with Secretary of State December 30, 2002.

[No. 679]

(HB 4492)

AN ACT to amend 1971 PA 140, entitled "An act to provide for the distribution of certain state revenues to cities, villages, townships, and counties; to impose certain duties and confer certain powers on this state, political subdivisions of this state, and the officers of both; to create reserve funds; and to establish a revenue sharing task force and provide for its powers and duties," by amending sections 11, 12, and 13 (MCL 141.911, 141.912, and 141.913), sections 11 and 13 as amended by 1998 PA 532 and section 12 as amended by 1996 PA 342.

The People of the State of Michigan enact:

141.911 Payments to counties from state income tax collections; time and basis; payments to counties based on sales tax collections.

Sec. 11. (1) For state fiscal years before the 1996-1997 state fiscal year, the department of management and budget shall cause to be paid during each August, November, February, and May, to counties on a per capita basis the collections from the state income tax as certified by the department of treasury for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to and retention by counties.

(2) For state fiscal years beginning after September 30, 1992 and ending before October 1, 1996, the collections from the state income tax otherwise available for distribution to counties in November for the quarter period ending the prior September 30 shall be increased by $35,900,000.00 and the collections from the state income tax otherwise available for distribution to counties in August for the quarter period ending the prior June 30 shall be decreased by $35,900,000.00.

(3) For the 1996-1997 and 1997-1998 state fiscal years, the department of treasury shall cause to be paid to counties on a per capita basis an amount equal to 24.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a. Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, the department of treasury shall cause to be paid to counties both of the following:

(a) Except as provided in subdivision (c), an amount equal to the amount the county was eligible to receive under section 12a in the 1997-1998 state fiscal year.

(b) Except as provided in subdivision (c), an amount equal to 25.06% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made minus the amount determined under subdivision (a) which shall be distributed on a per capita basis. If the amount appropriated under this section to counties is less than 25.06% of 21.3% of the sales tax rate of 4%, any reduction made necessary by this appropriation in distributions to counties shall first be applied to the distribution under this subdivision.

(c) For the 2002-2003 state fiscal year only, each county shall receive 96.5% of the amount that the county would have received if the total available for distribution under subdivisions (a) and (b) were $211,549,002.00. The total amount available for distribution to all counties under this subdivision shall not exceed $204,144,787.00.

(4) After September 30, 2007, 25.06% of 21.3% of the sales tax collections at a rate of 4% shall be distributed to counties as provided by law.

(5) The payments under subsection (3) shall be made from revenues collected during the state fiscal year in which the payments are made and shall be made during each October, December, February, April, June, and August. Payments shall be based on collections from the sales tax at a rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30, and for the 1996-1997 and 1997-1998 state fiscal years only the payments shall be reduced by 1/6 of the total distribution for the state fiscal year under section 12a. For state fiscal years after the 1995-1996 state fiscal year, the collections from the sales tax otherwise available for distribution to counties under subsection (3) in December shall be increased by $17,000,000.00 and the collections from the sales tax otherwise available for distribution to counties under subsection (3) in April shall be decreased by $17,000,000.00.

141.912 Payments to cities, villages, and townships from sales tax collections; time and basis.

Sec. 12. (1) For state fiscal years before the 1996-1997 state fiscal year, the department of treasury shall cause to be paid to each city, village, and township its share, computed on a per capita basis, during each August, November, February, and May, of the collections designated for assistance to townships, cities, and villages under section 10 of article IX of the state constitution of 1963 from the sales tax for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to cities, villages, and townships.

(2) For state fiscal years before the 1996-1997 state fiscal year, during each calendar year, the department of treasury shall cause to be advanced and paid in June to cities, villages, and townships on a per capita basis $9,500,000.00 of the amount that would otherwise be paid in August pursuant to subsection (1).

(3) For state fiscal years after the 1995-1996 state fiscal year and before the 2003-2004 state fiscal year, the department shall cause to be paid to each city, village, and township its share, computed on a per capita basis, during each October, December, February, April, June, and August, the collections designated for assistance to cities, villages, and townships under section 10 of article IX of the state constitution of 1963 from the sales tax, the collections that are available for distribution to cities, villages, and townships. Payments under this subsection shall be based on collections from the sales tax at a rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30.

(4) For state fiscal years after the 2002-2003 state fiscal year, the department shall cause to be paid to each city, village, and township its share of the sales tax collections designated for assistance to cities, villages, and townships under section 10 of article IX of the state constitution of 1963 from the sales tax. Payments under this subsection shall be made during each October, December, February, April, June, and August, based on collections from the sales tax at a rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30. The payments under this subsection shall be made from revenues collected during the state fiscal year in which the payments are made.

141.913 Payments to cities, villages, and townships from state income tax and single business tax; payments based on sales tax collections; population less than 750,000; limitations; distributions; payment dates; annual appropriation by legislature.

Sec. 13. (1) This subsection and subsection (2) apply to distributions to cities, villages, and townships during the state fiscal years before the 1996-1997 state fiscal year of

collections from the state income tax and single business tax. Except as otherwise provided in subsection (2), the department of treasury shall cause to be paid to each city, village, and township its share, computed in accordance with the tax effort formula, of the following revenues:

(a) During each August, November, February, and May, the collections from the state income tax for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to cities, villages, and townships under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(b) The amount of the collections from the single business tax available for distribution to cities, villages, and townships under former section 136 of the single business tax act, 1975 PA 228.

(2) The amount of collections of the state income tax otherwise available for distribution to cities, villages, and townships in November, February, and May, computed in accordance with the tax effort formula, shall be increased by $22,600,000.00. The amount of collections otherwise available for distribution to cities, villages, and townships in August, computed in accordance with the tax effort formula, shall be decreased by $67,800,000.00.

(3) This subsection applies to distributions to cities, villages, and townships for the 1996-1997 state fiscal year. The department shall cause to be paid in accordance with the tax effort formula an amount equal to 75.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a.

(4) The department of treasury shall cause to be paid during the 1997-1998 state fiscal year an amount equal to 75.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a, both of the following:

(a) To each city, village, and township, the amount of collections distributed under subsection (3) to cities, villages, and townships for the 1996-1997 state fiscal year or its pro rata share of the collections if the collections are less than the amount of collections distributed under subsection (3) for the 1996-1997 state fiscal year. A city's, village's, or township's share of revenues under this subdivision shall be computed using the tax effort formula.

(b) To each city, village, and township its share of the collections to the extent the total collections available for distribution under this subsection exceed the amount distributed to cities, villages, and townships under subdivision (a) for the fiscal year. A city's, village's, or township's share of revenues under this subdivision shall be computed on a per capita basis.

(5) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, the department of treasury shall cause distributions determined under subsections (6) to (13) to be paid to each city, village, and township from an amount equal to 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made. After September 30, 2007, 74.94% of 21.3% of sales tax collections at a rate of 4% shall be distributed to cities, villages, and townships as provided by law.

(6) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, except for the 2002-2003 state fiscal year, and except as otherwise provided in subsection (15), the department of

treasury shall cause to be paid $333,900,000.00 to a city with a population of 750,000 or more as the total combined distribution under this act and section 10 of article IX of the state constitution of 1963 as annualized for any period of less than 12 months to that city. For the 2002-2003 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be $322,213,500.00.

(7) Except as otherwise provided in this subsection, distributions under subsections (8) to (13) to cities, villages, and townships with populations of less than 750,000 shall be made from the amount available for distribution under this section that remains after the distribution under subsection (6) is made. For the 2002-2003 state fiscal year only, each city, village, and township with a population of less than 750,000 shall receive 96.5% of the amount that the city, village, or township would have received if the total available for distribution under subsections (8) to (13) were $363,069,728.00 and the total available for distribution under section 10 of article IX of the state constitution of 1963 were $607,125,488.00. The total amount available for distribution to all cities, villages, and townships under this subsection shall not exceed $936,238,383.00. The amount of the adjustment under this subsection shall be accomplished by reducing the payments under subsections (8) to (13), and payments under section 10 of article IX shall not be reduced based on any adjustments made under this subsection.

(8) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, for cities, villages, and townships with populations of less than 750,000, subject to the limitations under this section, a taxable value payment shall be made to each city, village, and township determined as follows:

(a) Determine the per capita taxable value for each city, village, and township by dividing the taxable value of that city, village, or township by the population of that city, village, or township.

(b) Determine the statewide per capita taxable value by dividing the total taxable value of all cities, villages, and townships by the total population of all cities, villages, and townships.

(c) Determine the per capita taxable value ratio for each city, village, and township by dividing the statewide per capita taxable value by the per capita taxable value for that city, village, or township.

(d) Determine the adjusted taxable value population for each city, village, and township by multiplying the per capita taxable value ratio as determined under subdivision (c) for that city, village, or township by the population of that city, village, or township.

(e) Determine the total statewide adjusted taxable value population which is the sum of all adjusted taxable value population for all cities, villages, and townships.

(f) Determine the taxable value payment rate by dividing 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments under this subsection are made by 3, and dividing that result by the total statewide adjusted taxable value population as determined under subdivision (e).

(g) Determine the taxable value payment for each city, village, and township by multiplying the result under subdivision (f) by the adjusted taxable value population for that city, village, or township.

(9) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, subject to the limitations under this section and except as provided in subsection (14), a unit type population

payment shall be made to each city, village, and township with a population of less than 750,000 determined as follows:

(a) Determine the unit type population weight factor for each city, village, and township as follows:

(*i*) For a township with a population of 5,000 or less, the unit type population weight factor is 1.0.

(*ii*) For a township with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 1.2.

(*iii*) For a township with a population of more than 10,000 but less than 20,001, the unit type population weight factor is 1.44.

(*iv*) For a township with a population of more than 20,000 but less than 40,001, the unit type population weight factor is 1.73.

(*v*) For a township with a population of more than 40,000 but less than 80,001, the unit type population weight factor is 2.07.

(*vi*) For a township with a population of more than 80,000, the unit type population weight factor is 2.49.

(*vii*) For a village with a population of 5,000 or less, the unit type population weight factor is 1.5.

(*viii*) For a village with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 1.8.

(*ix*) For a village with a population of more than 10,000, the unit type population weight factor is 2.16.

(*x*) For a city with a population of 5,000 or less, the unit type population weight factor is 2.5.

(*xi*) For a city with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 3.0.

(*xii*) For a city with a population of more than 10,000 but less than 20,001, the unit type population weight factor is 3.6.

(*xiii*) For a city with a population of more than 20,000 but less than 40,001, the unit type population weight factor is 4.32.

(*xiv*) For a city with a population of more than 40,000 but less than 80,001, the unit type population weight factor is 5.18.

(*xv*) For a city with a population of more than 80,000 but less than 160,001, the unit type population weight factor is 6.22.

(*xvi*) For a city with a population of more than 160,000 but less than 320,001, the unit type population weight factor is 7.46.

(*xvii*) For a city with a population of more than 320,000 but less than 640,001, the unit type population weight factor is 8.96.

(*xviii*) For a city with a population of more than 640,000, the unit type population weight factor is 10.75.

(b) Determine the adjusted unit type population for each city, village, and township by multiplying the unit type population weight factor for that city, village, or township as determined under subdivision (a) by the population of the city, village, or township.

(c) Determine the total statewide adjusted unit type population, which is the sum of the adjusted unit type population for all cities, villages, and townships.

(d) Determine the unit type population payment rate by dividing 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments under this subsection are made by 3, and then dividing that result by the total statewide adjusted unit type population as determined under subdivision (c).

(e) Determine the unit type population payment for each city, village, and township by multiplying the result under subdivision (d) by the adjusted unit type population for that city, village, or township.

(10) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, subject to the limitations under this section, a yield equalization payment shall be made to each city, village, and township with a population of less than 750,000 sufficient to provide the guaranteed tax base for a local tax effort not to exceed 0.02. The payment shall be determined as follows:

(a) The guaranteed tax base is the maximum combined state and local per capita taxable value that can be guaranteed in a state fiscal year to each city, village, and township for a local tax effort not to exceed 0.02 if an amount equal to 74.94% of 21.3% of the state sales tax at a rate of 4% is distributed to cities, villages, and townships whose per capita taxable value is below the guaranteed tax base.

(b) The full yield equalization payment to each city, village, and township is the product of the amounts determined under subparagraphs (*i*) and (*ii*):

(*i*) An amount greater than zero that is equal to the difference between the guaranteed tax base determined in subdivision (a) and the per capita taxable value of the city, village, or township.

(*ii*) The local tax effort of the city, village, or township, not to exceed 0.02, multiplied by the population of that city, village, or township.

(c) The yield equalization payment is the full yield equalization payment divided by 3.

(11) For state fiscal years after the 1997-1998 state fiscal year, distributions under this section for cities, villages, and townships with populations of less than 750,000 shall be determined as follows:

(a) For the 1998-1999 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Ninety percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1998-1999 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Ten percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1998-1999 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(b) For the 1999-2000 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Eighty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1999-2000 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Twenty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1999-2000 state fiscal year multiplied by the city's, village's, or township's percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(c) For the 2000-2001 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Seventy percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2000-2001 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Thirty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2000-2001 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(d) For the 2001-2002 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Sixty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2001-2002 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Forty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2001-2002 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(e) For the 2002-2003 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Fifty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2002-2003 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Fifty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2002-2003 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(f) For the 2003-2004 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Forty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2003-2004 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Sixty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2003-2004 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(g) For the 2004-2005 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Thirty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2004-2005 state fiscal year multiplied by the city's, village's, or

township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Seventy percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2004-2005 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(h) For the 2005-2006 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Twenty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2005-2006 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Eighty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2005-2006 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(i) For the period of October 1, 2006 through September 30, 2007, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Ten percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2006-2007 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Ninety percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2006-2007 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(12) Except as otherwise provided in this subsection, the total payment to any city, village, or township under this act and section 10 of article IX of the state constitution of 1963 shall not increase by more than 8% over the amount of the payment under this act and section 10 of article IX of the state constitution of 1963 in the immediately preceding state fiscal year. From the amount not distributed because of the limitation imposed by this subsection, the department shall distribute an amount to certain cities, villages, and townships such that the percentage increase in the total payment under this act and section 10 of article IX of the state constitution of 1963 from the immediately preceding state fiscal year to each of those cities, villages, and townships is equal to, but does not exceed, the percentage increase from the immediately preceding state fiscal year of any city, village, or township that does not receive a distribution under this subsection. This subsection does not apply for state fiscal years after the 2000 federal decennial census becomes official to a city, village, or township with a 10% or more increase in population from the official 1990 federal decennial census to the official 2000 federal decennial census.

(13) The percentage allocations to distributions under subsections (8) to (10) pursuant to subsection (11) shall be calculated as if, in any state fiscal year, the amount appropriated under this section for distribution to cities, villages, and townships is 74.94% of 21.3% of the sales tax at a rate of 4%. If the amount appropriated under this section to cities, villages, and townships is less than 74.94% of 21.3% of the sales tax at a rate of 4%, any reduction made necessary by this appropriation in distributions to cities, villages, and townships shall first be applied to the distribution under subsections (8) to (10) and any remaining amount shall be applied to the other distributions under this section.

(14) A township that provides for or makes available fire, police on a 24-hour basis either through contracting for or directly employing personnel, water to 50% or more of its residents, and sewer services to 50% or more of its residents and has a population of 10,000 or more or a township that has a population of 20,000 or more shall use the unit type population weight factor under subsection (9)(a) for a city with the same population as the township.

(15) For a state fiscal year in which the sales tax collections decrease from the sales tax collections for the immediately preceding state fiscal year, the department shall reduce the amount to be distributed to a city with a population of 750,000 or more under subsection (6) by an amount determined by subtracting the amount the city is eligible for under section 10 of article IX of the state constitution of 1963 for the state fiscal year from $333,900,000.00 and multiplying that result by the same percentage as the percentage decrease in sales tax collections for that state fiscal year as compared to sales tax collections for the immediately preceding state fiscal year. This subsection does not apply to the 2002-2003 state fiscal year.

(16) Notwithstanding any other provision of this section for the 1998-1999 state fiscal year, the total combined amount received by each city, village, and township under this section and section 10 of article IX of the state constitution of 1963 shall not be less than the combined amount received under this section, section 12a, and section 10 of article IX of the state constitution of 1963 in the 1997-1998 state fiscal year. The increase, if any, for each city, village, and township from the 1997-1998 state fiscal year, other than a city that receives a distribution under subsection (6), shall be reduced by a uniform percentage to the extent necessary to fund distributions under this subsection.

(17) The payments under subsections (3), (4), and (5) shall be made during each October, December, February, April, June, and August. Payments under subsections (3), (4), and (5) shall be based on collections from the sales tax at the rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30, and for the 1996-1997 and 1997-1998 state fiscal years only, the payments shall be reduced by 1/6 of the total distribution for the state fiscal year under section 12a.

(18) Payments under this section shall be made from revenues collected during the state fiscal year in which the payments are made.

(19) Distributions provided for by this act are subject to an annual appropriation by the legislature.

This act is ordered to take immediate effect.
Approved December 25, 2002.
Filed with Secretary of State December 30, 2002.

[No. 680]

(HB 4454)

AN ACT to amend 1987 PA 248, entitled "An act to impose a state excise tax on persons engaged in the business of providing an airport parking facility; to provide for the levy, assessment, and collection of the tax; to provide for the disposition of the collections from the tax; to create the airport parking fund; to authorize the distributions from the fund; to authorize the use of distributions from the fund as security for bonds and other obligations; to prescribe certain other matters relating to bonds and other obligations; to

prescribe the powers and duties of certain state officers; and to provide for an appropriation," by amending section 3 (MCL 207.373) and by adding section 7a; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

207.373 Excise tax on airport parking facility; rate.

Sec. 3. There is levied upon and shall be collected from a person engaged in the business of providing an airport parking facility an excise tax. Through December 31, 2002, the rate of the excise tax is 30% of the amount of the charge for the transaction. Beginning January 1, 2003, the rate of the excise tax is 27% of the amount of the charge for the transaction.

207.377a Distribution; priority; "state airports" defined.

Sec. 7a. (1) On the first day of each month, the state treasurer shall make a distribution from the fund in the following order of priority:

(a) To the state aeronautics fund created in section 34 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.34, an amount that equals a total of $6,000,000.00 per state fiscal year. The funds distributed subject to this subdivision shall be used exclusively for safety and security projects at state airports, including reimbursement to the comprehensive transportation fund of amounts used to pay principal and interest on bonds issued on or before December 31, 2007 by the state transportation commission under section 18b of 1951 PA 51, MCL 247.668b, to provide the matching funds by this state for federal funds to be used for safety and security at state airports.

(b) To each city within which a regional airport facility is wholly located in an amount that equals a total of $1,500,000.00 per calendar year divided by the total number of cities within which a regional airport facility is wholly located. The distribution described in this subdivision shall be deposited in the general fund of the city.

(c) A distribution to each qualified county in an amount equal to the total amount remaining in the fund multiplied by a fraction the numerator of which is the population of that qualified county during the immediately preceeding year and the denominator of which is the total population of all qualified counties during the immediately preceding year. The distribution described in this subdivision shall be deposited in the general fund of the qualified county to be used only for indigent health care. Each fiscal year the qualified county shall provide written documentation to the state treasurer, to the state treasurer's satisfaction, that the distribution described in this subdivision was used for indigent health care. In addition, the qualified county shall also provide written documentation to the state treasurer of all other revenues that were used for indigent health care in that fiscal year. If the state treasurer determines that the qualified county did not use the distribution described in this subdivision for indigent health care in any fiscal year, the qualified county shall immediately repay those funds to the state treasurer to be deposited into the general fund of this state.

(2) The distribution provided by subsection (1) shall not be made if all taxing units are authorized by law to impose taxes and the collection is made of taxes imposed under 1953 PA 189, MCL 211.181 to 211.182, on concessions at a regional airport facility.

(3) As used in subsection (1)(a), "state airports" means all of the following airports located in this state:

(a) Adrian - Lenawee County airport.

(b) Allegan - Padgham field.

(c) Alma - Gratiot community airport.
(d) Alpena - Alpena County regional airport.
(e) Ann Arbor - Ann Arbor municipal airport.
(f) Atlanta - Atlanta municipal airport.
(g) Bad Axe - Huron County memorial airport.
(h) Baraga - new airport.
(i) Battle Creek - W.K. Kellogg airport.
(j) Bay City - James Clements airport.
(k) Bellaire - Antrim County airport.
(*l*) Benton Harbor - southwest Michigan regional airport.
(m) Big Rapids - Roben-Hood airport.
(n) Cadillac - Wexford County airport.
(o) Caro - Tuscola area/Caro municipal airport.
(p) Charlevoix - Charlevoix municipal airport.
(q) Charlotte - Fitch H. Beach airport.
(r) Cheboygan - Cheboygan County airport.
(s) Clare - Clare municipal airport.
(t) Coldwater - Branch County airport.
(u) Detroit - Detroit city airport.
(*v*) Detroit - Detroit metropolitan Wayne County airport.
(w) Detroit - Willow Run airport.
(x) Dowagiac - Dowagiac municipal airport.
(y) Drummond Island - Drummond Island airport.
(z) Escanaba - Delta County airport.
(aa) Evart - Evart municipal airport.
(bb) Flint - Bishop international airport.
(cc) Frankfort - Dow memorial airport.
(dd) Fremont - Fremont municipal airport.
(ee) Gaylord - Otsego County airport.
(ff) Gladwin - Gladwin Zettal memorial airport.
(gg) Grand Haven - Grand Haven memorial airpark.
(hh) Grand Ledge - Abrams municipal airport.
(ii) Grand Rapids - Gerald R. Ford international airport.
(jj) Grayling - Grayling army airfield.
(kk) Greenville - Greenville municipal airport.
(*ll*) Grosse Ile - Grosse Ile municipal airport.
(mm) Hancock - Houghton County memorial airport.
(nn) Harbor Springs - Harbor Springs municipal airport.
(oo) Hastings - Hastings city/Barry County airport.
(pp) Hillsdale - Hillsdale municipal airport.

(qq) Holland - tulip city airport.
(rr) Houghton Lake - Roscommon County airport.
(ss) Howell - Livingston County airport.
(tt) Ionia - Ionia County airport.
(uu) Iron County - county airport.
(vv) Iron Mountain - Ford airport.
(ww) Ironwood - Gogebic-Iron County (Wisconsin) airport.
(xx) Jackson - Jackson County-Reynolds field.
(yy) Kalamazoo - Kalamazoo/Battle Creek international airport.
(zz) Lakeview - Lakeview-Griffith field.
(aaa) Lambertville - suburban airport.
(bbb) Lansing - capital city airport.
(ccc) Lapeer - Dupont-Lapeer airport.
(ddd) Linden - Price airport.
(eee) Ludington - Mason County airport.
(fff) Mackinac Island - Mackinac Island airport.
(ggg) Manistee - Manistee County airport.
(hhh) Manistique - Schoolcraft County airport.
(iii) Marlette - Marlette Township airport.
(jjj) Marquette - Sawyer airport.
(kkk) Marshall - Brooks field.
(*lll*) Mason - Mason Jewett field.
(mmm) Menominee - Menominee-Marinette twin city airport.
(nnn) Midland - Jack Barstow airport.
(ooo) Monroe - Custer airport.
(ppp) Mt. Pleasant - Mt. Pleasant municipal airport.
(qqq) Munising - Hanley field.
(rrr) Muskegon - Muskegon County airport.
(sss) New Hudson - Oakland-southwest airport.
(ttt) Newberry - Luce County airport.
(uuu) Niles - Jerry Tyler memorial airport.
(vvv) Ontonagon - Ontonagon County airport.
(www) Oscoda - Wurtsmith airport.
(xxx) Owosso - Owosso community airport.
(yyy) Pellston - Pellston regional airport.
(zzz) Plymouth - Canton-Plymouth-Mettetal airport.
(aaaa) Pontiac - Oakland County international airport.
(bbbb) Port Huron - St. Clair County international airport.
(cccc) Rogers City - Presque Isle County/Rogers City airport.
(dddd) Romeo - Romeo state airport.

(eeee) Saginaw - Harry W. Browne airport.

(ffff) Saginaw - MBS international airport.

(gggg) St. Ignace - Mackinac County airport.

(hhhh) St. James - Beaver Island airport.

(iiii) Sandusky - Sandusky city airport.

(jjjj) Sault Ste. Marie - Chippewa County international airport.

(kkkk) South Haven - South Haven area regional airport.

(*llll*) Sparta - Sparta airport.

(mmmm) Statewide - various sites.

(nnnn) Sturgis - Kirsch municipal airport.

(oooo) Three Rivers - Three Rivers municipal/Dr. Haines airport.

(pppp) Traverse City - Cherry capital airport.

(qqqq) Troy - Oakland-Troy airport.

(rrrr) West Branch - West Branch community airport.

(ssss) White Cloud - White Cloud airport.

Repeal of § 207.377.

Enacting section 1. Section 7 of the airport parking tax act, 1987 PA 248, MCL 207.377, is repealed.

Repeal of §§ 207.371 to 207.383; condition.

Enacting section 2. The airport parking tax act, 1987 PA 248, MCL 207.371 to 207.383, is repealed effective on the date that all bonds described in section 7a(1)(a) of the airport parking tax act, 1987 PA 248, MCL 207.377a, are retired or on December 31, 2007, whichever is later.

Approved December 25, 2002.
Filed with Secretary of State December 30, 2002.

[No. 681]

(HB 4092)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 8122 (MCL 600.8122), as amended by 1988 PA 135, and by adding section 9938a.

The People of the State of Michigan enact:

600.8122 Thirty-seventh district to forty-second district.

Sec. 8122. (1) The thirty-seventh district consists of the cities of Warren and Center Line, is a district of the third class, and has 4 judges.

(2) The thirty-eighth district consists of the city of Eastpointe, is a district of the third class, and has 1 judge.

(3) The thirty-ninth district consists of the cities of Roseville and Fraser, is a district of the third class, and has 3 judges.

(4) The fortieth district consists of the city of Saint Clair Shores, is a district of the third class, and has 2 judges.

(5) The forty-first-a district consists of the cities of Utica and Sterling Heights and the townships of Shelby and Macomb in the county of Macomb, is a district of the third class, and has 4 judges.

(6) The forty-first-b district consists of the city of Mt. Clemens and the townships of Clinton and Harrison in the county of Macomb, is a district of the third class, and has 3 judges.

(7) The forty-second district consists of the cities of Memphis, Richmond, and New Baltimore and the townships of Bruce, Washington, Armada, Ray, Richmond, Lenox, and Chesterfield in the county of Macomb, is a district of the second class, and is divided into the following election divisions:

(a) The first division consists of the cities of Memphis and Richmond and the townships of Bruce, Washington, Armada, Ray, and Richmond and has 1 judge.

(b) The second division consists of the city of New Baltimore and the townships of Lenox and Chesterfield and has 1 judge.

600.9938a Thirty-eighth district; function and establishment of district court.

Sec. 9938a. (1) Effective January 1, 2004, the district court shall commence to function in the thirty-eighth district and, as of that date, the municipal court within that district is abolished. The terms of the incumbent municipal judges in Eastpointe shall expire at 12 midnight on December 31, 2003. The judgeship in the thirty-eighth district of the district court, as authorized under section 8122(2), shall be filled in a special election held in November 2003, in conjunction with the November 2003 Eastpointe municipal election, in the manner provided by law. For purposes of the November 2003 special election only, the term of the candidate for district judge in the thirty-eighth district who receives the highest number of votes shall be 5 years.

(2) All causes of action transferred to the thirty-eighth district court pursuant to section 9924(1) shall be as valid and subsisting as they were in the municipal court from which they were transferred. All orders and judgments entered before January 1, 2004 in the municipal court abolished pursuant to subsection (1) are appealable in like manner and to the same courts as applicable before that date.

(3) Subsections (1) and (2) do not apply, and any district judgeship proposed for the thirty-eighth district is not authorized or filled by election, unless the city of Eastpointe, by resolution adopted by its governing body, approves the establishment of the district court in the thirty-eighth district and the district judgeship proposed for the thirty-eighth district and unless the clerk of the city of Eastpointe files a copy of the resolution with the secretary of state not earlier than the effective date of this section and not later than 4 p.m. April 12, 2003. Upon receiving a copy of the resolution, the secretary of state shall

immediately notify the state court administrator with respect to the establishment of the district court in the thirty-eighth district and the district judgeship authorized for the thirty-eighth district.

(4) By enacting this section, the legislature is not mandating that the district court function in the thirty-eighth district and is not mandating any judgeship in the district. If the city of Eastpointe, acting through its governing body, approves the establishment of the district court in the thirty-eighth district and any district judgeship proposed by law for that district, that approval constitutes an exercise of that city's option to provide a new activity or service or to increase the level of activity or service offered in the city beyond that required by existing law, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the city of all expenses and capital improvements which may result from the establishment of the district court in the thirty-eighth district and any judgeship. However, the exercise of the option does not affect the state's obligation to pay a portion of any district judge's salary as provided by law, or to appropriate and disburse funds to the city or incorporated village for the necessary costs of state requirements established by a state law that becomes effective on or after December 23, 1978.

This act is ordered to take immediate effect.
Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 682]

(SB 1400)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 1005, 1011, 1019, 1021, and 1023 (MCL 600.1005, 600.1011, 600.1019, 600.1021, and 600.1023), sections 1005, 1019, and 1023 as added by 1996 PA 388, section 1011 as amended by 1998 PA 298, and section 1021 as amended by 2000 PA 56; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

600.1005 Family division of circuit court; power and authority of judge.

Sec. 1005. A circuit judge serving in the family division of circuit court retains all the power and authority of a judge of the circuit court.

600.1011 Operation of family division and coordination of agency services; agreement; establishment of family court plan.

Sec. 1011. (1) Not later than July 1, 2003, in each judicial circuit, the chief circuit judge and the chief probate judge or judges shall enter into an agreement that establishes a plan

known as the "family court plan" that details how the family division will be operated in that circuit and how the services of the agencies listed in section 1043 will be coordinated in order to promote more efficient and effective services to families and individuals. If a probate court district includes counties that are in different judicial circuits, the chief judge of each judicial circuit that includes a county in the probate court district and the chief probate judge shall enter into a family court plan for each circuit.

(2) If, in any judicial circuit, the agreement required under subsection (1) is not entered into on or before July 1, 2003, the supreme court shall develop and implement the family court plan for that judicial circuit.

(3) A family court plan required under subsection (1) shall provide that a judge's service pursuant to the family court plan be consistent with the goal of developing sufficient judicial expertise in family law to properly serve the interests of the families and children whose cases are assigned to that judge. The chief judge of the circuit court shall have the authority and flexibility to determine the duration of a judge's service pursuant to the family court plan in furtherance of this goal.

(4) A judge serving pursuant to the family court plan shall receive appropriate training as required by the supreme court.

(5) A family court plan required under subsection (1) may provide that when a judge's service pursuant to the family court plan ends, the pending cases of that judge are to be reassigned to another judge or judges serving pursuant to the family court plan or are to be resolved by that judge.

(6) A family court plan required under subsection (1) shall specifically identify any probate judge serving pursuant to the family court plan.

(7) A family court plan required under subsection (1) shall be reviewed and revised periodically, as necessary, by the chief circuit judge or judges and the chief probate judge or judges, and shall be submitted for approval by the supreme court.

600.1019 Family court judges; training.

Sec. 1019. The Michigan judicial institute shall provide appropriate training for all probate judges and circuit judges who are serving pursuant to the family court plan.

600.1021 Family division of circuit court; jurisdiction.

Sec. 1021. (1) Except as otherwise provided by law, the family division of circuit court has sole and exclusive jurisdiction over the following cases commenced on or after January 1, 1998:

(a) Cases of divorce and ancillary matters as set forth in the following statutes:

(*i*) 1846 RS 84, MCL 552.1 to 552.45.

(*ii*) 1909 PA 259, MCL 552.101 to 552.104.

(*iii*) 1911 PA 52, MCL 552.121 to 552.123.

(*iv*) 1913 PA 379, MCL 552.151 to 552.156.

(*v*) The friend of the court act, 1982 PA 294, MCL 552.501 to 552.535.

(*vi*) 1905 PA 299, MCL 552.391.

(*vii*) 1949 PA 42, MCL 552.401 to 552.402.

(*viii*) The family support act, 1966 PA 138, MCL 552.451 to 552.459.

(*ix*) The support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(*x*) The interstate income withholding act, 1985 PA 216, MCL 552.671 to 552.685.

(b) Cases of adoption as provided in chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(c) Cases involving certain children incapable of adoption under 1925 PA 271, MCL 722.531 to 722.534.

(d) Cases involving a change of name as provided in chapter XI of the probate code of 1939, 1939 PA 288, MCL 711.1 to 711.3.

(e) Cases involving juveniles as provided in chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32.

(f) Cases involving the status of minors and the emancipation of minors under 1968 PA 293, MCL 722.1 to 722.6.

(g) Cases of child custody under the child custody act of 1970, 1970 PA 91, MCL 722.21 to 722.31, and child custody jurisdiction as provided in the uniform child-custody jurisdiction and enforcement act, 2001 PA 195, MCL 722.1101 to 722.1406.

(h) Cases involving paternity and child support under the paternity act, 1956 PA 205, MCL 722.711 to 722.730.

(i) Cases involving parental consent for abortions performed on unemancipated minors under the parental rights restoration act, 1990 PA 211, MCL 722.901 to 722.908.

(j) Cases involving child support under the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183.

(k) Cases involving personal protection orders and foreign protection orders under sections 2950 to 2950m.

(2) The family division of circuit court has ancillary jurisdiction over the following cases commenced on or after January 1, 1998:

(a) Cases involving guardians and conservators as provided in article 5 of the estates and protected individuals code, 1998 PA 386, MCL 700.5101 to 700.5520.

(b) Cases involving treatment of, or guardianship of, mentally ill or developmentally disabled persons under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(3) A probate judge identified in section 1011 as serving pursuant to the family court plan has the same power and authority, within the county or probate court district in which he or she serves as probate judge, as that of a circuit judge over cases described in subsection (1), in addition to all the power and authority of a judge of the probate court.

600.1023 Cases involving members of same family; assignment of judge.

Sec. 1023. When 2 or more matters within the jurisdiction of the family division of circuit court involving members of the same family are pending in the same judicial circuit, those matters, whenever practicable, shall be assigned to the judge to whom the first such case was assigned.

Repeal of § 600.1013.

Enacting section 1. Section 1013 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1013, is repealed.

Effective date.

Enacting section 2. This amendatory act takes effect April 1, 2003.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 683]

(HB 5761)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 20145 and 21523 (MCL 333.20145 and 333.21523), section 20145 as amended by 1993 PA 88.

The People of the State of Michigan enact:

333.20145 Construction permit; certificate of need as condition of issuance; rules; information required for project not requiring certificate of need; review and approval of architectural plans and narrative; rules; waiver; fee; "capital expenditure" defined.

Sec. 20145. (1) Before contracting for and initiating a construction project involving new construction, additions, modernizations, or conversions of a health facility or agency with a capital expenditure of $1,000,000.00 or more, a person shall obtain a construction permit from the department. The department shall not issue the permit under this subsection unless the applicant holds a valid certificate of need if a certificate of need is required for the project pursuant to part 222.

(2) To protect the public health, safety, and welfare, the department may promulgate rules to require construction permits for projects other than those described in subsection (1) and the submission of plans for other construction projects to expand or change service areas and services provided.

(3) If a construction project requires a construction permit under subsection (1) or (2), but does not require a certificate of need under part 222, the department shall require the applicant to submit information considered necessary by the department to assure that the capital expenditure for the project is not a covered capital expenditure as defined in section 22203(9).

(4) If a construction project requires a construction permit under subsection (1), but does not require a certificate of need under part 222, the department shall require the applicant to submit information on a 1-page sheet, along with the application for a construction permit, consisting of all of the following:

(a) A short description of the reason for the project and the funding source.

(b) A contact person for further information, including address and phone number.

(c) The estimated resulting increase or decrease in annual operating costs.

(d) The current governing board membership of the applicant.

(e) The entity, if any, that owns the applicant.

(5) The information filed under subsection (4) shall be made publicly available by the department by the same methods used to make information about certificate of need applications publicly available.

(6) The review and approval of architectural plans and narrative shall require that the proposed construction project is designed and constructed in accord with applicable statutory and other regulatory requirements. In performing a construction permit review for a health facility or agency under this section, the department shall, at a minimum, apply the standards contained in the document entitled "Minimum Design Standards for Health Care Facilities in Michigan" published by the department and dated March 1998. The standards are incorporated by reference for purposes of this subsection. The department may promulgate rules that are more stringent than the standards if necessary to protect the public health, safety, and welfare.

(7) The department shall promulgate rules to further prescribe the scope of construction projects and other alterations subject to review under this section.

(8) The department may waive the applicability of this section to a construction project or alteration if the waiver will not affect the public health, safety, and welfare.

(9) Upon request by the person initiating a construction project, the department may review and issue a construction permit to a construction project that is not subject to subsection (1) or (2) if the department determines that the review will promote the public health, safety, and welfare.

(10) The department shall assess a fee for each review conducted under this section. The fee is .5% of the first $1,000,000.00 of capital expenditure and .85% of any amount over $1,000,000.00 of capital expenditure, up to a maximum of $30,000.00.

(11) As used in this section, "capital expenditure" means that term as defined in section 22203(2), except that it does not include the cost of equipment that is not fixed equipment.

333.21523 Strictness of rules and standards.

Sec. 21523. (1) The rules for operation and maintenance of hospitals shall not be less strict than those required for certification of hospitals under part D of title XVIII of the social security act, chapter 531, 79 Stat. 313, 42 U.S.C. 1395x to 1395yy and 1395bbb to 1395ggg.

(2) The standards relating to construction, additions, modernization, or conversion of hospitals shall not be less strict than the standards contained in the document entitled "Minimum Design Standards for Health Care Facilities in Michigan" published by the department, dated March 1998.

This act is ordered to take immediate effect.
Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 684]

(SB 1434)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 250 (MCL 500.250).

The People of the State of Michigan enact:

500.250 Insurers; stock transfer; officers or directors; appointment; notice to commissioner; removal; hearings; civil immunity; review.

Sec. 250. (1) All insurers licensed to do business in this state shall notify the commissioner within 30 days of any transfer of stock that results in any 1 person holding 10% or more of the voting shares of an insurer. In addition, a domestic insurer shall notify the commissioner within 30 days of the appointment or election of any new officers or directors.

(2) If, after proceedings under section 249, the commissioner has reason to believe that an officer or director is untrustworthy or has abused his or her trust and that continuation as an officer or director is hazardous or injurious to the insurer, the policyholders, or the public, the commissioner shall hold a hearing. After the hearing and after written findings that the officer or director is untrustworthy or has abused his or her trust and that continuation as an officer or director is hazardous or injurious to the insurer, the policyholders, or the public, the commissioner may order the removal of the officer or director.

(3) If the insurer does not comply with a removal order under subsection (2) within 30 days, the commissioner may suspend or revoke the insurer's certificate of authority until the insurer complies with the order.

(4) Any action under this section taken by an insurer, its directors, or officers pursuant to an order of the commissioner under this act shall be considered to be in good faith and shall not be the basis for subjecting the insurer, its directors, or officers to civil liabilities.

(5) Any order of the commissioner issued under this section is subject to review as provided in section 244.

This act is ordered to take immediate effect.
Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 685]

(HB 5971)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 16299, 17014, and 17015 (MCL 333.16299, 333.17014, and 333.17015), section 17014 as added by 1993 PA 133 and section 17015 as amended by 2000 PA 345.

The People of the State of Michigan enact:

333.16299 Violation as misdemeanor; penalties; exception.

Sec. 16299. (1) Except as otherwise provided in subsection (2), a person who violates or aids or abets another in a violation of this article, other than those matters described in sections 16294 and 16296, is guilty of a misdemeanor punishable as follows:

(a) For the first offense, by imprisonment for not more than 90 days, or a fine of not more than $100.00, or both.

(b) For the second or subsequent offense, by imprisonment for not less than 90 days nor more than 6 months, or a fine of not less than $200.00 nor more than $500.00, or both.

(2) Subsection (1) does not apply to a violation of section 17015 or 17515.

333.17014 Legislative findings.

Sec. 17014. The legislature recognizes that under federal constitutional law, a state is permitted to enact persuasive measures that favor childbirth over abortion, even if those measures do not further a health interest. Sections 17015 and 17515 are nevertheless designed to provide objective, truthful information, and are not intended to be persuasive. The legislature finds that the enactment of sections 17015 and 17515 is essential for all of the following reasons:

(a) The knowledgeable exercise of a woman's decision to have an abortion depends on the extent to which the woman receives sufficient information to make an informed choice regarding abortion.

(b) The decision to obtain an abortion is an important and often stressful one, and it is in the state's interest that the decision be made with full knowledge of its nature and consequences.

(c) Enactment of sections 17015 and 17515 is necessary to ensure that, before an abortion, a woman is provided information regarding her available alternatives, and to ensure that a woman gives her voluntary and informed consent to an abortion.

(d) The receipt of accurate information about abortion and its alternatives is essential to the physical and psychological well-being of a woman considering an abortion.

(e) Because many abortions in this state are performed in clinics devoted solely to providing abortions, women who seek abortions at these clinics normally do not have a prior patient-physician relationship with the physician performing the abortion nor do these women continue a patient-physician relationship with the physician after the abortion. In many instances, the woman's only actual contact with the physician performing the abortion occurs simultaneously with the abortion procedure, with little opportunity to receive counsel concerning her decision. Consequently, certain safeguards are necessary to protect a woman's opportunity to select the option best suited to her particular situation.

(f) This state has an interest in protecting women and, subject to United States constitutional limitations and supreme court decisions, this state has an interest in protecting the fetus.

(g) Providing a woman with factual, medical, and biological information about the fetus she is carrying is essential to safeguard the state's interests described in subdivision (f). The dissemination of the information set forth in sections 17015 and 17515 is necessary due to the irreversible nature of the act of abortion and the often stressful circumstances under which the abortion decision is made.

(h) Because abortion services are marketed like many other commercial enterprises, and nearly all abortion providers advertise some free services, including pregnancy tests and counseling, the legislature finds that consumer protection should be extended to women contemplating an abortion decision by delaying any financial transactions until after a 24-hour waiting period. Furthermore, since the legislature and abortion providers have determined that a woman's right to give informed consent to an abortion can be protected by means other than the patient having to travel to the abortion facility during the 24-hour waiting period, the legislature finds that abortion providers do not have a legitimate claim of necessity in obtaining payments during the 24-hour waiting period.

(i) The safeguards that will best protect a woman seeking advice concerning abortion include the following:

(*i*) Private, individual counseling, including dissemination of certain information, as the woman's individual circumstances dictate, that affect her decision of whether to choose an abortion.

(*ii*) A 24-hour waiting period between a woman's receipt of that information provided to assist her in making an informed decision, and the actual performance of an abortion, if she elects to undergo an abortion. A 24-hour waiting period affords a woman, in light of the information provided by the physician or a qualified person assisting the physician, an opportunity to reflect on her decision and to seek counsel of family and friends in making her decision.

(j) The safeguards identified in subdivision (i) advance a woman's interests in the exercise of her discretion to choose or not to choose an abortion, and are justified by the objectives and interests of this state to protect the health of a pregnant woman and, subject to United States constitutional limitations and supreme court decisions, to protect the fetus.

333.17015 Informed consent; definitions; duties of physician or assistant; location; disclosure of information; website maintained and operated by department; medical emergency necessitating abortion; duties of department; physician's duty to inform patient; validity of consent or certification form; right to abortion not created; prohibition; portion of act found invalid; duties of local health department; confidentiality.

Sec. 17015. (1) Subject to subsection (10), a physician shall not perform an abortion otherwise permitted by law without the patient's informed written consent, given freely and without coercion.

(2) For purposes of this section:

(a) "Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

(b) "Fetus" means an individual organism of the species homo sapiens in utero.

(c) "Local health department representative" means a person employed by, or under contract to provide services on behalf of, a local health department who meets 1 or more of the licensing requirements listed in subdivision (f).

(d) "Medical emergency" means that condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as

to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(e) "Medical service" means the provision of a treatment, procedure, medication, examination, diagnostic test, assessment, or counseling, including, but not limited to, a pregnancy test, ultrasound, pelvic examination, or an abortion.

(f) "Qualified person assisting the physician" means another physician or a physician's assistant licensed under this part or part 175, a fully licensed or limited licensed psychologist licensed under part 182, a professional counselor licensed under part 181, a registered professional nurse or a licensed practical nurse licensed under part 172, or a social worker registered under part 185.

(g) "Probable gestational age of the fetus" means the gestational age of the fetus at the time an abortion is planned to be performed.

(h) "Provide the patient with a physical copy" means confirming that the patient accessed the internet website described in subsection (5) and received a printed valid confirmation form from the website and including that form in the patient's medical record or giving a patient a copy of a required document by 1 or more of the following means:

(*i*) In person.

(*ii*) By registered mail, return receipt requested.

(*iii*) By parcel delivery service that requires the recipient to provide a signature in order to receive delivery of a parcel.

(*iv*) By facsimile transmission.

(3) Subject to subsection (10), a physician or a qualified person assisting the physician shall do all of the following not less than 24 hours before that physician performs an abortion upon a patient who is a pregnant woman:

(a) Confirm that, according to the best medical judgment of a physician, the patient is pregnant, and determine the probable gestational age of the fetus.

(b) Orally describe, in language designed to be understood by the patient, taking into account her age, level of maturity, and intellectual capability, each of the following:

(*i*) The probable gestational age of the fetus she is carrying.

(*ii*) Information about what to do and whom to contact should medical complications arise from the abortion.

(*iii*) Information about how to obtain pregnancy prevention information through the department of community health.

(c) Provide the patient with a physical copy of the written summary described in subsection (11)(b) that corresponds to the procedure the patient will undergo and is provided by the department of community health. If the procedure has not been recognized by the department, but is otherwise allowed under Michigan law, and the department has not provided a written summary for that procedure, the physician shall develop and provide a written summary that describes the procedure, any known risks or complications of the procedure, and risks associated with live birth and meets the requirements of subsection (11)(b)(*iii*) through (*vii*).

(d) Provide the patient with a physical copy of a medically accurate depiction, illustration, or photograph and description of a fetus supplied by the department of community health pursuant to subsection (11)(a) at the gestational age nearest the probable gestational age of the patient's fetus.

(e) Provide the patient with a physical copy of the prenatal care and parenting information pamphlet distributed by the department of community health under section 9161.

(4) The requirements of subsection (3) may be fulfilled by the physician or a qualified person assisting the physician at a location other than the health facility where the abortion is to be performed. The requirement of subsection (3)(a) that a patient's pregnancy be confirmed may be fulfilled by a local health department under subsection (18). The requirements of subsection (3) cannot be fulfilled by the patient accessing an internet website other than the internet website described in subsection (5) that is maintained through the department.

(5) The requirements of subsection (3)(c) through (e) may be fulfilled by a patient accessing the internet website maintained and operated through the department and receiving a printed, valid confirmation form from the website that the patient has reviewed the information required in subsection (3)(c) through (e) at least 24 hours before an abortion being performed on the patient. The website shall not require any information be supplied by the patient. The department shall not track, compile, or otherwise keep a record of information that would identify a patient who accesses this website. The patient shall supply the valid confirmation form to the physician or qualified person assisting the physician to be included in the patient's medical record to comply with this subsection.

(6) Subject to subsection (10), before obtaining the patient's signature on the acknowledgment and consent form, a physician personally and in the presence of the patient shall do all of the following:

(a) Provide the patient with the physician's name and inform the patient of her right to withhold or withdraw her consent to the abortion at any time before performance of the abortion.

(b) Orally describe, in language designed to be understood by the patient, taking into account her age, level of maturity, and intellectual capability, each of the following:

(*i*) The specific risk, if any, to the patient of the complications that have been associated with the procedure the patient will undergo, based on the patient's particular medical condition and history as determined by the physician.

(*ii*) The specific risk of complications, if any, to the patient if she chooses to continue the pregnancy based on the patient's particular medical condition and history as determined by a physician.

(7) To protect a patient's privacy, the information set forth in subsection (3) and subsection (6) shall not be disclosed to the patient in the presence of another patient.

(8) Before performing an abortion on a patient who is a pregnant woman, a physician or a qualified person assisting the physician shall do all of the following:

(a) Obtain the patient's signature on the acknowledgment and consent form described in subsection (11)(c) confirming that she has received the information required under subsection (3).

(b) Provide the patient with a physical copy of the signed acknowledgment and consent form described in subsection (11)(c).

(c) Retain a copy of the signed acknowledgment and consent form described in subsection (11)(c) and, if applicable, a copy of the pregnancy certification form completed under subsection (18)(b), in the patient's medical record.

(9) This subsection does not prohibit notifying the patient that payment for medical services will be required or that collection of payment in full for all medical services provided or planned may be demanded after the 24-hour period described in this sub-

section has expired. A physician or an agent of the physician shall not collect payment, in whole or in part, for a medical service provided to or planned for a patient before the expiration of 24 hours from the time the patient has done either or both of the following, except in the case of a physician or an agent of a physician receiving capitated payments or under a salary arrangement for providing those medical services:

(a) Inquired about obtaining an abortion after her pregnancy is confirmed and she has received from that physician or a qualified person assisting the physician the information required under subsection (3)(c) and (d).

(b) Scheduled an abortion to be performed by that physician.

(10) If the attending physician, utilizing his or her experience, judgment, and professional competence, determines that a medical emergency exists and necessitates performance of an abortion before the requirements of subsections (1), (3), and (6) can be met, the physician is exempt from the requirements of subsections (1), (3), and (6), may perform the abortion, and shall maintain a written record identifying with specificity the medical factors upon which the determination of the medical emergency is based.

(11) The department of community health shall do each of the following:

(a) Produce medically accurate depictions, illustrations, or photographs of the development of a human fetus that indicate by scale the actual size of the fetus at 2-week intervals from the fourth week through the twenty-eighth week of gestation. Each depiction, illustration, or photograph shall be accompanied by a printed description, in nontechnical English, Arabic, and Spanish, of the probable anatomical and physiological characteristics of the fetus at that particular state of gestational development.

(b) Subject to subdivision (g), develop, draft, and print, in nontechnical English, Arabic, and Spanish, written standardized summaries, based upon the various medical procedures used to abort pregnancies, that do each of the following:

(*i*) Describe, individually and on separate documents, those medical procedures used to perform abortions in this state that are recognized by the department.

(*ii*) Identify the physical complications that have been associated with each procedure described in subparagraph (*i*) and with live birth, as determined by the department. In identifying these complications, the department shall consider the annual statistical report required under section 2835(6), and shall consider studies concerning complications that have been published in a peer review medical journal, with particular attention paid to the design of the study, and shall consult with the federal centers for disease control, the American college of obstetricians and gynecologists, the Michigan state medical society, or any other source that the department determines appropriate for the purpose.

(*iii*) State that as the result of an abortion, some women may experience depression, feelings of guilt, sleep disturbance, loss of interest in work or sex, or anger, and that if these symptoms occur and are intense or persistent, professional help is recommended.

(*iv*) State that not all of the complications listed in subparagraph (*ii*) may pertain to that particular patient and refer the patient to her physician for more personalized information.

(*v*) Identify services available through public agencies to assist the patient during her pregnancy and after the birth of her child, should she choose to give birth and maintain custody of her child.

(*vi*) Identify services available through public agencies to assist the patient in placing her child in an adoptive or foster home, should she choose to give birth but not maintain custody of her child.

(*vii*) Identify services available through public agencies to assist the patient and provide counseling should she experience subsequent adverse psychological effects from the abortion.

(c) Develop, draft, and print, in nontechnical English, Arabic, and Spanish, an acknowledgment and consent form that includes only the following language above a signature line for the patient:

"I, _____, hereby authorize Dr. _____ ("the physician") and any assistant designated by the physician to perform upon me the following operation(s) or procedure(s):

_____

(Name of operation(s) or procedure(s))

_____

I understand that I am approximately _____ weeks pregnant. I consent to an abortion procedure to terminate my pregnancy. I understand that I have the right to withdraw my consent to the abortion procedure at any time prior to performance of that procedure. I acknowledge that at least 24 hours before the scheduled abortion I have received a physical copy of each of the following:

(a) A medically accurate depiction, illustration, or photograph of a fetus at the probable gestational age of the fetus I am carrying.

(b) A written description of the medical procedure that will be used to perform the abortion.

(c) A prenatal care and parenting information pamphlet. If any of the above listed documents were transmitted by facsimile, I certify that the documents were clear and legible. I acknowledge that the physician who will perform the abortion has orally described all of the following to me:

(*i*) The specific risk to me, if any, of the complications that have been associated with the procedure I am scheduled to undergo.

(*ii*) The specific risk to me, if any, of the complications if I choose to continue the pregnancy.

I acknowledge that I have received all of the following information:

(d) Information about what to do and whom to contact in the event that complications arise from the abortion.

(e) Information pertaining to available pregnancy related services.

I have been given an opportunity to ask questions about the operation(s) or procedure(s). I certify that I have not been required to make any payments for an abortion or any medical service before the expiration of 24 hours after I received the written materials listed in paragraphs (a), (b), and (c) above, or 24 hours after the time and date listed on the confirmation form if paragraphs (a), (b), and (c) were viewed from the state of Michigan internet website.".

(d) Make available to physicians through the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery, and any person upon request the copies of medically accurate depictions, illustrations, or photographs described in subdivision (a), the standardized written summaries described in subdivision (b), the acknowledgment and consent form described in subdivision (c), the prenatal care and parenting information pamphlet described in section 9161, and the pregnancy certification form described in subdivision (f).

(e) The department shall not develop written summaries for abortion procedures under subdivision (b) that utilize medication that has not been approved by the United States food and drug administration for use in performing an abortion.

(f) Develop, draft, and print a certification form to be signed by a local health department representative at the time and place a patient has a pregnancy confirmed, as requested by the patient, verifying the date and time the pregnancy is confirmed.

(g) Develop and maintain an internet website that allows a patient considering an abortion to review the information required in subsection (3)(c) through (e). After the patient reviews the required information, the department shall assure that a confirmation form can be printed by the patient from the internet website that will verify the time and date the information was reviewed. A confirmation form printed under this subdivision becomes invalid 14 days after the date and time printed on the confirmation form.

(12) A physician's duty to inform the patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would possess.

(13) A written consent form meeting the requirements set forth in this section and signed by the patient is presumed valid. The presumption created by this subsection may be rebutted by evidence that establishes, by a preponderance of the evidence, that consent was obtained through fraud, negligence, deception, misrepresentation, coercion, or duress.

(14) A completed certification form described in subsection (11)(f) that is signed by a local health department representative is presumed valid. The presumption created by this subsection may be rebutted by evidence that establishes, by a preponderance of the evidence, that the physician who relied upon the certification had actual knowledge that the certificate contained a false or misleading statement or signature.

(15) This section does not create a right to abortion.

(16) Notwithstanding any other provision of this section, a person shall not perform an abortion that is prohibited by law.

(17) If any portion of this act or the application of this act to any person or circumstances is found invalid by a court, that invalidity does not affect the remaining portions or applications of the act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable.

(18) Upon a patient's request, each local health department shall:

(a) Provide a pregnancy test for that patient to confirm the pregnancy as required under subsection (3)(a) and determine the probable gestational stage of the fetus. The local health department need not comply with this subdivision if the requirements of subsection (3)(a) have already been met.

(b) If a pregnancy is confirmed, ensure that the patient is provided with a completed pregnancy certification form described in subsection (11)(f) at the time the information is provided.

(19) The identity and address of a patient who is provided information or who consents to an abortion pursuant to this section is confidential and is subject to disclosure only with the consent of the patient or by judicial process.

(20) A local health department with a file containing the identity and address of a patient described in subsection (19) who has been assisted by the local health department under this section shall do both of the following:

(a) Only release the identity and address of the patient to a physician or qualified person assisting the physician in order to verify the receipt of the information required under this section.

(b) Destroy the information containing the identity and address of the patient within 30 days after assisting the patient under this section.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 686]

(SB 1418)

AN ACT to amend 1993 PA 23, entitled "An act to provide for the organization and regulation of limited liability companies; to prescribe their duties, rights, powers, immunities, and liabilities; to prescribe the powers and duties of certain state departments and agencies; and to provide for penalties and remedies," by amending sections 102, 103, 104, 105, 106, 202, 203, 204, 207, 210, 214, 301, 303, 304, 307, 403, 405, 406, 501, 502, 503, 504, 506, 515, 603, 705a, 801, 804, 909, 1005, and 1101 (MCL 450.4102, 450.4103, 450.4104, 450.4105, 450.4106, 450.4202, 450.4203, 450.4204, 450.4207, 450.4210, 450.4214, 450.4301, 450.4303, 450.4304, 450.4307, 450.4403, 450.4405, 450.4406, 450.4501, 450.4502, 450.4503, 450.4504, 450.4506, 450.4515, 450.4603, 450.4705a, 450.4801, 450.4804, 450.4909, 450.5005, and 450.5101), section 102 as amended by 2000 PA 336 and sections 103, 202, 203, 204, 207, 301, 303, 304, 307, 403, 405, 501, 502, 503, 506, 603, 801, 909, and 1101 as amended and sections 214, 515, and 705a as added by 1997 PA 52, and by adding sections 207a and 215.

The People of the State of Michigan enact:

450.4102 Definitions.

Sec. 102. (1) Unless the context requires otherwise, the definitions in this section control the interpretation of this act.

(2) As used in this act:

(a) "Administrator" means the director of the department or his or her designated representative.

(b) "Articles of organization" means the original documents filed to organize a limited liability company, as amended or restated by certificates of correction, amendment, or merger, by restated articles, or by other instruments filed or issued under any statute.

(c) "Constituent" means a party to a plan of merger, including the survivor.

(d) "Contribution" means anything of value that a person contributes to the limited liability company as a prerequisite for, or in connection with, membership, including cash, property, services performed, or a promissory note or other binding obligation to contribute cash or property, or to perform services.

(e) "Corporation" or "domestic corporation" means any of the following:

(*i*) A corporation formed under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

(*ii*) A corporation existing on January 1, 1973 and formed under another statute of this state for a purpose for which a corporation may be formed under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

(*iii*) A corporation formed under the professional service corporation act, 1962 PA 192, MCL 450.221 to 450.235.

(f) "Department" means the department of consumer and industry services.

(g) "Distribution" means a direct or indirect transfer of money or other property or the incurrence of indebtedness by a limited liability company to or for the benefit of its members or assignees of its members in respect of the members' membership interests.

(h) "Electronic transmission" or "electronically transmitted" means any form of communication that meets all of the following:

(*i*) It does not directly involve the physical transmission of paper.

(*ii*) It creates a record that may be retained and retrieved by the recipient.

(*iii*) It may be directly reproduced in paper form by the recipient through an automated process.

(i) "Foreign limited liability company" means a limited liability company formed under laws other than the laws of this state.

(j) "Foreign limited partnership" means a limited partnership formed under laws other than the laws of this state.

(k) "Limited liability company" or "domestic limited liability company" means an entity that is an unincorporated membership organization formed under this act.

(*l*) "Limited partnership" or "domestic limited partnership" means a limited partnership formed under the Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.

(m) "Majority in interest" means a majority of votes as allocated by an operating agreement, or by the statute in the absence of an allocation by operating agreement, and held by members entitled to vote on a matter submitted for a vote by members.

(n) "Manager" or "managers" means a person or persons designated to manage the limited liability company pursuant to a provision in the articles of organization stating that the business is to be managed by or under the authority of managers.

(o) "Member" means a person who has been admitted to a limited liability company as provided in section 501, or, in the case of a foreign limited liability company, a person who is a member of the foreign limited liability company in accordance with the laws under which the foreign limited liability company is organized.

(p) "Membership interest" or "interest" means a member's rights in the limited liability company, including, but not limited to, any right to receive distributions of the limited liability company's assets and any right to vote or participate in management.

(q) "Operating agreement" means a written agreement by the member of a limited liability company that has 1 member, or between all of the members of a limited liability company having more than 1 member, pertaining to the affairs of the limited liability company and the conduct of its business. The term includes any provision in the articles of organization pertaining to the affairs of the limited liability company and the conduct of its business.

(r) "Person" means an individual, partnership, limited liability company, trust, custodian, estate, association, corporation, governmental entity, or any other legal entity.

(s) "Services in a learned profession" means services rendered by a dentist, an osteopathic physician, a physician, a surgeon, a doctor of divinity or other clergy, or an attorney-at-law.

(t) "Surviving company", "surviving entity", or "survivor" means the constituent that survives a merger, as identified in the certificate of merger.

(u) "Vote" means an affirmative vote, approval, or consent.

450.4103 Documents; signatures; requirements.

Sec. 103. (1) One or more persons organizing a limited liability company shall sign the original articles of organization as organizers. The articles shall state the names of the organizers beneath or opposite their signatures.

(2) Any document other than original articles of organization required or permitted to be filed under this act that this act requires be executed on behalf of the domestic limited liability company shall be signed by a manager of the company if management is vested in 1 or more managers, by at least 1 member if management remains in the members, or by an authorized agent of the company. A document required to be executed on behalf of a foreign limited liability company shall be signed by a person with authority to do so under the laws of the jurisdiction of its organization. The document shall state the name of the person signing the document and the capacity in which he or she signs beneath or opposite his or her signature.

(3) A person executing a document under this section may sign the document by an attorney in fact. Powers of attorney relating to the signing of a document by an attorney in fact need not be sworn to, verified, acknowledged, or filed with the administrator. A document signed by a person by an attorney in fact shall state the capacity of the person signing the document by the attorney in fact.

450.4104 Documents; filing; delivery; indorsement; preparing and returning true copy; inspection by public; copies admissible in evidence; effective time; form.

Sec. 104. (1) A document required or permitted to be filed under this act shall be filed by delivering the document to the administrator together with the fees and accompanying documents required by law. The administrator may establish procedures for accepting delivery by means of facsimile or other electronic transmission.

(2) If the document substantially conforms to the requirements of this act, the administrator shall indorse upon it the word "filed" with his or her official title and the date of receipt and of filing, and shall file and index the document or a photostatic, micrographic, photographic, optical disc media, or other reproduced copy in his or her office. If so requested at the time of the delivery of the document to his or her office, the administrator shall include the hour of filing in his or her indorsement.

(3) The administrator shall prepare and return a true copy of the document, or at his or her discretion the original, to the person who submitted it for filing showing the filing date.

(4) The records and files of the administrator relating to domestic and foreign limited liability companies shall be open to reasonable inspection by the public. The records or files may be maintained either in their original form or in a photostatic, micrographic, photographic, optical disc media, or other reproduced form.

(5) The administrator may make copies of all documents filed under this act or any predecessor act by a photostatic, micrographic, photographic, optical disc media, or other process, and may destroy the originals of the documents so copied. A photostatic, micrographic, photographic, optical disc media, or other reproduced copy certified by the administrator, which may be sent by facsimile or other electronic transmission, shall be considered an original for all purposes and is admissible in evidence in like manner as an original.

(6) The document is effective at the time it is indorsed unless a subsequent effective time is set forth in the document that is not later than 90 days after the date of delivery.

(7) The administrator may require that a document required or permitted to be filed under this act be on a form prescribed by the administrator.

450.4105 Failure to promptly file document; notice of refusal to file; judicial review.

Sec. 105. (1) If the administrator fails promptly to file a document submitted for filing under this act, the administrator, within 10 days after receipt from the person submitting the document for filing of a written request for the filing of the document, shall give to that person written notice of the refusal to file that states the reasons for the failure to file the document. If the document was originally submitted by electronic transmission, the administrator may give the written notice by electronic transmission.

(2) A person may seek judicial review of the administrator's decision under sections 103, 104, and 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.303, 24.304, and 24.305.

(3) If the administrator refuses or revokes the authorization of a foreign limited liability company to transact business in this state pursuant to this act, the foreign limited liability company may seek judicial review under sections 103, 104, and 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.303, 24.304, and 24.305.

450.4106 Documents; inaccurate record or defective execution; certificate of correction; filing; signature; contents; effective date of corrected document.

Sec. 106. (1) If a document relating to a domestic or foreign limited liability company filed with the administrator under this act was at the time of filing an inaccurate record of the action referred to in the document, or was defectively or erroneously executed, or was electronically transmitted and the electronic transmission was defective, the document may be corrected by filing with the administrator a certificate of correction on behalf of the company.

(2) The certificate shall be signed as provided by this act in the same manner as required for the document being corrected.

(3) The certificate shall set forth the name of the company, the date the document to be corrected was filed by the administrator, the provision in the document as it should have originally appeared, and if the execution was defective, the proper execution.

(4) The corrected document is effective in its corrected form as of its original filing date except as to a person who relied upon the inaccurate portion of the document and was as a result of the inaccurate portion of the document adversely affected by the correction.

450.4202 Limited liability company; formation; filing as evidence that all conditions performed; exception; duration.

Sec. 202. (1) One or more persons, who may or may not become members, may be the organizers of a limited liability company by filing executed articles of organization.

(2) The existence of the limited liability company begins on the effective date of the articles of organization as provided in section 104. Filing is conclusive evidence that all conditions precedent required to be performed under this act are fulfilled and that the company is formed under this act, except in an action or special proceeding by the attorney general. The maximum duration of the limited liability company is perpetual unless otherwise provided in the articles of organization.

450.4203 Articles of organization; contents.

Sec. 203. (1) The articles of organization shall contain all of the following:

(a) The name of the limited liability company.

(b) The purposes for which the limited liability company is formed. It is sufficient to state substantially, alone or with specifically enumerated purposes, that the limited liability company may engage in any activity for which limited liability companies may be formed under this act.

(c) The street address, and the mailing address if different from the street address, of the limited liability company's initial registered office and the name of its initial resident agent at that address.

(d) If the business of the limited liability company is to be managed by managers, a statement that the business is to be managed by or under the authority of managers.

(e) The maximum duration of the limited liability company, if other than perpetual.

(2) The articles of organization may contain any provision not inconsistent with this act or another statute of this state, including any provision that is required or permitted to be in an operating agreement under this act.

(3) The articles of organization need not set out the powers of the limited liability company as described in section 210.

450.4204 Limited liability company; name; requirements; rights.

Sec. 204. (1) The name of a domestic limited liability company shall contain the words "limited liability company" or the abbreviation "L.L.C." or "L.C.", with or without periods or other punctuation.

(2) The name of a domestic or foreign limited liability company formed under or subject to this act shall conform to all of the following:

(a) Shall not contain a word or phrase, or abbreviation or derivative of a word or phrase, that indicates or implies that the company is formed for a purpose other than the purpose or purposes permitted by its articles of organization.

(b) Shall not contain the word "corporation" or "incorporated" or the abbreviation "corp." or "inc.".

(c) Shall distinguish the name upon the records in the office of the administrator from all of the following:

(*i*) The name of a domestic limited liability company, or a foreign limited liability company authorized to transact business in this state, that is in good standing.

(*ii*) The name of a corporation subject to the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098, or a nonprofit corporation subject to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(*iii*) A name reserved, registered, or assumed under this act, under the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098, or under the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(*iv*) The name of a domestic or foreign limited partnership as filed or registered, reserved, or assumed under the Michigan revised uniform limited partnership act, 1982 PA 213, MCL 449.1101 to 449.2108.

(d) Shall not contain a word or phrase, an abbreviation, or derivative of a word or phrase, the use of which is prohibited or restricted by any other statute of this state.

(3) If a foreign limited liability company is unable to obtain a certificate of authority to transact business in this state because its name does not comply with subsection (1) or (2), the foreign limited liability company may apply for authority to transact business in this state by adding to its name in the application a word, abbreviation, or other distinctive and distinguishing element, or alternatively, adopting for use in this state an assumed

name otherwise available for use. If in the judgment of the administrator that name would comply with subsections (1) and (2), those subsections shall not bar the issuance to the foreign limited liability company of a certificate of authority to transact business in this state. The certificate of authority to transact business in this state issued to the foreign limited liability company shall be issued in the name applied for and the foreign limited liability company shall use that name in all its dealings with the administrator and in the transaction of business in this state.

(4) The fact that a limited liability company name complies with this section does not create substantive rights to the use of the name.

450.4207 Maintaining registered office and resident agent; service of process, notice, or demand; appointment of agent; annual statement; service of process by mail.

Sec. 207. (1) Each domestic limited liability company and foreign limited liability company authorized to transact business in this state shall have and continuously maintain in this state both of the following:

(a) A registered office that may, but need not be, the same as its place of business.

(b) A resident agent. The resident agent may be either an individual resident in this state whose business office or residence is identical with the registered office or any of the following having a business office identical with the registered office:

(*i*) A domestic corporation.

(*ii*) A foreign corporation authorized to transact business in this state.

(*iii*) A domestic limited liability company.

(*iv*) A foreign limited liability company authorized to transact business in this state.

(2) The resident agent appointed by a limited liability company is an agent of the company upon whom any process, notice, or demand required or permitted by law to be served upon the company may be served.

(3) A domestic limited liability company or foreign limited liability company authorized to transact business in this state shall file with the administrator an annual statement executed as provided in section 103 containing the name of its resident agent and the address of its registered office in this state. The statement shall be filed not later than February 15 of each year, except that a limited liability company formed after September 30 or a foreign limited liability company authorized to transact business in this state after September 30 need not file a statement on the February 15 immediately succeeding its formation or authorization.

(4) If a limited liability company fails to appoint or maintain an agent for service of process, or the agent for service of process cannot be found or served through the exercise of reasonable diligence, service of process may be made by delivering or mailing by registered mail to the administrator a summons and copy of the complaint.

450.4207a Certificate of good standing.

Sec. 207a. (1) Except as provided in this section, and section 909 for a professional limited liability company, from the effective date of the articles of organization as provided in section 104 until dissolution for a domestic limited liability company, or from the effective date of the certificate of authority to transact business in this state until withdrawal from this state for a foreign limited liability company, a limited liability company is entitled to issuance by the administrator, upon request, of a certificate of good standing. A certificate of good standing issued to a domestic limited liability company shall state

that it has been validly organized as a domestic limited liability company, that it is validly in existence under the laws of this state, and that it has satisfied its annual filing obligations. A certificate of good standing issued to a foreign limited liability company shall state that it has been validly authorized to transact business in this state, that it holds a valid certificate of authority to transact business in this state, and that it has satisfied its annual filing obligations.

(2) If a domestic limited liability company or a foreign limited liability company authorized to transact business in this state fails to file an annual statement required by section 207 for 2 consecutive years, the administrator shall notify the company of the consequences of the failure to file under subsection (3).

(3) If a limited liability company does not file all annual statements it has failed to file, and the applicable fees, within 60 days after the administrator's notice under subsection (2) is sent, the limited liability company is not in good standing. A limited liability company that is not in good standing is not entitled to issuance by the administrator of a certificate of good standing described in subsection (1), the name of the company is available for use by another entity filing with the administrator, and the administrator shall not accept for filing any document submitted by the limited liability company other than a certificate of restoration of good standing provided for in subsection (4). A limited liability company that is not in good standing remains in existence and may continue to transact business in this state.

(4) A domestic limited liability company or a foreign limited liability company authorized to transact business in this state that is not in good standing under subsection (3) may file a certificate of restoration of good standing, accompanied by the annual statements and fees for all of the years for which they were not filed and paid, and the fee for filing the certificate of restoration of good standing. The certificate shall include all of the following:

(a) The name of the limited liability company at the time it ceased to be in good standing. If that name is not available when the certificate of restoration of good standing is filed, the limited liability company shall select a new name that complies with section 204. The new name shall be the name of the domestic limited liability company or the name used in this state by the foreign limited liability company from the date of filing of the certificate.

(b) The name of the limited liability company's current resident agent and the address of the current registered office in this state.

(c) A statement that the certificate is accompanied by the annual statements and applicable fees for all of the years for which statements were not filed and fees were not paid.

450.4210 Limited liability company; power

Sec. 210. Subject to the limitations provided in this act, any other statute of this state, or its articles of organization, a limited liability company has all powers necessary or convenient to effect any purpose for which the company is formed, including all powers granted to corporations in the business corporation act, 1972 PA 284, MCL 450.1101 to 450.2098.

450.4214 Conflict between articles of organization and operating agreement.

Sec. 214. If there is a conflict between the articles of organization and an operating agreement of a limited liability company, the articles of organization shall control.

450.4215 Operating agreement unenforceable.

Sec. 215. An operating agreement of a limited liability company that has 1 member is not unenforceable because only 1 person is a party to the operating agreement.

450.4301 Members; contribution.

Sec. 301. (1) A contribution of a member to a limited liability company may consist of any tangible or intangible property or benefit to the company, including cash, property, services performed, promissory notes, contracts for services to be performed, or other binding obligation to contribute cash or property or to perform services.

(2) A contribution of an obligation to contribute cash or property or to perform services may be in exchange for a present membership interest or for a future membership interest, including a future profits interest, as provided in an operating agreement.

450.4303 Distribution of assets; allocation; manner; basis.

Sec. 303. (1) Distributions of cash or other assets of a limited liability company shall be allocated among the members and among classes of members in the manner provided in an operating agreement. If an operating agreement does not provide for an allocation, distributions shall be allocated as follows:

(a) Prior to July 1, 1997, on the basis of the value, as stated in the records the limited liability company is required to keep under section 213 or as determined by any other reasonable method, of the contributions made by each member to the extent that the contributions have been received by the limited liability company and have not been returned.

(b) On and after July 1, 1997, except as otherwise provided in subsection (2), in equal shares to all members. A membership interest held by 2 or more persons, whether as fiduciaries, members of a partnership, tenants in common, joint tenants, tenants by the entirety, or otherwise, is considered as held by 1 member for an allocation under this subdivision.

(2) If a limited liability company in existence before July 1, 1997 allocated distributions on the basis of subsection (1)(a), the limited liability company shall continue to allocate distributions pursuant to subsection (1)(a) until the allocation is changed by an operating agreement.

450.4304 Distributions; conditions for receiving.

Sec. 304. Except as otherwise provided in this act, a member is entitled to receive distributions from a limited liability company before the withdrawal of the member from the limited liability company and before the dissolution and winding up of the limited liability company to the extent and at the times or upon the happening of the events specified in an operating agreement.

450.4307 Distributions prohibited under certain situations; exceptions; effect of distribution under subsection (1); remedies available; future payments to withdrawing members; effect of subsection (1) on third party; asserting legal or equitable rights.

Sec. 307. (1) Except as otherwise provided in subsection (5), a distribution shall not be made if, after giving the distribution effect, 1 or more of the following situations would occur:

(a) The limited liability company would not be able to pay its debts as they become due in the usual course of business.

(b) The limited liability company's total assets would be less than the sum of its total liabilities plus, unless an operating agreement provides otherwise, the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other members upon dissolution that are superior to the rights of the member or members receiving the distribution.

(2) The limited liability company may base a determination that a distribution is not prohibited under subsection (1) on financial statements prepared on the basis of accounting practices and principles that are reasonable under the circumstances, on a fair valuation, or on another method that is reasonable under the circumstances.

(3) The effect of a distribution under subsection (1) is measured at the following times:

(a) Except as provided in subsection (5), in the case of a distribution to a withdrawing member, as of the earlier of the date money or other property is transferred or debt incurred by the limited liability company, or the date the member ceases to be a member.

(b) In the case of any other distribution of indebtedness, as of the date the indebtedness is authorized if distribution occurs within 120 days after the date of authorization, or the date the indebtedness is distributed if it occurs more than 120 days after the date of authorization.

(c) In all other cases, as of the date the distribution is authorized if the payment occurs within 120 days after the date of authorization, or the date the payment is made if it occurs more than 120 days after the date of authorization.

(4) At the time a member becomes entitled to receive a distribution, the member has the status of, and is entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution. A company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the company's indebtedness to its general, unsecured creditors except as otherwise agreed.

(5) If the limited liability company distributes an obligation to make future payments to a withdrawing member, and distribution of the obligation would otherwise be prohibited under subsection (1) at the time it is made, the company may issue the obligation and the following apply:

(a) The portion of the obligation that could have been distributed without violating subsection (1) is indebtedness to the withdrawing member under subsection (4).

(b) All of the following apply to the portion of the obligation that exceeds the amount of the obligation that is indebtedness to the withdrawing member under subdivision (a):

(*i*) At any time prior to the due date of the obligation, payments of principal and interest may be made as a distribution to the extent that a distribution may then be made under this section.

(*ii*) At any time on or after the due date, the obligation to pay principal and interest is considered distributed and treated as indebtedness described in subsection (4) to the extent that a distribution may then be made under this section.

(c) Unless otherwise provided in an agreement with the withdrawing member, the obligation is considered a liability or debt for purposes of determining whether distributions other than payments on the obligation may be made under this section, except for purposes of determining whether distributions may be made to members having preferential rights superior to the rights of the withdrawing member.

(6) The enforceability of a guaranty or other undertaking by a third party relating to a distribution is not affected by the prohibition of the distribution under subsection (1).

(7) If a claim is made to recover a distribution made contrary to subsection (1) or if a violation of subsection (1) is raised as a defense to a claim based upon a distribution, this section does not prevent the person receiving the distribution from asserting a right of rescission or other legal or equitable rights.

450.4403 Managers; selection; vote; removal; notice.

Sec. 403. (1) A vote of a majority in interest of the members entitled to vote in accordance with section 502(1) is required to select managers to fill initial positions or vacancies.

(2) The members may remove 1 or more managers with or without cause unless an operating agreement provides that managers may be removed only for cause.

(3) The members may remove a manager for cause only at a meeting called expressly for that purpose, and that manager shall have reasonable advance notice of the allegations against him or her and an opportunity to be heard at the meeting.

450.4405 Managers; voting requirements.

Sec. 405. (1) Except as otherwise provided in the articles of organization or an operating agreement, voting by managers shall be as provided in this section.

(2) If management of a limited liability company is delegated to managers under section 402 and the limited liability company has more than 1 manager, each manager has 1 vote and the vote of a majority of all managers is required to decide or resolve any difference on any matter connected with carrying on the business of the limited liability company that is within the scope of the managers' authority.

(3) If management of a limited liability company remains in the members, section 502 applies to voting by the members.

450.4406 Manager as agent.

Sec. 406. A manager is an agent of the limited liability company for the purpose of its business, and the act of a manager, including the execution in the limited liability company name of any instrument, that apparently carries on in the usual way the business of the limited liability company of which he or she is a manager binds the limited liability company, unless both of the following apply:

(a) The manager does not have the authority to act for the limited liability company in that particular matter.

(b) The person with whom the manager is dealing has actual knowledge that the manager lacks authority to act or the articles of organization or this act establishes that the manager lacks authority to act.

450.4501 Members; admission; liability for acts, debts, or obligations.

Sec. 501. (1) A person may be admitted as a member of a limited liability company in 1 or more of the following ways:

(a) In connection with the formation of the limited liability company, by signing the initial operating agreement.

(b) After the formation of the limited liability company, in 1 or more of the following ways:

(*i*) In the case of a person acquiring a membership interest directly from the limited liability company, by complying with the provisions of an operating agreement prescribing the requirements for admission or, in the absence of provisions prescribing the require-

ments for admission in an operating agreement, upon the unanimous vote of the members entitled to vote.

(*ii*) In the case of an assignee of a membership interest, as provided in section 506.

(2) A limited liability company may admit a person as a member who does not make a contribution or incur an obligation to make a contribution to the limited liability company.

(3) Unless otherwise provided by law or in an operating agreement, a person who is a member or manager, or both, of a limited liability company is not liable for the acts, debts, or obligations of the limited liability company.

450.4502 Members; voting rights.

Sec. 502. (1) An operating agreement may establish and allocate the voting rights of members and may provide that certain members or groups of members have only limited or no voting rights. If an operating agreement does not address voting rights, votes are allocated as follows:

(a) Prior to July 1, 1997, the members of a limited liability company shall vote in proportion to their shares of distributions of the company, as determined in accordance with section 303.

(b) On and after July 1, 1997, except as otherwise provided in subsection (2), each member of a limited liability company has 1 vote. For purposes of this subdivision, a membership interest held by 2 or more persons, whether as fiduciaries, members of a partnership, tenants in common, joint tenants, tenants by the entirety, or otherwise, is treated as held by 1 member.

(2) If a limited liability company in existence before July 1, 1997 allocated votes on the basis of subsection (1)(a), the company shall continue to allocate votes pursuant to subsection (1)(a) until the allocation is changed by an operating agreement.

(3) If a membership interest that has voting rights is held by 2 or more persons, whether as fiduciaries, members of a partnership, tenants in common, joint tenants, tenants by the entirety, or otherwise, the voting of the interest shall be in accordance with the instrument or order appointing them or creating the relationship if a copy of that instrument or order is furnished to the limited liability company. If an instrument or order is not furnished to the limited liability company, 1 of the following applies to the voting of that membership interest:

(a) If an operating agreement applies to the voting of the membership interest, the vote shall be in accordance with that operating agreement.

(b) If an operating agreement does not apply to the voting of the membership interest and only 1 of the persons who hold the membership interest votes, that person's vote determines the voting of the membership interest.

(c) If an operating agreement does not apply to the voting of the membership interest and 2 or more of the persons who hold the membership interest vote, the vote of a majority determines the voting of the membership interest, and if there is no majority, the voting of the membership interest is divided among those voting.

(4) Only members of a limited liability company, and not its managers, may authorize the following actions:

(a) The dissolution of the limited liability company pursuant to section 801(c).

(b) Merger of the limited liability company pursuant to sections 701 through 706.

(c) An amendment to the articles of organization.

(5) Unless authorized in advance by an operating agreement, a transaction with the limited liability company or a transaction connected with the conduct or winding up of the limited liability company in which a manager of the limited liability company has a direct or indirect interest or a manager's personal use of property of the limited liability company may be authorized or ratified only by a vote of the disinterested members entitled to vote. The manager shall disclose all material facts regarding the transaction and the manager's interest in the transaction or all material facts about the manager's personal use of the limited liability company's property before the members vote on that transaction or use.

(6) Unless otherwise provided in an operating agreement, the sale, exchange, lease, or other transfer of all or substantially all of the assets of a limited liability company, other than in the ordinary course of business, may be authorized only by a vote of the members entitled to vote.

(7) The articles of organization or an operating agreement may provide for additional voting rights of members of the limited liability company.

(8) Unless the vote of a greater percentage of the voting interest of members is required by this act, the articles of organization, or an operating agreement, a vote of a majority in interest of the members entitled to vote is required to approve any matter submitted for a vote by the members.

450.4503 Members; obtaining certain financial statements and tax returns; inspecting and copying records; obtaining other information; formal accounting of company's affairs.

Sec. 503. (1) Upon written request of a member, a limited liability company shall send a copy of its most recent annual financial statement and its most recent federal, state, and local income tax returns and reports to the member by mail or electronic transmission. Upon reasonable request, a member may obtain true and full information regarding the current state of the limited liability company's financial condition.

(2) Upon reasonable written request and during ordinary business hours, a member or his or her designated representative may inspect and copy, at the member's expense, any of the records required to be maintained under section 213, at the location where the records are kept.

(3) Upon reasonable written request, a member may obtain other information regarding the limited liability company's affairs or may inspect, personally or through a representative and during ordinary business hours, other books and records of the limited liability company, as is just and reasonable.

(4) A member may have a formal accounting of the limited liability company's affairs as provided in an operating agreement or whenever circumstances render it just and reasonable.

450.4504 Membership interest as personal property.

Sec. 504. (1) A membership interest is personal property and may be held in any manner in which personal property may be held. A husband and wife may hold a membership interest in joint tenancy in the same manner and subject to the same restrictions, consequences, and conditions that apply to the ownership of real estate held jointly by a husband and wife under the laws of this state, with full right of ownership by survivorship in case of the death of either.

(2) A member has no interest in specific limited liability company property.

450.4506 Assignee of membership interest; conditions for membership; rights and powers; liability for obligations of assignor.

Sec. 506. (1) Unless otherwise provided in an operating agreement, an assignee of a membership interest in a limited liability company having more than 1 member may become a member only upon a unanimous vote of the members entitled to vote. An assignee of a membership interest in a limited liability company having 1 member may become a member in accordance with the terms of the agreement between the member and the assignee.

(2) An assignee who becomes a member has, to the extent assigned, the rights and powers, and is subject to the restrictions and liabilities, of a member under the articles of organization, an operating agreement, and this act. An assignee who becomes a member also is liable for any obligations of his or her assignor to make contributions and to return distributions under sections 302 and 308(3). An assignee is not obligated for liabilities unknown to the assignee when he or she became a member unless the liabilities are shown on the financial records of the limited liability company.

450.4515 Action in circuit court; grounds; order or grant of relief; "willfully unfair and oppressive conduct" defined.

Sec. 515. (1) A member of a limited liability company may bring an action in the circuit court of the county in which the limited liability company's principal place of business or registered office is located to establish that acts of the managers or members in control of the limited liability company are illegal or fraudulent or constitute willfully unfair and oppressive conduct toward the limited liability company or the member. If the member establishes grounds for relief, the circuit court may issue an order or grant relief as it considers appropriate, including, but not limited to, an order providing for any of the following:

(a) The dissolution and liquidation of the assets and business of the limited liability company.

(b) The cancellation or alteration of a provision in the articles of organization or in an operating agreement.

(c) The direction, alteration, or prohibition of an act of the limited liability company, or of members, managers, or other persons party to the action.

(d) The purchase at fair value of the member's interest in the limited liability company, either by the company or by the managers or other members responsible for the wrongful acts.

(e) An award of damages to the limited liability company or to the member. An action seeking an award of damages must be commenced within 3 years after the cause of action under this section has accrued or within 2 years after the member discovers or reasonably should have discovered the cause of action under this section, whichever occurs first.

(2) As used in this section, "willfully unfair and oppressive conduct" means a continuing course of conduct or a significant action or series of actions that substantially interferes with the interests of the member as a member. The term does not include conduct or actions that are permitted by the articles of organization, an operating agreement, another agreement to which the member is a party, or a consistently applied written company policy or procedure.

450.4603 Articles of organization; certificate of amendment; filing; contents.

Sec. 603. The articles of organization are amended by filing a certificate of amendment signed as provided in section 103 that contains all of the following:

(a) The name of the limited liability company.

(b) The date of filing of its original articles of organization.

(c) The entire article or articles being amended, or the section or sections being amended if the article being amended is divided into identified sections.

(d) A statement that the amendment or amendments were approved by the unanimous vote of all of the members entitled to vote or by a majority in interest if an operating agreement authorizes amendment of the articles of organization by majority vote.

450.4705a Definitions; merger of domestic limited liability companies with business organizations.

Sec. 705a. (1) As used in this section:

(a) "Business organization" means a domestic or foreign corporation, limited partnership, general partnership, or any other type of domestic or foreign business enterprise, incorporated or unincorporated, except a domestic limited liability company.

(b) "Entity" means a business organization or a domestic limited liability company.

(c) "Obligated person" means a general partner of a limited partnership, a partner of a general partnership, or a participant in or an owner of an interest in any other type of business enterprise who, under applicable law, is generally liable for the obligations of the business enterprise.

(2) If all of the business organizations in a merger with 1 or more domestic limited liability companies are foreign limited liability companies, the merger shall comply with section 705 and not this section.

(3) Except as otherwise provided in subsection (2), 1 or more domestic limited liability companies may merge with 1 or more business organizations if all of the following requirements are satisfied:

(a) The merger is permitted under the law of the jurisdiction in which each constituent business organization is organized and each constituent business organization complies with that law in effecting the merger.

(b) Each foreign constituent business organization transacting business in this state complies with the applicable laws of this state.

(c) Each domestic limited liability company complies with this section.

(4) If 1 or more domestic limited liability companies propose to merge with 1 or more business organizations, each domestic limited liability company shall prepare a plan of merger that contains all of the following:

(a) The name of each constituent entity, the name of the surviving entity, the street address of the surviving entity's principal place of business, and the type of organization of the surviving entity.

(b) The terms and conditions of the proposed merger, including the manner and basis of converting the shares, partnership interests, membership interests, or other ownership interests of each constituent entity into ownership interests or obligations of the surviving entity, or into cash or other consideration, which may include ownership interests or obligations of an entity not a party to the merger, or into a combination thereof.

(c) If the surviving entity is to be a domestic limited liability company, a statement of the amendments to the articles of organization of the surviving company if the articles are changed by the merger, a restatement of the articles of organization, or a statement that the articles of organization of the surviving domestic limited liability company are unchanged.

(d) Any other provision that the domestic limited liability company considers necessary or desirable.

(5) A constituent domestic limited liability company shall submit a plan of merger to the members for approval. A unanimous vote by the members entitled to vote in the constituent domestic limited liability company is required to approve a plan of merger unless an operating agreement of the constituent domestic limited liability company provides otherwise.

(6) If an operating agreement of a constituent domestic limited liability company provides for approval by less than unanimous vote of members entitled to vote and the merger is approved, a member who voted against the merger may withdraw from the domestic limited liability company and receive, within a reasonable time, the fair value of the member's interest in the domestic limited liability company, based upon the member's share of distributions as determined under section 303.

(7) If a plan of merger is approved, a certificate of merger shall be executed as provided in section 103 and filed on behalf of each constituent domestic limited liability company. The certificate of merger shall contain all of the following:

(a) The information required under subsection (4)(a) and the statement required under subsection (4)(c).

(b) A statement that the plan of merger was approved by the members of each constituent domestic limited liability company in accordance with subsection (5).

(c) A statement of any assumed names of merging entities transferred to the surviving entity in accordance with section 206(6), specifying each transferred assumed name and the name of the entity from which it is transferred. If the surviving entity is a domestic limited liability company or a foreign limited liability company authorized to transact business in this state, the certificate may include a statement of 1 or more names or assumed names of merging entities that are to be treated as new certificates of assumed names of the surviving company under section 206(7).

(d) The effective date of the merger if later than the date the certificate of merger is filed.

(8) A certificate of merger is effective in accordance with section 104.

(9) When a merger is effective under this section, all of the following apply:

(a) Every other constituent entity merges into the surviving entity and the separate existence of every entity except the surviving entity ceases.

(b) The title to all property, real, personal, and mixed, and rights owned by each constituent entity are vested in the surviving entity without reversion or impairment.

(c) A surviving company may use the name and the assumed names of any merging entity if a filing required under section 206(6) or (7) or other applicable statute is made.

(d) The surviving entity has all of the liabilities of each constituent entity. This section does not affect liability, if any, of a person who was an obligated person with respect to a merging entity for acts or omissions that occurred before the merger.

(e) A proceeding pending against any constituent entity may be continued as if the merger did not occur or the surviving entity may be substituted in the proceeding for the entity whose existence ceased.

(f) The articles of organization of a surviving domestic limited liability company are amended to the extent provided in the plan of merger.

(g) The ownership interests of each constituent entity that are to be converted into ownership interests or obligations of the surviving entity or into cash or other property are converted.

(10) If the surviving entity is a foreign business organization, it is subject to the laws of this state pertaining to the transaction of business in this state by a foreign business organization if it transacts business in this state. The surviving entity is liable for, and is subject to service of process in a proceeding in this state for the enforcement of, any obligation of a constituent domestic limited liability company, including an obligation to a member of the constituent domestic limited liability company who has dissented from the merger and withdrawn in accordance with subsection (6).

450.4801 Dissolution and winding up; conditions.

Sec. 801. A limited liability company is dissolved and its affairs shall be wound up when the first of the following occurs:

(a) Automatically at the time specified in the articles of organization.

(b) Upon the happening of an event specified in the articles of organization or in an operating agreement, including a vote of members.

(c) Upon the unanimous vote of all members entitled to vote.

(d) Automatically upon the entry of a decree of judicial dissolution.

450.4804 Certificate of dissolution; filing; contents.

Sec. 804. Upon the dissolution and commencement of winding up of the limited liability company under section 801(b) or (c), a certificate of dissolution shall be signed as provided in section 103 and filed with the administrator. The certificate shall set forth all of the following:

(a) The name of the limited liability company.

(b) The reason for the dissolution.

(c) The effective date of the dissolution if later than the date of filing of the certificate of dissolution.

450.4909 Annual report; filing fee; penalty for late filing.

Sec. 909. (1) In addition to the annual statement required in section 207(3), a professional limited liability company shall file with the administrator an annual report, together with a $50.00 filing fee, listing the names and addresses of all members and managers and certifying that each member and manager is a licensed person in 1 or more of the professional services rendered by the company. The report shall also certify that any member or manager not licensed or otherwise legally authorized to render professional services in this state does not render professional services in this state.

(2) The professional limited liability company shall file the annual report not later than February 15 of each year, and a penalty of $50.00 shall be added to the fee if the annual report is not filed or the fee is not paid by February 15, except that if a professional limited liability company is formed after September 30, it need not file an annual report on the February 15 immediately succeeding its formation.

(3) If a professional limited liability company fails to file an annual report required by this section for 2 consecutive years, the administrator shall notify the company of the consequences of the failure to file under subsection (4).

(4) If a professional limited liability company does not file all annual reports it has failed to file, the applicable fees, and the penalty described in subsection (2) within 60 days after the administrator's notice under subsection (3) is sent, the professional limited liability company is not in good standing. A professional limited liability company that is not in good standing is not entitled to issuance by the administrator of a certificate of good

standing described in section 207a, the name of the company is available for use by another entity filing with the administrator, and the administrator shall not accept for filing any document submitted by the professional limited liability company other than a certificate of restoration of good standing provided for in subsection (5). A professional limited liability company that is not in good standing remains in existence and may continue to transact business in this state.

(5) A professional limited liability company that is not in good standing under subsection (4) may file a certificate of restoration of good standing, accompanied by the annual reports and fees for all of the years for which they were not filed and paid, the penalty described in subsection (2), and the fee for filing the certificate of restoration of good standing. The certificate shall include all of the following:

(a) The name of the professional limited liability company at the time it ceased to be in good standing. If that name is not available when the certificate of restoration of good standing is filed, the professional limited liability company shall select a new name that complies with this act. The new name shall be the name of the professional limited liability company from the date of filing of the certificate.

(b) The name of the professional limited liability company's current resident agent and the address of the current registered office in this state.

(c) A statement that the certificate is accompanied by the annual reports and applicable fees for all of the years for which reports were not filed and fees were not paid and the penalty described in subsection (2).

(6) A professional limited liability company that fails to file annual statements under section 207 as well as annual reports under this section must comply with section 207a and this section to maintain or restore its good standing.

450.5005 Inaccurate application; correcting statement; certificate; exception; survivor of merger; certificate attesting to merger; annual statement.

Sec. 1005. (1) If any statement in the application for certificate of authority of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application inaccurate in any respect, the foreign limited liability company shall promptly file with the administrator a certificate, signed as provided in section 103, correcting the statement, except that a change in the resident agent or registered office may be made under section 209.

(2) If a foreign limited liability company authorized to transact business in this state is the survivor of a merger permitted by the laws of the jurisdiction of its organization, the foreign limited liability company shall file, not later than 30 days after the merger becomes effective, a certificate issued by the proper officer of the jurisdiction of its organization attesting to the occurrence of the merger. If the merger has changed the name of the foreign limited liability company or has otherwise affected the information set forth in the application, the foreign company shall also comply with subsection (1).

(3) A foreign limited liability company authorized to transact business in this state shall file an annual statement as required by section 207(3), and section 207a applies to the good standing of the company and to failures to file.

450.5101 Filing fees; use; charges for certifying or copying files or records; dishonored checks; payment by credit card.

Sec. 1101. (1) The fees to be paid to the administrator when the documents described in this subsection are delivered to him or her for filing are as follows:

(a) Certificate of correction, $25.00.

(b) Articles of organization, $50.00.

(c) Amendment to the articles of organization, $25.00.

(d) Restated articles of organization, $50.00.

(e) Application for reservation of name, $25.00.

(f) Certificate of assumed name or a certificate of termination of assumed name, $25.00.

(g) Annual statement of resident agent and registered office, $15.00.

(h) Certificate of restoration of good standing, $50.00.

(i) Notice of resignation of resident agent, or statement of change of registered office or resident agent, $5.00.

(j) Certificate of merger as provided in article 7, $100.00.

(k) Certificate of abandonment, $10.00.

(*l*) Certificate of conversion, $25.00.

(m) Certificate of dissolution, $10.00.

(n) Application of a foreign limited liability company for a certificate of authority to transact business in this state, $50.00.

(o) Certificate correcting statement contained in an application for a certificate of authority to transact business in this state, $25.00.

(p) Certificate attesting to the occurrence of a merger of a foreign limited liability company, as provided in section 1005, $10.00.

(q) Application for withdrawal and issuance of a certificate of withdrawal of a foreign limited liability company, $10.00.

(2) In addition to a fee required to file a document, the administrator may charge a fee of $50.00 if the document is filed by facsimile or other electronic transmission or the administrator is requested to transmit a document by facsimile or other electronic transmission.

(3) The fees prescribed in subsections (1) and (2), no part of which shall be refunded, when collected shall be paid into the treasury of the state and credited to the administrator to be used solely by the department in carrying out those duties required by law.

(4) A minimum charge of $1.00 for each certificate and 50 cents per folio shall be paid to the administrator for certifying a part of a file or record pertaining to a domestic or foreign limited liability company if a fee is not set forth in subsection (1). The administrator may furnish copies of documents, reports, and papers required or permitted by law to be filed with the administrator, and shall charge for those copies pursuant to a schedule of fees that the administrator shall adopt with the approval of the state administrative board. The administrator shall retain the revenue collected under this subsection to be used by the department to defray the costs of its copying and certifying services.

(5) If a domestic or foreign limited liability company pays fees or penalties by check and the check is dishonored, the fee is considered unpaid and the filing of all related documents will be rescinded.

(6) The administrator may accept a credit card, instead of cash or check, as payment of a fee under this act. The administrator shall determine which credit cards may be accepted for payment.

This act is ordered to take immediate effect.

Approved December 29, 2002.

Filed with Secretary of State December 30, 2002.

[No. 687]

(HB 5994)

AN ACT to assert the state's interest in protecting all individuals; and to prescribe responsibilities and procedures in regard to a newborn whose live birth results from an abortion.

The People of the State of Michigan enact:

333.1071 Short title; definitions.

Sec. 1. (1) This act shall be known and may be cited as the "born alive infant protection act".

(2) As used in this act:

(a) "Abortion" means that term as defined in section 17015 of the public health code, 1978 PA 368, MCL 333.17015.

(b) "Live birth" means the complete expulsion or extraction of a product of conception from its mother, regardless of the duration of the pregnancy, that after expulsion or extraction, whether or not the umbilical cord has been cut or the placenta is attached, shows any evidence of life, including, but not limited to, 1 or more of the following:

(*i*) Breathing.

(*ii*) A heartbeat.

(*iii*) Umbilical cord pulsation.

(*iv*) Definite movement of voluntary muscles.

333.1072 Legislative findings.

Sec. 2. The legislature finds all of the following:

(a) The state has a paramount interest in protecting all individuals.

(b) If an abortion results in the live birth of a newborn, the newborn is a legal person for all purposes under the law.

(c) A woman's right to terminate pregnancy ends when the pregnancy is terminated. It is not an infringement on a woman's right to terminate her pregnancy for the state to assert its interest in protecting a newborn whose live birth occurs as the result of an abortion.

333.1073 Abortion resulting in live birth; surrender of newborn to emergency service provider; medical care; report; confidentiality of newborn's mother and father; transmission of information to newborn's mother.

Sec. 3. (1) If an abortion results in a live birth and, after being informed of the newborn's live birth, the newborn's mother expresses a desire not to assume custody and responsibility for the newborn, by refusing to authorize all necessary life sustaining medical treatment for the newborn or releasing the newborn for adoption, the newborn shall be considered a newborn who has been surrendered to an emergency service provider under the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20. The procedures of the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, shall be followed in regard to the custody and care of the newborn.

(2) If an abortion performed in a hospital setting results in a live birth, the physician attending the abortion shall provide immediate medical care to the newborn, inform the

mother of the live birth, and request transfer of the newborn to a resident, on-duty, or emergency room physician who shall provide medical care to the newborn. If an abortion performed in other than a hospital setting results in a live birth, a physician attending the abortion shall provide immediate medical care to the newborn and call 9-1-1 for an emergency transfer of the newborn to a hospital that shall provide medical care to the newborn.

(3) A live birth described in this act shall be reported as required in section 2822 of the public health code, 1978 PA 368, MCL 333.2822.

(4) If a newborn is considered a newborn who has been surrendered to an emergency service provider under the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, as provided in subsection (1), the identity of the newborn's mother and father becomes confidential and shall not be revealed, either orally or in writing.

(5) The attending physician who transfers care of a live newborn under this section to another physician or a 9-1-1 emergency responder shall transmit to the mother of the newborn any information provided to the attending physician by the emergency service provider who received custody of the newborn under the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, as provided in section 3 of the safe delivery of newborns law, chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.3.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 688]

(HB 5995)

AN ACT to amend 1939 PA 288, entitled "An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties," by amending section 3 of chapter XII (MCL 712.3), as added by 2000 PA 232.

The People of the State of Michigan enact:

CHAPTER XII

712.3 Conduct of emergency service provider.

Sec. 3. (1) If a parent surrenders a child who may be a newborn to an emergency service provider, the emergency service provider shall comply with the requirements of

this section under the assumption that the child is a newborn. The emergency service provider shall, without a court order, immediately accept the newborn, taking the newborn into temporary protective custody. The emergency service provider shall make a reasonable effort to do all of the following:

(a) Take action necessary to protect the physical health and safety of the newborn.

(b) Inform the parent that by surrendering the newborn, the parent is releasing the newborn to a child placing agency to be placed for adoption.

(c) Inform the parent that the parent has 28 days to petition the court to regain custody of the newborn.

(d) Provide the parent with written material approved by or produced by the family independence agency that includes, but is not limited to, all of the following statements:

(*i*) By surrendering the newborn, the parent is releasing the newborn to a child placing agency to be placed for adoption.

(*ii*) The parent has 28 days after surrendering the newborn to petition the court to regain custody of the newborn.

(*iii*) After the 28-day period to petition for custody elapses, there will be a hearing to terminate parental rights.

(*iv*) There will be public notice of this hearing, and the notice will not contain the parent's name.

(*v*) The parent will not receive personal notice of this hearing.

(*vi*) Information the parent provides to an emergency service provider will not be made public.

(*vii*) A parent can contact the safe delivery line established under section 20 of this chapter for more information.

(2) After providing a parent with the information described in subsection (1), an emergency service provider shall make a reasonable attempt to do all of the following:

(a) Encourage the parent to provide any relevant family or medical information.

(b) Provide the parent with the pamphlet produced under section 20 of this chapter and inform the parent that he or she can receive counseling or medical attention.

(c) Inform the parent that information that he or she provides will not be made public.

(d) Ask the parent to identify himself or herself.

(e) Inform the parent that in order to place the newborn for adoption the state is required to make a reasonable attempt to identify the other parent, and then ask the parent to identify the other parent.

(f) Inform the parent that the child placing agency that takes temporary protective custody of the newborn can provide confidential services to the parent.

(g) Inform the parent that the parent may sign a release for the newborn which may be used at the parental rights termination hearing.

(3) A newborn whose birth is described in the born alive infant protection act and who is in a hospital setting or transferred to a hospital under section 3(1) of the born alive infant protection act is a newborn surrendered as provided in this act. An emergency service provider who has received a newborn pursuant to the born alive infant protection act shall do all of the following:

(a) Comply with the requirements of subsections (1) and (2) to obtain information from or supply information to the surrendering parent by requesting the information from or supplying the information to the attending physician who delivered the newborn.

(b) Make no attempt to directly contact the parent or parents of the newborn.

(c) Provide humane comfort care if the newborn is determined to have no chance of survival due to gestational immaturity in light of available neonatal medical treatment or other condition incompatible with life.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5994 of the 91st Legislature is enacted into law.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 5994, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 687, Eff. March 31, 2003.

[No. 689]

(HB 5996)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 135 (MCL 750.135), as amended by 2000 PA 233.

The People of the State of Michigan enact:

750.135 Children; exposing with intent to injure or abandon; surrender of child to emergency service provider; applicability of subsection (1); definitions.

Sec. 135. (1) Except as provided in subsection (3), a father or mother of a child under the age of 6 years, or another individual, who exposes the child in any street, field, house, or other place, with intent to injure or wholly to abandon the child, is guilty of a felony, punishable by imprisonment for not more than 10 years.

(2) Except for a situation involving actual or suspected child abuse or child neglect, it is an affirmative defense to a prosecution under subsection (1) that the child was not more than 72 hours old and was surrendered to an emergency service provider under chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20. A criminal investigation shall not be initiated solely on the basis of a newborn being surrendered to an emergency service provider under chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20.

(3) Subsection (1) does not apply to a mother of a newborn who is surrendered under the born alive infant protection act. Subsection (1) applies to an attending physician who delivers a live newborn as a result of an attempted abortion and fails to comply with the requirements of the born alive infant protection act.

(4) As used in this section:

(a) "Emergency service provider" means a uniformed employee or contractor of a fire department, hospital, or police station when that individual is inside the premises and on duty.

(b) "Fire department" means an organized fire department as that term is defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(c) "Hospital" means a hospital that is licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(d) "Police station" means a police station as that term is defined in section 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5994 of the 91st Legislature is enacted into law.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 5994, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 687, Eff. March 31, 2003.

[No. 690]

(HB 5997)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 8 (MCL 722.628), as amended by 2000 PA 234.

The People of the State of Michigan enact:

722.628 Referring report or commencing investigation; informing parent or legal guardian of investigation; duties of department; assistance of and cooperation with law enforcement officials; procedures; proceedings by prosecuting attorney; cooperation of school or other institution; information as to disposition of report; exception to reporting requirement.

Sec. 8. (1) Within 24 hours after receiving a report made under this act, the department shall refer the report to the prosecuting attorney if the report meets the requirements of section 3(6) or shall commence an investigation of the child suspected of being abused or neglected. Within 24 hours after receiving a report whether from the reporting person or from the department under section 3(6), the local law enforcement agency shall refer the report to the department if the report meets the requirements of section 3(7) or shall commence an investigation of the child suspected of being abused or neglected. If the child suspected of being abused is not in the physical custody of the

parent or legal guardian and informing the parent or legal guardian would not endanger the child's health or welfare, the agency or the department shall inform the child's parent or legal guardian of the investigation as soon as the agency or the department discovers the identity of the child's parent or legal guardian.

(2) In the course of its investigation, the department shall determine if the child is abused or neglected. The department shall cooperate with law enforcement officials, courts of competent jurisdiction, and appropriate state agencies providing human services in relation to preventing, identifying, and treating child abuse and neglect; shall provide, enlist, and coordinate the necessary services, directly or through the purchase of services from other agencies and professions; and shall take necessary action to prevent further abuses, to safeguard and enhance the child's welfare, and to preserve family life where possible.

(3) In conducting its investigation, the department shall seek the assistance of and cooperate with law enforcement officials within 24 hours after becoming aware that 1 or more of the following conditions exist:

(a) Abuse or neglect is the suspected cause of a child's death.

(b) The child is the victim of suspected sexual abuse or sexual exploitation.

(c) Abuse or neglect resulting in severe physical injury to the child requires medical treatment or hospitalization. For purposes of this subdivision and section 17, "severe physical injury" means brain damage, skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprains, internal injuries, poisoning, burns, scalds, severe cuts, or any other physical injury that seriously impairs the health or physical well-being of a child.

(d) Law enforcement intervention is necessary for the protection of the child, a department employee, or another person involved in the investigation.

(e) The alleged perpetrator of the child's injury is not a person responsible for the child's health or welfare.

(4) Law enforcement officials shall cooperate with the department in conducting investigations under subsections (1) and (3) and shall comply with sections 5 and 7. The department and law enforcement officials shall conduct investigations in compliance with the protocols adopted and implemented as required by subsection (6).

(5) Involvement of law enforcement officials under this section does not relieve or prevent the department from proceeding with its investigation or treatment if there is reasonable cause to suspect that the child abuse or neglect was committed by a person responsible for the child's health or welfare.

(6) In each county, the prosecuting attorney and the department shall develop and establish procedures for involving law enforcement officials as provided in this section. In each county, the prosecuting attorney and the department shall adopt and implement standard child abuse and neglect investigation and interview protocols using as a model the protocols developed by the governor's task force on children's justice as published in FIA Publication 794 (revised 8-98) and FIA Publication 779 (8-98), or an updated version of those publications.

(7) If there is reasonable cause to suspect that a child in the care of or under the control of a public or private agency, institution, or facility is an abused or neglected child, the agency, institution, or facility shall be investigated by an agency administratively independent of the agency, institution, or facility being investigated. If the investigation produces evidence of a violation of section 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c and 750.520b to 750.520g, the investigating agency shall transmit a copy of the results of the investigation to the prosecuting attorney of the county in which the agency, institution, or facility is located.

(8) A school or other institution shall cooperate with the department during an investigation of a report of child abuse or neglect. Cooperation includes allowing access to the child without parental consent if access is determined by the department to be necessary to complete the investigation or to prevent abuse or neglect of the child. However, the department shall notify the person responsible for the child's health or welfare about the department's contact with the child at the time or as soon afterward as the person can be reached. The department may delay the notice if the notice would compromise the safety of the child or child's siblings or the integrity of the investigation, but only for the time 1 of those conditions exists.

(9) If the department has contact with a child in a school, all of the following apply:

(a) Before contact with the child, the department investigator shall review with the designated school staff person the department's responsibilities under this act and the investigation procedure.

(b) After contact with the child, the department investigator shall meet with the designated school staff person and the child about the response the department will take as a result of contact with the child. The department may also meet with the designated school staff person without the child present and share additional information the investigator determines may be shared subject to the confidentiality provisions of this act.

(c) Lack of cooperation by the school does not relieve or prevent the department from proceeding with its responsibilities under this act.

(10) A child shall not be subjected to a search at a school that requires the child to remove his or her clothing to expose his buttocks or genitalia or her breasts, buttocks, or genitalia unless the department has obtained an order from a court of competent jurisdiction permitting such a search. If the access occurs within a hospital, the investigation shall be conducted so as not to interfere with the medical treatment of the child or other patients.

(11) The department shall enter each report made under this act that is the subject of a field investigation into the CPSI system. The department shall maintain a report entered on the CPSI system as required by this subsection until the child about whom the investigation is made is 18 years old or until 10 years after the investigation is commenced, whichever is later, or, if the case is classified as a central registry case, until the department receives reliable information that the perpetrator of the abuse or neglect is dead. Unless made public as specified information released under section 7d, a report that is maintained on the CPSI system is confidential and is not subject to the disclosure requirements of the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(12) After completing a field investigation and based on its results, the department shall determine in which single category, prescribed by section 8d, to classify the allegation of child abuse or neglect.

(13) Except as provided in subsection (14), upon completion of the investigation by the local law enforcement agency or the department, the law enforcement agency or department may inform the person who made the report as to the disposition of the report.

(14) If the person who made the report is mandated to report under section 3, upon completion of the investigation by the department, the department shall inform the person in writing as to the disposition of the case and shall include in the information at least all of the following:

(a) What determination the department made under subsection (12) and the rationale for that decision.

(b) Whether legal action was commenced and, if so, the nature of that action.

(c) Notification that the information being conveyed is confidential.

(15) Information sent under subsection (14) shall not include personally identifying information for a person named in a report or record made under this act.

(16) Unless section 5 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.5, requires a physician to report to the department, the surrender of a newborn in compliance with chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is not reasonable cause to suspect child abuse or neglect and, therefore, is not subject to the section 3 reporting requirement. This subsection does not apply to circumstances that arise on or after the date that chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, is repealed. This subsection applies to a newborn whose birth is described in the born alive infant protection act and who is considered to be a newborn surrendered under the safe delivery of newborns law as provided in section 3 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.3.

Conditional effective date.

Enacting section 1. This amendatory act shall not take effect unless House Bill No. 5994 of the 91st Legislature is enacted into law.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 5994, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 687, Eff. Mar. 31, 2003.

[No. 691]

(HB 5998)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 2822, 2843, 2882, and 5431 (MCL 333.2822, 333.2843, 333.2882, and 333.5431), section 2882 as amended by 2002 PA 544 and section 5431 as amended by 2000 PA 33.

The People of the State of Michigan enact:

333.2822 Persons required to report live birth occurring in state; "abortion" defined.

Sec. 2822. (1) The following individuals shall report a live birth that occurs in this state:

(a) If a live birth occurs in an institution or enroute to an institution, the individual in charge of the institution or his or her designated representative shall obtain the personal data, prepare the certificate of birth, secure the signatures required by the certificate of birth, and file the certificate of birth with the local registrar or as otherwise directed by the state registrar within 5 days after the birth. The physician or other individual in attendance shall provide the medical information required by the certificate of birth and certify to the facts of birth not later than 72 hours after the birth. If the physician or other individual does not certify to the facts of birth within 72 hours, the individual in charge of the institution or his or her authorized representative shall complete and certify the facts of birth.

(b) If a live birth occurs outside an institution, the record shall be prepared, certified, and filed with the local registrar by 1 of the following individuals in the following order of priority:

(*i*) The physician in attendance at or immediately after the live birth.

(*ii*) Any other individual in attendance at or immediately after the live birth.

(*iii*) The father, the mother, or, in the absence of the father and the inability of the mother, the individual in charge of the premises where the live birth occurs.

(c) If a live birth occurs during an attempted abortion and the mother of the newborn has expressed a desire not to assume custody and responsibility for the newborn by refusing to authorize necessary life-sustaining medical treatment, the live birth shall be reported as follows:

(*i*) If the attempted abortion took place in an institution, the live birth shall be reported in the same manner as provided in subdivision (a), except that the parents shall be listed as "unknown" and the newborn shall be listed as "Baby Doe".

(*ii*) If the attempted abortion took place outside an institution, the live birth shall be reported in the same manner as provided in subdivision (b), except that the parents shall be listed as "unknown" and the newborn shall be listed as "Baby Doe".

(2) As used in this section, "abortion" means that term as defined in section 17015.

333.2843 Report of death by funeral director; "dead body" defined; personal data; medical certification; neglecting or refusing to sign death certificate as misdemeanor; penalty; filing of death record.

Sec. 2843. (1) A funeral director who first assumes custody of a dead body, either personally or through his or her authorized agent, shall report the death. For purposes of this subsection, "dead body" includes, but is not limited to, the body of an infant who survived an attempted abortion as described in the born alive infant protection act and who later died. The funeral director or the authorized agent shall obtain the necessary personal data from the next of kin or the best qualified individual or source available and shall obtain medical certification as follows:

(a) If the death occurred outside an institution, the medical certification portion of the death record shall be completed and certified not later than 48 hours after death by the attending physician; or in the absence of the attending physician, by a physician acting as the attending physician's authorized representative; or in the absence of an authorized

representative, by the county medical examiner; or in the absence of the county medical examiner, by the county health officer or the deputy county medical examiner. If the death occurred in an institution, the medical certification shall be completed and signed not later than 48 hours after death by the attending physician; or in the absence of the attending physician, by a physician acting as the attending physician's authorized representative; or in the absence of an authorized representative, by the chief medical officer of the institution in which death occurred, after reviewing pertinent records and making other investigation as considered necessary, or by a pathologist.

(b) A physician, as described in subdivision (a), who for himself or herself or as an agent or employee of another individual neglects or refuses to certify a death record properly presented to him or her for certification by a funeral director or who refuses or neglects to furnish information in his or her possession, is guilty of a misdemeanor punishable by imprisonment for not more than 60 days, or a fine of not less than $25.00 nor more than $100.00, or both.

(2) The medical certification shall be provided not later than 48 hours after the death by the physician, as described in subsection (1)(a).

(3) A death record shall be certified by a funeral director licensed under article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812, and shall be filed with the local registrar of the district where the death occurred not later than 72 hours after the death.

(4) Except as otherwise provided in this subsection, the death of an infant who was born alive following an attempted abortion and was surrendered to an emergency service provider under the safe delivery of newborns law, sections 1 to 20 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.1 to 712.20, and then died shall be reported in the same manner as for any death. However, the deceased infant shall be listed as "Baby Doe" and no information that would directly identify the deceased infant or the deceased infant's parents shall be reported, including, but not limited to, the following information:

(a) The name of the mother or father.

(b) The address of the mother or father.

(c) The name of the informant.

(d) The address of the informant.

333.2882 Issuance of certain certified copies; request; fee; request of adopted adult or confidential intermediary; phrase to be marked on certificate provided under subsection (2) or (3).

Sec. 2882. (1) Except as otherwise provided in section 2890, upon written request and payment of the prescribed fee, the state registrar or local registrar shall issue the appropriate 1 of the following:

(a) A certified copy of a live birth record, an affidavit of parentage filed after June 1, 1997, or a record of stillbirth filed after June 1, 2003 to 1 of the following:

(*i*) The individual who is the subject of the record.

(*ii*) A parent named in the record.

(*iii*) An heir, a legal representative, or a legal guardian of the individual who is the subject of the record.

(*iv*) A court of competent jurisdiction.

(b) If the live birth record is 100 or more years old, a certified copy of the live birth record to any applicant.

(c) A certified copy of a death record, including the cause of death, to any applicant.

(d) A certified copy of a marriage or divorce record to any applicant, except as provided by rule.

(e) A certified copy of a fetal death record that was filed before September 30, 1978, to any applicant.

(2) Upon written request of an adult who has been adopted and payment of the prescribed fee, the state registrar shall issue to that individual a copy of his or her original certificate of live birth, if the written request identifies the name of the adult adoptee and is accompanied by a copy of a central adoption registry clearance reply form that was completed by the family independence agency and delivered to that individual as required by section 68(9) of the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.68.

(3) Upon written request of a confidential intermediary appointed under section 68b of the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.68b, presentation of a certified copy of the order of appointment, identification of the name of the adult adoptee, and payment of the required fee, the state registrar shall issue to the confidential intermediary a copy of the original certificate of live birth of the adult adoptee on whose behalf the intermediary was appointed.

(4) A copy of the original certificate of live birth provided under subsection (2) or (3) shall have the following phrase marked on the face of the copy: "This document is a copy of a sealed record and is not the active birth certificate of the individual whose name appears on this document".

333.5431 Testing newborn infant for certain conditions; reporting positive test results to parents, guardian, or person in loco parentis; compliance; fee; "Detroit consumer price index" defined; violation as misdemeanor; hardship waiver; conduct of department regarding blood specimens; pamphlet; additional blood specimen for future identification.

Sec. 5431. (1) A health professional in charge of the care of a newborn infant or, if none, the health professional in charge at the birth of an infant shall administer or cause to be administered to the infant a test for each of the following:

(a) Phenylketonuria.

(b) Galactosemia.

(c) Hypothyroidism.

(d) Maple syrup urine disease.

(e) Biotinidase deficiency.

(f) Sickle cell anemia.

(g) Congenital adrenal hyperplasia.

(h) Medium-chain acyl-coenzyme A dehydrogenase deficiency.

(i) Other treatable but otherwise disabling conditions as designated by the department.

(2) The informed consent requirements of sections 17020 and 17520 do not apply to the tests required under subsection (1). The tests required under subsection (1) shall be administered and reported within a time and under conditions prescribed by the department. The department may require that the tests be performed by the department.

(3) If the results of a test administered under subsection (1) are positive, the results shall be reported to the infant's parents, guardian, or person in loco parentis. A person is in compliance with this subsection if the person makes a good faith effort to report the positive test results to the infant's parents, guardian, or person in loco parentis.

(4) Subject to the annual adjustment required under this subsection and subject to subsection (6), if the department performs 1 or more of the tests required under subsection (1), the department may charge a fee for the tests of not more than $53.71. The department shall adjust the amount prescribed by this subsection annually by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor.

(5) A person who violates this section or a rule promulgated under this part is guilty of a misdemeanor.

(6) The department shall provide for a hardship waiver of the fee authorized under subsection (4) under circumstances found appropriate by the department.

(7) The department shall do all of the following in regard to the blood specimens taken for purposes of conducting the tests required under subsection (1):

(a) By April 1, 2000, develop a schedule for the retention and disposal of the blood specimens used for the tests after the tests are completed. The schedule shall meet at least all of the following requirements:

(*i*) Be consistent with nationally recognized standards for laboratory accreditation and federal law.

(*ii*) Require that the disposal be conducted in compliance with section 13811.

(*iii*) Require that the disposal be conducted in the presence of a witness. For purposes of this subparagraph, the witness may be an individual involved in the disposal or any other individual.

(*iv*) Require that a written record of the disposal be made and kept, and that the witness required under subparagraph (*iii*) signs the record.

(b) Allow the blood specimens to be used for medical research during the retention period established under subdivision (a), as long as the medical research is conducted in a manner that preserves the confidentiality of the test subjects and is consistent to protect human subjects from research risks under subpart A of part 46 of subchapter A of title 45 of the code of federal regulations.

(8) The department shall rewrite its pamphlet explaining the requirements of this section when the supply of pamphlets in existence on March 15, 2000 is exhausted. When the department rewrites the explanatory pamphlet, it shall include at least all of the following information in the pamphlet:

(a) The nature and purpose of the testing program required under this section, including, but not limited to, a brief description of each condition or disorder listed in subsection (1).

(b) The purpose and value of the infant's parent, guardian, or person in loco parentis retaining a blood specimen obtained under subsection (9) in a safe place.

(c) The department's schedule for retaining and disposing of blood specimens developed under subsection (7)(a).

(d) That the blood specimens taken for purposes of conducting the tests required under subsection (1) may be used for medical research pursuant to subsection (7)(b).

(9) In addition to the requirements of subsection (1), the health professional described in subsection (1) or the hospital or other facility in which the birth of an infant takes place,

or both, may offer to draw an additional blood specimen from the infant. If such an offer is made, it shall be made to the infant's parent, guardian, or person in loco parentis at the time the blood specimens are drawn for purposes of subsection (1). If the infant's parent, guardian, or person in loco parentis accepts the offer of an additional blood specimen, the blood specimen shall be preserved in a manner that does not require special storage conditions or techniques, including, but not limited to, lamination. The health professional or hospital or other facility employee making the offer shall explain to the parent, guardian, or person in loco parentis at the time the offer is made that the additional blood specimen can be used for future identification purposes and should be kept in a safe place. The health professional or hospital or other facility making the offer may charge a fee that is not more than the actual cost of obtaining and preserving the additional blood specimen.

Effective date of § 333.5431.

Enacting section 1. Section 5431 of the public health code, 1978 PA 368, MCL 333.5431, as amended by this amendatory act, takes effect April 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5994 of the 91st Legislature is enacted into law.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 5994, referred to in enacting section 2, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 687, Eff. Mar. 31, 2003.

[No. 692]

(HB 6493)

AN ACT to amend 1977 PA 135, entitled "An act to prohibit certain mortgage lending practices by a credit granting institution; to prescribe the powers and duties of the commissioner of the financial institutions bureau in relation to those practices; to permit the establishment of local mortgage review boards; and to provide remedies and penalties," by repealing section 6 (MCL 445.1606).

The People of the State of Michigan enact:

445.1606 Repeal of § 445.1606.

Enacting section 1. Section 6 of 1977 PA 135, MCL 445.1606, is repealed.

Approved December 29, 2002.
Filed with Secretary of State December 30, 2002.

[No. 693]

(HB 5984)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect

by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending sections 2, 3, and 11 (MCL 722.622, 722.623, and 722.631), section 2 as amended by 2000 PA 45 and section 3 as amended by 2002 PA 10.

The People of the State of Michigan enact:

722.622 Definitions.

Sec. 2. As used in this act:

(a) "Adult foster care location authorized to care for a child" means an adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703, in which a child is placed in accordance with section 5 of 1973 PA 116, MCL 722.115.

(b) "Attorney" means, if appointed to represent a child under the provisions referenced in section 10, an attorney serving as the child's legal advocate in the manner defined and described in section 13a of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

(c) "Central registry" means the system maintained at the department that is used to keep a record of all reports filed with the department under this act in which relevant and accurate evidence of child abuse or neglect is found to exist.

(d) "Central registry case" means a child protective services case that the department classifies under sections 8 and 8d as category I or category II. For a child protective services case that was investigated before July 1, 1999, central registry case means an allegation of child abuse or neglect that the department substantiated.

(e) "Child" means a person under 18 years of age.

(f) "Child abuse" means harm or threatened harm to a child's health or welfare that occurs through nonaccidental physical or mental injury, sexual abuse, sexual exploitation, or maltreatment, by a parent, a legal guardian, or any other person responsible for the child's health or welfare or by a teacher, a teacher's aide, or a member of the clergy.

(g) "Child care organization" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(h) "Child care provider" means an owner, operator, employee, or volunteer of a child care organization or of an adult foster care location authorized to care for a child.

(i) "Child care regulatory agency" means the department of consumer and industry services or a successor state department that is responsible for the licensing or registration of child care organizations or the licensing of adult foster care locations authorized to care for a child.

(j) "Child neglect" means harm or threatened harm to a child's health or welfare by a parent, legal guardian, or any other person responsible for the child's health or welfare that occurs through either of the following:

(*i*) Negligent treatment, including the failure to provide adequate food, clothing, shelter, or medical care.

(*ii*) Placing a child at an unreasonable risk to the child's health or welfare by failure of the parent, legal guardian, or other person responsible for the child's health or welfare to intervene to eliminate that risk when that person is able to do so and has, or should have, knowledge of the risk.

(k) "Citizen review panel" means a panel established as required by section 106 of title I of the child abuse prevention and treatment act, Public Law 93-247, 42 U.S.C. 5106a.

(*l*) "Member of the clergy" means a priest, minister, rabbi, Christian science practitioner, or other religious practitioner, or similar functionary of a church, temple, or recognized religious body, denomination, or organization.

(m) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(n) "CPSI system" means the child protective service information system, which is an internal data system maintained within and by the department, and which is separate from the central registry and not subject to section 7.

(o) "Department" means the family independence agency.

(p) "Director" means the director of the department.

(q) "Expunge" means to physically remove or eliminate and destroy a record or report.

(r) "Lawyer-guardian ad litem" means an attorney appointed under section 10 who has the powers and duties referenced by section 10.

(s) "Local office file" means the system used to keep a record of a written report, document, or photograph filed with and maintained by a county or a regionally based office of the department.

(t) "Nonparent adult" means a person who is 18 years of age or older and who, regardless of the person's domicile, meets all of the following criteria in relation to a child:

(*i*) Has substantial and regular contact with the child.

(*ii*) Has a close personal relationship with the child's parent or with a person responsible for the child's health or welfare.

(*iii*) Is not the child's parent or a person otherwise related to the child by blood or affinity to the third degree.

(u) "Person responsible for the child's health or welfare" means a parent, legal guardian, person 18 years of age or older who resides for any length of time in the same home in which the child resides, or, except when used in section 7(2)(e) or 8(8), nonparent adult; or an owner, operator, volunteer, or employee of 1 or more of the following:

(*i*) A licensed or registered child care organization.

(*ii*) A licensed or unlicensed adult foster care family home or adult foster care small group home as defined in section 3 of the adult foster care facility licensing act, 1979 PA 218, MCL 400.703.

(v) "Relevant evidence" means evidence having a tendency to make the existence of a fact that is at issue more probable than it would be without the evidence.

(w) "Sexual abuse" means engaging in sexual contact or sexual penetration as those terms are defined in section 520a of the Michigan penal code, 1931 PA 328, MCL 750.520a, with a child.

(x) "Sexual exploitation" includes allowing, permitting, or encouraging a child to engage in prostitution, or allowing, permitting, encouraging, or engaging in the photographing, filming, or depicting of a child engaged in a listed sexual act as defined in section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(y) "Specified information" means information in a central registry case record that relates specifically to referrals or reports of child abuse or neglect. Specified information does not include any of the following:

(*i*) Except as provided in this subparagraph regarding a perpetrator of child abuse or neglect, personal identification information for any individual identified in a child protective services record. The exclusion of personal identification information as specified information prescribed by this subparagraph does not include personal identification information identifying an individual alleged to have perpetrated child abuse or neglect, which allegation has been classified as a central registry case.

(*ii*) Information in a law enforcement report as provided in section 7(8).

(*iii*) Any other information that is specifically designated as confidential under other law.

(z) "Structured decision-making tool" means the department document labeled "DSS-4752 (P3) (3-95)" or a revision of that document that better measures the risk of future harm to a child.

(aa) "Substantiated" means a child protective services case classified as a central registry case.

(bb) "Unsubstantiated" means a child protective services case the department classifies under sections 8 and 8d as category III, category IV, or category V.

722.623 Persons required to report child abuse or neglect; written report; transmitting report and results of investigation to prosecuting attorney, county family independence agency, or law enforcement agency; pregnancy of or venereal disease in child less than 12 years of age.

Sec. 3. (1) An individual is required to report under this act as follows:

(a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, certified social worker, social worker, social work technician, school administrator, school counselor or teacher, law enforcement officer, member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or neglect to the department. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school shall be considered adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

(b) A department employee who is 1 of the following and has reasonable cause to suspect child abuse or neglect shall make a report of suspected child abuse or neglect to the department:

(*i*) Eligibility specialist.

(*ii*) Family independence manager.

(*iii*) Family independence specialist.

(*iv*) Social services specialist.

(*v*) Social work specialist.

(*vi*) Social work specialist manager.

(*vii*) Welfare services specialist.

(2) The written report shall contain the name of the child and a description of the abuse or neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the abuse or neglect, and the manner in which the abuse or neglect occurred.

(3) The department shall inform the reporting person of the required contents of the written report at the time the oral report is made by the reporting person.

(4) The written report required in this section shall be mailed or otherwise transmitted to the county family independence agency of the county in which the child suspected of being abused or neglected is found.

(5) Upon receipt of a written report of suspected child abuse or neglect, the department may provide copies to the prosecuting attorney and the probate court of the counties in which the child suspected of being abused or neglected resides and is found.

(6) If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates a violation of sections 136b and 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and 750.520b to 750.520g, has occurred, or if the allegation, written report, or subsequent investigation indicates that the suspected child abuse or child neglect was committed by an individual who is not a person responsible for the child's health or welfare, including, but not limited to, a member of the clergy, a teacher, or a teacher's aide, the department shall transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county in which the incident occurred. If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the department believes that the report has basis in fact, the department shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child.

(7) If a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect and the allegation, written report, or subsequent investigation indicates that the child abuse or child neglect was committed by a person responsible for the child's health or welfare, the local law enforcement agency shall refer the allegation or provide a copy of the written report and the results of any investigation to the county family independence agency of the county in which the abused or neglected child is found, as required by subsection (1)(a). If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall transmit a copy of the

written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child. Nothing in this subsection or subsection (1) shall be construed to relieve the department of its responsibilities to investigate reports of suspected child abuse or child neglect under this act.

(8) For purposes of this act, the pregnancy of a child less than 12 years of age or the presence of a venereal disease in a child who is over 1 month of age but less than 12 years of age is reasonable cause to suspect child abuse and neglect have occurred.

722.631 Privileged communications.

Sec. 11. Any legally recognized privileged communication except that between attorney and client or that made to a member of the clergy in his or her professional character in a confession or similarly confidential communication is abrogated and shall not constitute grounds for excusing a report otherwise required to be made or for excluding evidence in a civil child protective proceeding resulting from a report made pursuant to this act. This section does not relieve a member of the clergy from reporting suspected child abuse or child neglect under section 3 if that member of the clergy receives information concerning suspected child abuse or child neglect while acting in any other capacity listed under section 3.

Effective date.

Enacting section 1. This amendatory act takes effect March 1, 2003.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 694]

(HB 5277)

AN ACT to amend 1925 PA 289, entitled "An act to create and maintain a fingerprint identification and criminal history records division within the department of state police; to require peace officers, persons in charge of certain institutions, and others to make reports respecting juvenile offenses, crimes, and criminals to the state police; to require the fingerprinting of an accused by certain persons; and to provide penalties and remedies for a violation of this act," by amending section 3 (MCL 28.243), as amended by 2001 PA 203.

The People of the State of Michigan enact:

28.243 Taking and forwarding fingerprints of person arrested; manner; destruction of fingerprints and arrest card; duties of clerk on final disposition of charge; contents of report; informing director of federal bureau of investigation; comparison of fingerprints and description with those on file; informing arresting agency and prosecuting attorney; applicability of provisions; prohibited conduct under subsection (5).

Sec. 3. (1) Except as provided in subsection (3), immediately upon the arrest of a person for a felony or for a misdemeanor violation of state law for which the maximum

possible penalty exceeds 92 days' imprisonment or a fine of $1,000.00, or both, or for criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, or for a juvenile offense, other than a juvenile offense for which the maximum possible penalty does not exceed 92 days' imprisonment or a fine of $1,000.00, or both, the arresting law enforcement agency in this state shall take the person's fingerprints and forward the fingerprints to the department within 72 hours after the arrest. The fingerprints shall be sent to the department on forms furnished by or in a manner prescribed by the department, and the department shall forward the fingerprints to the director of the federal bureau of investigation on forms furnished by or in a manner prescribed by the director.

(2) A law enforcement agency shall take a person's fingerprints under this subsection if the person is arrested for a misdemeanor violation of state law for which the maximum penalty is 93 days or for criminal contempt under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that satisfies the conditions for validity provided in section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, if the fingerprints have not previously been taken and forwarded to the department under subsection (1). A law enforcement agency shall take a person's fingerprints under this subsection if the person is arrested for a violation of a local ordinance for which the maximum possible penalty is 93 days' imprisonment and that substantially corresponds to a violation of state law that is a misdemeanor for which the maximum possible term of imprisonment is 93 days. If the person is convicted of any violation, the law enforcement agency shall take the person's fingerprints before sentencing if not previously taken. The court shall forward to the law enforcement agency a copy of the disposition of conviction, and the law enforcement agency shall forward the person's fingerprints and the copy of the disposition of conviction to the department within 72 hours after receiving the disposition of conviction in the same manner as provided in subsection (1). If the person is convicted of violating a local ordinance, the law enforcement agency shall indicate on the form sent to the department the statutory citation for the state law to which the local ordinance substantially corresponds.

(3) A person's fingerprints are not required to be taken and forwarded to the department under subsection (1) or (2) solely because he or she has been convicted of violating section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904, or a local ordinance substantially corresponding to section 904(3)(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.904.

(4) The arresting law enforcement agency may take 1 set of fingerprints of a person who is arrested for a misdemeanor punishable by imprisonment for not more than 92 days or a fine of not more than $1,000.00, or both, and who fails to produce satisfactory evidence of identification as required by section 1 of 1961 PA 44, MCL 780.581. These fingerprints shall be forwarded to the department immediately. Upon completion of the identification process by the department, the fingerprints shall be destroyed.

(5) An arresting law enforcement agency in this state may take the person's fingerprints on forms furnished by the commanding officer upon an arrest for a misdemeanor other than a misdemeanor described in subsection (1), (2), or (4), and may forward the fingerprints to the department.

(6) If a court orders the taking of fingerprints of a person pursuant to section 11 or 18 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.11 and 712A.18, or section 29 of chapter IV or section 1 of chapter IX of the code of criminal procedure, 1927

PA 175, MCL 764.29 and 769.1, the law enforcement agency shall forward the fingerprints and arrest card to the department.

(7) If a petition is not authorized for a juvenile accused of a juvenile offense, if a person arrested for having committed an offense for which he or she was fingerprinted under this section is released without a charge made against him or her, or if criminal contempt proceedings are not brought or criminal charges are not made against a person arrested for criminal contempt for a personal protection order violation under section 2950 or 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a, or criminal contempt for a violation of a foreign protection order that meets the requirements for validity under section 2950i of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950i, the official taking or holding the person's fingerprints and arrest card shall immediately destroy the fingerprints and arrest card. The law enforcement agency shall notify the department in writing that a petition was not authorized against the juvenile or that a charge was not made or that a criminal contempt proceeding was not brought against the arrested person if the juvenile's or arrested person's fingerprints were forwarded to the department.

(8) If a juvenile is adjudicated and found not to be within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or if an accused is found not guilty of an offense for which he or she was fingerprinted under this section, upon final disposition of the charge against the accused or juvenile, the fingerprints and arrest card shall be destroyed by the official holding those items and the clerk of the court entering the disposition shall notify the department of any finding of not guilty or not guilty by reason of insanity, dismissal, or nolle prosequi, if it appears that the accused was initially fingerprinted under this section, or of any finding that a juvenile alleged responsible for a juvenile offense is not within the provisions of section 2(a)(1) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(9) Upon final disposition of the charge against the accused, the clerk of the court entering the disposition shall immediately advise the department of the final disposition of the arrest for which the person was fingerprinted if a juvenile was adjudicated to have committed a juvenile offense or if the accused was convicted of an offense for which he or she was fingerprinted under this section or section 16a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16a. With regard to any adjudication or conviction, the clerk shall transmit to the department information as to any adjudication or finding of guilty or guilty but mentally ill; any plea of guilty, nolo contendere, or guilty but mentally ill; the offense of which the accused was convicted; and a summary of any deposition or sentence imposed. The summary of the sentence shall include any probationary term; any minimum, maximum, or alternative term of imprisonment; the total of all fines, costs, and restitution ordered; and any modification of sentence. If the sentence is imposed under any of the following sections, the report shall so indicate:

(a) Section 7411 of the public health code, 1978 PA 368, MCL 333.7411.

(b) Sections 11 to 15 of chapter II of the code of criminal procedure, 1927 PA 175, MCL 762.11 to 762.15.

(c) Section 4a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.4a.

(d) Section 350a(4) of the Michigan penal code, 1931 PA 328, MCL 750.350a.

(10) The department shall record the disposition of each charge and shall inform the director of the federal bureau of investigation of the final disposition of any arrest or offense for which a person was fingerprinted under this section or section 16a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16a.

(11) The department shall compare the fingerprints and description received with those already on file and if the department finds that the person arrested has a criminal record, the department shall immediately inform the arresting agency and prosecuting attorney of this fact.

(12) The provisions of subsection (8) that require the destruction of the fingerprints and the arrest card do not apply to a person who was arraigned in circuit court or the family division of circuit court for any of the following:

(a) The commission or attempted commission of a crime with or against a child under 16 years of age.

(b) Rape.

(c) Criminal sexual conduct in any degree.

(d) Sodomy.

(e) Gross indecency.

(f) Indecent liberties.

(g) Child abusive commercial activities.

(h) A person who has a prior conviction, other than a misdemeanor traffic offense, unless a judge of a court of record, except the probate court, by express order on the record, orders the destruction or return of the fingerprints and arrest card.

(i) A person arrested who is a juvenile charged with an offense that would constitute the commission or attempted commission of any of the crimes in this subsection if committed by an adult.

(13) Subsection (5) does not permit the forwarding to the department of the fingerprints of a person accused and convicted under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or a local ordinance substantially corresponding to a provision of that act, unless the offense is punishable upon conviction by imprisonment for more than 92 days or is an offense that is punishable by imprisonment for more than 92 days upon a subsequent conviction.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 695]

(HB 5583)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure

of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1285a (MCL 380.1285a), as added by 1996 PA 285.

The People of the State of Michigan enact:

380.1285a Child care center subject to fire prevention or fire safety requirements; requirements for operation of before- or after-school program.

Sec. 1285a. (1) If a school district or intermediate school district operates a child care center, as defined in section 1 of 1973 PA 116, MCL 722.111, then, except as provided in this subsection, the child care center is subject to the requirements of 1973 PA 116, MCL 722.111 to 722.128. If a child care center established and operated by a school district or intermediate school district is located in a school building that is approved and inspected by the state fire marshal or other similar authority as provided in section 3 of 1937 PA 306, MCL 388.853, for school purposes and is in compliance with school fire safety rules, as determined by the state fire marshal or a fire inspector certified pursuant to section 2b of the fire prevention code, 1941 PA 207, MCL 29.2b, the child care center is not subject to any fire prevention or fire safety requirements under 1973 PA 116, MCL 722.111 to 722.128. Beginning July 1, 2003, as used in this subsection, "child care center" does not include a program described in subsection (2) that has been granted an exemption from child care center approval by the department of consumer and industry services as provided under section 1(2) of 1973 PA 116, MCL 722.111.

(2) Beginning July 1, 2003, if a school district, public school academy, or intermediate school district operates or contracts for the operation of a before- or after-school program for children in grades K to 8, and if the program is exempt from child care center approval as provided under section 1(2) of 1973 PA 116, MCL 722.111, all of the following apply to the operation of the program:

(a) The program shall meet all of the following staffing requirements:

(*i*) Shall have at least 2 adult program staff members present at all times when children are present.

(*ii*) Shall have a child to adult program staff member ratio that meets the following:

(a) For children in grades K to 3, is no greater than the lesser of either 20 children to 1 adult program staff member or the average pupil to teacher ratio during school hours in that school district, public school academy, or intermediate school district in regular K to 3 classrooms.

(b) For children in grades 4 to 8, is no greater than the lesser of either 25 children to 1 adult program staff member or the average pupil to teacher ratio during school hours in that school district, public school academy, or intermediate school district in regular grade 4 to 8 classrooms.

(*iii*) Within 3 months after he or she begins to work in the program, each adult program staff member shall hold valid certification in cardiopulmonary resuscitation and basic first aid issued by the American red cross, American heart association, or a comparable organization or institution approved by the department.

(b) The program shall be located at school in facilities comparable to rooms used by pupils during the regular school day.

(c) The program shall provide daily activities and relationships that offer each child in the program opportunities for physical development; social development, including positive self-concept; and intellectual development.

(d) If food is served, the food service shall comply with the same nutrition requirements that apply to food service by the school district, public school academy, or intermediate school district during the regular school day.

(e) If the school district, public school academy, or intermediate school district uses its employees to staff the program, before assigning a staff member to work in the program, the school district, public school academy, or intermediate school district shall comply with sections 1230 and 1230a with respect to that individual to the same extent as if the individual were being hired as a teacher. If the school district, public school academy, or intermediate school district contracts for the operation or staffing of the program, the contract shall contain assurance that the contracting person or entity, before assigning an individual to work in the program, will comply with sections 1230 and 1230a with respect to that individual to the same extent as if the person or entity were a school district employing the individual as a teacher. The department of state police shall provide information to a school district, public school academy, intermediate school district, or contracting person or entity requesting information under this subdivision to the same extent as if the school district, public school academy, intermediate school district, or person or entity were a school district making the request under section 1230 or 1230a.

(f) The board of the school district or intermediate school district or board of directors of the public school academy, in consultation with the director of the program and the principal of the school at which the program is operated, shall develop, adopt, and annually review a policy concerning the program that, at a minimum, addresses safety procedures for the program, including first aid, food safety, discipline, dispensing and storage of medication, and access to student emergency information and telephones.

(g) Not later than September 1 of each school year, the board of the school district or intermediate school district or board of directors of the public school academy shall adopt and submit to the secretary of the intermediate school board a resolution affirming that the program and the corresponding policies comply with this section. This submission shall include a copy of the policy under subdivision (f).

(h) The board of the school district or intermediate school district or board of directors of the public school academy shall make copies of the policy under subdivision (f), and of any annual reviews or revisions, available to the public.

(3) Not later than April 1, 2003, the department, in consultation with the department of consumer and industry services, shall develop and make available to the public model standards for before- or after-school programs operated under subsection (2) that address human relationships; indoor environment; outdoor environment; activities; safety, health, and nutrition; and administration. In developing these model standards, the department shall give substantial consideration to similar factors in the requirements placed on child care centers under 1973 PA 116, MCL 722.111 to 722.128. A school district, public school academy, or intermediate school district is not required to follow these model standards.

(4) Beginning July 1, 2003, the board of a school district or intermediate school district or board of directors of a public school academy shall ensure that any written information published or distributed by the school district, public school academy, or intermediate school district concerning a before- or after-school program it operates under subsection (2) includes a statement in at least 10-point type notifying the public whether the program follows or deviates from the model standards developed under subsection (3).

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5584 of the 91st Legislature is enacted into law.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 5584, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 696, Eff. Mar. 31, 2003.

[No. 696]

(HB 5584)

AN ACT to amend 1973 PA 116, entitled "An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts," by amending section 1 (MCL 722.111), as amended by 1994 PA 205.

The People of the State of Michigan enact:

722.111 Definitions; exemption from act.

Sec. 1. (1) As used in this act:

(a) "Child care organization" means a governmental or nongovernmental organization having as its principal function the receiving of minor children for care, maintenance, training, and supervision, notwithstanding that educational instruction may be given. Child care organization includes organizations commonly described as child caring institutions, child placing agencies, children's camps, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, group homes, or day care homes. Child care organization does not include a governmental or nongovernmental organization that does either of the following:

(*i*) Provides care exclusively to minors who have been emancipated by court order pursuant to section 4(3) of 1968 PA 293, MCL 722.4.

(*ii*) Provides care exclusively to persons who are 18 years of age or older and to minors who have been emancipated by court order pursuant to section 4(3) of 1968 PA 293, MCL 722.4, at the same location.

(b) "Child caring institution" means a child care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the child caring institution for that purpose, and operates throughout the year. An educational program may be provided, but the educational program shall not be the primary purpose of the facility. Child caring institution includes a maternity home for the care of unmarried mothers who are minors and an agency group home, that is described as a small child caring institution owned, leased, or rented by a licensed agency providing care for more than 4 but less than 13 minor children. Child caring institution also includes institutions for mentally retarded or emotionally disturbed minor children. Child caring institution does not include a hospital, nursing home, or home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, a boarding school licensed under section 1335 of the revised school code, 1976 PA 451, MCL 380.1335, a hospital or facility operated by the state or licensed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, or an adult foster care family home or an adult foster care small group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, in which a child has been placed pursuant to section 5(6).

(c) "Child placing agency" means a governmental organization or an agency organized pursuant to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192, for the purpose of receiving children for placement in private family homes for foster care or for

adoption. The function of a child placing agency may include investigating applicants for adoption and investigating and certifying foster family homes and foster family group homes as provided in this act. The function of a child placing agency may also include supervising children who are 16 or 17 years of age and who are living in unlicensed residences as provided in section 5(4).

(d) "Children's camp" means a residential, day, troop, or travel camp conducted in a natural environment for more than 4 school-age children, apart from the children's parents, relatives, or legal guardians, for 5 or more days in a 14-day period. A children's camp provides care and supervision for the same group of children for usually not more than 12 weeks.

(e) "Child care center" or "day care center" means a facility, other than a private residence, receiving 1 or more preschool or school-age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, or drop-in center. Child care center or day care center does not include any of the following:

(*i*) A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than 3 hours per day for an indefinite period or for not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.

(*ii*) A facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services.

(*iii*) Beginning July 1, 2003, a facility or program for school-age children that is operated at a school by a public school or by a person or entity with whom a public school contracts for services, in accordance with section 1285a(2) of the revised school code, 1976 PA 451, MCL 380.1285a, if that facility or program has been granted an exemption under subsection (2).

(f) "Private home" means a private residence in which the licensee or registrant permanently resides as a member of the household, which residency is not contingent upon caring for children or employment by a licensed or approved child placing agency. Private home includes a full-time foster family home, a full-time foster family group home, a group day care home, or a family day care home, as follows:

(*i*) "Foster family home" is a private home in which 1 but not more than 4 minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household pursuant to the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, are given care and supervision for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.

(*ii*) "Foster family group home" means a private home in which more than 4 but fewer than 7 minor children, who are not related to an adult member of the household by blood or marriage, or who are not placed in the household pursuant to the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, are provided care for 24 hours a day, for 4 or more days a week, for 2 or more consecutive weeks, unattended by a parent or legal guardian.

(*iii*) "Family day care home" means a private home in which 1 but fewer than 7 minor children are received for care and supervision for periods of less than 24 hours a day,

unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

(*iv*) "Group day care home" means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year.

(g) "Licensee" means a person, partnership, firm, corporation, association, nongovernmental organization, or local or state government child care organization that has been issued a license under this act to operate a child care organization.

(h) "Provisional license" means a license issued to a child care organization that is temporarily unable to conform to all of the rules promulgated under this act.

(i) "Regular license" means a license issued to a child care organization indicating that the organization is in compliance with all rules promulgated under this act.

(j) "Guardian" means the guardian of the person.

(k) "Minor child" means any of the following:

(*i*) A person less than 18 years of age.

(*ii*) A person who is a resident in a child caring institution, children's camp, foster family home, or foster family group home; who becomes 18 years of age while residing in the child caring institution, children's camp, foster family home, or foster family group home; and who continues residing in the child caring institution, children's camp, foster family home, or foster family group home to receive care, maintenance, training, and supervision. However, a minor child under this subparagraph does not include a person 18 years of age or older who is placed in a child caring institution, foster family home, or foster family group home pursuant to an adjudication under section 2(a) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or section 1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1. This subparagraph applies only if the number of those residents who become 18 years of age does not exceed the following:

(A) Two, if the total number of residents is 10 or fewer.

(B) Three, if the total number of residents is not less than 11 and not more than 14.

(C) Four, if the total number of residents is not less than 15 and not more than 20.

(D) Five, if the total number of residents is 21 or more.

(*iii*) A person 18 years of age or older who is placed in a foster family home under section 5(7).

(*l*) "Registrant" means a person who has been issued a certificate of registration under this act to operate a family day care home.

(m) "Registration" means the process by which the department of consumer and industry services regulates family day care homes, and includes the requirement that a family day care home certify to the department that the family day care home has complied with and will continue to comply with the rules promulgated under this act.

(n) "Certificate of registration" means a written document issued under this act to a family day care home through registration.

(o) "Related" means a parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, cousin, great aunt, great uncle, or stepgrandparent related by marriage, blood, or adoption.

(p) "Religious organization" means church, ecclesiastical corporation, or group, not organized for pecuniary profit, that gathers for mutual support and edification in piety or worship of a supreme deity.

(2) A facility or program for school-age children that is operated at a school by a public school or by a person or entity with whom a public school contracts for services and that has been in operation and approved for a minimum of 4 years may apply to the department of consumer and industry services to be exempt from this act. The department of consumer and industry services shall respond to a facility or program requesting exemption under this subsection within 45 days from the date the completed application is received. The department of consumer and industry services may exempt from this act a facility or program that meets all of the following criteria:

(a) The facility or program has been in operation and approved for a minimum of 4 years before the application date.

(b) During the 4 years before the application date, the facility or program has not had a substantial violation of this act, rules promulgated under this act, or the terms of an approval under this act.

(c) The school board or board of directors adopts a resolution supporting the application for exemption described in this subsection.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5583 of the 91st Legislature is enacted into law.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 5583, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 695, Eff. Mar. 31, 2003.

[No. 697]

(SB 1164)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line

agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 3135 and 3163 (MCL 500.3135 and 500.3163), section 3135 as amended by 1995 PA 222.

The People of the State of Michigan enact:

500.3135 Tort liability for noneconomic loss; action for damages pursuant to subsection (1); abolition of tort liability; exceptions; action for damages pursuant to subsection (3)(d); commencement of action; removal; costs; decision as res judicata; "serious impairment of body function" defined.

Sec. 3135. (1) A person remains subject to tort liability for noneconomic loss caused by his or her ownership, maintenance, or use of a motor vehicle only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement.

(2) For a cause of action for damages pursuant to subsection (1) filed on or after July 26, 1996, all of the following apply:

(a) The issues of whether an injured person has suffered serious impairment of body function or permanent serious disfigurement are questions of law for the court if the court finds either of the following:

(*i*) There is no factual dispute concerning the nature and extent of the person's injuries.

(*ii*) There is a factual dispute concerning the nature and extent of the person's injuries, but the dispute is not material to the determination as to whether the person has suffered a serious impairment of body function or permanent serious disfigurement. However, for a closed-head injury, a question of fact for the jury is created if a licensed allopathic or osteopathic physician who regularly diagnoses or treats closed-head injuries testifies under oath that there may be a serious neurological injury.

(b) Damages shall be assessed on the basis of comparative fault, except that damages shall not be assessed in favor of a party who is more than 50% at fault.

(c) Damages shall not be assessed in favor of a party who was operating his or her own vehicle at the time the injury occurred and did not have in effect for that motor vehicle the security required by section 3101 at the time the injury occurred.

(3) Notwithstanding any other provision of law, tort liability arising from the ownership, maintenance, or use within this state of a motor vehicle with respect to which the security required by section 3101 was in effect is abolished except as to:

(a) Intentionally caused harm to persons or property. Even though a person knows that harm to persons or property is substantially certain to be caused by his or her act or omission, the person does not cause or suffer that harm intentionally if he or she acts or refrains from acting for the purpose of averting injury to any person, including himself or herself, or for the purpose of averting damage to tangible property.

(b) Damages for noneconomic loss as provided and limited in subsections (1) and (2).

(c) Damages for allowable expenses, work loss, and survivor's loss as defined in sections 3107 to 3110 in excess of the daily, monthly, and 3-year limitations contained in those sections. The party liable for damages is entitled to an exemption reducing his or her liability by the amount of taxes that would have been payable on account of income the injured person would have received if he or she had not been injured.

(d) Damages for economic loss by a nonresident in excess of the personal protection insurance benefits provided under section 3163(4). Damages under this subdivision are not recoverable to the extent that benefits covering the same loss are available from other sources, regardless of the nature or number of benefit sources available and regardless of the nature or form of the benefits.

(e) Damages up to $500.00 to motor vehicles, to the extent that the damages are not covered by insurance. An action for damages pursuant to this subdivision shall be conducted in compliance with subsection (4).

(4) In an action for damages pursuant to subsection (3)(e):

(a) Damages shall be assessed on the basis of comparative fault, except that damages shall not be assessed in favor of a party who is more than 50% at fault.

(b) Liability shall not be a component of residual liability, as prescribed in section 3131, for which maintenance of security is required by this act.

(5) Actions under subsection (3)(e) shall be commenced, whenever legally possible, in the small claims division of the district court or the municipal court. If the defendant or plaintiff removes the action to a higher court and does not prevail, the judge may assess costs.

(6) A decision of a court made pursuant to subsection (3)(e) is not res judicata in any proceeding to determine any other liability arising from the same circumstances as gave rise to the action brought pursuant to subsection (3)(e).

(7) As used in this section, "serious impairment of body function" means an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life.

500.3163 Certification by admitted and nonadmitted insurers as to protection of out-of-state resident; rights and immunities of insurer and insureds; benefits to out-of-state resident; limitation.

Sec. 3163. (1) An insurer authorized to transact automobile liability insurance and personal and property protection insurance in this state shall file and maintain a written certification that any accidental bodily injury or property damage occurring in this state

arising from the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle by an out-of-state resident who is insured under its automobile liability insurance policies, is subject to the personal and property protection insurance system under this act.

(2) A nonadmitted insurer may voluntarily file the certification described in subsection (1).

(3) Except as otherwise provided in subsection (4), if a certification filed under subsection (1) or (2) applies to accidental bodily injury or property damage, the insurer and its insureds with respect to that injury or damage have the rights and immunities under this act for personal and property protection insureds, and claimants have the rights and benefits of personal and property protection insurance claimants, including the right to receive benefits from the electing insurer as if it were an insurer of personal and property protection insurance applicable to the accidental bodily injury or property damage.

(4) If an insurer of an out-of-state resident is required to provide benefits under subsections (1) to (3) to that out-of-state resident for accidental bodily injury for an accident in which the out-of-state resident was not an occupant of a motor vehicle registered in this state, the insurer is only liable for the amount of ultimate loss sustained up to $500,000.00. Benefits under this subsection are not recoverable to the extent that benefits covering the same loss are available from other sources, regardless of the nature or number of benefit sources available and regardless of the nature or form of the benefits.

Applicability of amendatory act.

Enacting section 1. This amendatory act applies to motor vehicle accidents that occur on or after January 1, 2003.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 698]

(SB 63)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 2567 (MCL 600.2567), as amended by 1990 PA 346, and by adding section 2568.

The People of the State of Michigan enact:

600.2567 Fees of register of deeds; imposition of fee by charter county; "page" defined.

Sec. 2567. (1) Except as provided in subsection (3), a register of deeds is entitled to the following fees, which are not taxable as costs except as indicated:

(a) For entering and recording a deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument, $8.00 for the first page and $3.00 for

each additional and succeeding page. The fee shall be paid when the deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument is left for record. Until December 31, 2006, the register of deeds shall deposit $5.00 of the total fee collected for each recording into the automation fund established under section 2568. For any document that assigns or discharges more than 1 instrument, $3.00 shall be added to the recording fee for each additional instrument assigned or discharged.

(b) For copies of any records or papers, if required, $1.00 per page, taxable as costs if otherwise allowed.

(c) For a seal to exemplification, $1.00.

(d) For searching the records and files, on request, by the office of the register of deeds, 50 cents for each year for which grantor/grantee searches are made, with a minimum fee of $5.00, except that the fee for tract index searches shall be based upon the cost of establishing and maintaining a tract index.

(e) For filing every other paper, and making an entry of it, if necessary, $1.00, unless otherwise specifically provided for.

(f) For searching for every other paper, on request, by the office of the register of deeds, $1.00 for each paper examined.

(2) In addition to any other fees prescribed in subsection (1) or (3), a register of deeds shall collect a fee of $2.00 for entering and recording a deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument. The fee shall be paid when the deed, mortgage, certified copy of an attachment, notice of the pendency of a suit, or other instrument is left for record.

(3) A charter county may impose a fee schedule by ordinance or resolution with different amounts than the amounts prescribed by subsection (1). A charter county shall not impose a fee that is greater than the cost of the service for which the fee is charged.

(4) As used in this section, "page" means 1 side of a single sheet of paper at least 8-1/2 inches by 11 inches in length and not exceeding 8-1/2 inches by 14 inches in length and not less than 20-pound weight.

600.2568 Automation fund.

Sec. 2568. (1) Each county in this state shall establish an automation fund, and that fund shall receive money deposited by the register of deeds of the county in accordance with section 2567. The county treasurer shall direct investment of the fund and shall credit to the fund interest and earnings from fund investments.

(2) The county register of deeds of each county shall expend the fees credited to the fund under section 2567 subject to an appropriation under the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, for upgrading technology in the register of deeds office, with priority given to upgrading search capabilities. Upgrading includes the design and purchase of equipment and supplies, and implementation of systems and procedures that allow the register of deeds to receive, enter, record, certify, index, store, search, retrieve, copy, and otherwise process by automated procedures and advanced technology documents, instruments, abstracts, maps, plats, and other items recorded and maintained by the register of deeds.

(3) Not later than 90 days after the effective date of the amendatory act that added this subsection, each register of deeds shall begin to implement procedures to process and make available all items recorded, compiled, or maintained by that register of deeds, using the automated procedures and advanced technology described in subsection (2) to the maximum extent feasible utilizing the fund created under subsection (1).

(4) Four years after the effective date of the amendatory act that added this section, the register of deeds of each county shall prepare a report to the legislature that addresses, but is not limited to, each of the following issues:

(a) The progress that has been made by the register of deeds since the effective date of the amendatory act that added this section in achieving a goal of timely processing of recordable instruments.

(b) The extent to which the register of deeds has made records in the register's possession computer accessible by way of internet websites or other on-line media.

(5) The reports required under subsection (4) may be compiled into a single report by an agent of the county registers of deeds before it is submitted to the legislature.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 699]

(HB 6446)

AN ACT to amend 1950 (Ex Sess) PA 27, entitled "An act defining and regulating certain installment sales of motor vehicles; prescribing the conditions under which such sales may be made and regulating the financing thereof; regulating and licensing persons engaged in the business of making or financing such sales; prescribing the form, contents and effect of instruments used in connection with such sales and the financing thereof; prescribing certain rights and obligations of buyers, sellers, persons financing such sales and others; limiting charges in connection with such instruments and fixing maximum interest rates for delinquencies, extensions and loans; regulating insurance in connection with such sales; regulating repossessions, redemptions, resales and deficiency judgments and the rights of parties with respect thereto; authorizing extensions, loans and forbearances related to such sales; authorizing investigations and examinations of persons engaged in the business of making or financing such sales; transferring certain powers and duties with respect to finance companies to the commissioner of the financial institutions bureau; and prescribing penalties," by amending sections 13 and 18 (MCL 492.113 and 492.118), section 13 as amended by 1990 PA 27 and section 18 as amended by 1995 PA 166.

The People of the State of Michigan enact:

492.113 Installment sale contract; contents; collateral security; notice of legal rights; liability.

Sec. 13. (1) An installment sale contract shall state the full names and addresses of all the parties to the contract and the date when signed by the buyer and shall contain a description of the motor vehicle sold that is sufficient for accurate identification.

(2) An installment sale contract shall set forth all of the following separate items in the following order:

(a) The cash price of the motor vehicle. This amount shall include any taxes, the cash price of agreed upon accessories and installation of the accessories, the cash price of any extended warranty or service contract, and a documentary preparation fee. The documentary preparation fee shall not exceed 5% of the cash price of the motor vehicle or $160.00, whichever is less. Beginning on January 1, 2005, the administrator shall adjust

the $160.00 maximum for the documentary preparation fee described in this subdivision every 2 years to reflect the cumulative percentage change in the consumer price index for the 2 immediately preceding calendar years, as determined by the administrator. The administrator shall round the adjustment to the nearest $10.00 increment to set the fee every 2 years under this subdivision, but shall carry over and use the absolute value to calculate the next 2-year adjustment. As used in this subdivision, "consumer price index" means the United States consumer price index for all urban consumers, U.S. city average, as defined and reported by the United States department of labor, bureau of labor statistics.

(b) The down payment made by the buyer at the time of or before execution of the contract, indicating whether made in cash, or represented by the agreed value of a trade-in motor vehicle or other goods, or both. The amount of cash and the value of any trade-in shall be shown separately. A description that is sufficient for identification of any trade-in shall be shown.

(c) The unpaid cash price balance, which is the difference between the cash price under subdivision (a) and the down payment under subdivision (b).

(d) The cost of any insurance premium or travel emergency benefits pertaining to the operation of the automobile that the seller agrees to extend credit to the buyer to obtain. The installment sale contract shall set forth the term of the insurance and a concise description of the terms of the insurance policy and the travel emergency benefits. If the precise cost of the insurance is not available at the time the contract is signed, an estimated amount, ascertained from the current published applicable manual of a recognized standard insurance rating bureau, may be set forth in the contract. The seller shall, within 25 days after making the installment contract, mail or cause to be mailed to the buyer at his or her address as shown on the installment contract a certificate or policy of insurance and a statement showing the exact cost of the insurance. Each installment sale contract shall contain the following warning, printed prominently in red ink and in 12-point type or larger, directly preceding the notice provided for in section 12(d), enclosed by a continuous heavy line:

Warning: The insurance afforded hereunder does not cover liability for injury to persons or damage to property of others unless so indicated hereon.

(e) Other necessary or incidental costs that the seller contracts to pay on behalf of the buyer and for the amount of which the seller agrees to extend credit to the buyer as authorized by this act. The contract shall contain an itemization of the nature and amount of the costs.

(f) The principal amount financed, which is the total of the amounts described in subdivisions (c), (d), and (e).

(g) The finance charge, which is the consideration in excess of the total of the cash price under subdivision (a), excluding the amounts described in subdivisions (d) and (e).

(h) The time balance, which is the total of the amounts described in subdivisions (f) and (g) and represents the total obligation of the buyer that he or she agrees to pay in 2 or more scheduled payments.

(i) The payment schedule, which shall state the number of payments, the amount of the payments, and the time of the payments required to liquidate the time balance.

(3) An installment sale contract shall state clearly any collateral security taken for the buyer's obligation under the contract.

(4) An installment sale contract shall contain a summary notice of the buyer's principal legal rights respecting prepayment of the contract and rebate of the finance charge and reinstatement of the contract in the event of repossession.

(5) An installment sale contract shall contain specific provisions as to the buyer's liability respecting default charges, repossession, and sale of the motor vehicle in case of default or other breach of contract, and respecting the collateral security, if any.

492.118 Finance charge on installment sale contract; maximum rate; computation.

Sec. 18. (1) A seller licensed under this act may charge the buyer a finance charge on any installment sale contract covering the retail sale of a motor vehicle in this state. The finance charge shall not exceed the rate permitted by the credit reform act, 1995 PA 162, MCL 445.1851 to 445.1864.

(2) The seller shall compute the finance charge on the principal amount financed as determined under section 13(2)(f).

(3) The seller shall compute the finance charge at the annual rates permitted by subsection (1) on installment sale contracts that are payable by installment payments, extending for a period of 1 year. On installment sale contracts providing for installment payments extending for a period that is less than or greater than 1 year, the seller shall compute the finance charge proportionately. If an installment sale contract provides for payment other than in equal successive weekly, semimonthly, or monthly installments, the finance charge may be at a rate that will provide the same annual percentage rate as is permitted on monthly payment contracts considering the schedule of payments in the contract. The seller shall disclose the annual percentage rate of the installment sales contract in accordance with disclosure requirements of the truth in lending act, title I of the consumer credit protection act, Public Law 90-321, 15 U.S.C. 1601 to 1608, 1610 to 1613, 1615, 1631 to 1635, 1637 to 1648, and 1661 to 1667e, and the regulations promulgated under the truth in lending act.

(4) The seller may compute the finance charge on the basis of a full month for a fractional month period in excess of 10 days.

(5) A seller may charge a minimum finance charge of $15.00 on an installment sale contract in which the finance charge, when computed at the rates indicated, results in a total charge of less than $15.00.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 700]

(HB 6490)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation

of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 2567a (MCL 600.2567a), as added by 1990 PA 346.

The People of the State of Michigan enact:

600.2567a Fee for recording instrument; amount and payment; additional to other fees; remittance and disposition of fees; limitation; applicability of section; "county plan" defined.

Sec. 2567a. (1) Except as otherwise provided in subsection (4), the county register of deeds shall collect a fee for recording any instrument. Before January 1, 2013, the fee shall be $4.00. Beginning January 1, 2013, the fee shall be $2.00. The fee shall be paid when the instrument is left for record.

(2) The fee required by this section is in addition to any fees required in section 2567 or fees or charges otherwise required by law for the recording of instruments.

(3) The fees collected under this section shall be remitted to the state treasurer quarterly, and shall be deposited by the state treasurer in the survey and remonumentation fund created in section 11 of the state survey and remonumentation act, 1990 PA 345, MCL 54.271, except that a county may retain not more than 1-1/2% of each fee collected under subsection (1) to cover the costs of administering this section.

(4) If, pursuant to a contract under section 8(5) of the state survey and remonumentation act, 1990 PA 345, MCL 54.268, a county has expended funds to expedite the completion of its county plan, the county may apply not more than 50% of its annual grant revenue under section 12(1)(a) of the state survey and remonumentation act, 1990 PA 345, MCL 54.272, to reimburse itself for these expenditures, until these expenditures have been fully reimbursed.

(5) This section does not apply to any of the following:

(a) An agency of the state when filing or recording any instrument with the county register of deeds under either of the following:

(*i*) The state tax lien registration act, 1968 PA 203, MCL 211.681 to 211.687.

(*ii*) Section 67a of the general property tax act, 1893 PA 206, MCL 211.67a.

(b) An individual or any public or private legal entity when recording a lien or discharge of a lien with the county register of deeds under section 15 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.15.

(c) An agency of the federal government when filing or recording any instrument with the county register of deeds under the uniform federal lien registration act, 1983 PA 102, MCL 211.661 to 211.668.

(d) An individual or any public or private legal entity when recording any instrument with the county register of deeds under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102.

(e) A foreclosing governmental unit when recording any instrument required under sections 78 to 78p of the general property tax act, 1893 PA 206, MCL 211.78 to 211.78p.

(6) As used in this section, "county plan" means a monumentation and remonumentation plan under section 8 of the state survey and remonumentation act, 1990 PA 345, MCL 54.268.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 701]

(HB 5742)

AN ACT to amend 1921 PA 302, entitled "An act to provide for the supervision of private, denominational and parochial schools; to provide the manner of securing funds in payment of the expense of such supervision; to provide the qualifications of the teachers in such schools; and to provide for the endorsement of the provisions hereof," by amending section 1 (MCL 388.551).

The People of the State of Michigan enact:

388.551 Private, denominational, and parochial schools; supervision by superintendent of public instruction; assistants; compensation; removal; intent of act.

Sec. 1. The superintendent of public instruction has supervision of all the private, denominational, and parochial schools of this state in such matters and manner as provided in this act. The superintendent of public instruction shall employ assistants and employees as may be necessary to comply with the provisions of this act. The number of assistants and employees is subject to the approval of the state administrative board. The salaries and expenses shall be paid by the state treasurer from the fund designated in this act at the time and in the manner as other state officers and employees are paid. The superintendent of public instruction may remove any appointee under this act at any time that the superintendent of public instruction considers advisable. It is the intent of this act that the sanitary conditions of the schools subject to this act, the courses of study in those schools, and the qualifications of the teachers in those schools shall be of the same standard as provided by the general school laws of this state.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 702]

(HB 5721)

AN ACT to amend 1893 PA 123, entitled "An act to provide for the maintenance, supervision and government of the Michigan school for the blind, and to repeal all acts and parts of acts inconsistent herewith," by repealing sections 9 and 10 (MCL 393.109 and 393.110).

The People of the State of Michigan enact:

Repeal of §§ 393.109 and 393.110.

Enacting section 1. Sections 9 and 10 of 1893 PA 123, MCL 393.109 and 393.110, are repealed.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 703]

(HB 5720)

AN ACT to amend 1893 PA 116, entitled "An act to provide for the maintenance, management and control, of the Michigan school for the deaf, and to repeal all laws inconsistent herewith," by repealing sections 10, 12, 14, and 16 (MCL 393.60, 393.62, 393.64, and 393.66).

The People of the State of Michigan enact:

Repeal of §§ 393.60, 393.62, 393.64, and 393.66.

Enacting section 1. Sections 10, 12, 14, and 16 of 1893 PA 116, MCL 393.60, 393.62, 393.64, and 393.66, are repealed.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 704]

(HB 5719)

AN ACT to amend 1942 (1st Ex Sess) PA 16, entitled "An act to designate the superintendent of public instruction as the state agency to apply to and receive from the federal government, or any agency thereof, grants in aid of the public schools of this state and educational activities in this state; and to provide for the disbursement thereof," by amending section 3 (MCL 388.803).

The People of the State of Michigan enact:

388.803 Deposit and disbursement of funds received.

Sec. 3. A grant or grants received by this state from the federal government under this act shall be paid in to the state treasurer. Disbursement of the funds from the state treasury shall be by warrant of the state treasurer.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 705]

(HB 5716)

AN ACT to amend 1941 PA 230, entitled "An act to authorize the auditor general of the state of Michigan to sell or lease real estate, the title to which is vested in the state of Michigan by grant, devise or gift, or in payment for care or medical treatment rendered in any Michigan state hospital or institution," by amending the title and sections 1, 2, 3, and 4 (MCL 322.1, 322.2, 322.3, and 322.4).

The People of the State of Michigan enact:

TITLE

An act to authorize the state treasurer to sell or lease certain real estate; and to prescribe certain requirements for that sale or lease.

322.1 Real estate acquired by state; sale or lease; authorization.

Sec. 1. Whenever the title to any real estate has vested in this state by grant, devise or gift, or in payment for care or medical treatment rendered in any state hospital or institution, the real estate or any part thereof may be sold or leased by the state treasurer with the approval of the state administrative board.

322.2 Appraisal of real estate; sale to highest bidder; notice.

Sec. 2. The state treasurer shall cause real estate described in section 1 to be appraised by 2 disinterested and qualified appraisers who are residents of the county in which the real estate is located, and then shall solicit and receive bids on the real estate. The real estate shall be sold to the highest bidder but in no case at less than the appraised value. However, the real estate shall not be sold until advertisement offering the property for sale has been published at least 3 successive weeks before the sale in a newspaper printed and circulated in the county in which the real estate is situated. If there is no newspaper printed and circulated in the county where the real estate is situated, then the notice shall be published in a newspaper printed and circulated nearest to the site of the real estate.

322.3 Terms of sale; credit; limitation; security.

Sec. 3. Upon sale of real estate under this act, the state treasurer may give such length of credit, not to exceed 5 years, and for not more than 3/4 of the purchase money, as the state treasurer considers best calculated to produce the highest price, and shall require the money for which credit is given to be secured by a mortgage on the real estate sold.

322.4 Notice of sale; deed of conveyance; documents attached; quitclaim deed.

Sec. 4. An affidavit of the publisher of the notice of sale required under section 2 shall be attached to the deed conveying real estate under this act, together with a copy of the notice of sale, showing the dates of publication of the notice. A copy of the resolution of the state administrative board approving the sale, certified by the secretary of the state administrative board, shall also be attached to the deed of conveyance. The conveyance of the property shall be by quitclaim deed, executed by the state treasurer for and on behalf of the people of this state.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 706]

(SB 115)

AN ACT to amend 1846 RS 14, entitled "Of county officers," by amending section 60 (MCL 49.160).

The People of the State of Michigan enact:

49.160 Special prosecuting attorney; appointment; powers and duties; assistant prosecuting attorney.

Sec. 60. (1) If the prosecuting attorney of a county determines himself or herself to be disqualified by reason of conflict of interest or is otherwise unable to attend to the duties of the office, he or she shall file with the attorney general a petition stating the conflict or the reason he or she is unable to serve and requesting the appointment of a special prosecuting attorney to perform the duties of the prosecuting attorney in any matter in which the prosecuting attorney is disqualified or until the prosecuting attorney is able to serve.

(2) If the attorney general determines that a prosecuting attorney is disqualified or otherwise unable to serve, the attorney general may elect to proceed in the matter or may appoint a prosecuting attorney or assistant prosecuting attorney who consents to the appointment to act as a special prosecuting attorney to perform the duties of the prosecuting attorney in any matter in which the prosecuting attorney is disqualified or until the prosecuting attorney is able to serve.

(3) A special prosecuting attorney appointed under this section is vested with all of the powers of the prosecuting attorney for the purpose of the appointment and during the period of appointment, including the power to investigate and initiate charges. The cost of prosecution, other than personnel costs, in any matter handled by a special prosecuting attorney shall be borne by the office of the prosecuting attorney who has been determined to be disqualified or otherwise unable to serve.

(4) This section does not apply if an assistant prosecuting attorney has been or can be appointed by the prosecuting attorney pursuant to section 18 of chapter 16 of the code of criminal procedure, 1927 PA 175, MCL 776.18, to perform the necessary duties within the constraints of that section or if an assistant prosecuting attorney has been otherwise appointed by the prosecuting attorney pursuant to law and is not disqualified from acting in place of the prosecuting attorney.

Effective date.

Enacting section 1. This amendatory act takes effect February 1, 2003.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 707]

(SB 1385)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons,

firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 2213 and 2213a (MCL 500.2213 and 500.2213a), section 2213 as amended by 2000 PA 252 and section 2213a as added by 1996 PA 517, and by adding section 2213c.

The People of the State of Michigan enact:

500.2213 Internal formal grievance procedure; approval by commissioner; contents; person authorized to act on behalf of insured or enrollee; section inapplicable to provider complaint and insurance listed in right to independent review act; definitions.

Sec. 2213. (1) Except as otherwise provided in subsection (4), each insurer and health maintenance organization shall establish an internal formal grievance procedure for approval by the commissioner for persons covered under a policy, certificate, or contract issued under chapter 34, 35, or 36 that includes all of the following:

(a) Provides for a designated person responsible for administering the grievance system.

(b) Provides a designated person or telephone number for receiving complaints.

(c) Ensures full investigation of a complaint.

(d) Provides for timely notification in plain English to the insured or enrollee as to the progress of an investigation.

(e) Provides an insured or enrollee the right to appear before the board of directors or designated committee or the right to a managerial-level conference to present a grievance.

(f) Provides for notification in plain English to the insured or enrollee of the results of the insurer's or health maintenance organization's investigation and for advisement of the insured's or enrollee's right to review the grievance by the commissioner or by an independent review organization under the patient's right to independent review act, 2000 PA 251, MCL 550.1901 to 550.1929.

(g) Provides summary data on the number and types of complaints and grievances filed. Beginning April 15, 2001, this summary data for the prior calendar year shall be filed annually with the commissioner on forms provided by the commissioner.

(h) Provides for periodic management and governing body review of the data to assure that appropriate actions have been taken.

(i) Provides for copies of all complaints and responses to be available at the principal office of the insurer or health maintenance organization for inspection by the commissioner for 2 years following the year the complaint was filed.

(j) That when an adverse determination is made, a written statement in plain English containing the reasons for the adverse determination is provided to the insured or enrollee along with written notifications as required under the patient's right to independent review act, 2000 PA 251, MCL 550.1901 to 550.1929.

(k) That a final determination will be made in writing by the insurer or health maintenance organization not later than 35 calendar days after a formal grievance is submitted in writing by the insured or enrollee. The timing for the 35-calendar-day period may be tolled, however, for any period of time the insured or enrollee is permitted to take under the grievance procedure and for a period of time that shall not exceed 10 business days if the insurer or health maintenance organization has not received requested information from a health care facility or health professional.

(*l*) That a determination will be made by the insurer or health maintenance organization not later than 72 hours after receipt of an expedited grievance. Within 10 days after receipt of a determination, the insured or enrollee may request a determination of the matter by the commissioner or his or her designee or by an independent review organization under the patient's right to independent review act, 2000 PA 251, MCL 550.1901 to 550.1929. If the determination by the insurer or health maintenance organization is made orally, the insurer or health maintenance organization shall provide a written confirmation of the determination to the insured or enrollee not later than 2 business days after the oral determination. An expedited grievance under this subdivision applies if a grievance is submitted and a physician, orally or in writing, substantiates that the time frame for a grievance under subdivision (k) would seriously jeopardize the life or health of the insured or enrollee or would jeopardize the insured's or enrollee's ability to regain maximum function.

(m) That the insured or enrollee has the right to a determination of the matter by the commissioner or his or her designee or by an independent review organization under the patient's right to independent review act, 2000 PA 251, MCL 550.1901 to 550.1929.

(2) An insured or enrollee may authorize in writing any person, including, but not limited to, a physician, to act on his or her behalf at any stage in a grievance proceeding under this section.

(3) This section does not apply to a provider's complaint concerning claims payment, handling, or reimbursement for health care services.

(4) This section does not apply to a policy, certificate, care, coverage, or insurance listed in section 5(2) of the patient's right to independent review act, 2000 PA 251, MCL 550.1905, as not being subject to the patient's right to independent review act, 2000 PA 251, MCL 550.1901 to 550.1929.

(5) As used in this section:

(a) "Adverse determination" means a determination that an admission, availability of care, continued stay, or other health care service has been reviewed and denied, reduced, or terminated. Failure to respond in a timely manner to a request for a determination constitutes an adverse determination.

(b) "Grievance" means a complaint on behalf of an insured or enrollee submitted by an insured or enrollee concerning any of the following:

(*i*) The availability, delivery, or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review.

(*ii*) Benefits or claims payment, handling, or reimbursement for health care services.

(*iii*) Matters pertaining to the contractual relationship between an insured or enrollee and the insurer or health maintenance organization.

500.2213a Expenses incurred by commissioner; calculation; assessment.

Sec. 2213a. (1) All actual and necessary expenses incurred by the commissioner under section 2213 shall be calculated by the commissioner by June 30 of each year for the immediately preceding fiscal year. Except as otherwise provided in subsection (2), the commissioner shall divide these expenses among all insurers who issue a policy or certificate under chapter 34 or 36 in this state on a pro rata basis according to the direct written premiums reported in each insurer's annual statement for the immediately preceding calendar year by each of those insurers. This assessment shall be paid within 30 days after receipt of the assessment and is in addition to the regulatory fee provided for in section 224.

(2) This section does not apply to a policy, certificate, care, coverage, or insurance listed in section 5(2) of the patient's right to independent review act, 2000 PA 251, MCL 550.1905, as not being subject to the patient's right to independent review act, 2000 PA 251, MCL 550.1901 to 550.1929.

500.2213c Disability income insurer; internal grievance procedure; establishment; contents; "grievance" defined.

Sec. 2213c. (1) Each disability income insurer shall establish an internal grievance procedure for persons covered under a disability income policy, certificate, or contract.

(2) An internal grievance procedure under subsection (1) shall include all of the following:

(a) Provide for a designated person responsible for administering the grievance procedure.

(b) Provide for a designated person or telephone number for receiving grievances.

(c) Ensure full investigation of a grievance.

(d) Provide for timely notification to the insured as to the progress of an investigation.

(e) Provide for the insured to have the right to have the grievance reviewed by a managerial-level person or group.

(f) Provide for notification to the insured of the results of the insurer's investigation and, if the insurer upholds its prior determination on the grievance, for advising the insured of his or her right to present the grievance to the commissioner for review.

(g) Provide that a final determination will be made in writing by the insurer not later than 45 calendar days after a grievance is submitted in writing by the insured unless the insurer requires an extension of time to obtain additional information to make a determination with respect to the subject of the grievance. The extension may not exceed 45 days from the end of the initial period unless the initial period is extended due to the insured's failure to submit information necessary to decide the claim on appeal. If the extension is due to an insured's failure to submit information, the period for making the determination shall be tolled until the date the insured responds to the request for additional information.

(h) Provide for copies of all grievances and responses to be available at the principal office of the insurer for inspection by the commissioner for 2 years following the year the grievance was filed.

(3) As used in this section, "grievance" means a written complaint by an insured concerning the payment of benefits under a disability income insurance policy.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 708]

(HB 4607)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain

assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding section 2213d.

The People of the State of Michigan enact:

500.2213d Uniform prescription drug information card or other technology.

Sec. 2213d. (1) A health benefit plan that provides coverage or administers a plan that provides coverage for prescription drugs or devices and that issues, uses, or requires a card or other technology for prescription claims submission and adjudication shall issue for the plan's insureds, enrollees, members, or participants a uniform prescription drug information card or other technology as provided for in this section.

(2) By July 1, 2003, the commissioner shall develop a uniform prescription drug information card and uniform prescription drug information technology based on the standards and format approved by the national council for prescription drug programs pharmacy ID card implementation guide. The card and technology shall include all of the national council for prescription drug programs standard information required by the health plan for submission and adjudication of claims for prescription drug or device benefits, or at a minimum contain all of the following labeled information:

(a) The card issuer name or logo on the front of the card.

(b) The cardholder's name and identification number, which shall be displayed on the front of the card.

(c) Complete information for electronic transaction claims routing including all of the following:

(*i*) The international identification number labeled as RxBIN.

(*ii*) The processor control number labeled as RxPCN, if required for proper routing of electronic claim transactions for prescription benefits.

(*iii*) The group number labeled as RxGrp, if required for proper routing of electronic claim transactions for prescription benefits.

(d) The name and address of the benefits administrator or other entity responsible for prescription claims submission, adjudication, or pharmacy provider correspondence for prescription benefits claims.

(e) A help desk telephone number that pharmacy providers may call for pharmacy benefit claims assistance.

(3) All information required by subsection (2) that is necessary for submission and adjudication of claims for prescription drug or device benefits, exclusive of information that can be derived from the prescription, shall be included in a clear, readable, and understandable manner on the uniform prescription drug information card or other technology issued by the health plan. The content and format of all information required by subsection (2) shall be in the current content and format required by the health plan for electronic claims routing, submission, and adjudication.

(4) The uniform prescription drug information card or uniform prescription drug information technology developed under this section shall be issued by a health plan upon enrollment and reissued upon any change in coverage that impacts data contained on the card or technology. However, a health plan is not required to issue a new uniform prescription drug information card or other technology more often than once in a calendar year and if a health plan issues stickers or another similar mechanism to the insureds, enrollees, members, or participants to update the cards, then the health plan is not required to issue new uniform prescription drug information cards or other technology more often than once in 3 years from the issuance of the first stickers or other similar mechanisms. This subsection does not prevent a health plan from reissuing updated new uniform prescription drug information cards or other technology on a more frequent basis.

(5) The uniform prescription drug information card or other technology may be used for any and all health insurance coverage. Nothing in this section requires any person issuing, using, or requiring the uniform prescription drug information card or other technology to issue, use, or require a separate card for prescription coverage, provided that the card or other technology can accommodate the information necessary to process the claim as required by subsection (2).

(6) As used in this section, "health plan" means all of the following but does not include a department of community health pharmacy program:

(a) An insurer providing benefits under an expense-incurred hospital, medical, or surgical policy or certificate, but does not include any of the following:

(*i*) Any policy or certificate that provides coverage only for any of the following:

(A) Vision.

(B) Dental.

(C) Specific diseases.

(D) Accidents.

(E) Credit.

(*ii*) Hospital indemnity policy or certificate.

(*iii*) Disability income policy or certificate.

(*iv*) Coverage issued as a supplement to liability insurance.

(*v*) Medical payments under automobile, homeowners, or worker's compensation insurance.

(b) A MEWA regulated under chapter 70 that provides hospital, medical, or surgical benefits.

(c) A health maintenance organization licensed or issued a certificate of authority in this state.

(d) A third party administrator licensed under the third party administrator act, 1984 PA 218, MCL 550.901 to 550.962.

Effective date.

Enacting section 1. (1) This amendatory act takes effect January 1, 2003.

(2) This amendatory act applies to all health plan coverages issued or renewed on or after July 1, 2005.

Legislative intent.

Enacting section 2. It is the intent of the legislature that pharmacists, by July 1, 2008, be able to obtain information on and submit claims for prescription drug or device benefits by electronic means, including, but not limited to, the internet.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 709]

(HB 6028)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 224a (MCL 750.224a).

The People of the State of Michigan enact:

750.224a Portable device or weapon directing electrical current, impulse, wave, or beam; sale or possession prohibited; exceptions; violation; penalty; definition.

Sec. 224a. (1) Except as otherwise provided in this section, a person shall not sell, offer for sale, or possess in this state a portable device or weapon from which an electrical current, impulse, wave, or beam may be directed, which current, impulse, wave, or beam is designed to incapacitate temporarily, injure, or kill.

(2) This section does not prohibit any of the following:

(a) The possession and reasonable use of a device that uses electro-muscular disruption technology by a peace officer, an employee of the department of corrections authorized in writing by the director of the department of corrections, probation officer, court officer, bail agent authorized under section 167b, licensed private investigator, aircraft pilot, or aircraft crew member, who has been trained in the use, effects, and risks of the device, while performing his or her official duties.

(b) Possession solely for the purpose of delivering a device described in subsection (1) to any governmental agency or to a laboratory for testing, with the prior written approval of the governmental agency or law enforcement agency and under conditions determined to be appropriate by that agency.

(3) A manufacturer, authorized importer, or authorized dealer may demonstrate, offer for sale, hold for sale, sell, give, lend, or deliver a device that uses electro-muscular

disruption technology to a person authorized to possess a device that uses electro-muscular disruption technology and may possess a device that uses electro-muscular disruption technology for any of those purposes.

(4) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(5) As used in this section, "a device that uses electro-muscular disruption technology" means a device to which all of the following apply:

(a) The device is capable of creating an electro-muscular disruption and is used or intended to be used as a defensive device capable of temporarily incapacitating or immobilizing a person by the direction or emission of conducted energy.

(b) The device contains an identification and tracking system that, when the device is initially used, dispenses coded material traceable to the purchaser through records kept by the manufacturer.

(c) The manufacturer of the device has a policy of providing the identification and tracking information described in subdivision (b) to a police agency upon written request by that agency.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 710]

(HB 6095)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 7212, 7401, 7402, 7403, and 7404 (MCL 333.7212, 333.7401, 333.7402, 333.7403, and 333.7404), section 7212 as amended by 1998 PA 248, sections 7401 and 7403 as amended by 2001 PA 236, and sections 7402 and 7404 as amended by 2000 PA 314.

The People of the State of Michigan enact:

333.7212 Schedule 1; controlled substances included.

Sec. 7212. (1) The following controlled substances are included in schedule 1:

(a) Any of the following opiates, including their isomers, esters, the ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetylmethadol	Difenoxin	Noracymethadol
Allylprodine	Dimenoxadol	Norlevorphanol
Alpha-acetylmethadol	Dimepheptanol	Normethadone
Alphameprodine	Dimethylthiambutene	Norpipanone
Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
Benzethidine	Dipipanone	Phenampromide
Betacetylmethadol	Ethylmethylthiambutene	Phenomorphan
Betameprodine	Etonitazene	Phenoperidine
Betamethadol	Etoxeridine	Piritramide
Betaprodine	Furethidine	Proheptazine
Clonitazene	Hydroxypethidine	Properidine
Dextromoramide	Ketobemidone	Propiram
Diampromide	Levomoramide	Racemoramide
Diethylthiambutene	Levophenacylmorphan	Trimeperidine
	Morpheridine	

(b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine	Drotebanol	Morphine-N-Oxide
Acetyldihydrocodeine	Etorphine	Myrophine
Benzylmorphine	Heroin	Nicocodeine
Codeine methylbromide	Hydromorphinol	Nicomorphine
Codeine-N-Oxide	Methyldesorphine	Normorphine
Cyprenorphine	Methyldihydromorphine	Pholcodine
Desomorphine	Morphine methylbromide	Thebacon
Dihydromorphine	Morphine methylsulfonate	

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

2-Methylamino-1-phenylpropan-1-one
Some trade and other names:
Methcathinone
Cat
Ephedrone

3, 4-methylenedioxy amphetamine
5-methoxy-3, 4-methylenedioxy amphetamine

3, 4, 5-trimethoxy amphetamine
Bufotenine

Some trade and other names:
3-(B-dimethylaminoethyl)-5 hydrozyindole
3-(2-dimethylaminoethyl)-5 indolol
N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
Mappine

2, 5-Dimethoxyamphetamine
Some trade or other names:

2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA

4-Bromo-2, 5-Dimethoxyamphetamine
Some trade or other names:
4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo 2,5-DMA

Diethyltryptamine
Some trade and other names:
N,N-Diethyltryptamine; DET

Dimethyltryptamine
Some trade or other names:
DMT

4-methyl-2, 5-dimethoxyamphetamine
Some trade and other names:
4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine
DOM, STP

4-methoxyamphetamine
Some trade or other names:
4-methoxy-a-methylphenethylamine; paramethoxy amphetamine; PMA

Ibogaine
Some trade and other names:
7-Ethyl-6,6a,7,8,9,10,12,13
Octahydro-2-methoxy-6,9-methano-5H-
pyrido (1, 2:1, 2 azepino 4, 5-b) indole
tabernanthe iboga

Lysergic acid diethylamide

Marihuana, except as otherwise provided in subsection (2)

Mecloqualone

Mescaline

Peyote

N-ethyl-3 piperidyl benzilate

N-methyl-3 piperidyl benzilate

Psilocybin

Psilocyn

Thiophene analog of phencyclidine
Some trade or other names:
1-(1-(2-thienyl)cyclohexyl) piperidine)
2-thienyl analog of phencyclidine; TPCP

(d) Except as provided in subsection (2), synthetic equivalents of the substances contained in the plant, or in the resinous extractives of cannabis and synthetic substances, derivatives, and their isomers with similar chemical structure or pharmacological activity, or both, such as the following, are included in schedule 1:

(*i*) Δ^1 cis or trans tetrahydrocannabinol, and their optical isomers.

(*ii*) Δ^6 cis or trans tetrahydrocannabinol, and their optical isomers.

(*iii*) $\Delta^{3,4,}$ cis or trans tetrahydrocannabinol, and their optical isomers.

(e) Compounds of structures of substances referred to in subdivision (d), regardless of numerical designation of atomic positions, are included.

(f) Gamma-hydroxybutyrate and any isomer, salt, or salt of isomer of gamma-hydroxybutyrate.

Some trade and other names:

Sodium oxybate

4-hydroxybutanoic acid monosodium salt

(g) 3,4-methylenedioxymethamphetamine.

Some trade and other names:

Ecstasy

MDMA

(2) Marihuana and the substances described in subsection (1)(d) and (e) in schedule 1 shall be regulated as provided in schedule 2, if they are dispensed in the manner provided in sections 7335 and 7336.

(3) For purposes of subsection (1), "isomer" includes the optical, position, and geometric isomers.

333.7401 Manufacturing, creating, delivering, or possessing with intent to manufacture, create, or deliver controlled substance, prescription form, or counterfeit prescription form; dispensing, prescribing, or administering controlled substance; violations; penalties; consecutive terms; discharge from lifetime probation; "plant" defined.

Sec. 7401. (1) Except as authorized by this article, a person shall not manufacture, create, deliver, or possess with intent to manufacture, create, or deliver a controlled substance, a prescription form, or a counterfeit prescription form. A practitioner licensed by the administrator under this article shall not dispense, prescribe, or administer a controlled substance for other than legitimate and professionally recognized therapeutic or scientific purposes or outside the scope of practice of the practitioner, licensee, or applicant.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*) and:

(*i*) Which is in an amount of 1,000 grams or more of any mixture containing that substance is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $1,000,000.00, or both.

(*ii*) Which is in an amount of 450 grams or more, but less than 1,000 grams, of any mixture containing that substance is guilty of a felony and punishable by imprisonment for not more than 30 years or a fine of not more than $500,000.00, or both.

(*iii*) Which is in an amount of 50 grams or more, but less than 450 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $250,000.00, or both.

(*iv*) Which is in an amount less than 50 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $25,000.00, or both.

(b) Either of the following:

(*i*) A substance described in section 7212(1)(g) or 7214(c)(*ii*) is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $25,000.00, or both.

(*ii*) Any other controlled substance classified in schedule 1, 2, or 3, except marihuana is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than $10,000.00, or both.

(c) A substance classified in schedule 4 is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(d) Marihuana or a mixture containing marihuana is guilty of a felony punishable as follows:

(*i*) If the amount is 45 kilograms or more, or 200 plants or more, by imprisonment for not more than 15 years or a fine of not more than $10,000,000.00, or both.

(*ii*) If the amount is 5 kilograms or more but less than 45 kilograms, or 20 plants or more but fewer than 200 plants, by imprisonment for not more than 7 years or a fine of not more than $500,000.00, or both.

(*iii*) If the amount is less than 5 kilograms or fewer than 20 plants, by imprisonment for not more than 4 years or a fine of not more than $20,000.00, or both.

(e) A substance classified in schedule 5 is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(f) A prescription form or a counterfeit prescription form is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than $5,000.00, or both.

(3) A term of imprisonment imposed under subsection (2)(a) may be imposed to run consecutively with any term of imprisonment imposed for the commission of another felony.

(4) If an individual was sentenced to lifetime probation under subsection (2)(a)(*iv*) before the effective date of the amendatory act that added this subsection and the individual has served 5 or more years of that probationary period, the probation officer for that individual may recommend to the court that the court discharge the individual from probation. If an individual's probation officer does not recommend discharge as provided in this subsection, with notice to the prosecutor, the individual may petition the court seeking resentencing under the court rules. The court may discharge an individual from probation as provided in this subsection. An individual may file more than 1 motion seeking resentencing under this subsection.

(5) As used in this section, "plant" means a marihuana plant that has produced cotyledons or a cutting of a marihuana plant that has produced cotyledons.

333.7402 Creating, manufacturing, delivering, or possessing with intent to deliver counterfeit substance or controlled substance analogue intended for human consumption; applicability of section and certain federal provisions; violations; penalties.

Sec. 7402. (1) Except as authorized by this article, a person shall not create, manufacture, deliver, or possess with intent to deliver a counterfeit substance or a controlled substance analogue intended for human consumption. This section does not apply to a

person who manufactures or distributes a substance in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. 355. For purposes of this section, section 505 of the federal food, drug, and cosmetic act shall be applicable to the introduction or delivery for introduction of any new drug into intrastate, interstate, or foreign commerce.

(2) A person who violates this section as to:

(a) A counterfeit substance classified in schedule 1 or 2 which is either a narcotic drug or a drug described in section 7212(1)(g) or 7214(a)(*iv*) or (c)(*ii*), is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both.

(b) Any other counterfeit substance classified in schedule 1, 2, or 3, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both.

(c) A counterfeit substance classified in schedule 4, is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(d) A counterfeit substance classified in schedule 5, is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(e) A controlled substance analogue, is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $250,000.00, or both.

333.7403 Knowingly or intentionally possessing controlled substance, controlled substance analogue, or prescription form; violations; penalties; discharge from lifetime probation.

Sec. 7403. (1) A person shall not knowingly or intentionally possess a controlled substance, a controlled substance analogue, or a prescription form unless the controlled substance, controlled substance analogue, or prescription form was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this article.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(*iv*), and:

(*i*) Which is in an amount of 1,000 grams or more of any mixture containing that substance is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $1,000,000.00, or both.

(*ii*) Which is in an amount of 450 grams or more, but less than 1,000 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 30 years or a fine of not more than $500,000.00, or both.

(*iii*) Which is in an amount of 50 grams or more, but less than 450 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $250,000.00, or both.

(*iv*) Which is in an amount of 25 grams or more, but less than 50 grams of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $25,000.00, or both.

(*v*) Which is in an amount less than 25 grams of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $25,000.00, or both.

(b) Either of the following:

(*i*) A substance described in section 7212(1)(g) or 7214(c)(*ii*) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00, or both.

(*ii*) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance for which a penalty is prescribed in subdivision (a), (b)(*i*), (c), or (d), or a controlled substance analogue is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5 is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(d) Marihuana is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(e) A prescription form is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(3) If an individual was sentenced to lifetime probation under subsection (2)(a)(*iv*) before the effective date of the amendatory act that added this subsection and the individual has served 5 or more years of that probationary period, the probation officer for that individual may recommend to the court that the court discharge the individual from probation. If an individual's probation officer does not recommend discharge as provided in this subsection, with notice to the prosecutor, the individual may petition the court seeking resentencing under the court rules. The court may discharge an individual from probation as provided in this subsection. An individual may file more than 1 motion seeking resentencing under this subsection.

333.7404 Use of controlled substance or controlled substance analogue; violations; penalties.

Sec. 7404. (1) A person shall not use a controlled substance or controlled substance analogue unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this article.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 as a narcotic drug or a drug described in section 7212(1)(g) or 7214(a)(*iv*) or (c)(*ii*) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(b) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance for which a penalty is prescribed in subdivision (a), (c), or (d), or a controlled substance analogue, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $500.00, or both.

(d) Marihuana, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2003.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 711]

(HB 6096)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 13m of chapter XVII (MCL 777.13m), as added by 2002 PA 30.

The People of the State of Michigan enact:

CHAPTER XVII

777.13m Applicability of chapter to certain felonies; §§ 333.7341(8) to 333.7410a.

Sec. 13m. This chapter applies to the following felonies enumerated in chapter 333 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
333.7341(8)	CS	G	Delivery or manufacture of imitation controlled substance	2
333.7401(2)(a)(*i*)	CS	A	Delivery or manufacture of 1,000 or more grams of certain schedule 1 or 2 controlled substances	Life
333.7401(2)(a)(*ii*)	CS	A	Delivery or manufacture of 450 or more but less than 1,000 grams of certain schedule 1 or 2 controlled substances	30
333.7401(2)(a)(*iii*)	CS	B	Delivery or manufacture of 50 or more but less than 450 grams of certain schedule 1 or 2 controlled substances	20

333.7401(2)(a)(*iv*)	CS	D	Delivery or manufacture of less than 50 grams of certain schedule 1 or 2 controlled substances	20
333.7401(2)(b)(*i*)	CS	B	Delivery or manufacture of meth-amphetamine or 3, 4-methylene-dioxymethamphetamine	20
333.7401(2)(b)(*ii*)	CS	E	Delivery or manufacture of certain schedule 1, 2, or 3 controlled substances	7
333.7401(2)(c)	CS	F	Delivery or manufacture of schedule 4 controlled substance	4
333.7401(2)(d)(*i*)	CS	C	Delivery or manufacture of 45 or more kilograms of marijuana	15
333.7401(2)(d)(*ii*)	CS	D	Delivery or manufacture of 5 or more but less than 45 kilograms of marijuana	7
333.7401(2)(d)(*iii*)	CS	F	Delivery or manufacture of less than 5 kilograms or 20 plants of marijuana	4
333.7401(2)(e)	CS	G	Delivery or manufacture of schedule 5 controlled substance	2
333.7401(2)(f)	CS	D	Delivery or manufacture of an official or counterfeit prescrip-tion form	20
333.7401(2)(g)	CS	D	Delivery or manufacture of pre-scription or counterfeit form (other than official)	7
333.7401a	Person	B	Delivering a controlled substance or GBL with intent to commit criminal sexual conduct	20
333.7401b(3)(a)	CS	E	Delivery or manufacture of GBL	7
333.7401b(3)(b)	CS	G	Possession of GBL	2
333.7401c(2)(a)	CS	D	Operating or maintaining controlled substance laboratory	10
333.7401c(2)(b)	CS	B	Operating or maintaining controlled substance laboratory in presence of minor	20
333.7401c(2)(c)	CS	B	Operating or maintaining controlled substance laboratory involving hazardous waste	20
333.7401c(2)(d)	CS	B	Operating or maintaining controlled substance laboratory near certain places	20
333.7401c(2)(e)	CS	A	Operating or maintaining controlled substance laboratory involving firearm or other harmful device	25
333.7402(2)(a)	CS	D	Delivery or manufacture of certain imitation controlled substances	10
333.7402(2)(b)	CS	E	Delivery or manufacture of schedule 1, 2, or 3 imitation controlled substance	5

333.7402(2)(c)	CS	F	Delivery or manufacture of imitation schedule 4 controlled substance	4
333.7402(2)(d)	CS	G	Delivery or manufacture of imitation schedule 5 controlled substance	2
333.7402(2)(e)	CS	C	Delivery or manufacture of controlled substance analogue	15
333.7403(2)(a)(*i*)	CS	A	Possession of 1,000 or more grams of certain schedule 1 or 2 controlled substances	Life
333.7403(2)(a)(*ii*)	CS	A	Possession of 450 or more but less than 1,000 grams of certain schedule 1 or 2 controlled substances	30
333.7403(2)(a)(*iii*)	CS	B	Possession of 50 or more but less than 450 grams of certain schedule 1 or 2 controlled substances	20
333.7403(2)(a)(*iv*)	CS	G	Possession of 25 or more but less than 50 grams of certain schedule 1 or 2 controlled substances	4
333.7403(2)(a)(*v*)	CS	G	Possession of less than 25 grams of certain schedule 1 or 2 controlled substances	4
333.7403(2)(b)(*i*)	CS	D	Possession of methamphetamine or 3, 4-methylenedioxymethamphetamine	10
333.7403(2)(b)(*ii*)	CS	G	Possession of certain schedule 1, 2, 3, or 4 controlled substances or controlled substances analogue	2
333.7403(2)(e)	CS	H	Possession of official prescription form	1
333.7405(a)	CS	G	Controlled substance violations by licensee	2
333.7405(b)	CS	G	Manufacturing or distribution violations by licensee	2
333.7405(c)	CS	G	Refusing lawful inspection	2
333.7405(d)	CS	G	Maintaining drug house	2
333.7407(1)(a)	CS	G	Controlled substance violations by licensee	4
333.7407(1)(b)	CS	G	Use of fictitious, revoked, or suspended license number	4
333.7407(1)(c)	CS	G	Obtaining controlled substance by fraud	4
333.7407(1)(d)	CS	G	False reports under controlled substance article	4
333.7407(1)(e)	CS	G	Possession of counterfeiting implements	4
333.7407(1)(f)	CS	F	Disclosing or obtaining prescription information	4
333.7407(1)(g)	CS	F	Possession of counterfeit prescription form	4

333.7407(2)	CS	G	Refusing to furnish records under controlled substance article	4
333.7410a	CS	G	Controlled substance offense or offense involving GBL in or near a park	2

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 6095 of the 91st Legislature is enacted into law.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 6095, referred to in enacting section 2, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 710, Eff. Apr. 1, 2003.

[No. 712]

(HB 6444)

AN ACT to prescribe the Amber alert of Michigan as the official response to reports of child abductions.

The People of the State of Michigan enact:

28.751 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan Amber alert act".

28.752 Michigan Amber alert plan; establishment; design.

Sec. 2. (1) The department of state police shall establish and maintain the Michigan Amber alert plan.

(2) The Michigan Amber alert plan shall be designed to rapidly disseminate useful information in a predetermined manner to radio and television stations within this state.

28.753 Activation.

Sec. 3. The Michigan Amber alert plan shall be activated only in accordance with the policies established by the department of state police.

Conditional effective date.

Enacting section 1. This act does not take effect unless House Bill No. 6445 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 6445, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 713, Imd. Eff. Dec. 30, 2002.

[No. 713]

(HB 6445)

AN ACT to provide for the broadcast of information concerning a child abduction on radio and television stations; and to prescribe the content of the information broadcast.

The People of the State of Michigan enact:

28.761 Short title.

Sec. 1. This act shall be known and may be cited as the "child abduction broadcast act".

28.762 Child abduction; broadcast.

Sec. 2. A radio or television station receiving information concerning a child abduction from the Michigan state police pursuant to the Amber alert of Michigan act may broadcast that information in any manner designed to assist in the location of the abducted child or apprehension of any suspect.

28.763 Information to be broadcast.

Sec. 3. The information to be broadcast by a radio or television station under section 2 includes all of the information provided by the Michigan state police.

28.764 Radio and television stations to which information provided; method.

Sec. 4. The information shall be provided to predetermined radio and television stations by a method agreed to by the Michigan state police and the Michigan association of broadcasters.

28.765 Liability; immunity.

Sec. 5. A radio or television station that accurately broadcasts information concerning a child abduction obtained from the Michigan state police pursuant to the Amber alert of Michigan is immune from any liability based on the broadcast of that information.

Conditional effective date.

Enacting section 1. This act does not take effect unless House Bill No. 6444 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: House Bill No. 6444, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 712, Imd. Eff. Dec. 30, 2002.

[No. 714]

(SB 1127)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to

provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 520a, 520b, 520c, 520d, and 520e (MCL 750.520a, 750.520b, 750.520c, 750.520d, and 750.520e), sections 520a and 520e as amended by 2000 PA 505, section 520b as amended by 1983 PA 158, section 520c as amended by 2000 PA 227, and section 520d as amended by 1996 PA 155.

The People of the State of Michigan enact:

750.520a Definitions.

Sec. 520a. As used in this chapter:

(a) "Actor" means a person accused of criminal sexual conduct.

(b) "Developmental disability" means an impairment of general intellectual functioning or adaptive behavior which meets the following criteria:

(*i*) It originated before the person became 18 years of age.

(*ii*) It has continued since its origination or can be expected to continue indefinitely.

(*iii*) It constitutes a substantial burden to the impaired person's ability to perform in society.

(*iv*) It is attributable to 1 or more of the following:

(A) Mental retardation, cerebral palsy, epilepsy, or autism.

(B) Any other condition of a person found to be closely related to mental retardation because it produces a similar impairment or requires treatment and services similar to those required for a person who is mentally retarded.

(c) "Intimate parts" includes the primary genital area, groin, inner thigh, buttock, or breast of a human being.

(d) "Mental health professional" means that term as defined in section 100b of the mental health code, 1974 PA 258, MCL 330.1100b.

(e) "Mental illness" means a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(f) "Mentally disabled" means that a person has a mental illness, is mentally retarded, or has a developmental disability.

(g) "Mentally incapable" means that a person suffers from a mental disease or defect which renders that person temporarily or permanently incapable of appraising the nature of his or her conduct.

(h) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or other substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent.

(i) "Mentally retarded" means significantly subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior.

(j) "Nonpublic school" means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(k) "Physically helpless" means that a person is unconscious, asleep, or for any other reason is physically unable to communicate unwillingness to an act.

(*l*) "Personal injury" means bodily injury, disfigurement, mental anguish, chronic pain, pregnancy, disease, or loss or impairment of a sexual or reproductive organ.

(m) "Public school" means that term as defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5.

(n) "Sexual contact" includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, done for a sexual purpose, or in a sexual manner for:

(*i*) Revenge.

(*ii*) To inflict humiliation.

(*iii*) Out of anger.

(o) "Sexual penetration" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, but emission of semen is not required.

(p) "Victim" means the person alleging to have been subjected to criminal sexual conduct.

750.520b Criminal sexual conduct in the first degree; felony.

Sec. 520b. (1) A person is guilty of criminal sexual conduct in the first degree if he or she engages in sexual penetration with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(*i*) The actor is a member of the same household as the victim.

(*ii*) The actor is related to the victim by blood or affinity to the fourth degree.

(*iii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(*iv*) The actor is a teacher, substitute teacher, or administrator of the public or nonpublic school in which that other person is enrolled.

(c) Sexual penetration occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(*i*) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(*ii*) The actor uses force or coercion to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in subdivision (f)(*i*) to (*v*).

(e) The actor is armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish sexual penetration. Force or coercion includes but is not limited to any of the following circumstances:

(*i*) When the actor overcomes the victim through the actual application of physical force or physical violence.

(*ii*) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute these threats.

(*iii*) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute this threat. As used in this subdivision, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(*iv*) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

(*v*) When the actor, through concealment or by the element of surprise, is able to overcome the victim.

(g) The actor causes personal injury to the victim, and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(*i*) The actor is related to the victim by blood or affinity to the fourth degree.

(*ii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(2) Criminal sexual conduct in the first degree is a felony punishable by imprisonment in the state prison for life or for any term of years.

750.520c Criminal sexual conduct in the second degree; felony.

Sec. 520c. (1) A person is guilty of criminal sexual conduct in the second degree if the person engages in sexual contact with another person and if any of the following circumstances exists:

(a) That other person is under 13 years of age.

(b) That other person is at least 13 but less than 16 years of age and any of the following:

(*i*) The actor is a member of the same household as the victim.

(*ii*) The actor is related by blood or affinity to the fourth degree to the victim.

(*iii*) The actor is in a position of authority over the victim and the actor used this authority to coerce the victim to submit.

(*iv*) The actor is a teacher, substitute teacher, or administrator of the public or nonpublic school in which that other person is enrolled.

(c) Sexual contact occurs under circumstances involving the commission of any other felony.

(d) The actor is aided or abetted by 1 or more other persons and either of the following circumstances exists:

(*i*) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(*ii*) The actor uses force or coercion to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in sections 520b(1)(f)(*i*) to (*v*).

(e) The actor is armed with a weapon, or any article used or fashioned in a manner to lead a person to reasonably believe it to be a weapon.

(f) The actor causes personal injury to the victim and force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the circumstances listed in section 520b(1)(f)(*i*) to (*v*).

(g) The actor causes personal injury to the victim and the actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(h) That other person is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and any of the following:

(*i*) The actor is related to the victim by blood or affinity to the fourth degree.

(*ii*) The actor is in a position of authority over the victim and used this authority to coerce the victim to submit.

(i) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, the department of corrections who knows that the other person is under the jurisdiction of the department of corrections.

(j) That other person is under the jurisdiction of the department of corrections and the actor is an employee or a contractual employee of, or a volunteer with, a private vendor that operates a youth correctional facility under section 20g of 1953 PA 232, MCL 791.220g, who knows that the other person is under the jurisdiction of the department of corrections.

(k) That other person is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program or other probationary program and the actor is an employee or a contractual employee of or a volunteer with the county or the department of corrections who knows that the other person is under the county's jurisdiction.

(*l*) The actor knows or has reason to know that a court has detained the victim in a facility while the victim is awaiting a trial or hearing, or committed the victim to a facility as a result of the victim having been found responsible for committing an act that would be a crime if committed by an adult, and the actor is an employee or contractual employee of, or a volunteer with, the facility in which the victim is detained or to which the victim was committed.

(2) Criminal sexual conduct in the second degree is a felony punishable by imprisonment for not more than 15 years.

750.520d Criminal sexual conduct in the third degree; felony.

Sec. 520d. (1) A person is guilty of criminal sexual conduct in the third degree if the person engages in sexual penetration with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age and under 16 years of age.

(b) Force or coercion is used to accomplish the sexual penetration. Force or coercion includes but is not limited to any of the circumstances listed in section 520b(1)(f)(*i*) to (*v*).

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual penetration occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) That other person is at least 16 years of age but less than 18 years of age and a student at a public or nonpublic school, and the actor is a teacher, substitute teacher, or administrator of that public or nonpublic school. This subdivision does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(2) Criminal sexual conduct in the third degree is a felony punishable by imprisonment for not more than 15 years.

750.520e Criminal sexual conduct in the fourth degree; misdemeanor.

Sec. 520e. (1) A person is guilty of criminal sexual conduct in the fourth degree if he or she engages in sexual contact with another person and if any of the following circumstances exist:

(a) That other person is at least 13 years of age but less than 16 years of age, and the actor is 5 or more years older than that other person.

(b) Force or coercion is used to accomplish the sexual contact. Force or coercion includes, but is not limited to, any of the following circumstances:

(*i*) When the actor overcomes the victim through the actual application of physical force or physical violence.

(*ii*) When the actor coerces the victim to submit by threatening to use force or violence on the victim, and the victim believes that the actor has the present ability to execute that threat.

(*iii*) When the actor coerces the victim to submit by threatening to retaliate in the future against the victim, or any other person, and the victim believes that the actor has the ability to execute that threat. As used in this subparagraph, "to retaliate" includes threats of physical punishment, kidnapping, or extortion.

(*iv*) When the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable.

(*v*) When the actor achieves the sexual contact through concealment or by the element of surprise.

(c) The actor knows or has reason to know that the victim is mentally incapable, mentally incapacitated, or physically helpless.

(d) That other person is related to the actor by blood or affinity to the third degree and the sexual contact occurs under circumstances not otherwise prohibited by this chapter. It is an affirmative defense to a prosecution under this subdivision that the other person was in a position of authority over the defendant and used this authority to coerce the defendant to violate this subdivision. The defendant has the burden of proving this defense by a preponderance of the evidence. This subdivision does not apply if both persons are lawfully married to each other at the time of the alleged violation.

(e) The actor is a mental health professional and the sexual contact occurs during or within 2 years after the period in which the victim is his or her client or patient and not his or her spouse. The consent of the victim is not a defense to a prosecution under this subdivision. A prosecution under this subsection shall not be used as evidence that the victim is mentally incompetent.

(f) That other person is at least 16 years of age but less than 18 years of age and a student at a public or nonpublic school, and the actor is a teacher, substitute teacher, or administrator of that public or nonpublic school. This subdivision does not apply if the other person is emancipated or if both persons are lawfully married to each other at the time of the alleged violation.

(2) Criminal sexual conduct in the fourth degree is a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than $500.00, or both.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2003.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 715]

(HB 6498)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 504, 517, 803, 807, 810a, and 5805 (MCL 600.504, 600.517, 600.803, 600.807, 600.810a, and 600.5805), section 504 as amended by 2001 PA 254, section 517 as amended by 2001 PA 257, section 803 as amended by 2001 PA 253, section 810a as added by 2002 PA 92, and section 5805 as amended by 2000 PA 3.

The People of the State of Michigan enact:

600.504 Third judicial circuit.

Sec. 504. (1) The third judicial circuit consists of the county of Wayne and has the following number of judges:

(a) Until 12 noon, January 1, 2003, 64 judges.

(b) Beginning 12 noon, January 1, 2003, 63 judges; however, if, after 12 noon, January 1, 2003, a vacancy occurs in a judgeship held by an incumbent judge of this circuit who would be ineligible to seek reelection to that office in 2004, that judgeship is eliminated unless the total number of judgeships in this circuit has been reduced to 61 before that vacancy occurred.

(c) Beginning 12 noon, January 1, 2005, 61 judges.

600.517 Sixteenth judicial circuit.

Sec. 517. The sixteenth judicial circuit consists of the county of Macomb and has 9 judges. Subject to section 550, this circuit may have 2 additional judges effective January 1, 2003, and 1 additional judge effective January 1, 2005. If 2 new offices of judge are added to this circuit by election in 2002, the candidate receiving the highest number of votes in the November 2002 general election shall be elected for a term of 8 years, and the candidate receiving the second highest number of votes shall be elected for a term of 6 years. If a new office of judge is added to this circuit by election in 2004, the term of office of that judgeship for that election only shall be 8 years.

600.803 Probate judges; number.

Sec. 803. (1) Except as otherwise provided in this section, each county which is not part of a probate court district created pursuant to sections 808 to 810 or previously created pursuant to law shall have at least 1 judge of probate.

(2) Each probate court district created pursuant to law shall have 1 judge of probate.

(3) The counties of Berrien, Calhoun, Ingham, Monroe, Muskegon, Saginaw, St. Clair, and Washtenaw shall each have 2 judges of probate.

(4) Until 12 noon, January 1, 2005, the county of Genesee shall have 3 judges of probate; however, if, after 12 noon, January 1, 2003, a vacancy occurs in the judgeship held by the incumbent probate judge in Genesee county whose term of office expires January 1, 2005 and who would be ineligible to seek reelection to that office in 2004, that probate judgeship is eliminated effective 12 noon, January 1, 2005. Beginning 12 noon, January 1, 2005, the county of Genesee shall have 2 judges of probate.

(5) Until 12 noon, January 1, 2005, the county of Macomb shall have 3 judges of probate; however, if the incumbent probate judge in Macomb county whose term of office as probate judge expires on January 1, 2005 is elected in 2002 to the office of circuit judge in the sixteenth judicial circuit for a term beginning January 1, 2003, that probate judgeship is eliminated effective 12 noon, January 1, 2005. Beginning 12 noon, January 1, 2005, the county of Macomb shall have 2 judges of probate.

(6) The county of Kalamazoo shall have 3 judges of probate.

(7) The county of Kent shall have 4 judges of probate.

(8) The county of Oakland shall have 4 judges of probate.

(9) The county of Wayne shall have the following number of judges of probate:

(a) Until subdivision (b) takes effect, the county of Wayne shall have 9 judges of probate.

(b) The county of Wayne shall have 8 judges of probate beginning on the earliest of the following dates:

(*i*) Upon the occurrence of a vacancy in a judgeship held by an incumbent probate judge in Wayne county whose term expires on January 1, 2005, and who would be ineligible to seek reelection to that office in 2004.

(*ii*) Upon the expiration of the term of an incumbent probate judge who is not eligible to seek reelection to that office.

(10) When 1 or more new judges of probate are authorized in a county pursuant to this section, the new judgeship or judgeships shall appear on the ballot separate and apart from other judicial offices of the same court in the primary and general election.

600.807 Probate court districts.

Sec. 807. A probate court district is created in each of the following described districts when a majority of the electors voting on the question in each affected county approves the probate court district. The districts shall consist as follows:

(a) The first district consists of the counties of Baraga, Houghton, and Keweenaw.

(b) The second district consists of the counties of Ontonagon and Gogebic.

(c) The third district consists of the counties of Iron and Dickinson.

(d) The fifth district consists of the counties of Schoolcraft and Alger.

(e) The sixth district consists of the counties of Mackinac and Luce.

(f) The seventh district consists of the counties of Emmet and Charlevoix.

(g) The eighth district consists of the counties of Cheboygan and Presque Isle.

(h) The ninth district consists of the counties of Alpena and Montmorency.

(i) The twelfth district consists of the counties of Manistee and Benzie.

(j) The thirteenth district consists of the counties of Wexford and Missaukee.

(k) The fourteenth district consists of the counties of Kalkaska and Crawford.

(*l*) The fifteenth district consists of the counties of Alcona and Oscoda.

(m) The sixteenth district consists of the counties of Iosco and Arenac.

(n) The seventeenth district consists of the counties of Clare and Gladwin.

(o) The eighteenth district consists of the counties of Mecosta and Osceola.

(p) The nineteenth district consists of the counties of Mason and Lake.

600.810a Arenac, Kalkaska, Crawford, and Lake counties; power, authority, and title of probate judges.

Sec. 810a. The probate judges in the counties of Arenac, Kalkaska, Crawford, and Lake have the power, authority, and title of a district judge within their respective counties, in addition to the power, authority, and title of a probate judge.

600.5805 Injuries to persons or property; limitations; "dating relationship" defined.

Sec. 5805. (1) A person shall not bring or maintain an action to recover damages for injuries to persons or property unless, after the claim first accrued to the plaintiff or to someone through whom the plaintiff claims, the action is commenced within the periods of time prescribed by this section.

(2) The period of limitations is 2 years for an action charging assault, battery, or false imprisonment.

(3) The period of limitations is 5 years for an action charging assault or battery brought by a person who has been assaulted or battered by his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a person with whom he or she resides or formerly resided. This limitation applies to causes of action arising on or after February 17, 2000 and to causes of action in which the period of limitations described in subsection (2) has not already expired as of February 17, 2000.

(4) The period of limitations is 5 years for an action charging assault and battery brought by a person who has been assaulted or battered by an individual with whom he or she has or has had a dating relationship. This limitation applies to causes of action arising on or after January 1, 2003 and to causes of action in which the period of limitations described in subsection (2) has not already expired as of January 1, 2003.

(5) The period of limitations is 2 years for an action charging malicious prosecution.

(6) Except as otherwise provided in this chapter, the period of limitations is 2 years for an action charging malpractice.

(7) The period of limitations is 2 years for an action against a sheriff charging misconduct or neglect of office by the sheriff or the sheriff's deputies.

(8) The period of limitations is 2 years after the expiration of the year for which a constable was elected for actions based on the constable's negligence or misconduct as constable.

(9) The period of limitations is 1 year for an action charging libel or slander.

(10) The period of limitations is 3 years after the time of the death or injury for all other actions to recover damages for the death of a person, or for injury to a person or property.

(11) The period of limitations is 5 years for an action to recover damages for injury to a person or property brought by a person who has been assaulted or battered by his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a person with whom he or she resides or formerly resided. This limitation applies to causes of action arising on or after February 17, 2000 and to causes of action in which the period of limitations described in subsection (10) has not already expired as of February 17, 2000.

(12) The period of limitations is 5 years for an action to recover damages for injury to a person or property brought by a person who has been assaulted or battered by an individual with whom he or she has or has had a dating relationship. This limitation applies to causes of action arising on or after January 1, 2003 and to causes of action in which the period of limitations described in subsection (2) has not already expired as of January 1, 2003.

(13) The period of limitations is 3 years for a products liability action. However, in the case of a product that has been in use for not less than 10 years, the plaintiff, in proving a prima facie case, shall be required to do so without benefit of any presumption.

(14) The period of limitations for an action against a state licensed architect, professional engineer, land surveyor, or contractor based on an improvement to real property shall be as provided in section 5839.

(15) As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

Effective date.

Enacting section 1. Section 810a of the revised judicature act of 1961, 1961 PA 236, MCL 600.810a, as amended by this amendatory act, takes effect 91 days after the date on which the 91st Legislature adjourns its 2002 regular session sine die.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 716]

(HB 6204)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to

prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," (MCL 722.621 to 722.638) by adding section 7j.

The People of the State of Michigan enact:

722.627j Individual not named in central registry case as perpetrator of child abuse or neglect; documentation; request; automated system; definitions.

Sec. 7j. (1) Upon written request, the department may provide to an individual documentation stating that the individual is not named in a central registry case as the perpetrator of child abuse or child neglect. The written request required under this section shall include the individual's affirmation that he or she is employed by, volunteers at, is applying for employment in, or is seeking to volunteer in a child care center, child caring institution, or child placing agency.

(2) For the purpose of applying for employment or seeking to volunteer in a child care center, child caring institution, or child placing agency, an individual may share the document provided in subsection (1) with the child care center owner or licensee, or a child caring institution or child placing agency, or an individual authorized by the child care center owner or licensee, the child caring institution, or the child placing agency.

(3) The family independence agency may develop an automated system that will allow an individual applying for child-related employment or seeking to volunteer in a capacity that would allow unsupervised access to a child for whom the individual is not a person responsible for that child's health or welfare to be listed in that system if a screening of the individual finds that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. The automated system developed under this section shall provide for public access to the list of individuals who have been screened for the purposes of complying with this section. An automated system developed under this section shall have appropriate safeguards and procedures to ensure that information that is confidential under this act, state law, or federal law is not accessible or disclosed through that system.

(4) For the purposes of this section or section 7(2)(k) or (*l*), a case investigated before July 1, 1999 and entered in the central registry is considered a central registry case if that case meets the criteria under section 8(3)(a), (b), or (c).

(5) As used in this section, "child care center", "child caring institution", and "child placing agency" mean those terms as defined in section 1 of 1973 PA 116, MCL 722.111.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 717]

(HB 6205)

AN ACT to amend 1973 PA 116, entitled "An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the

establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts," (MCL 722.111 to 722.128) by adding section 3e.

The People of the State of Michigan enact:

722.113e Criminal history check required; posting notice; rules.

Sec. 3e. The operator of a child care center or child caring institution shall conspicuously post on the premises a notice stating whether or not that child care center or child caring institution requires a criminal history check on its employees or volunteers. The department of consumer and industry services shall promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 718]

(SB 1368)

AN ACT to amend 1968 PA 319, entitled "An act to provide a uniform crime reporting system; to provide for the submitting of such report to the department of state police; to require submission of the report by certain police agencies; to require the reporting on wanted persons and stolen vehicles; to require the reporting of information regarding certain persons and unidentified bodies of deceased persons; to prescribe certain powers and duties of law enforcement agencies; and to vest the director of the department of state police with certain authority," by amending section 8 (MCL 28.258), as amended by 1995 PA 39.

The People of the State of Michigan enact:

28.258 Definitions; certain persons reported missing; preliminary investigation; entering information into LEIN, national crime information center, and clearinghouse; dental records; retaining and broadcasting information; forwarding information to registrar; notice and information to last known school district; request that registrar and school district be notified; emancipated missing child; cancellation of information; policy preventing immediate investigation prohibited; unidentified body; unknown identity of person found.

Sec. 8. (1) As used in this section and section 9:

(a) "Child" means an individual less than 17 years of age.

(b) "Clearinghouse" means the missing child information clearinghouse established under section 9.

(c) "Department" means the department of state police.

(d) "Law enforcement agency" means the department; a police agency of a city, village, or township; a sheriff's department; and any other governmental law enforcement agency in this state.

(e) "LEIN" means law enforcement information network regulated under the L.E.I.N. policy council act of 1974, 1974 PA 163, MCL 28.211 to 28.216.

(f) "Registrar" means the state registrar as defined in section 2805 of the public health code, 1978 PA 368, MCL 333.2805.

(2) If an individual who is any of the following is reported missing, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall immediately enter the information described in subsection (3) regarding that individual into the LEIN, the national crime information center, and if the individual is a child, the clearinghouse:

(a) An individual who has a physical or mental disability as evidenced by written documentation from a physician or other authoritative source. As used in this act, "mental disability" includes Alzheimer's disease and dementia.

(b) An individual who was in the company of another individual under circumstances indicating that the individual's physical safety may be in danger.

(c) An individual who disappeared under circumstances indicating that the disappearance was not voluntary.

(d) A child not described in subdivision (a), (b), (c), or (e).

(e) An individual who is missing as the result of a natural or intentionally caused catastrophe or extraordinary accident that causes the loss of human life.

(3) The information to be entered into the LEIN, the national crime information center, and the clearinghouse under subsection (2) shall include all of the following, if available:

(a) The name and address of the individual.

(b) The vital statistics of the individual, including a physical description, and if the missing individual is a child, the child's date of birth, state of birth, and if possible, mother's maiden name.

(c) The date the individual was missing and, if the missing individual is a child under subsection (2)(d), the date the child becomes 17 years of age.

(d) Any other information that may assist in the location of the individual, as determined by the department and the LEIN policy council.

(4) If subsections (2) and (3) have been complied with and the individual is not found within 30 days, the law enforcement agency that received the report under subsection (2) shall seek the dental records of the individual under section 2844a of the public health code, 1978 PA 368, MCL 333.2844a. The information from the dental records shall be entered into the national crime information center and, if the individual is a child, the clearinghouse by the law enforcement agency.

(5) The LEIN shall retain the information under subsection (3) reported to it until the law enforcement agency that entered the information cancels the information.

(6) The law enforcement agency receiving a report of a missing individual described in subsection (2) may, or if the individual is a child and subject to the policy established by the clearinghouse, or if the individual has Alzheimer's disease or dementia, shall, broadcast the information described in subsection (3) over the LEIN to all of the following:

(a) All law enforcement agencies having jurisdiction of the location where the missing individual lives or was last seen.

(b) Any other law enforcement agency that potentially could become involved in locating the missing individual.

(c) All law enforcement agencies to which the individual who reported the individual missing requests the information be sent, if the request is reasonable.

(7) If 14 days have elapsed since the law enforcement agency has received a report that a child who was born in this state is missing, and the agency has not been notified of the child's return, the LEIN shall forward on-line the information described in subsection (3) to the registrar via the registrar's restricted access LEIN terminal.

(8) If 14 days have elapsed since the law enforcement agency has received a report of a missing child and the agency has not been notified of the child's return, the agency, if it has reason to believe that a missing child may be enrolled in a school district in this state, shall notify in writing the child's last known local school district or intermediate school district that the child is missing and shall provide the school district with the information described in subsection (3).

(9) A parent or legal guardian of a child missing before June 29, 1987, may notify a law enforcement agency that he or she wants the registrar and school district notified pursuant to subsections (7) and (8). Upon receiving the request, the law enforcement agency shall proceed as provided in subsections (7) and (8).

(10) On the seventeenth birthday of a child who has been reported missing pursuant to subsection (2)(d), any information entered into the LEIN regarding that child shall be retained and the child shall be considered to be an emancipated missing child until the information is canceled by the law enforcement agency that entered the information into the network. If the information entered into the LEIN regarding a child missing as prescribed by subsection (2) is canceled, the law enforcement agency that entered the information into the network shall inform the registrar and school district notified as prescribed by subsection (7) of the cancellation.

(11) A law enforcement agency shall not establish or maintain a policy that prevents an immediate investigation as soon as practical regarding an individual described in subsection (2) who is reported missing.

(12) When the unidentified body of a deceased individual is found, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall immediately enter the following information, if available, into the national crime information center and, if the body is that of a child, into the clearinghouse:

(a) The physical description of the unidentified body and whether footprints, body X-rays, and fingerprint classifications are available.

(b) The date the body was found and the cause and manner of death.

(c) What body parts are found if the body is dismembered.

(d) Dental examination records obtained under section 2844a of the public health code, 1978 PA 368, MCL 333.2844a.

(e) Any other information that would assist in the identification of the body, as determined by the department and the LEIN policy council.

(13) When an individual is found whose identity is unknown and cannot be readily determined, the law enforcement agency receiving the report, after conducting a preliminary investigation, shall enter the following information into the national crime information center and, if the individual is a child, into the clearinghouse:

(a) A physical description of the individual.

(b) Any other information that would assist in the identification of the individual, as determined by the department and the LEIN policy council.

This act is ordered to take immediate effect.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 719]

(HB 6337)

AN ACT to amend 1927 PA 372, entitled "An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act," by amending sections 1, 5b, 5c, 5d, 5f, 5j, 5*l*, 5o, and 12a (MCL 28.421, 28.425b, 28.425c, 28.425d, 28.425f, 28.425j, 28.425*l*, 28.425o, and 28.432a), sections 1, 5b, 5c, 5d, 5f, 5j, 5*l*, and 5o as added and section 12a as amended by 2000 PA 381.

The People of the State of Michigan enact:

28.421 Definitions.

Sec. 1. As used in this act:

(a) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States or another state that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year.

(b) "Firearm" means a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air. Firearm does not include a smooth bore rifle or handgun designed and manufactured exclusively for propelling by a spring, or by gas or air, BB's not exceeding .177 caliber.

(c) "Misdemeanor" means a violation of a penal law of this state or violation of a local ordinance substantially corresponding to a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine, or both.

(d) "Peace officer" means, except as otherwise provided in this act, an individual who is employed as a law enforcement officer, as that term is defined under section 2 of the commission on law enforcement standards act, 1965 PA 203, MCL 28.602, by this state or another state, a political subdivision of this state or another state, or the United States, and who is required to carry a firearm in the course of his or her duties as a law enforcement officer.

(e) "Pistol" means a loaded or unloaded firearm that is 30 inches or less in length, or a loaded or unloaded firearm that by its construction and appearance conceals it as a firearm.

(f) "Purchaser" means a person who receives a pistol from another person by purchase or gift.

(g) "Reserve peace officer", "auxiliary officer", or "reserve officer" means, except as otherwise provided in this act, an individual authorized on a voluntary or irregular basis by a duly authorized police agency of this state or a political subdivision of this state to act as a law enforcement officer, who is responsible for the preservation of the peace, the prevention and detection of crime, and the enforcement of the general criminal laws of this state, and who is otherwise eligible to possess a firearm under this act.

(h) "Retired police officer" or "retired law enforcement officer" means an individual who was a certified police officer or certified law enforcement officer as those terms are defined under section 2(k) of the commission on the law enforcement standards act, 1965 PA 203, MCL 28.602, and retired in good standing from his or her employment as a police officer or law enforcement officer.

(i) "Seller" means a person who sells or gives a pistol to another person.

28.425b License application; fee; verification of requirements; determination; circumstances for issuance; fingerprints; issuance or denial; temporary license; suspension or revocation of license; definitions.

Sec. 5b. (1) To obtain a license to carry a concealed pistol, an individual shall apply to the concealed weapon licensing board in the county in which that individual resides. The application shall be filed with the county clerk during the county clerk's normal business hours. The application shall be on a form provided by the director of the department of state police and shall allow the applicant to designate whether the applicant seeks a temporary license. The application shall be signed under oath by the applicant. The oath shall be administered by the county clerk or his or her representative. The application shall contain all of the following information:

(a) The applicant's legal name and date of birth and the address of his or her primary residence. If the applicant resides in a city, village, or township that has a police department, the name of the police department.

(b) A statement by the applicant that the applicant meets the criteria for a license under this act to carry a concealed pistol.

(c) A statement by the applicant authorizing the concealed weapon licensing board to access any record, including any medical record, pertaining to the applicant's qualifications for a license to carry a concealed pistol under this act. The applicant may request that information received by the concealed weapon licensing board under this subdivision be reviewed in a closed session. If the applicant requests that the session be closed, the concealed weapon licensing board shall close the session only for purposes of this subdivision. The applicant and his or her representative have the right to be present in the closed session. Medical records and personal identifying information received by the concealed weapon licensing board under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes or if the applicant is convicted of a felony involving a pistol.

(d) A statement by the applicant regarding whether he or she has a history of mental illness that would disqualify him or her under subsection (7)(j) to (*l*) from receiving a license to carry a concealed pistol, and authorizing the concealed weapon licensing board to access the mental health records of the applicant relating to his or her mental health history. The applicant may request that information received by the concealed weapon licensing board under this subdivision be reviewed in a closed session. If the applicant requests that the session be closed, the concealed weapon licensing board shall close the session only for purposes of this subdivision. The applicant and his or her representative have the right to be present in the closed session. Medical records and personal identifying information received by the concealed weapon licensing board under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(e) A statement by the applicant regarding whether he or she has ever been convicted in this state or elsewhere for any felony or misdemeanor.

(f) A statement by the applicant whether he or she has been dishonorably discharged from the United States armed forces.

(g) If the applicant seeks a temporary license, the facts supporting the issuance of that temporary license.

(h) The names, residential addresses, and telephone numbers of 2 individuals who are references for the applicant.

(i) A passport-quality photograph of the applicant provided by the applicant at the time of application.

(j) A certificate stating that the applicant has completed the training course prescribed by this act.

(2) The application form shall contain a conspicuous warning that the application is executed under oath and that intentionally making a material false statement on the application is a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(3) An individual who intentionally makes a material false statement on an application under subsection (1) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

(4) The concealed weapon licensing board shall retain a copy of each application for a license to carry a concealed pistol as an official record. One year after the expiration of a concealed pistol license, the county clerk may destroy the record and maintain only a name index of the record.

(5) Each applicant shall pay a fee of $105.00 by any method of payment accepted by that county for payments of other fees and penalties. A unit of local government, an agency of a unit of local government, or an agency or department of this state shall not charge an additional fee, assessment, or other amount in connection with a license under this section. The fee shall be payable to the county. The county treasurer shall deposit $41.00 of each fee collected under this section in the general fund of the county and credit $26.00 of that deposit to the credit of the county clerk and $15.00 of that deposit to the credit of the county sheriff and forward the balance to the state treasurer. The state treasurer shall deposit the balance of the fee in the general fund to the credit of the department of state police. The department of state police shall use the money received under this act to process the fingerprints and to reimburse the federal bureau of investigation for the costs associated with processing fingerprints submitted under this act. The balance of the money received under this act shall be credited to the department of state police.

(6) The county sheriff on behalf of the concealed weapon licensing board shall verify the requirements of subsection (7)(d), (e), (f), (h), (i), (j), (k), (*l*), and (m) through the law enforcement information network and report his or her finding to the concealed weapon licensing board. If the applicant resides in a city, village, or township that has a police department, the concealed weapon licensing board shall contact that city, village, or township police department to determine only whether that city, village, or township police department has any information relevant to the investigation of whether the applicant is eligible under this act to receive a license to carry a concealed pistol.

(7) The concealed weapon licensing board shall issue a license to an applicant to carry a concealed pistol within the period required under this act after the applicant properly

submits an application under subsection (1) and the concealed weapon licensing board determines that all of the following circumstances exist:

(a) The applicant is 21 years of age or older.

(b) The applicant is a citizen of the United States or is a resident legal alien as defined in section 11 of title 18 of the United States Code, is a resident of this state, and has resided in this state for at least 6 months. The concealed weapon licensing board may waive the 6-month residency requirement for a temporary license under section 5a(8) if the concealed weapon licensing board determines there is probable cause to believe the safety of the applicant or the safety of a member of the applicant's family is endangered by the applicant's inability to immediately obtain a license to carry a concealed pistol.

(c) The applicant has knowledge and has had training in the safe use and handling of a pistol by the successful completion of a pistol safety training course or class that meets the requirements of section 5j, and that is available to the general public and presented by a law enforcement agency, junior or community college, college, or public or private institution or organization or firearms training school.

(d) The applicant is not the subject of an order or disposition under any of the following:

(*i*) Section 464a of the mental health code, 1974 PA 258, MCL 330.1464a.

(*ii*) Former section 444a of the revised probate code, 1978 PA 642, MCL 700.444a, or section 5107 of the estates and protected individuals code, 1998 PA 386, MCL 700.5107.

(*iii*) Sections 2950 and 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(*iv*) Section 6b of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b, if the order has a condition imposed pursuant to section 6b(3) of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b.

(*v*) Section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(e) The applicant is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, 1931 PA 328, MCL 750.224f.

(f) The applicant has never been convicted of a felony in this state or elsewhere, and a felony charge against the applicant is not pending in this state or elsewhere at the time he or she applies for a license described in this section.

(g) The applicant has not been dishonorably discharged from the United States armed forces.

(h) The applicant has not been convicted of a misdemeanor violation of any of the following in the 8 years immediately preceding the date of application:

(*i*) Section 617a of the Michigan vehicle code, 1949 PA 300, MCL 257.617a (failing to stop when involved in a personal injury accident).

(*ii*) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625, punishable as provided in subsection (8)(b) of that section (drunk driving, second offense).

(*iii*) Section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625m punishable under subsection (4) of that section (drunk driving, commercial vehicle).

(*iv*) Section 626 of the Michigan vehicle code, 1949 PA 300, MCL 257.626 (reckless driving).

(*v*) Section 904(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.904 (driving while license suspended or revoked), punishable as a second or subsequent offense.

(*vi*) Section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185 (operating aircraft with alcohol with prior conviction).

(*vii*) Section 29 of the weights and measures act, 1964 PA 283, MCL 290.629 (hindering or obstructing weights and measures enforcement officer).

(*viii*) Section 10 of the motor fuels quality act, 1984 PA 44, MCL 290.650 (hindering, obstructing, assaulting, or committing bodily injury upon director or authorized representative).

(*ix*) Section 80134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80134, punishable under subsection (5) or (6) of that section (operating ORV under the influence, second or subsequent offense).

(*x*) Section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127 (operating a snowmobile under the influence with prior conviction), punishable under section 82128(1)(b) or (c) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82128.

(*xi*) Section 80176 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, and punishable under section 80177(1)(b) (operating vessel under the influence, second or subsequent offense).

(*xii*) Section 7403 of the public health code, 1978 PA 368, MCL 333.7403.

(*xiii*) Section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353 (operating locomotive under the influence), punishable under subsection (4) of that section.

(*xiv*) Section 7 of 1978 PA 33, MCL 722.677 (displaying sexually explicit materials to minors).

(*xv*) Section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81 (assault or domestic assault).

(*xvi*) Section 81a(1) or (2) of the Michigan penal code, 1931 PA 328, MCL 750.81a (aggravated assault or aggravated domestic assault).

(*xvii*) Section 115 of the Michigan penal code, 1931 PA 328, MCL 750.115 (entering without breaking).

(*xviii*) Section 136b(6) of the Michigan penal code, 1931 PA 328, MCL 750.136b (fourth degree child abuse).

(*xvix*) Section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a (accosting, enticing, or soliciting a child for immoral purposes).

(*xx*) Section 145n of the Michigan penal code, 1931 PA 328, MCL 750.145n (vulnerable adult abuse).

(*xxi*) Section 157b(3)(b) of the Michigan penal code, 1931 PA 328, MCL 750.157b (solicitation to commit a felony).

(*xxii*) Section 215 of the Michigan penal code, 1931 PA 328, MCL 750.215 (impersonating sheriff, conservation officer, coroner, constable, or police officer).

(*xxiii*) Section 223 of the Michigan penal code, 1931 PA 328, MCL 750.223 (illegal sale of a firearm or ammunition).

(*xxiv*) Section 224d of the Michigan penal code, 1931 PA 328, MCL 750.224d (illegal sale of a self-defense spray).

(*xxv*) Section 226a of the Michigan penal code, 1931 PA 328, MCL 750.226a (sale or possession of a switchblade).

(*xxvi*) Section 227c of the Michigan penal code, 1931 PA 328, MCL 750.227c (improper transportation of a firearm).

Compiler's note: In subdivision (h) of MCL 28.425b, "(*xvix*)" evidently should read "(*xix*)."

(*xxvii*) Section 228 of the Michigan penal code, 1931 PA 328, MCL 750.228 (failure to have a pistol inspected).

(*xxviii*) Section 229 of the Michigan penal code, 1931 PA 328, MCL 750.229 (accepting a pistol in pawn).

(*xxvix*) Section 232 of the Michigan penal code, 1931 PA 328, MCL 750.232 (failure to register the purchase of a firearm or a firearm component).

(*xxx*) Section 232a of the Michigan penal code, 1931 PA 328, MCL 750.232a (improperly obtaining a pistol, making a false statement on an application to purchase a pistol, or using false identification to purchase a pistol).

(*xxxi*) Section 233 of the Michigan penal code, 1931 PA 328, MCL 750.233 (intentionally aiming a firearm without malice).

(*xxxii*) Section 234 of the Michigan penal code, 1931 PA 328, MCL 750.234 (intentionally discharging a firearm aimed without malice).

(*xxxiii*) Section 234d of the Michigan penal code, 1931 PA 328, MCL 750.234d (possessing a firearm on prohibited premises).

(*xxxiv*) Section 234e of the Michigan penal code, 1931 PA 328, MCL 750.234e (brandishing a firearm in public).

(*xxxv*) Section 234f of the Michigan penal code, 1931 PA 328, MCL 750.234f (possession of a firearm by an individual less than 18 years of age).

(*xxxvi*) Section 235 of the Michigan penal code, 1931 PA 328, MCL 750.235 (intentionally discharging a firearm aimed without malice causing injury).

(*xxxvii*) Section 235a of the Michigan penal code, 1931 PA 328, MCL 750.235a (parent of a minor who possessed a firearm in a weapon free school zone).

(*xxxviii*) Section 236 of the Michigan penal code, 1931 PA 328, MCL 750.236 (setting a spring gun or other device).

(*xxxix*) Section 237 of the Michigan penal code, 1931 PA 328, MCL 750.237 (possessing a firearm while under the influence of intoxicating liquor or a drug).

(*xl*) Section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a (weapon free school zone violation).

(*xli*) Section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a (indecent exposure).

(*xlii*) Section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h (stalking).

(*xliii*) Section 1 of 1952 PA 45, MCL 752.861 (reckless, careless, or negligent use of a firearm resulting in injury or death).

(*xliv*) Section 2 of 1952 PA 45, MCL 752.862 (careless, reckless, or negligent use of a firearm resulting in property damage).

(*xlv*) Section 3a of 1952 PA 45, MCL 752.863a (reckless discharge of a firearm).

(*xlvi*) A violation of a law of the United States, another state, or a local unit of government of this state or another state substantially corresponding to a violation described in subparagraphs (*i*) to (*xlv*).

(i) The applicant has not been convicted of a misdemeanor violation of any of the following in the 3 years immediately preceding the date of application unless the misdemeanor violation is listed under subdivision (h):

(*i*) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625 (operating under the influence).

(*ii*) Section 625a of the Michigan vehicle code, 1949 PA 300, MCL 257.625a (refusal of commercial vehicle driver to submit to a chemical test).

(*iii*) Section 625k of the Michigan vehicle code, 1949 PA 300, MCL 257.625k (negligently fails to comply).

(*iv*) Section 625*l* of the Michigan vehicle code, 1949 PA 300, MCL 257.625*l* (circumventing an ignition interlocking device).

(*v*) Section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625m, punishable under subsection (3) of that section (operating a commercial vehicle with alcohol content).

(*vi*) Section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185 (operating aircraft under the influence).

(*vii*) Section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 (operating ORV under the influence).

(*viii*) Section 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 (operating ORV having consumed controlled substance).

(*ix*) Section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127 (operating a snowmobile under the influence).

(*x*) Part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 (controlled substances).

(*xi*) Section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353 (operating locomotive under the influence), punishable under subsection (3) of that section.

(xii) Section 167 of the Michigan penal code, 1931 PA 328, MCL 750.167 (disorderly person).

(xiii) Section 174 of the Michigan penal code, 1931 PA 328, MCL 750.174 (embezzlement).

(*xiv*) Section 218 of the Michigan penal code, 1931 PA 328, MCL 750.218 (false pretenses).

(*xv*) Section 356 of the Michigan penal code, 1931 PA 328, MCL 750.356 (larceny).

(*xvi*) Section 356d of the Michigan penal code, 1931 PA 328, MCL 750.356d (retail fraud).

(*xvii*) Section 359 of the Michigan penal code, 1931 PA 328, MCL 750.359 (larceny-vacant building).

(*xviii*) Section 362 of the Michigan penal code, 1931 PA 328, MCL 750.362 (larceny by conversion).

(*xix*) Section 362a of the Michigan penal code, 1931 PA 328, MCL 750.362a (defrauding lessor).

(*xx*) Section 377a of the Michigan penal code, 1931 PA 328, MCL 750.377a (malicious destruction of property).

(*xxi*) Section 380 of the Michigan penal code, 1931 PA 328, MCL 750.380 (malicious destruction of real property).

(*xxii*) Section 479a of the Michigan penal code, 1931 PA 328, MCL 750.479a (failure to obey police direction).

(*xxiiii*) Section 535 of the Michigan penal code, 1931 PA 328, MCL 750.535 (receiving stolen property).

(*xxiv*) Section 540e of the Michigan penal code, 1931 PA 328, MCL 750.540e (malicious use of telephones).

Compiler's note: In subdivision (i) of MCL 28.425b, "(*xxiiii*)" should evidently read "(*xxiii*)".

(*xxv*) A violation of a law of the United States, another state, or a local unit of government of this state or another state substantially corresponding to a violation described in subparagraphs (*i*) to (*xxiv*).

(j) The applicant has not been found guilty but mentally ill of any crime and has not offered a plea of not guilty of, or been acquitted of, any crime by reason of insanity.

(k) The applicant has never been subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(*l*) The applicant does not have a diagnosed mental illness at the time the application is made regardless of whether he or she is receiving treatment for that illness.

(m) The applicant is not under a court order of legal incapacity in this state or elsewhere.

(n) Issuing a license to the applicant to carry a concealed pistol in this state is not detrimental to the safety of the applicant or to any other individual. A determination under this subdivision shall be based on clear and convincing evidence of repeated violations of this act, crimes, personal protection orders or injunctions, or police reports or other clear and convincing evidence of the actions of, or statements of, the applicant that bear directly on the applicant's ability to carry a concealed pistol.

(8) Upon entry of a court order or conviction of 1 of the enumerated prohibitions for using, transporting, selling, purchasing, carrying, shipping, receiving or distributing a firearm in this section the department of state police shall immediately enter the order or conviction into the law enforcement information network. For purposes of this act, information of the court order or conviction shall not be removed from the law enforcement information network, but may be moved to a separate file intended for the use of the county concealed weapon licensing boards, the courts, and other government entities as necessary and exclusively to determine eligibility to be licensed under this act.

(9) An individual, after submitting an application and paying the fee prescribed under subsection (5), shall request and have classifiable fingerprints taken by the county sheriff or a local police agency. The county sheriff or local police agency shall take the fingerprints within 5 business days after the request.

(10) The fingerprints shall be taken, under subsection (9), on forms and in a manner prescribed by the department of state police. The fingerprints shall be immediately forwarded to the department of state police for comparison with fingerprints already on file with the department of state police. The department of state police shall forward the fingerprints to the federal bureau of investigation. Within 10 days after receiving a report of the fingerprints from the federal bureau of investigation, the department of state police shall provide a copy to the submitting sheriff's department or local police agency as appropriate and the clerk of the appropriate concealed weapon licensing board. Except as provided in subsection (14), the concealed weapon licensing board shall not issue a concealed pistols license until it receives the fingerprint comparison report prescribed in this subsection. The concealed weapon licensing board may deny a license if an individual's fingerprints are not classifiable by the federal bureau of investigation.

(11) The concealed weapon licensing board shall deny a license to an applicant to carry a concealed pistol if the applicant is not qualified under subsection (7) to receive that license.

(12) A license to carry a concealed pistol that is issued based upon an application that contains a material false statement is void from the date the license is issued.

(13) Subject to subsections (10) and (14), the concealed weapon licensing board shall issue or deny issuance of a license within 45 days after the concealed weapon licensing

board receives the fingerprint comparison report provided under subsection (10). If the concealed weapon licensing board denies issuance of a license to carry a concealed pistol, the concealed weapon licensing board shall within 5 business days do both of the following:

(a) Inform the applicant in writing of the reasons for the denial. Information under this subdivision shall include all of the following:

(*i*) A statement of the specific and articulable facts supporting the denial.

(*ii*) Copies of any writings, photographs, records, or other documentary evidence upon which the denial is based.

(b) Inform the applicant in writing of his or her right to appeal the denial to the circuit court as provided in section 5d.

(14) If the fingerprint comparison report is not received by the concealed weapon licensing board within 60 days after the fingerprint report is forwarded to the department of state police by the federal bureau of investigation, the concealed weapon licensing board shall issue a temporary license to carry a concealed pistol to the applicant if the applicant is otherwise qualified for a license. A temporary license issued under this section is valid for 180 days or until the concealed weapon licensing board receives the fingerprint comparison report provided under subsection (10) and issues or denies issuance of a license to carry a concealed pistol as otherwise provided under this act. Upon issuance or the denial of issuance of the license to carry a concealed pistol to an applicant who received a temporary license under this section, the applicant shall immediately surrender the temporary license to the concealed weapon licensing board that issued that temporary license.

(15) If an individual licensed under this act to carry a concealed pistol moves to a different county within this state, his or her license remains valid until it expires or is otherwise suspended or revoked under this act. A license to carry a concealed pistol that is lost, stolen, or defaced may be replaced by the issuing county clerk for a replacement fee of $10.00.

(16) If a concealed weapons licensing board suspends or revokes a license issued under this act, the license is forfeited and shall be returned to the concealed weapons licensing board forthwith.

(17) As used in this section:

(a) "Convicted" means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(b) "Felony" means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States or another state that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year.

(c) "Mental illness" means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and includes, but is not limited to, clinical depression.

(d) "Misdemeanor" means a violation of a penal law of this state or violation of a local ordinance substantially corresponding to a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine, or both.

(e) "Treatment" means care or any therapeutic service, including, but not limited to, the administration of a drug, and any other service for the treatment of a mental illness.

28.425c License; form; authorized conduct.

Sec. 5c. (1) A license to carry a concealed pistol shall be in a form, with the same dimensions as a Michigan operator license, prescribed by the department of state police. The license shall contain all of the following:

(a) The licensee's full name and date of birth.

(b) A photograph and a physical description of the licensee.

(c) A statement of the effective dates of the license.

(d) An indication of exceptions authorized by this act applicable to the licensee.

(e) An indication whether the license is a duplicate.

(2) Subject to section 5o and except as otherwise provided by law, a license to carry a concealed pistol issued by the county concealed weapon licensing board authorizes the licensee to do all of the following:

(a) Carry a pistol concealed on or about his or her person anywhere in this state.

(b) Carry a pistol in a vehicle, whether concealed or not concealed, anywhere in this state.

28.425d Denial or failure to issue license; appeal.

Sec. 5d. (1) If the concealed weapon licensing board denies issuance of a license to carry a concealed pistol, or fails to issue that license as provided in this act, the applicant may appeal the denial or the failure to issue the license to the circuit court in the judicial circuit in which he or she resides. The appeal of the denial or failure to issue a license shall be determined by a review of the record for error, except that if the decision of the concealed weapon licensing board was based upon grounds specified in section 5b(7)(n) that portion of the appeal shall be by hearing de novo. Witnesses in the hearing shall be sworn. A jury shall not be provided in a hearing under this section.

(2) If the court determines that the denial or failure to issue a license was clearly erroneous, the court shall order the concealed weapon licensing board to issue a license as required by this act.

(3) If the court determines that the decision of the concealed weapon licensing board to deny issuance of a license to an applicant was arbitrary and capricious, the court shall order this state to pay 1/3 and the county in which the concealed weapon licensing board is located to pay 2/3 of the actual costs and actual attorney fees of the applicant in appealing the denial.

(4) If the court determines that an applicant's appeal was frivolous, the court shall order the applicant to pay the actual costs and actual attorney fees of the concealed weapon licensing board in responding to the appeal.

28.425f Concealed pistol license; possession; disclosure; violation; penalty; seizure; forfeiture.

Sec. 5f. (1) An individual who is licensed under this act to carry a concealed pistol shall have his or her license to carry that pistol in his or her possession at all times he or she is carrying a concealed pistol.

(2) An individual who is licensed under this act to carry a concealed pistol and who is carrying a concealed pistol shall show both of the following to a peace officer upon request by that peace officer:

(a) His or her license to carry a concealed pistol.

(b) His or her driver license or Michigan personal identification card.

(3) An individual licensed under this act to carry a concealed pistol and who is carrying a concealed pistol and who is stopped by a peace officer shall immediately disclose to the peace officer that he or she is carrying a pistol concealed upon his or her person or in his or her vehicle.

(4) An individual who violates subsection (1) or (2) is responsible for a state civil infraction and may be fined not more than $100.00.

(5) An individual who violates subsection (3) is responsible for a state civil infraction and may be fined as follows:

(a) For a first offense, by a fine of not more than $500.00 or by the individual's license to carry a concealed pistol being suspended for 6 months, or both.

(b) For a subsequent offense within 3 years of a prior offense, by a fine of not more than $1,000.00 and by the individual's license to carry a concealed pistol being revoked.

(6) If an individual is found responsible for a state civil infraction under this section, the court shall notify the department of state police and the concealed weapon licensing board that issued the license of that determination.

(7) A pistol carried in violation of this section is subject to immediate seizure by a peace officer. If a peace officer seizes a pistol under this subsection, the individual has 45 days in which to display his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer. If the individual displays his or her license or documentation to an authorized employee of the law enforcement entity that employs the peace officer within the 45-day period, the authorized employee of that law enforcement entity shall return the pistol to the individual unless the individual is prohibited by law from possessing a firearm. If the individual does not display his or her license or documentation within the 45-day period, the pistol is subject to forfeiture as provided in section 5g. A pistol is not subject to immediate seizure under this subsection if both of the following circumstances exist:

(a) The individual has his or her driver license or Michigan personal identification card in his or her possession when the violation occurs.

(b) The peace officer verifies through the law enforcement information network that the individual is licensed under this act to carry a concealed pistol.

28.425j Pistol training or safety program; conditions.

Sec. 5j. (1) A pistol training or safety program described in section 5b(7)(c) meets the requirements for knowledge or training in the safe use and handling of a pistol only if the program consists of 8 hours of instruction and all of the following conditions are met:

(a) The program is certified by this state or a national or state firearms training organization and provides 5 hours of instruction in, but is not limited to providing instruction in, all of the following:

(*i*) The safe storage, use, and handling of a pistol including, but not limited to, safe storage, use, and handling to protect child safety.

(*ii*) Ammunition knowledge, and the fundamentals of pistol shooting.

(*iii*) Pistol shooting positions.

(*iv*) Firearms and the law, including civil liability issues and the use of deadly force. This portion shall be taught by an attorney or an individual trained in the use of deadly force.

(*v*) Avoiding criminal attack and controlling a violent confrontation.

(*vi*) All laws that apply to carrying a concealed pistol in this state.

(b) The program provides at least 3 hours of instruction on a firing range and requires firing at least 30 rounds of ammunition.

(c) The program provides a certificate of completion that states the program complies with the requirements of this section and that the individual successfully completed the course, and that is signed by the course instructor.

(d) The instructor of the course is certified by this state or a national organization to teach the 8-hour pistol safety training course described in this section.

(2) A person shall not do either of the following:

(a) Grant a certificate of completion described under subsection (1)(c) to an individual knowing the individual did not satisfactorily complete the course.

(b) Present a certificate of completion described under subsection (1)(c) to a concealed weapon licensing board knowing that the individual did not satisfactorily complete the course.

(3) A person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,500.00, or both.

28.425*l* License; validity; duration; renewal; waiver of educational requirements.

Sec. 5*l*. (1) A license to carry a concealed pistol issued before July 1, 2003 is valid for 3 years and a license to carry a concealed pistol issued on or after July 1, 2003 is valid for 5 years. A renewal of a license under section 5b shall be issued in the same manner as an original license issued under section 5b.

(2) The educational requirements under section 5b(7)(c) are waived for an applicant who is a retired police officer or retired law enforcement officer.

(3) The educational requirements under section 5b(7)(c) for an applicant who is applying for a renewal of a license under this act are waived except that the applicant shall certify that he or she has completed at least 3 hours' review of the training described under section 5b(7)(c) and has had at least 1 hour of firing range time in the 6 months immediately preceding the subsequent application.

28.425o Premises on which carrying concealed weapon prohibited; "premises" defined; exceptions to subsection (1); violation.

Sec. 5o. (1) Subject to subsection (4), an individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(f), shall not carry a concealed pistol on the premises of any of the following:

(a) A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school. As used in this section, "school" and "school property" mean those terms as defined in section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a.

(b) A public or private child care center or day care center, public or private child caring institution, or public or private child placing agency.

(c) A sports arena or stadium.

(d) A bar or tavern licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, where the primary source of income of the business is the sale

of alcoholic liquor by the glass and consumed on the premises. This subdivision shall not apply to an owner or employee of the business. The Michigan liquor control commission shall develop and make available to holders of licenses under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, an appropriate sign stating that "This establishment prohibits patrons from carrying concealed weapons". The owner or operator of an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, may, but shall not be required to, post the sign developed under this subdivision. A record made available by an establishment licensed under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, necessary to enforce this subdivision is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(e) Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.

(f) An entertainment facility with a seating capacity of 2,500 or more individuals that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.

(g) A hospital.

(h) A dormitory or classroom of a community college, college, or university.

(2) An individual licensed under this act to carry a concealed pistol, or who is exempt from licensure under section 12a(f), shall not carry a concealed pistol in violation of R 432.1212 or a successor rule of the Michigan administrative code promulgated pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(3) As used in subsection (1), "premises" does not include parking areas of the places identified under subsection (1).

(4) Subsection (1) does not apply to any of the following:

(a) An individual licensed under this act who is a retired police officer or retired law enforcement officer. The concealed weapon licensing board may require a letter from the law enforcement agency stating that the retired police officer or law enforcement officer retired in good standing.

(b) An individual who is licensed under this act and who is employed or contracted by an entity described under subsection (1) to provide security services and is required by his or her employer or the terms of a contract to carry a concealed firearm on the premises of the employing or contracting entity.

(c) An individual who is licensed as a private investigator or private detective under the private detective license act, 1965 PA 285, MCL 338.821 to 338.851.

(d) Any of the following who is licensed under this act while on duty and in the course of his or her employment:

(*i*) A corrections officer of a county sheriff's department.

(*ii*) A motor carrier officer or capitol security officer of the department of state police.

(*iii*) A member of a sheriff's posse.

(*iv*) An auxiliary officer or reserve officer of a police or sheriff's department.

(*v*) A parole or probation officer of the department of corrections.

(5) An individual who violates this section is responsible for a state civil infraction or guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the individual is responsible for a state civil infraction and may be fined not more than $500.00. The court shall order the individual's license to carry a concealed pistol suspended for 6 months.

(b) For a second violation, the individual is guilty of a misdemeanor punishable by a fine of not more than $1,000.00. The court shall order the individual's license to carry a concealed pistol revoked.

(c) For a third or subsequent violation, the individual is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both. The court shall order the individual's license to carry a concealed pistol revoked.

28.432a Persons to whom requirements inapplicable.

Sec. 12a. The requirements of this act for obtaining a license to carry a concealed pistol do not apply to any of the following:

(a) A peace officer of a duly authorized police agency of the United States or of this state or a political subdivision of this state, who is regularly employed and paid by the United States or this state or a subdivision of this state, except a township constable.

(b) A constable who is trained and certified under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, while engaged in his or her official duties or going to or coming from his or her official duties, and who is regularly employed and paid by a political subdivision of this state.

(c) A person regularly employed by the department of corrections and authorized in writing by the director of the department of corrections to carry a concealed pistol during the performance of his or her duties or while going to or returning from his or her duties.

(d) A member of the United States army, air force, navy, or marine corps while carrying a concealed pistol in the line of duty.

(e) A member of the national guard, armed forces reserves, or other duly authorized military organization while on duty or drill or while going to or returning from his or her place of assembly or practice or while carrying a concealed pistol for purposes of that military organization.

(f) A resident of another state who is licensed by that state to carry a concealed pistol.

(g) The regular and ordinary transportation of a pistol as merchandise by an authorized agent of a person licensed to manufacture firearms.

(h) A person while carrying a pistol unloaded in a wrapper or container in the trunk of his or her vehicle or, if the vehicle does not have a trunk, from transporting that pistol unloaded in a locked compartment or container that is separated from the ammunition for that pistol from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business, or in moving goods from 1 place of abode or business to another place of abode or business.

(i) A peace officer or law enforcement officer from Canada.

Effective date.

Enacting section 1. This amendatory act takes effect July 1, 2003.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 720]

(HB 5149)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 535 (MCL 750.535), as amended by 1998 PA 311.

The People of the State of Michigan enact:

750.535 Buying, receiving, possessing, concealing, or aiding in concealment of stolen, embezzled, or converted property or motor vehicle; violation; penalty; rebuttable presumption; enhanced sentence based on prior convictions.

Sec. 535. (1) A person shall not buy, receive, possess, conceal, or aid in the concealment of stolen, embezzled, or converted money, goods, or property knowing the money, goods, or property is stolen, embezzled, or converted.

(2) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of $20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of $1,000.00 or more but less than $20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of $200.00 or more but less than $1,000.00.

(b) The person violates subsection (5) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property purchased, received, possessed, or concealed has a value of less than $200.00, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine.

(6) The values of property purchased, received, possessed, or concealed in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property purchased, received, possessed, or concealed.

(7) A person shall not buy, receive, possess, conceal, or aid in the concealment of a stolen motor vehicle knowing that the motor vehicle is stolen, embezzled, or converted. A person who violates this subsection is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the value of the motor vehicle purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine. A person who is charged with, convicted of, or punished for a violation of this subsection shall not be convicted of or punished for a violation of another provision of this section arising from the purchase, receipt, possession, concealment, or aiding in the concealment of the same motor vehicle. This subsection does not prohibit the person from being charged, convicted, or punished under any other applicable law.

(8) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(9) A person who is a dealer in or collector of merchandise or personal property, or the agent, employee, or representative of a dealer or collector of merchandise or personal property who fails to reasonably inquire whether the person selling or delivering the stolen, embezzled, or converted property to the dealer or collector has a legal right to do so or who buys or receives stolen, embezzled, or converted property that has a registration, serial, or other identifying number altered or obliterated on an external surface of the property, is presumed to have bought or received the property knowing the property is stolen, embezzled, or converted. This presumption is rebuttable.

(10) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2003.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 721]

(SB 717)

AN ACT to amend 1972 PA 230, entitled "An act to create a construction code commission and prescribe its functions; to authorize the director to promulgate rules with recommendations from each affected board relating to the construction, alteration, demolition, occupancy, and use of buildings and structures; to prescribe energy conservation standards for the construction of certain buildings; to provide for statewide approval of premanufactured units; to provide for the testing of new devices, materials, and techniques for the construction of buildings and structures; to define the classes of buildings and structures affected by the act; to provide for administration and enforcement of the act; to create a state construction code fund; to prohibit certain conduct; to establish penalties, remedies, and sanctions for violations of the act; to repeal acts and parts of acts; and to provide an appropriation," by amending section 19 (MCL 125.1519).

The People of the State of Michigan enact:

125.1519 Premanufactured units; certificate of acceptability; rules; building permit; fee; objections; hearing.

Sec. 19. (1) The department shall promulgate rules establishing a procedure by which a premanufactured unit intended for use in this state may be issued a certificate of acceptability by the department at its place of manufacture.

(2) The procedure shall require that the manufacturer submit to the department detailed plans and specifications for the premanufactured unit for approval as in compliance with the code. The department may require that the manufacturer submit test results on the premanufactured unit or its components, any material or information the department considers relevant, or 1 or more of the premanufactured units for testing and evaluation by the department.

(3) Each premanufactured unit shall be inspected by the department, or a qualified person approved by the department, to determine that the premanufactured unit has been manufactured in accordance with plans and specifications submitted under subsection (2). The department may issue a certificate of acceptability for a premanufactured unit that bears the approved label of an independent, nationally recognized body having follow-up inspection service satisfactory to the commission, certifying that the premanufactured unit complies with plans and specifications submitted under subsection (2).

(4) Plans and specifications for 1- and 2-family dwelling premanufactured units may be reviewed by the department or by an independent entity approved by the commission under rules promulgated by the department. The department shall establish submission procedures for plans and specifications reviewed by an independent entity approved by the commission.

(5) A local enforcing agency may also inspect a premanufactured unit at its place of manufacture to determine that it has been manufactured in accordance with plans and specifications submitted under subsection (2) and shall advise the state inspector and the commission in writing of any deviations found.

(6) An approved independent entity shall not conduct in-plant inspections of units for which it performed plan reviews. However, the manufacturer may request a variance from the commission if the literal application of the requirements of this section would result in an exceptional, practical difficulty relating to inspection of specific units. For purposes of this subsection, "exceptional, practical difficulty" includes, but is not limited

to, a geographic distance between the manufacturing facility where the units are manufactured and the primary business location of the independent entity that conducts in-plant inspections on behalf of the manufacturer of more than 250 miles and is located in another state.

(7) If an application for a building permit specifying use of a premanufactured unit with a certificate of acceptability is submitted to an enforcing agency, and if the application, except for the part calling for use of a premanufactured unit with a certificate of acceptability, complies with applicable construction regulations, zoning laws, and local ordinances, the enforcing agency shall issue the building permit within the time specified in this act.

(8) At the time of installation, a premanufactured unit with a certificate of acceptability is subject only to the nondestructive tests approved by the department necessary to determine that it has not been damaged in transit or installation, and that it has been installed in accordance with the building permit and construction regulations.

(9) The fees established for a building permit when the application specifies use of a premanufactured unit with a certificate of acceptability, or for inspection of the installation of the premanufactured unit shall bear a reasonable relation to the costs incurred by the enforcing agency in issuing a permit or performing an inspection.

(10) Notwithstanding any other provision of this section, an enforcing agency may object to use of a premanufactured unit with a certificate of acceptability on the basis that the premanufactured unit does not comply with the code. If an enforcing agency on receipt of an application for a building permit specifying the use of a premanufactured unit does object, it may set forth its objections in writing to the department before issuance of a building permit and within 10 business days after receipt of the application. Within 10 business days after receipt of the objections, the commission, or a panel of 3 or more members designated for that purpose by its chairman, shall hold a hearing on the objections in accordance with rules promulgated by the department. After the hearing, the commission, or its panel, within 3 business days shall determine 1 of the following:

(a) The premanufactured unit does not comply with the code and order that the certificate of acceptability be voided.

(b) The premanufactured unit requires additional testing and evaluation in which case the testing and evaluation shall be conducted in accordance with this section.

(c) The objections are not valid and order the enforcing agency to issue the building permit within 3 business days.

(11) A certificate of acceptability issued by the department shall not be used for advertising purposes.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 722]

(HB 5858)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of

evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 503 (MCL 750.503).

The People of the State of Michigan enact:

750.503 Punishment of felonies when not fixed by statute.

Sec. 503. If a person is convicted of a felony for which no punishment is specially prescribed, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 1028 of the 91st Legislature is enacted into law.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: Senate Bill No. 1028, referred to in enacting section 1, was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 723, Eff. Mar. 31, 2003.

[No. 723]

(SB 1028)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 504 (MCL 750.504).

The People of the State of Michigan enact:

750.504 Punishment of misdemeanors when not fixed by statute.

Sec. 504. If a person is convicted of a crime designated in this act or in any other act of this state to be a misdemeanor for which no punishment is specially prescribed, the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $500.00, or both.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 724]

(HB 5680)

AN ACT to amend 1945 PA 47, entitled "An act to authorize 2 or more cities, townships, and villages, or any combination of cities, townships, and villages, to

incorporate a hospital authority for planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating 1 or more community hospitals and related buildings or structures and related facilities; to provide for the sale, lease, or other transfer of a hospital owned by a hospital authority to a nonprofit corporation established under the laws of this state for no or nominal monetary consideration; to define hospitals and community hospitals; to provide for changes in the membership therein; to authorize the cities, townships, and villages to levy taxes for community hospital purposes; to provide for the issuance of bonds; to provide for the pledge of assessments; to provide for borrowing money for operation and maintenance and issuing notes for operation and maintenance; to validate elections heretofore held and notes heretofore issued; to validate bonds heretofore issued; to authorize condemnation proceedings; to grant certain powers of a body corporate; to validate and ratify the organization, existence, and membership of entities acting as hospital authorities under the act and the actions taken by hospital authorities and by the members of the hospital authorities; and to prescribe penalties and provide remedies," by amending sections 5, 6, and 7 (MCL 331.5, 331.6, and 331.7), section 5 as amended by 1984 PA 17 and section 7 as amended by 1983 PA 78.

The People of the State of Michigan enact:

331.5 Hospital board; appointment, qualifications, and terms of members; temporary officers; resolutions removing members at large; duties of secretary; limitation on procedure; first meeting; election of officers; executive committee; medical advisory committee; employees; voting; committees generally; employment of former members.

Sec. 5. (1) The hospital authority shall be directed and governed by a hospital board consisting of 1 member for the first 20,000 population and 1 for each additional 40,000, or fraction thereof, according to the latest or each succeeding federal decennial census for each city, village, or township participating in the hospital authority. The members shall be appointed by the legislative bodies of each participating city, village, or township, and, subject to subsection (2), 7 members at large selected by the appointed members. On the date appointed in the adopting resolutions, or within 30 days after the creation of the hospital authority, the members appointed by the respective cities, villages, and townships, shall convene, elect a temporary chairperson and secretary, and select the members at large by a majority vote. The appointed members shall be electors of the respective appointing cities, villages, or townships and may be members of the legislative bodies of the city, village, or township. The members at large shall be electors of the territory served by the community hospitals. The members at large shall be appointed for staggered terms so that not more than 2 memberships shall expire each year, and succeeding appointments shall be for a term of 4 years. The appointed members shall serve at the pleasure of their respective appointing legislative bodies.

(2) The members at large of a hospital board of a hospital authority whose member jurisdiction has a population of 300,000 or more shall be removed if the legislative bodies of the cities, villages, and townships participating in the hospital authority whose representation constitutes a majority of the members of the hospital board in accordance with their authorized representation on the board, excluding the members at large, adopt a resolution to remove the members at large. The resolutions required by this subsection shall be adopted within the same 90-day period. The resolutions shall be transmitted to the secretary of the hospital board.

(3) Upon receipt of the resolutions required by subsection (2), the secretary of the hospital board shall do all of the following:

(a) Certify the resolutions.

(b) Within 10 days after receipt of the resolutions, notify the members at large in writing that they have been removed from office.

(c) Notify the full hospital board not later than the next regularly scheduled meeting of the hospital board. If the board is not scheduled to hold a regularly scheduled meeting within 90 days after the secretary's receipt of the resolutions, the secretary shall, within 30 days after receipt of the resolutions, notify the other members of the board in writing of the removal from office.

(4) The procedure described in subsection (2) shall not be used or attempted more than once in a 12-month period.

(5) Immediately upon the removal of the members at large the hospital board shall hold its first meeting and organize by electing from its members a chairperson and vice-chairperson, and a secretary and treasurer who shall be members of the hospital board.

(6) The hospital board shall also appoint an executive committee, consisting of the chairperson and 6 other hospital board members. The executive committee shall carry on the active administrative duties of the hospital authority. The executive committee shall hold office at the pleasure of the hospital board. The hospital board shall also appoint a medical advisory committee which shall advise the hospital board with regard to professional problems of hospital operation and to surgical and medical policies including matters pertaining to the development of medical staff bylaws and rules. The members of the medical advisory committee shall be physicians and surgeons licensed pursuant to article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838. The board shall also select and employ other officers and employees and contract for services as are considered necessary to effectuate its purposes.

(7) A member of the board shall not vote on an issue in which the member has a substantial interest.

(8) The hospital board, by resolution, may establish committees, other than the executive committee. The committees shall be constituted and appointed as provided by the hospital board. A committee shall not exercise governing powers of the hospital board but shall make reports and recommendations to the hospital board as the hospital board directs.

(9) A former member of a hospital board who was removed pursuant to subsection (2) shall not be employed by the hospital authority within 2 years after the former member was removed.

331.6 Hospital board; meetings; conducting business at public meeting; notice of meeting; waiver of notice; quorum; record of meeting; availability of record and other writings to public; system of accounts; audit; treasurer's bond; bylaws, rules, and policies; violations; determination of no material assets; resolution.

Sec. 6. (1) After organization, the hospital board, by resolution, shall establish the times for holding regular meetings of the board. Business which the hospital board may perform shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. The board shall hold other meetings at the call of the chairperson. Public notice of the time, date, and place of meetings shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and the chairperson shall give 3 days' personal or written notice of the time and place of the

meetings to the members. A member of the board may file a written waiver of notice and consent to a board meeting. The chairperson shall call a meeting upon written request of 3 members of the board. A majority of the members shall constitute a quorum. The board shall cause to be kept a written or printed record of each meeting, which record and any other writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The board shall provide for a system of accounts to conform to a uniform system required by law and for annual auditing of the accounts of the treasurer by a certified public accountant. The board shall require the treasurer to give a suitable bond by a responsible bonding company, to be paid for by the board. The board shall adopt bylaws, rules, and policies governing the operation and professional work of the hospital and the eligibility and qualifications of its medical staff. Physicians, nurses, attendants, employees, patients, and persons approaching or on the premises of the hospital and furniture, equipment, and other articles used or brought on the premises shall be subject to the bylaws, rules, and policies as the hospital board may adopt or authorize to be adopted. The board may deny or revoke staff membership, or suspend or reduce hospital privileges to a physician who violates a provision of the medical staff bylaws, rules, and policies.

(3) The medical advisory committee, with the approval of the hospital board, shall adopt rules and policies governing the professional work of the hospitals and the eligibility and qualifications of their medical staffs. The rules and policies shall conform, as nearly as practicable, to the applicable standards recommended by the joint commission on accreditation of hospitals.

(4) If an audit completed pursuant to subsection (2) shows that the authority has gross assets, without accounting for any liabilities, of less than $20,000.00, and if the authority is not then directly or indirectly engaged in the operation of a hospital, the board may adopt a resolution stating that the authority has no material assets. The adoption of the resolution shall be made at a public meeting held in compliance with this section and with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board that has adopted such a resolution shall continue to function in compliance with sections 5 and 7 and this section except for the following:

(a) The board need not meet at the regular times established under this section.

(b) The board need not complete an annual budget pursuant to section 7.

(c) The board may take action by a written consent of the board members signed by a number of board members equal to the number of members necessary to approve such action at a meeting at which all the board members attended, but only for the purpose of electing members at large to the board of the authority and not for the purpose of removing members at large. Such a written action shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) A determination of no material assets, as provided for in subsection (4), shall remain in effect until the authority begins directly or indirectly to engage in the operation of a hospital or until the authority's gross assets, without accounting for any liabilities, increase to $20,000.00. Immediately upon the happening of either event, or at any other time at the discretion of the board, the determination of no material assets shall cease and the board shall resume all of the actions required of it before the determination of no material assets.

(6) Any residual value resulting from an authority's potential right to retake possession of a hospital or other property previously sold or transferred pursuant to section 9 is not included as part of the authority's assets for making a determination of no material assets under subsection (4).

331.7 Balanced budget; preparation; contents; notice of public hearing; adoption of budget; determining respective shares of cities, townships, and villages; assessed valuations; tax levy; certification of amounts to be raised; tax limitation; payment and liability for amounts certified; reports.

Sec. 7. (1) Except as otherwise provided in section 6, by April 1 of each year, the hospital board shall cause a balanced budget to be prepared containing an itemized statement of the estimated current expenses and the expenses for capital outlay, including the amount necessary to pay the principal and interest of any outstanding bonds or other obligations of the authority maturing before the time of the following year's tax collection or which have previously matured and are unpaid, and an estimate of the revenue of the hospital authority from all sources for the ensuing fiscal year. The board shall publish notice of a public hearing on the budget stating the time and place. Notice of hearing shall be furnished the legislative body of each city, village, or township participating in the hospital authority.

(2) After the public hearing, the board shall adopt the budget as shall be considered necessary and shall ascertain what amount is required to be raised by taxation from the several cities, townships, and villages to meet their respective shares of the amount of the budget in excess of the estimated other revenues. The share of each city, village, and township shall be determined on the basis of their respective valuations as finally equalized. The assessed valuation of a township for the purpose shall be exclusive of the property within a village which, as a corporate entity, is a member of the authority, and the assessed valuation of a member village shall be computed pursuant to the township assessment roll so as to afford a uniform assessment basis. A member township containing in whole or in part a member village shall levy taxes under this act only against property located outside the village. The board shall certify to each participating city, township, and village the amount to be raised by them and the respective cities, townships, and villages shall include those amounts in their next ensuing budgets, and shall pay the amount so certified from funds they have available or from the proceeds of a tax which they are authorized to levy, in an amount sufficient therefor, but not exceeding the tax limitation provided in this act exclusive of any amount voted for capital improvements under section 4 or necessary to pay principal and interest on bonds issued under section 8b. A village located in a township that is also a member of the authority, by agreement with the township, may have the township include the village property in a tax assessment under this act, collect the money assessed, and pay it to the village for payment of its share to the authority. Payment of the sums certified shall be due and payable to the hospital authority 120 days after the date on which local taxes become due and payable in cities, villages, and townships participating in the hospital authority except that when a township collects a village portion, the amount due from the village shall not be due to the authority until the township portion is due. Each city, township, and village shall be liable for the amount certified.

(3) The board shall also render to each participating city, township, and village on each July 1 and January 1 a certified report pertaining to the operation of the hospital. Each report shall state the condition of the finances, the amount of money expended, the money received from all sources, the money owing to the board for hospital and medical services, and other information as the board may consider expedient. The board shall also file a copy of the report with the department of treasury together with other information as the department of treasury may require.

(4) Within 30 days after the formation of a new hospital authority, and annually on July 1 thereafter, the hospital board shall file with the secretary of state a report as the

secretary of state may require, including the date of formation, the names of the member communities, and other information the secretary of state may require.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 725]

(SB 1401)

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending sections 513, 531, 701, 705, 905, 1021, and 1025 (MCL 436.1513, 436.1531, 436.1701, 436.1705, 436.1905, 436.2021, and 436.2025), section 513 as amended by 2000 PA 344 and section 531 as amended by 2001 PA 223, and by adding section 518.

The People of the State of Michigan enact:

436.1513 Licenses; issuance to governing board of college or university; restrictions and prohibition; sale of alcoholic liquor on hotel premises located on land owned by central Michigan university; license to private entity; conditions; nontransferability; fee; "college," "university," and "conference center" defined.

Sec. 513. (1) The commission may issue to the governing board of a college or university, without regard to the quota provisions of section 531, a license to sell alcoholic liquor for consumption on the premises of a conference center operated by the governing board. Licenses granted under this subsection may be used only for the sale of alcoholic liquor at regularly scheduled conference center activities. The sale of alcoholic liquor to unscheduled patrons or at unscheduled events is prohibited under this subsection.

(2) Subject to the provisions of section 531, the commission may issue a license to a private entity for the sale of alcoholic liquor for consumption on the premises of a hotel located on land owned by central Michigan university if both of the following circumstances exist:

(a) The land is leased or subleased at fair market value to a private entity that owns, leases, or subleases the hotel building and its fixtures.

(b) The hotel and land are located within an industrial, research, or commercial development park established by the governing board of central Michigan university.

(3) Licenses issued pursuant to this section are nontransferable, and the licensee shall pay the fee required under section 525.

(4) As used in this section:

(a) "College" or "university" means a 2-year or 4-year state supported institution of higher education.

(b) "Conference center" means a building or portion of a building, other than a student residence hall or student center, which has meeting rooms, banquet areas, social halls, overnight accommodations, and related facilities for special activities scheduled by the college or university, which in the judgment of the commission, has been regularly used for conferences and lodging of guests. The convocation center and the corporate education center at eastern Michigan university, the Kirkhof and Eberhard centers at Grand Valley state university, the Bernhard center at western Michigan university, the Wadsworth center at Michigan technological university, the West complex at Saginaw Valley state university, the conference center at Big Rapids, the applied technology center at Grand Rapids and the FSU-GR conference center of Ferris state university, Grand Rapids junior college, the Waterman campus center at Schoolcraft college, the Mendel center at Lake Michigan community college, the McGregor memorial conference center at Wayne state university, the Michigan state university management educational center, the Superior dome at northern Michigan university, Walker Cisler center at Lake Superior state university, the Marie Prahl college center at Mott community college, and the farmhouse at Delta college are considered conference centers for the purposes of this act.

436.1518 Definitions; consumption of alcohol on premises of motorsports entertainment complex.

Sec. 518. (1) As used in this section:

(a) "Motorsports entertainment complex" means a closed-course motorsports facility and its ancillary grounds that comply with all of the following:

(*i*) Has at least 70,000 fixed seats for race patrons.

(*ii*) Has at least 7 scheduled days of motorsports events each calendar year.

(*iii*) Has at least 4 motorsports events each calendar year.

(*iv*) Serves food and beverages at the facility during sanctioned events each calendar year through concession outlets, a majority of which are staffed by individuals who represent or are members of 1 or more nonprofit civic or charitable organizations that directly financially benefit from the concession outlets' sales.

(*v*) Engages in tourism promotion.

(*vi*) Has located on the property exhibitions of motorsports history, events, or vehicles.

(b) "Motorsports event" means a motorsports race and its ancillary activities that have been sanctioned by a sanctioning body.

(c) "Owner" means a person who owns and operates a motorsports entertainment complex.

(d) "Sanctioning body" means the American motorcycle association (AMA); auto racing club of America (ARCA); championship auto racing teams (CART); grand American road racing association (GRAND AM); Indy racing league (IRL); national association for stock car auto racing (NASCAR); nation hot rod association (NHRA); professional sportscar racing (PSR); sports car club of america (SCCA); United States auto club (USAC); or any

successor organization or any other nationally or internationally recognized governing body of motorsports that establishes an annual schedule of motorsports events and grants rights to conduct the events, that has established and administers rules and regulations governing all participants involved in the events and all persons conducting the events, and that requires certain liability assurances, including insurance.

(2) For a period of time not to exceed 7 consecutive days during which public access is permitted to a motorsports entertainment complex in connection with a motorsports event, members of the general public at least 21 years or older may bring alcoholic liquor not purchased at the motorsports entertainment complex into the motorsports entertainment complex and possess and consume that alcoholic liquor. Possession and consumption of alcoholic liquor under this section are allowed in portions of the motorsports entertainment complex open to the general public that are also part of the licensed premises of a retail licensee only under both of the following circumstances:

(a) The licensed premises are located within the motorsports entertainment complex.

(b) The retail licensee holds a license for consumption on the licensed premises of the motorsports entertainment complex.

(3) A person holding a license for the sale of alcoholic liquor for consumption on the premises at a motorsports entertainment complex is subject to the civil liability provisions of section 801 if the civil action is brought by or on behalf of an individual who suffers damage or is personally injured by a minor or visibly intoxicated person by reason of the unlawful consumption of alcoholic liquor on the licensed premises by that minor or visibly intoxicated person if the unlawful consumption is proven to be a proximate cause of the damage, injury, or death of the individual, whether the alcoholic liquor was sold or furnished by the licensee or was brought onto the licensed premises under subsection (2).

436.1531 Public licenses and resort licenses; on-premise escrowed licenses; limitations and quotas; additional licenses for certain establishments; license for certain events at public university; economic development factors; exceptions as to certain veterans and airports; special state census of local governmental unit; rules; availability of transferable licenses held in escrow; on-premise escrowed or quota license; issuance of available licenses; report; hotels; definitions.

Sec. 531. (1) A public license shall not be granted for the sale of alcoholic liquor for consumption on the premises in excess of 1 license for each 1,500 of population or major fraction thereof. On-premises escrowed licenses issued under this subsection may be transferred subject to local legislative approval under section 501(2) to an applicant whose proposed operation is located within any local governmental unit in a county with a population of under 500,000 or a county with a population of over 700,000 in which the escrowed license was located. If the local governmental unit within which the former licensee's premises were located spans more than 1 county, an escrowed license is available subject to local legislative approval under section 501(2) to an applicant whose proposed operation is located within any local governmental unit in either county. If an escrowed license is activated within a local governmental unit other than that local governmental unit within which the escrowed license was originally issued, the commission shall count that activated license against the local governmental unit originally issuing the license. This quota does not bar the right of an existing licensee to renew a license or transfer the license and does not bar the right of an on-premise licensee of any class to reclassify to another class of on-premises license in a manner not in violation of law or this act, subject to the consent of the commission. The upgrading of a

license resulting from a request under this subsection shall be approved by the local governmental unit having jurisdiction.

(2) In a resort area, the commission may issue 1 or more licenses for a period not to exceed 12 months without regard to a limitation because of population, but not in excess of 550, and with respect to the resort license the commission, by rule, shall define and classify resort seasons by months and may issue 1 or more licenses for resort seasons without regard to the calendar year or licensing year.

(3) In addition to the resort licenses authorized in subsection (2), the commission may issue not more than 10 additional licenses per year for the years 2003 and 2004 to establishments whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area, whose primary purpose is not for the sale of alcoholic liquor, and whose capital investment in real property, leasehold improvement, and fixtures for the premises to be licensed is $75,000.00 or more. Further, the commission shall issue 1 license under this subsection for the years 2003 and 2004 to an applicant located in a rural area that has a poverty rate, as defined by the latest decennial census, greater than the statewide average, or that is located in a rural area that has an unemployment rate higher than the statewide average for 3 of the 5 preceding years. In counties having a population of less than 50,000, as determined by the last federal decennial census or as determined pursuant to subsection (11) and subject to subsection (16) in the case of a class A hotel or a class B hotel, the commission shall not require the establishments to have dining facilities to seat more than 50 persons. The commission may cancel the license if the resort is no longer active or no longer qualifies for the license. Before January 16 of each year the commission shall transmit to the legislature a report giving details as to the number of applications received under this subsection; the number of licenses granted and to whom; the number of applications rejected and the reasons; and the number of the licenses revoked, suspended, or other disciplinary action taken and against whom and the grounds for revocation, suspension, or disciplinary action.

(4) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1) and the resort licenses authorized in subsections (2) and (3), the commission may issue not more than 20 resort economic development licenses per year for the years 2003 and 2004. A person is eligible to apply for a resort economic development license under this subsection upon submitting an application to the commission and demonstrating all of the following:

(a) The establishment's business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area.

(b) The establishment's primary business is not the sale of alcoholic liquor.

(c) The capital investment in real property, leasehold improvement, fixtures, and inventory for the premises to be licensed is in excess of $1,500,000.00.

(d) The establishment does not allow or permit casino gambling on the premises.

(5) In governmental units having a population of 50,000 persons or less, as determined by the last federal decennial census or as determined pursuant to subsection (11), in which the quota of specially designated distributor licenses, as provided by commission rule, has been exhausted, the commission may issue not more than a total of 10 additional specially designated distributor licenses per year for the years 2003 and 2004 to established merchants whose business and operation, as determined by the commission, is designed to attract and accommodate tourists and visitors to the resort area. A specially designated distributor license issued pursuant to this subsection may be issued at a location within 2,640 feet of existing specially designated distributor license locations. A specially

designated distributor license issued pursuant to this subsection shall not bar another specially designated distributor licensee from transferring location to within 2,640 feet of said licensed location. A specially designated distributor license issued pursuant to section 533 may be located within 2,640 feet of a specially designated distributor license issued pursuant to this subsection.

(6) In addition to any licenses for the sale of alcoholic liquor for consumption on the premises that may be available in the local governmental unit under subsection (1), and the resort or resort economic development licenses authorized in subsections (2), (3), and (4), and notwithstanding section 519, the commission may issue not more than 5 additional special purpose licenses in any calendar year for the sale of beer and wine for consumption on the premises. A special purpose license issued pursuant to this subsection shall be issued only for events which are to be held from May 1 to September 30, are artistic in nature, and which are to be held on the campus of a public university with an enrollment of 30,000 or more students. A special purpose license shall be valid for 30 days or for the duration of the event for which it is issued, whichever is less. The fee for a special purpose license shall be $50.00. A special purpose license may be issued only to a corporation which is all of the following:

(a) Is a nonprofit corporation organized pursuant to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(b) Has a board of directors constituted of members of whom half are elected by the public university at which the event is scheduled and half are elected by the local governmental unit.

(c) Has been in continuous existence for not less than 6 years.

(7) Notwithstanding the local legislative body approval provision of section 501(2) and notwithstanding the provisions of section 519, the commission may issue, without regard to the quota provisions of subsection (1) and with the approval of the governing board of the university, either a tavern or class C license which may be used only for regularly scheduled events at a public university's established outdoor program or festival at a facility on the campus of a public university having a head count enrollment of 10,000 students or more. A license issued under this subsection may only be issued to the governing board of a public university, a person that is the lessee or concessionaire of the governing board of the university, or both. A license issued under this subsection is not transferable as to ownership or location. A license issued under this subsection may not be issued at an outdoor stadium customarily used for intercollegiate athletic events.

(8) In issuing a resort or resort economic development license under subsection (3), (4), or (5), the commission shall consider economic development factors of the area in the issuance of licenses to establishments designed to stimulate and promote the resort and tourist industry. The commission shall not transfer a resort or resort economic development license issued under subsection (3), (4), or (5) to another location. If the licensee goes out of business the license shall be surrendered to the commission.

(9) The limitations and quotas of this section are not applicable to the issuance of a new license to a veteran of the armed forces of the United States who was honorably discharged or released under honorable conditions from the armed forces of the United States and who had by forced sale disposed of a similar license within 90 days before or after entering or while serving in the armed forces of the United States, as a part of the person's preparation for that service if the application for a new license is made for the same governmental unit in which the previous license was issued and within 60 days after the discharge of the applicant from the armed forces of the United States.

(10) The limitations and quotas of this section shall not be applicable to the issuance of a new license or the renewal of an existing license where the property or establishment

to be licensed is situated in or on land on which an airport owned by a county or in which a county has an interest is situated.

(11) For purposes of implementing this section a special state census of a local governmental unit may be taken at the expense of the local governmental unit by the federal bureau of census or the secretary of state under section 6 of the home rule city act, 1909 PA 279, MCL 117.6. The special census shall be initiated by resolution of the governing body of the local governmental unit involved. The secretary of state may promulgate additional rules necessary for implementing this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(12) Before granting an approval as required in section 501(2) for a license to be issued under subsection (2), (3), or (4), a local legislative body shall disclose the availability of transferable licenses held in escrow for more than 1 licensing year within that respective local governmental unit. Public notice of the meeting to consider the granting of the license by the local governmental unit shall be made 2 weeks before the meeting.

(13) The person signing the application for an on-premise resort or resort economic development license shall state and verify that he or she attempted to secure an on-premise escrowed or quota license and that, to the best of his or her knowledge, an on-premise escrowed or quota license is not readily available within 1 of the following:

(a) In a county with a population under 500,000 or over 700,000, the county in which the applicant for the on-premise resort or resort economic development license proposes to operate.

(b) In a county not described in subdivision (a), the local governmental unit in which the applicant for the on-premise resort or resort economic development license proposes to operate.

(14) The commission shall not issue an on-premise resort or resort economic development license if the local governmental unit or county, as appropriate, within which the resort or resort economic development license applicant proposes to operate has not issued all on-premise licenses available under subsection (1) or if an on-premise escrowed license exists and is readily available within the local governmental unit in which the applicant for the on-premise resort or resort economic development license proposes to operate. The commission may waive the provisions of this subsection upon a showing of good cause.

(15) The commission shall annually report to the legislature the names of the businesses issued licenses under this section and their locations.

(16) The commission shall not require a class A hotel or a class B hotel licensed pursuant to subsection (2), (3), or (4) to provide food service to registered guests or to the public.

(17) Subject to the limitation and quotas of subsection (1) and to local legislative approval under section 501(2), the commission may approve the transfer of ownership and location of an on-premises escrowed license within the same county to a class G-1 or class G-2 license or may approve the reclassification of an existing on-premises license at the location to be licensed to a class G-1 license or to a class G-2 license, subject to subsection (1). Resort or economic development on-premises licenses created under subsection (3) or (4) may not be issued as, or reclassified to, a class G-1 or class G-2 license.

(18) As used in this section:

(a) "Escrowed license" means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan administrative code.

(b) "Readily available" means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes, but is not limited to, the following:

(*i*) The fair market value of the license, if determinable.

(*ii*) The size and scope of the proposed operation.

(*iii*) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

436.1701 Selling or furnishing alcoholic liquor to person less than 21 years of age; failure to make diligent inquiry; misdemeanor; signs; consumption of alcoholic liquor as cause of death or injury; felony; enforcement against licensee; consent of parent or guardian in undercover operation; defense in action for violation; report; definitions.

Sec. 701. (1) Alcoholic liquor shall not be sold or furnished to a minor. Except as otherwise provided in subsection (2) and subject to subsections (4), (5), and (6), a person who knowingly sells or furnishes alcoholic liquor to a minor, or who fails to make diligent inquiry as to whether the person is a minor, is guilty of a misdemeanor. A retail licensee or a retail licensee's clerk, agent, or employee who violates this subsection shall be punished in the manner provided for licensees in section 909 except that if the violation is the result of an undercover operation in which the minor received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action, the retail licensee's clerk, agent, or employee is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $100.00. Except as otherwise provided in subsection (2), a person who is not a retail licensee or a retail licensee's clerk, agent, or employee and who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than $1,000.00 and imprisonment for not more than 60 days for a first offense, a fine of not more than $2,500.00 and imprisonment for not more than 90 days for a second or subsequent offense, and may be ordered to perform community service. A suitable sign describing the content of this section and the penalties for its violation shall be posted in a conspicuous place in each room where alcoholic liquor is sold. The signs shall be approved and furnished by the commission.

(2) A person who is not a retail licensee or the retail licensee's clerk, agent, or employee and who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 10 years or a fine of not more than $5,000.00, or both, if the subsequent consumption of the alcoholic liquor by the minor is a direct and substantial cause of that person's death or an accidental injury that causes that person's death.

(3) If a violation occurs in an establishment that is licensed by the commission for consumption of alcoholic liquor on the licensed premises, a person who is a licensee or the clerk, agent, or employee of a licensee shall not be charged with a violation of subsection (1) or section 801(2) unless the licensee or the clerk, agent, or employee of the licensee knew or should have reasonably known with the exercise of due diligence that a person less than 21 years of age possessed or consumed alcoholic liquor on the licensed premises and the licensee or clerk, agent, or employee of the licensee failed to take immediate corrective action.

(4) If the enforcing agency involved in the violation is the state police or a local police agency, a licensee shall not be charged with a violation of subsection (1) or section 801(2) unless all of the following occur, if applicable:

(a) Enforcement action is taken against the minor who purchased or attempted to purchase, consumed or attempted to consume, or possessed or attempted to possess alcoholic liquor.

(b) Enforcement action is taken under this section against the person 21 years of age or older who is not the retail licensee or the retail licensee's clerk, agent, or employee who sold or furnished the alcoholic liquor to the minor.

(c) Enforcement action under this section is taken against the clerk, agent, or employee who directly sold or furnished alcoholic liquor to the minor.

(5) If the enforcing agency is the commission and an appearance ticket or civil infraction citation has not been issued, then the commission shall recommend to a local law enforcement agency that enforcement action be taken against a violator of this section or section 703 who is not a licensee. However, subsection (4) does not apply if the minor against whom enforcement action is taken under section 703, the clerk, agent, or employee of the licensee who directly sold or furnished alcoholic liquor to the minor, or the person 21 years of age or older who sold or furnished alcoholic liquor to the minor is not alive or is not present in this state at the time the licensee is charged. Subsection (4)(a) does not apply under either of the following circumstances:

(a) The violation of subsection (1) is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.

(b) The violation of subsection (1) is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action.

(6) Any initial or contemporaneous purchase or receipt of alcoholic liquor by the minor under subsection (5)(a) or (b) must have been under the direction of the state police, the commission, or the local police agency and must have been part of the undercover operation.

(7) If a minor participates in an undercover operation in which the minor is to purchase or receive alcoholic liquor under the supervision of a law enforcement agency, his or her parents or legal guardian shall consent to the participation if that person is less than 18 years of age.

(8) In an action for the violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a minor, a motor vehicle operator's or chauffeur's license or a registration certificate issued by the federal selective service, or other bona fide documentary evidence of the age and identity of that person, shall be a defense to an action brought under this section.

(9) The commission shall provide, on an annual basis, a written report to the department of state police as to the number of actions heard by the commission involving violations of this section and section 801(2). The report shall include the disposition of each action and contain figures representing the following categories:

(a) Decoy operations.

(b) Off-premises violations.

(c) On-premises violations.

(d) Repeat offenses within the 3 years preceding the date of that report.

(10) As used in this section:

(a) "Corrective action" means action taken by a licensee or a clerk, agent, or employee of a licensee designed to prevent a minor from further possessing or consuming alcoholic liquor on the licensed premises. Corrective action includes, but is not limited to, contacting a law enforcement agency and ejecting the minor and any other person suspected of aiding and abetting the minor.

(b) "Diligent inquiry" means a diligent good faith effort to determine the age of a person, which includes at least an examination of an official Michigan operator's or

chauffeur's license, an official Michigan personal identification card, or any other bona fide picture identification which establishes the identity and age of the person.

436.1705 Power of peace officer or law enforcement officer witnessing violation to stop and detain person; issuance of appearance ticket.

Sec. 705. A peace officer or law enforcement officer described under section 201 or an inspector of the commission who witnesses a violation of section 701(1) or 703, or a local ordinance corresponding to section 701(1) or 703, may stop and detain a person and obtain satisfactory identification, seize illegally possessed alcoholic liquor, and issue an appearance ticket as prescribed in section 9c of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.9c.

436.1905 Selling or furnishing alcoholic liquor to minor; enforcement actions prohibited; conditions; exception.

Sec. 905. (1) Notwithstanding section 903, if a retail licensee or a retail licensee's clerk, agent, or employee violates this act by selling or furnishing alcoholic liquor to a minor, or by allowing a minor to consume alcoholic liquor or possess alcoholic liquor for personal consumption on the licensed premises, and if the enforcing agency involved in the prosecution of the violation is the state police or a local police agency, the commission shall not take any action under section 903 to suspend or revoke the licensee's license or assess an administrative fine against the licensee unless all of the following occur, if applicable:

(a) Enforcement action is taken against the minor who purchased, consumed, or received the alcoholic liquor from the retail licensee or the retail licensee's clerk, agent, or employee.

(b) Enforcement action is taken under section 701 against the person 21 years of age or older that is not the retail licensee or the retail licensee's clerk, agent, or employee but who sold or furnished the alcoholic liquor to the minor.

(c) Enforcement action is taken under section 701 against the retail licensee's clerk, agent, or employee.

(2) Subsection (1) does not apply if the enforcing agent involved in the prosecution is a commission inspector rather than a police agency.

(3) Subsection (1)(a) does not apply if the prosecution of the violation is the result of an undercover operation in which the minor who purchased, consumed, or received the alcoholic liquor acted under the direction of the state police or a local police agency as part of the enforcement action and such enforcement action is otherwise in compliance with section 701(4), (5), and (6).

436.2021 Purchase or serving of food; removal of liquor from premises; class A or B hotel.

Sec. 1021. (1) A regulation shall not be made requiring the purchase or serving of food with the purchase of alcoholic liquor. The commission shall not require a class A hotel or class B hotel to provide food services to registered guests or to the public.

(2) Alcoholic liquor sold by vendors for consumption on the premises shall not be removed from those premises.

(3) Nothing in this act and rules promulgated under this act shall prevent a class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from allowing its invitees or guests to possess or consume, or both, on or about its premises,

alcoholic liquor purchased by the invitee or guest from an off-premises retailer, and does not prevent a guest or invitee from entering and exiting the licensed premises with alcoholic liquor purchased from an off-premises retailer.

436.2025 Giving away alcoholic liquor; samplings or tastings of alcoholic liquor; sales to intoxicated persons prohibited.

Sec. 1025. (1) A vendor shall not give away any alcoholic liquor of any kind or description at any time in connection with his or her business, except manufacturers for consumption on the premises only.

(2) Subsection (1) does not prevent any of the following:

(a) A vendor of spirits, brewer, mixed spirit drink manufacturer, wine maker, small wine maker, outstate seller of beer, outstate seller of wine, or outstate seller of mixed spirit drink, or a bona fide market research organization retained by 1 of the persons named in this subsection, from conducting samplings or tastings of an alcoholic liquor product before it is approved for sale in this state, if the sampling or tasting is conducted pursuant to prior written approval of the commission.

(b) A person from conducting of any sampling or tasting authorized by rule of the commission.

(c) A class A or B hotel designed to attract and accommodate tourists and visitors in a resort area from giving away alcoholic liquor to an invitee or guest in connection with a business event or as a part of a room special or promotion for overnight accommodations.

(3) A vendor shall not sell an alcoholic liquor to a person in an intoxicated condition.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 726]

(HB 6501)

AN ACT to amend 1975 PA 228, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," by amending section 38g (MCL 208.38g), as added by 2000 PA 143.

The People of the State of Michigan enact:

208.38g Tax credit; conditions; application for project costing $10,000,000 or less; application to Michigan economic growth authority for project costing $10,000,000 or more; limitations; total credits; criteria; investment on more than 1 property; project completion; tax year credits claimed; leased machinery, equipment,

or fixtures; calculation of credits; carryforward provisions; qualified taxpayer; investment related to sports stadium, casino, or landfill; report; amendment of project; project as multiphase; definitions.

Sec. 38g. (1) Subject to the criteria under this section, an eligible taxpayer may claim a credit against the tax imposed by this act as determined under subsections (20) to (25); and subject to the criteria under this section, a qualified taxpayer that has a preapproval letter issued after December 31, 1999 and before January 1, 2008, provided that the project is completed not more than 5 years after the preapproval letter for the project is issued, or an assignee under subsection (17) or (18) may claim a credit that has been approved under subsection (2) or (3) against the tax imposed by this act equal to either of the following:

(a) If the total of all credits for a project is $1,000,000.00 or less, 10% of the cost of the qualified taxpayer's eligible investment paid or accrued by the qualified taxpayer on an eligible property provided that the project does not exceed the amount stated in the preapproval letter. If eligible investment exceeds the amount of eligible investment in the preapproval letter for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(b) If the total of all credits for a project is more than $1,000,000.00 but $30,000,000.00 or less and, except as provided in subsection (5)(b), the project is located in a qualified local governmental unit, a percentage as determined by the Michigan economic growth authority not to exceed 10% of the cost of the qualified taxpayer's eligible investment as determined under subsection (8) paid or accrued by the qualified taxpayer on an eligible property. If eligible investment exceeds the amount of eligible investment in the preapproval letter for that project, the total of all credits for the project shall not exceed the total of all credits on the certificate of completion.

(2) If the cost of a project will be for $10,000,000.00 or less, a qualified taxpayer shall apply to the department for approval of the project under this subsection. An application under this subsection shall state whether the project is a multiphase project. The state treasurer or a designee of the state treasurer is authorized to approve an application or project under this subsection. Only the state treasurer is authorized to deny an application or project under this subsection. A project shall be approved or denied not more than 45 days after receipt of the application. If the state treasurer or the state treasurer's designee does not approve or deny an application within 45 days after the application is received by the department, the application is considered approved as written. The total of all credits for all projects approved under this subsection shall not exceed $30,000,000.00 in any calendar year. The criteria in subsection (6) shall be used when approving projects under this subsection. When approving projects under this subsection, priority shall be given to projects on a facility. The total of all credits for an approved project under this subsection shall not exceed $1,000,000.00. A taxpayer may apply under this subsection instead of subsection (3) for approval of a project that will be for more than $10,000,000.00 but the total of all credits for that project shall not exceed $1,000,000.00. If the state treasurer or a designee of the state treasurer approves a project under this subsection, the state treasurer or a designee of the state treasurer shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the department. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (3) for the same project or for another project.

(3) If the cost of a project will be for more than $10,000,000.00 and, except as provided in subsection (5)(b), the project is located in a qualified local governmental unit, a qualified taxpayer shall apply to the Michigan economic growth authority for approval of the project. The Michigan economic growth authority shall approve or deny the project not more than 65 days after receipt of the application. A project under this subsection shall not be approved without the concurrence of the state treasurer. If the Michigan economic growth authority does not approve or deny the application within 65 days after it receives the application, the Michigan economic growth authority shall send the application to the state treasurer. The state treasurer shall approve or deny the application within 5 days after receipt of the application. If the state treasurer does not deny the application within the 5 days after receipt of the application, the application is considered approved. The Michigan economic growth authority shall approve a limited number of projects under this subsection during each calendar year as provided in subsection (5). The Michigan economic growth authority shall use the criteria in subsection (6) when approving projects under this subsection, when determining the total amount of eligible investment, and when determining the percentage of eligible investment for the project to be used to calculate a credit. The total of all credits for an approved project under this subsection shall not exceed the amount designated in the preapproval letter for that project. If the Michigan economic growth authority approves a project under this subsection, the Michigan economic growth authority shall issue a preapproval letter that states that the taxpayer is a qualified taxpayer; the percentage of eligible investment for the project determined by the Michigan economic growth authority for purposes of subsection (1)(b); the maximum total eligible investment for the project on which credits may be claimed and the maximum total of all credits for the project when the project is completed and a certificate of completion is issued; and the project number assigned by the Michigan economic growth authority. The Michigan economic growth authority shall send a copy of the preapproval letter to the department. If a project is denied under this subsection, a taxpayer is not prohibited from subsequently applying under this subsection or subsection (2) for the same project or for another project.

(4) If the project is on property that is functionally obsolete, the taxpayer shall include, with the application, an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(5) The Michigan economic growth authority may approve not more than 15 projects each calendar year under subsection (3), and the following limitations apply:

(a) Of the 15 projects allowed under this subsection, the total of all credits for each project may be more than $10,000,000.00 but $30,000,000.00 or less for up to 3 projects.

(b) Of the 15 projects allowed under this subsection, up to 3 projects may be approved for projects that are not in a qualified local governmental unit if the property is a facility for which eligible activities are identified in a brownfield plan. For purposes of this subdivision, a facility includes a building or complex of buildings that was used by a state or federal agency and that is no longer being used for the purpose for which it was used by the state or federal agency.

(c) Of the 3 projects allowed under subdivision (a), 1 may be a project that also qualifies under subdivision (b).

(6) The Michigan economic growth authority shall review all applications for projects under subsection (3) and, if an application is approved, shall determine the maximum total of all credits for that project. Before approving a project for which the total of all credits will be more than $10,000,000.00 but $30,000,000.00 or less only, the Michigan economic

growth authority shall determine that the project would not occur in this state without the tax credit offered under subsection (3), except that the Michigan economic growth authority may approve 1 project the construction of which began after January 1, 2000 and before January 1, 2001 without determining that the eligible investment would not occur in this state without the tax credit offered under this section. The Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (3) and the state treasurer or a designee of the state treasurer shall consider the following criteria to the extent reasonably applicable to the type of project proposed when approving a project under subsection (2) or when considering an amendment to a project under subsection (31):

(a) The overall benefit to the public.

(b) The extent of reuse of vacant buildings and redevelopment of blighted property.

(c) Creation of jobs.

(d) Whether the eligible property is in an area of high unemployment.

(e) The level and extent of contamination alleviated by the qualified taxpayer's eligible activities to the extent known to the qualified taxpayer.

(f) The level of private sector contribution.

(g) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.

(h) If the qualified taxpayer is moving from another location in this state, whether the move will create a brownfield.

(i) Whether the financial statements of the qualified taxpayer indicate that it is financially sound and that the project is economically sound.

(j) Any other criteria that the Michigan economic growth authority or the state treasurer, as applicable, considers appropriate for the determination of eligibility under subsection (2) or (3).

(7) A qualified taxpayer may apply for projects under subsection (2) or (3) for eligible investment on more than 1 eligible property in a tax year. Each project approved and each project for which a certificate of completion is issued under this section shall be for eligible investment on 1 eligible property.

(8) When a project under subsection (2) or (3) is completed, the taxpayer shall submit documentation that the project is completed, an accounting of the cost of the project, the eligible investment of each taxpayer if there is more than 1 taxpayer eligible for a credit for the project, and, if the taxpayer is not the owner or lessee of the eligible property on which the eligible investment was made at the time the project is completed, that the taxpayer was the owner or lessee of that eligible property when all eligible investment of the taxpayer was made. The state treasurer or a designee of the state treasurer, for projects approved under subsection (2), or the Michigan economic growth authority, for projects approved under subsection (3), shall verify that the project is completed. For projects approved under subsection (3), the Michigan economic growth authority shall conduct an on-site inspection as part of the verification process. When the completion of the project is verified, a certificate of completion shall be issued to each qualified taxpayer that has made eligible investment on that eligible property. The certificate of completion shall state the total amount of all credits for the project and that total shall not exceed the maximum total of all credits listed in the preapproval letter for the project under subsection (2) or (3) as applicable and shall state all of the following:

(a) That the taxpayer is a qualified taxpayer.

(b) The total cost of the project and the eligible investment of each qualified taxpayer.

(c) Each qualified taxpayer's credit amount.

(d) The qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer.

(e) The project number.

(f) For a project approved under subsection (3) for which the total of all credits is more than $10,000,000.00 but $30,000,000.00 or less, the total of all credits and the schedule on which the annual credit amount shall be claimed by the qualified taxpayer.

(g) For a multiphase project under subsection (33), the amount of each credit assigned and the amount of all credits claimed in each tax year before the year in which the project is completed.

(9) Except as otherwise provided in this section, qualified taxpayers shall claim credits under subsections (2) and (3) in the tax year in which the certificate of completion is issued. For a project approved under subsection (3) for which the total of all credits is more than $10,000,000.00 but $30,000,000.00 or less, the qualified taxpayer shall claim 10% of its approved credit each year for 10 years. A credit assigned based on a multiphase project shall be claimed in the year in which the credit is assigned.

(10) The cost of eligible investment for leased machinery, equipment, or fixtures is the cost of that property had the property been purchased minus the lessor's estimate, made at the time the lease is entered into, of the market value the property will have at the end of the lease. A credit for property described in this subsection is allowed only if the cost of that property had the property been purchased and the lessor's estimate of the market value at the end of the lease are provided to the department or the Michigan economic growth authority, as applicable.

(11) For credits under subsections (2) and (3), credits claimed by a lessee of eligible property are subject to the total of all credits limitation under this section.

(12) Each qualified taxpayer and assignee under subsection (17) or (18) that claims a credit under subsection (1)(a) or (b) shall attach a copy of the certificate of completion and, if the credit was assigned, a copy of the assignment form provided for under this section to the annual return filed under this act on which the credit under subsection (2) or (3) is claimed. An assignee of a credit based on a multiphase project shall attach a copy of the assignment form provided for under this section and the component completion certificate provided for in subsection (32) to the annual return filed under this act on which the credit is claimed but is not required to file a copy of a certificate of completion.

(13) Except as otherwise provided in this subsection or subsection (15), (17), (19), or (32), a credit under subsection (2) or (3) shall be claimed in the tax year in which the certificate of completion is issued to the qualified taxpayer. For a project described in subsection (8)(f) for which a schedule for claiming annual credit amounts is designated on the certificate of completion by the Michigan economic growth authority, the annual credit amount shall be claimed in the tax year specified on the certificate of completion.

(14) The credits approved under this section shall be calculated after application of all other credits allowed under this act. The credits under subsections (2) and (3) shall be calculated before the calculation of credits under subsections (20) to (25) and before the credits under sections 37c and 37d.

(15) If the credit allowed under subsection (2) or (3) for the tax year and any unused carryforward of the credit allowed under subsection (2) or (3) exceed the qualified taxpayer's or assignee's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax

liability in subsequent tax years for 10 years or until used up, whichever occurs first. Except as otherwise provided in this subsection, the maximum time allowed under the carryforward provisions under this subsection begins with the tax year in which the certificate of completion is issued to the qualified taxpayer. If the qualified taxpayer assigns all or any portion of its credit approved under subsection (2) or (3), the maximum time allowed under the carryforward provisions for an assignee begins to run with the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. The maximum time allowed under the carryforward provisions for an annual credit amount for a credit allowed under subsection (3) begins to run in the tax year for which the annual credit amount is designated on the certificate of completion issued under this section.

(16) If a project or credit under subsection (2) or (3) is for the addition of personal property, if the cost of that personal property is used to calculate a credit under subsection (2) or (3), and if the personal property is sold or disposed of or transferred from eligible property to any other location, the qualified taxpayer that sold, disposed of, or transferred the personal property shall add the same percentage as determined pursuant to subsection (1) of the federal basis of the personal property used for determining gain or loss as of the date of the sale, disposition, or transfer to the qualified taxpayer's tax liability after application of all credits under this act for the tax year in which the sale, disposition, or transfer occurs. If a qualified taxpayer has an unused carryforward of a credit under subsection (2) or (3), the amount otherwise added under this subsection to the qualified taxpayer's tax liability may instead be used to reduce the qualified taxpayer's carryforward under subsection (15).

(17) For credits under subsections (2) and (3) and except as otherwise provided in this subsection, if a qualified taxpayer pays or accrues eligible investment on or to an eligible property that is leased for a minimum term of 10 years or sold to another taxpayer for use in a business activity, the qualified taxpayer may assign all or a portion of the credit based on that eligible investment to the lessee or purchaser of that eligible property. A credit assignment under this subsection shall only be made to a taxpayer that when the assignment is complete will be a qualified taxpayer. All credit assignments under this subsection are irrevocable and, except for a credit based on a multiphase project, shall be made in the tax year in which the certificate of completion is issued, unless the assignee is an unknown lessee. If a qualified taxpayer wishes to assign all or a portion of its credit to a lessee but the lessee is unknown in the tax year in which the certificate of completion is issued, the qualified taxpayer may delay claiming and assigning the credit until the first tax year in which the lessee is known. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. Except as otherwise provided in this subsection, if the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which the certificate of completion is issued or for a credit assigned and claimed for a multiphase project before a certificate of completion is issued, the taxpayer shall claim the credit in the year in which the credit is assigned. If a qualified taxpayer assigns all or a portion of the credit and the eligible property is leased to more than 1 taxpayer, the qualified taxpayer shall determine the amount of credit assigned to each lessee. A lessee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. A purchaser may subsequently assign a credit or any portion of a credit assigned to the purchaser under this subsection to a lessee of the eligible property. The credit assignment under this subsection shall be made on a form prescribed by the department. The qualified taxpayer shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made. The assignee shall attach a copy of the completed assign-

ment form to its annual return required to be filed under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than $10,000,000.00 but $30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(18) If a qualified taxpayer is a partnership, limited liability company, or subchapter S corporation, the qualified taxpayer may assign all or a portion of a credit allowed under subsection (2) or (3) to its partners, members, or shareholders, based on their proportionate share of ownership of the partnership, limited liability company, or subchapter S corporation or based on an alternative method approved by the department. A credit assignment under this subsection is irrevocable and, except for a credit assignment based on a multiphase project, shall be made in the tax year in which a certificate of completion is issued. A qualified taxpayer may claim a portion of a credit and assign the remaining credit amount. If the qualified taxpayer both claims and assigns portions of the credit, the qualified taxpayer shall claim the portion it claims in the tax year in which a certificate of completion is issued. A partner, member, or shareholder that is an assignee shall not subsequently assign a credit or any portion of a credit assigned under this subsection. The credit assignment under this subsection shall be made on a form prescribed by the department. The qualified taxpayer shall send a copy of the completed assignment form to the department in the tax year in which the assignment is made. A partner, member, or shareholder who is an assignee shall attach a copy of the completed assignment form to its annual return required under this act, for the tax year in which the assignment is made and the assignee first claims a credit, which shall be the same tax year. In addition to all other procedures under this subsection, the following apply if the total of all credits for a project is more than $10,000,000.00 but $30,000,000.00 or less:

(a) The credit shall be assigned based on the schedule contained in the certificate of completion.

(b) If the qualified taxpayer assigns all or a portion of the credit amount, the qualified taxpayer shall assign the annual credit amount for each tax year separately.

(c) More than 1 annual credit amount may be assigned to any 1 assignee and the qualified taxpayer may assign all or a portion of each annual credit amount to any assignee.

(d) The qualified taxpayer shall not assign more than the annual credit amount for each tax year.

(19) A qualified taxpayer or assignee under subsection (17) or (18) shall not claim a credit under subsection (1)(a) or (b) based on eligible investment on which a credit claimed under section 38d was based.

(20) In addition to the other credits allowed under this section and sections 37c and 37d, for tax years that begin after December 31, 1999 and for a period of time not to exceed 20 years as determined by the Michigan economic growth authority, an eligible taxpayer may

credit against the tax imposed by section 31 the amount certified each year by the Michigan economic growth authority that is 1 of the following:

(a) For an eligible business under section 8(5)(a) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount that is not more than 50% of 1 or both of the following as determined by the Michigan economic growth authority:

(*i*) An amount determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not exceed the payroll of the eligible taxpayer attributable to employees who perform retained jobs multiplied by the tax rate for the tax year.

(*ii*) The tax liability attributable to the eligible taxpayer's business activity multiplied by a fraction the numerator of which is the ratio of the value of new capital investment to all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll attributable to retained jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(b) For an eligible business under section 8(5)(b) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808, an amount that is not more than 1 or both of the following as determined by the Michigan economic growth authority:

(*i*) An amount determined under the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810, that does not exceed the payroll of the eligible taxpayer attributable to employees who perform retained jobs multiplied by the tax rate for the tax year.

(*ii*) The tax liability attributable to eligible taxpayer's business multiplied by a fraction the numerator of which is the ratio of the value of capital investment to all of the taxpayer's property located in this state plus the ratio of the taxpayer's payroll attributable to retained jobs to all of the taxpayer's payroll in this state and the denominator of which is 2.

(21) An eligible taxpayer shall not claim a credit under subsection (20) unless the Michigan economic growth authority has issued a certificate under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, to the taxpayer. The eligible taxpayer shall attach the certificate to the return filed under this act on which a credit under subsection (20) is claimed.

(22) An affiliated group as defined in this act, a controlled group of corporations as defined in section 1563 of the internal revenue code and further described in 26 C.F.R. 1.414(b)-1 and 1.414(c)-1 to 1.414(c)-5, or an entity under common control as defined by the internal revenue code shall claim only 1 credit under subsection (20) for each tax year based on each written agreement whether or not a combined or consolidated return is filed.

(23) A credit shall not be claimed by a taxpayer under subsection (20) if the eligible taxpayer's initial certification under section 9 of the Michigan economic growth authority act, 1995 PA 24, MCL 207.809, is issued after December 31, 2003.

(24) If the credit allowed under subsection (20)(a)(*ii*) or (b)(*ii*) for the tax year and any unused carryforward of the credit allowed by subsection (20)(a)(*ii*) or (b)(*ii*) exceed the taxpayer's tax liability for the tax year, that portion that exceeds the tax liability for the tax year shall not be refunded but may be carried forward to offset tax liability in subsequent tax years for 10 years or until used up, whichever occurs first.

(25) If the credit allowed under subsection (20)(a)(*i*) or (b)(*i*) exceeds the tax liability of the eligible taxpayer for the tax year, the excess shall be refunded to the eligible taxpayer.

(26) An eligible taxpayer that claims a credit under subsection (1)(a) or (b) is not prohibited from claiming a credit under subsection (20). However, the eligible taxpayer shall not claim a credit under both subsections (1)(a) or (b) and (20) based on the same costs.

(27) Eligible investment attributable or related to the operation of a professional sports stadium, and eligible investment that is associated or affiliated with the operation of a professional sports stadium, including, but not limited to, the operation of a parking lot or retail store, shall not be used as a basis for a credit under subsection (2) or (3). Professional sports stadium does not include a professional sports stadium that will no longer be used by a professional sports team on and after the date that an application related to that professional sports stadium is filed under subsection (2) or (3).

(28) Eligible investment attributable or related to the operation of a casino, and eligible investment that is associated or affiliated with the operation of a casino, including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used as a basis for a credit under subsection (2) or (3). As used in this subsection, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(29) Eligible investment attributable or related to the construction of a new landfill or the expansion of an existing landfill regulated under part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, shall not be used as a basis for a credit under subsection (2) or (3).

(30) The department annually shall prepare and submit to the house of representatives and senate committees responsible for tax policy and economic development issues a report on the credits under subsection (2). The report shall include, but is not limited to, all of the following:

(a) A listing of the projects under subsection (2) that were approved in the calendar year.

(b) The total amount of eligible investment for projects approved under subsection (2) in the calendar year.

(31) If, after a taxpayer's project has been approved and the taxpayer has received a preapproval letter but before the project is completed, the taxpayer determines that the project cannot be completed as preapproved, the taxpayer may petition the department for projects approved under subsection (2) or the Michigan economic growth authority for projects approved under subsection (3) to amend the project. The total of eligible investment for the project as amended shall not exceed the amount allowed in the preapproval letter for that project.

(32) A project under subsection (2) may be a multiphase project but only if the project is an industrial or manufacturing project. If a project is a multiphase project, when each component of the multiphase project is completed, the taxpayer shall submit documentation that the component is complete, an accounting of the cost of the component, and the eligible investment for the component of each taxpayer eligible for a credit for the project of which the component is a part to the state treasurer or the designee of the state treasurer who shall verify that the component is complete. When the completion of the component is verified, a component completion certificate shall be issued to the qualified taxpayer which shall state that the taxpayer is a qualified taxpayer, the credit amount for the component, the qualified taxpayer's federal employer identification number or the Michigan treasury number assigned to the taxpayer, and the project number. The taxpayer may assign all or part of the credit for a multiphase project as provided in this section after a component completion certificate for a component is issued. The qualified taxpayer may transfer ownership of or lease the completed component and assign a

proportionate share of the credit for the entire project to the qualified taxpayer that is the new owner or lessee. A multiphase project shall not be divided into more than 3 components. A component is considered to be completed when a certificate of occupancy has been issued by the local municipality in which the project is located for all of the buildings or facilities that comprise the completed component and a component completion certificate is issued. A credit assigned based on a multiphase project shall be claimed by the assignee in the tax year in which the assignment is made. The total of all credits for a multiphase project shall not exceed the amount stated in the preapproval letter for the project under subsection (1)(a). If all components of a multiphase project are not completed by 10 years after the date on which the preapproval letter for the project was issued, the qualified taxpayer that received the preapproval letter for the project shall pay to the state treasurer, as a penalty, an amount equal to the sum of all credits claimed and assigned for all components of the multiphase project and no credits based on that multiphase project shall be claimed after that date by the qualified taxpayer or any assignee of the qualified taxpayer. The penalty under this subsection is subject to interest on the amount of the credit claimed or assigned determined individually for each component at the rate in section 23(2) of 1941 PA 122, MCL 205.23 beginning on the date that the credit for that component was claimed or assigned. As used in this subsection, "proportionate share" means the same percentage of the total of all credits for the project that the qualified investment for the completed component is of the total qualified investment stated in the preapproval letter for the entire project.

(33) As used in this section:

(a) "Annual credit amount" means the maximum amount that a qualified taxpayer is eligible to claim each tax year for a project for which the total of all credits is more than $10,000,000.00 but $30,000,000.00 or less, which shall be 10% of the qualified taxpayer's credit amount approved under subsection (3).

(b) "Authority" means a brownfield redevelopment authority created under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(c) "Authorized business", "full-time job", "new capital investment", "retained jobs", and "written agreement" mean those terms as defined in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(d) "Blighted", "brownfield plan", "eligible activities", "eligible property", "facility", "functionally obsolete", and "response activity" mean those terms as defined in the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672.

(e) "Eligible investment" means demolition, construction, restoration, alteration, renovation, or improvement of buildings or site improvements on eligible property and the addition of machinery, equipment, and fixtures to eligible property after the date that eligible activities on that eligible property have started pursuant to a brownfield plan under the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 to 125.2672, and after the date that the preapproval letter is issued, except that the date that the preapproval letter is issued is not a limitation for 1 project the construction of which began after January 1, 2000 and before January 1, 2001 without the Michigan economic growth authority determining that the project would not occur in this state without the tax credit offered under this section as provided in subsection (7), if the costs of the eligible investment are not otherwise reimbursed to the taxpayer or paid for on behalf of the taxpayer from any source other than the taxpayer. The addition of leased machinery, equipment, or fixtures to eligible property by a lessee of the machinery, equipment, or fixtures is eligible investment if the lease of the machinery, equipment, or fixtures has a minimum term of 10 years or is for the expected useful life of the machinery, equipment, or fixtures, and if the owner of the machinery, equipment, or fixtures is not the qualified taxpayer with regard to that machinery, equipment, or fixtures.

(f) "Eligible taxpayer" means an eligible business that meets the criteria under section 8(5) of the Michigan economic growth authority act, 1995 PA 24, MCL 207.808.

(g) "Michigan economic growth authority" means the Michigan economic growth authority created in the Michigan economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810.

(h) "Multiphase project" means a project for which the total of all credits is $1,000,000.00 or less for a project approved under subsection (2) that has more than 1 component, each of which can be completed separately.

(i) "Payroll" and "tax rate" mean those terms as defined in section 37c.

(j) "Personal property" means that term as defined in section 8 of the general property tax act, 1893 PA 206, MCL 211.8, except that personal property does not include either of the following:

(*i*) Personal property described in section 8(h), (i), or (j) of the general property tax act, 1893 PA 206, MCL 211.8.

(*ii*) Buildings described in section 14(6) of the general property tax act, 1893 PA 206, MCL 211.14.

(k) "Project" means the total of all eligible investment on an eligible property or, for purposes of subsection (5)(b), all eligible investment on property not in a qualified local governmental unit that is a facility.

(*l*) "Qualified local governmental unit" means that term as defined in the obsolete property rehabilitation act.

(m) "Qualified taxpayer" means a taxpayer that meets both of the following criteria:

(*i*) Owns or leases eligible property.

(*ii*) Certifies that, except as otherwise provided in this subparagraph, the department of environmental quality has not sued or issued a unilateral order to the taxpayer pursuant to part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, to compel response activity on or to the eligible property, or expended any state funds for response activity on or to the eligible property and demanded reimbursement for those expenditures from the qualified taxpayer. However, if the taxpayer has completed all response activity required by part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, is in compliance with any deed restriction or administrative or judicial order related to the required response activity, and has reimbursed the state for all costs incurred by the state related to the required response activity, the taxpayer meets the criteria under this subparagraph.

(n) "Tax liability attributable to authorized business activity" means the tax liability imposed by this act after the calculation of credits provided in sections 36, 37, and 39.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 727]

(HB 6502)

AN ACT to amend 1996 PA 381, entitled "An act to authorize municipalities to create a brownfield redevelopment authority to facilitate the implementation of brownfield plans

relating to the designation and treatment of brownfield redevelopment zones; to promote the revitalization of environmentally distressed areas; to prescribe the powers and duties of brownfield redevelopment authorities; to permit the issuance of bonds and other evidences of indebtedness by an authority; to authorize the acquisition and disposal of certain property; to authorize certain funds; to prescribe certain powers and duties of certain state officers and agencies; and to authorize and permit the use of certain tax increment financing," by amending sections 13 and 15 (MCL 125.2663 and 125.2665), as amended by 2000 PA 145.

The People of the State of Michigan enact:

125.2663 Brownfield plan; provisions.

Sec. 13. (1) Subject to section 15, the board may implement a brownfield plan. The brownfield plan may apply to 1 or more parcels of eligible property whether or not those parcels of eligible property are contiguous and may be amended to apply to additional parcels of eligible property. If more than 1 parcel of eligible property is included within the plan, the tax increment revenues under the plan shall be determined individually for each parcel of eligible property. Each plan or an amendment to a plan shall be approved by the governing body of the municipality and shall contain all of the following:

(a) A description of the costs of the plan intended to be paid for with the tax increment revenues.

(b) A brief summary of the eligible activities that are proposed for each eligible property.

(c) An estimate of the captured taxable value and tax increment revenues for each year of the plan from each parcel of eligible property and in the aggregate. The plan may provide for the use of part or all of the captured taxable value, including deposits in the local site remediation revolving fund, but the portion intended to be used shall be clearly stated in the plan. The plan shall not provide either for an exclusion from captured taxable value of a portion of the captured taxable value or for an exclusion of the tax levy of 1 or more taxing jurisdictions unless the tax levy is excluded from tax increment revenues in section 2(aa), or unless the tax levy is excluded from capture under section 15.

(d) The method by which the costs of the plan will be financed, including a description of any advances made or anticipated to be made for the costs of the plan from the municipality.

(e) The maximum amount of note or bonded indebtedness to be incurred, if any.

(f) The duration of the brownfield plan, which shall not exceed the lesser of the period authorized under subsections (4) and (5) or 30 years.

(g) An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions in which the eligible property is located.

(h) A legal description of each parcel of eligible property to which the plan applies, a map showing the location and dimensions of each eligible property, a statement of the characteristics that qualify the property as eligible property, and a statement of whether personal property is included as part of the eligible property. If the project is on property that is functionally obsolete, the taxpayer shall include, with the application, an affidavit signed by a level 3 or level 4 assessor, that states that it is the assessor's expert opinion that the property is functionally obsolete and the underlying basis for that opinion.

(i) Estimates of the number of persons residing on each eligible property to which the plan applies and the number of families and individuals to be displaced. If occupied

residences are designated for acquisition and clearance by the authority, the plan shall include a demographic survey of the persons to be displaced, a statistical description of the housing supply in the community, including the number of private and public units in existence or under construction, the condition of those in existence, the number of owner-occupied and renter-occupied units, the annual rate of turnover of the various types of housing and the range of rents and sale prices, an estimate of the total demand for housing in the community, and the estimated capacity of private and public housing available to displaced families and individuals.

(j) A plan for establishing priority for the relocation of persons displaced by implementation of the plan.

(k) Provision for the costs of relocating persons displaced by implementation of the plan, and financial assistance and reimbursement of expenses, including litigation expenses and expenses incident to the transfer of title, in accordance with the standards and provisions of the uniform relocation assistance and real property acquisition policies act of 1970, Public Law 91-646, 84 Stat. 1894.

(*l*) A strategy for compliance with 1972 PA 227, MCL 213.321 to 213.332.

(m) A description of proposed use of the local site remediation revolving fund.

(n) Other material that the authority or governing body considers pertinent.

(2) The percentage of all taxes levied on a parcel of eligible property for school operating expenses that is captured and used under a brownfield plan and all tax increment finance plans under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174, shall not be greater than the combination of the plans' percentage capture and use of all local taxes levied for purposes other than for the payment of principal of and interest on either obligations approved by the electors or obligations pledging the unlimited taxing power of the local unit of government. This subsection shall apply only when taxes levied for school operating purposes are subject to capture under section 15.

(3) Except as provided in subsections (5), (15), and (16), tax increment revenues related to a brownfield plan shall be used only for costs of eligible activities attributable to the eligible property, the captured taxable value of which produces the tax increment revenues, including the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities attributable to the eligible property, and the reasonable costs of preparing a work plan or remedial action plan for the eligible property, including the actual cost of the review of the work plan or remedial action plan under section 15.

(4) Except as provided in subsection (5), a brownfield plan shall not authorize the capture of tax increment revenue from eligible property after the year in which the total amount of tax increment revenues captured is equal to the sum of the costs of eligible activities attributable to the eligible property including the cost of principal of and interest on any obligation issued by the authority to pay the costs of eligible activities on the eligible property, and the reasonable cost of preparing a work plan or remedial action plan for eligible property, and the actual cost of the department's review of the work plan or remedial action plan.

(5) A brownfield plan may authorize the capture of additional tax increment revenue from an eligible property in excess of the amount authorized under subsection (4) during the time of capture for the purpose of paying the costs of eligible activities under subsection (3), or for not more than 5 years after the time that capture is required for the

purpose of paying the costs of eligible activities under subsection (3), or both. Excess revenues captured under this subsection shall be deposited in the local site remediation revolving fund created under section 8 and used for the purposes authorized in section 8. If tax increment revenues levied for school operating purposes from eligible property are captured by the authority for purposes authorized under subsection (3), the tax increment revenues captured for deposit in the local site remediation revolving fund also may include tax increment revenues levied for school operating purposes in an amount not greater than the tax increment revenues levied for school operating purposes captured from the eligible property by the authority for the purposes authorized under subsection (3). Excess revenues from taxes levied for school operating purposes for eligible activities authorized under subsection (15) by the Michigan economic growth authority shall not be captured for deposit in the local site remediation revolving fund.

(6) An authority shall not expend tax increment revenues to acquire or prepare eligible property, unless the acquisition or preparation is an eligible activity.

(7) Costs of eligible activities attributable to eligible property include all costs that are necessary or related to a release from the eligible property, including eligible activities on properties affected by a release from the eligible property. For purposes of this subsection, "release" means that term as defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(8) Costs of a response activity paid with tax increment revenues that are captured pursuant to subsection (3) may be recovered from a person who is liable for the costs of eligible activities at an eligible property. This state or an authority may undertake cost recovery for tax increment revenue captured. Before an authority or this state may institute a cost recovery action, it must provide the other with 120 days' notice. This state or an authority that recovers costs under this subsection shall apply those recovered costs to the following, in the following order of priority:

(a) The reasonable attorney fees and costs incurred by this state or an authority in obtaining the cost recovery.

(b) One of the following:

(*i*) If an authority undertakes the cost recovery action, the authority shall deposit the remaining recovered funds into the local site remediation fund created pursuant to section 8, if such a fund has been established by the authority. If a local site remediation fund has not been established, the authority shall disburse the remaining recovered funds to the local taxing jurisdictions in the proportion that the local taxing jurisdictions' taxes were captured.

(*ii*) If this state undertakes a cost recovery action, this state shall deposit the remaining recovered funds into the revitalization revolving loan fund established under section 20108a of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108a.

(*iii*) If this state and an authority each undertake a cost recovery action, undertake a cost recovery action jointly, or 1 on behalf of the other, the amount of any remaining recovered funds shall be deposited pursuant to subparagraphs (*i*) and (*ii*) in the proportion that the tax increment revenues being recovered represent local taxes and taxes levied for school operating purposes, respectively.

(9) Approval of the brownfield plan or an amendment to a brownfield plan shall be in accordance with the notice and approval provisions of this section and section 14.

(10) Before approving a brownfield plan for an eligible property, the governing body shall hold a public hearing on the brownfield plan. Notice of the time and place of the

hearing shall be given by publication twice in a newspaper of general circulation designated by the municipality, the first of which shall be not less than 20 or more than 40 days before the date set for the hearing.

(11) Notice of the time and place of the hearing on a brownfield plan shall contain all of the following:

(a) A description of the property to which the plan applies in relation to existing or proposed highways, streets, streams, or otherwise.

(b) A statement that maps, plats, and a description of the brownfield plan are available for public inspection at a place designated in the notice and that all aspects of the brownfield plan are open for discussion at the public hearing required by this subsection.

(c) Any other information that the governing body considers appropriate.

(12) At the time set for the hearing on the brownfield plan required under subsection (10), the governing body shall provide an opportunity for interested persons to be heard and shall receive and consider communications in writing with reference to the brownfield plan. The governing body shall make and preserve a record of the public hearing, including all data presented at the hearing.

(13) Not less than 20 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the taxing jurisdictions that levy taxes subject to capture under this act. The authority shall fully inform the taxing jurisdictions about the fiscal and economic implications of the proposed brownfield plan. At that hearing, an official from a taxing jurisdiction with millage that would be subject to capture under this act has the right to be heard in regard to the adoption of the brownfield plan.

(14) The authority shall not enter into agreements with the taxing jurisdictions and the governing body of the municipality to share a portion of the captured taxable value of an eligible property. Upon adoption of the plan, the collection and transmission of the amount of tax increment revenues as specified in this act shall be binding on all taxing units levying ad valorem property taxes or specific taxes against property located in the zone.

(15) If a brownfield plan includes the capture of taxes levied for school operating purposes or the use of tax increment revenues related to a brownfield plan for the cost of eligible activities attributable to more than 1 eligible property that is adjacent and contiguous to all other eligible properties covered by the development agreement, whether or not the captured taxes are levied for school operating purposes, approval of a work plan by the Michigan economic growth authority before January 1, 2008 to use school operating taxes and a development agreement between the municipality and an owner or developer of eligible property are required if the revenues will be used for infrastructure improvements that directly benefit eligible property, demolition of structures that is not response activity under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, lead or asbestos abatement, or site preparation that is not response activity under section 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101. The eligible activities to be conducted described in this subsection shall be consistent with the work plan submitted by the authority to the Michigan economic growth authority. The department's approval is not required for the capture of taxes levied for school operating purposes for eligible activities described in this subsection.

(16) A brownfield authority may reimburse reasonable and actual administrative and operating expenses that include, but are not limited to, baseline environmental assessments, due care activities, and additional response activities, related directly to work conducted

by the authority on prospective eligible properties prior to approval of the brownfield plan and on eligible properties and for eligible activities after the approval of the brownfield plan, only from captured local taxes not to exceed $75,000.00 for each authority in each fiscal year. Reasonable and actual administrative and operating expenses do not include reasonable costs of preparing a work plan or remedial action plan or the cost of the review of a work plan for which taxes may be used under section 13(3).

125.2665 Prohibited conduct; work plan or remedial action plan; documents to be submitted for approval; factors to be considered in plan review; written request pertaining to baseline environmental assessment activities or due care activities; additional response activities; reimbursement of costs to review work plan or remedial action plan; report; distribution of remaining funds.

Sec. 15. (1) An authority shall not do any of the following:

(a) For eligible activities not described in section 13(15), use taxes levied for school operating purposes captured from eligible property unless the eligible activities to be conducted on the eligible property are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan or remedial action plan approved by the department after July 24, 1996 and before January 1, 2008.

(b) For eligible activities not described in section 13(15), use funds from a local site remediation revolving fund that are derived from taxes levied for school operating purposes unless the eligible activities to be conducted are eligible activities under part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, consistent with a work plan or remedial action plan that has been approved by the department after July 24, 1996.

(c) Use funds from a local site remediation revolving fund created pursuant to section 8 that are derived from taxes levied for school operating purposes for the eligible activities described in section 13(15) unless the eligible activities to be conducted are consistent with a work plan approved by the Michigan economic growth authority.

(d) Use taxes captured from eligible property to pay for eligible activities conducted before approval of the brownfield plan except for costs described in section 13(16).

(e) Use taxes levied for school operating purposes captured from eligible property for response activities that benefit a party liable under section 20126 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20126.

(f) Use taxes captured from eligible property to pay for administrative and operating activities of the authority or the municipality on behalf of the authority except for costs described in section 13(16) and for the reasonable costs for preparing a work plan or remedial action plan for the eligible property, including the actual cost of the review of the work plan or remedial action plan under this section.

(2) To seek department approval of a work plan under subsection (1)(a) or (b) or remedial action plan, the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property, including a brief summary of site conditions and what is known about

environmental contamination as that term is defined in section 20101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan or remedial action plan, or part of a work plan or remedial action plan, for each eligible activity to be undertaken.

(3) Upon receipt of a request for approval of a work plan or remedial action plan under subsection (2) that pertains to baseline environmental assessment activities or due care activities, or both, or a portion of a work plan or remedial action plan that pertains to only baseline environmental assessment activities or due care activities, or both, the department shall provide 1 of the following written responses to the requesting authority within 60 days:

(a) An unconditional approval.

(b) A conditional approval that delineates specific necessary modifications to the work plan or remedial action plan, including, but not limited to, individual activities to be added or deleted from the work plan or remedial action plan and revision of costs.

(c) If the work plan or remedial action plan lacks sufficient information for the department to respond under subdivision (a) or (b), a letter stating with specificity the necessary additions or changes to the work plan or remedial action plan to be submitted before a plan will be considered by the department.

(4) In its review of a work plan or remedial action plan, the department shall consider all of the following:

(a) Whether the individual activities included in the work plan or remedial action plan are sufficient to complete the eligible activity.

(b) Whether each individual activity included in the work plan or remedial action plan is required to complete the eligible activity.

(c) Whether the cost for each individual activity is reasonable.

(5) If the department fails to provide a written response under subsection (3) within 60 days after receipt of a request for approval of a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, the authority may proceed with the baseline environmental assessment activities or due care activities, or both, as outlined in the work plan or remedial action plan as submitted for approval. Except as provided in subsection (6), baseline environmental assessment activities or due care activities, or both, conducted pursuant to a work plan or remedial action plan that was submitted to the department for approval but for which the department failed to provide a written response under subsection (3) shall be considered approved for the purposes of subsection (1).

(6) The department may issue a written response to a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, more than 60 days but less than 6 months after receipt of a request for approval. If the department issues a written response under this subsection, the authority is not required to conduct individual activities that are in addition to the individual activities included in the work plan or remedial action plan as it was submitted for approval and failure to conduct these additional activities shall not affect the authority's ability to capture taxes under subsection (1) for the eligible activities described in the work plan or remedial action plan initially submitted under subsection (5). In addition, at the option of

the authority, these additional individual activities shall be considered part of the work plan or remedial action plan of the authority and approved for purposes of subsection (1). However, any response by the department under this subsection that identifies additional individual activities that must be carried out to satisfy the baseline environmental assessment or due care requirements, or both, of part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142, must be satisfactorily completed for the baseline environmental assessment or due care activities, or both, to be considered acceptable for the purposes of compliance with part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20142.

(7) If the department issues a written response under subsection (6) to a work plan or remedial action plan that pertains to baseline environmental assessment activities or due care activities, or both, and if the department's written response modifies an individual activity proposed by the work plan or remedial action plan of the authority in a manner that reduces or eliminates a proposed response activity, the authority must complete those individual activities included in the baseline environmental assessment or due care activities, or both, in accordance with the department's response in order for that portion of the work plan or remedial action plan to be considered approved for purposes of subsection (1), unless 1 or more of the following conditions apply:

(a) Obligations for the individual activity have been issued by the authority, or by a municipality on behalf of the authority, to fund the individual activity prior to issuance of the department's response.

(b) The individual activity has commenced or payment for the work has been irrevocably obligated prior to issuance of the department's response.

(8) It shall be in the sole discretion of an authority to propose to undertake additional response activities at an eligible property under a brownfield plan. The department shall not require a work plan or remedial action plan for either baseline environmental assessment activities or due care activities, or both, to include additional response activities.

(9) The department may reject the portion of a work plan or remedial action plan that includes additional response activities and may consider the level of risk reduction that will be accomplished by the additional response activities in determining whether to approve or reject the work plan or remedial action plan or a portion of a plan.

(10) The department's approval or rejection of a work plan under subsection (1)(a) or (b) or remedial action plan for additional response activities is final.

(11) The authority shall reimburse the department for the actual cost incurred by the department or a contractor of the department to review a work plan under subsection (1)(a) or (b) or remedial action plan under this section. Funds paid to the department under this subsection shall be deposited in the cost recovery subaccount of the cleanup and redevelopment fund created under section 20108 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20108.

(12) The department shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (2).

(b) The amount of revenue this state would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(c) The amount of revenue each local governmental unit would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(13) To seek Michigan economic growth authority approval of a work plan under subsection (1)(c) or section 13(15), the authority shall submit all of the following for each eligible property:

(a) A copy of the brownfield plan.

(b) Current ownership information for each eligible property and a summary of available information on proposed future ownership, including the amount of any delinquent taxes, interest, and penalties that may be due.

(c) A summary of available information on the historical and current use of each eligible property.

(d) Existing and proposed future zoning for each eligible property.

(e) A brief summary of the proposed redevelopment and future use for each eligible property.

(f) A separate work plan, or part of a work plan, for each eligible activity described in section 13(15) to be undertaken.

(g) A copy of the development agreement required under section 13(15), which shall include, but is not limited to, a detailed summary of any and all ownership interests, monetary considerations, fees, revenue and cost sharing, charges, or other financial arrangements or other consideration between the parties.

(14) Upon receipt of a request for approval of a work plan, the Michigan economic growth authority shall provide 1 of the following written responses to the requesting authority within 65 days:

(a) An unconditional approval that includes an enumeration of eligible activities and a maximum allowable capture amount.

(b) A conditional approval that delineates specific necessary modifications to the work plan, including, but not limited to, individual activities to be added or deleted from the work plan and revision of costs.

(c) A denial and a letter stating with specificity the reason for the denial. If a work plan is denied under this subsection, the work plan may be subsequently resubmitted.

(15) In its review of a work plan under subsection (1)(c) or section 13(15), the Michigan economic growth authority shall consider the following criteria to the extent reasonably applicable to the type of activities proposed as part of that work plan when approving or denying a work plan:

(a) Whether the individual activities included in the work plan are sufficient to complete the eligible activity.

(b) Whether each individual activity included in the work plan is required to complete the eligible activity.

(c) Whether the cost for each individual activity is reasonable.

(d) The overall benefit to the public.

(e) The extent of reuse of vacant buildings and redevelopment of blighted property.

(f) Creation of jobs.

(g) Whether the eligible property is in an area of high unemployment.

(h) The level and extent of contamination alleviated by or in connection with the eligible activities.

(i) The level of private sector contribution.

(j) The cost gap that exists between the site and a similar greenfield site as determined by the Michigan economic growth authority.

(k) If the developer or projected occupant of the new development is moving from another location in this state, whether the move will create a brownfield.

(*l*) Whether the financial statements of the developer, landowner, or corporate entity indicate that the developer, landowner, or corporate entity is financially sound and that the project of the developer, landowner, or corporate entity that is included in the work plan is economically sound.

(m) Other state and local incentives available to the developer, landowner, or corporate entity for the project of the developer, landowner, or corporate entity that is included in the work plan.

(n) Any other criteria that the Michigan economic growth authority considers appropriate for the determination of eligibility or for approval of the work plan.

(16) If the Michigan economic growth authority fails to provide a written response under subsection (14) within 65 days after receipt of a request for approval of a work plan, the eligible activities shall be considered approved and the authority may proceed with the eligible activities described in section 13(15) as outlined in the work plan as submitted for approval.

(17) The Michigan economic growth authority's approval of a work plan under section 13(15) is final.

(18) The authority shall reimburse the Michigan economic growth authority for the actual cost incurred by the Michigan economic growth authority or a contractor of the Michigan economic growth authority to review a work plan under this section.

(19) The Michigan economic growth authority shall submit a report each year on or before March 1 to each member of the legislature that contains all of the following:

(a) A compilation and summary of all the information submitted under subsection (13).

(b) The amount of revenue this state would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(c) The amount of revenue each local governmental unit would have received if taxes levied for school operating purposes had not been captured under this section for the previous calendar year.

(20) All taxes levied for school operating purposes that are not used for eligible activities consistent with a work plan approved by the department or the Michigan economic growth authority and that are not deposited in a local site remediation revolving fund shall be distributed proportionately between the local school district and the school aid fund.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 728]

(HB 5728)

AN ACT to amend 1965 PA 314, entitled "An act to authorize the investment of assets of public employee retirement systems or plans created and established by the state or

any political subdivision; to provide for the payment of certain costs and investment expenses; to authorize investment in variable rate interest loans; to define and limit the investments which may be made by an investment fiduciary with the assets of a public employee retirement system; and to prescribe the powers and duties of investment fiduciaries and certain state departments and officers," by amending section 20h (MCL 38.1140h), as amended by 1996 PA 485, and by adding section 20m.

The People of the State of Michigan enact:

38.1140h Applicable law; actuarial valuation; supplemental actuarial analysis; "proposed pension benefit change" defined.

Sec. 20h. (1) In addition to the provisions of this act, a system is subject to the applicable accounting and reporting requirements contained in the following acts and parts of acts:

(a) 1919 PA 71, MCL 21.41 to 21.55.

(b) The uniform budgeting and accounting act, 1968 PA 2, MCL 141.121 to 141.440a.

(c) Section 91 of the executive organization act of 1965, 1965 PA 380, MCL 16.191.

(2) Except as otherwise provided in subsection (4), a system shall have an annual actuarial valuation with assets valued on a market-related basis. A system shall prepare and issue a summary annual report. The system shall make the summary annual report available to the plan participants and beneficiaries and the citizens of the political subdivision sponsoring the system. The summary annual report shall include all of the following information:

(a) The name of the system.

(b) The names of the system's investment fiduciaries.

(c) The system's assets and liabilities.

(d) The system's funded ratio.

(e) The system's investment performance.

(f) The system's expenses.

(3) A system shall provide a supplemental actuarial analysis before adoption of pension benefit changes. The supplemental actuarial analysis shall be provided by the system's actuary and shall include an analysis of the long-term costs associated with any proposed pension benefit change. The supplemental actuarial analysis shall be provided to the board of the particular system and to the decision-making body that will approve the proposed pension benefit change at least 7 days before the proposed pension benefit change is adopted. For purposes of this subsection, "proposed pension benefit change" means a proposal to change the amount of pension benefits received by persons entitled to pension benefits under a system. Proposed pension benefit change does not include a proposed change to a health care plan or health benefits.

(4) A system that has assets of less than $20,000,000.00 is only required to have the actuarial valuation required under subsection (2) done every other year.

38.1140m Employer contribution.

Sec. 20m. The governing board vested with the general administration, management, and operation of a system or other decision-making body that is responsible for implementation and supervision of any system shall confirm in the annual actuarial valuation and the summary annual report required under section 20h(2) that each plan under this act provides for the payment of the required employer contribution as provided

in this section and shall confirm in the summary annual report that the system has received the required employer contribution for the year covered in the summary annual report. The required employer contribution is the actuarially determined contribution amount. An annual required employer contribution in a plan under this act shall consist of a current service cost payment and a payment of at least the annual accrued amortized interest on any unfunded actuarial liability and the payment of the annual accrued amortized portion of the unfunded principal liability. For fiscal years that begin before January 1, 2006, the required employer contribution shall not be determined using an amortization period greater than 40 years. For years that begin after December 31, 2005, the required employer contribution shall not be determined using an amortization period greater than 30 years. In a plan year, any current service cost payment may be offset by a credit for amortization of accrued assets, if any, in excess of actuarial accrued liability. A required employer contribution for a plan administered under this act shall allocate the actuarial present value of future plan benefits between the current service costs to be paid in the future and the actuarial accrued liability. The governing board vested with the general administration, management, and operation of a system or other decision-making body of a system shall act upon the recommendation of an actuary and the board and the actuary shall take into account the standards of practice of the actuarial standards board of the American academy of actuaries in making the determination of the required employer contribution.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 729]

(HB 5729)

AN ACT to amend 1968 PA 2, entitled "An act to provide for the formulation and establishment of uniform charts of accounts and reports in local units of government; to define local units of government; to provide for the examination of the books and accounts of local units of government; to provide for annual financial reports from local units of government; to provide for the administration of this act; to prescribe the powers and duties of the state treasurer, the attorney general, the library of Michigan and depository libraries, and other officers and entities; to provide penalties for violation of certain requirements of this act; to provide for meeting the expenses authorized by this act; to provide a uniform budgeting system for local units; and to prohibit deficit spending by a local unit of government," by amending section 4 (MCL 141.424), as amended by 2002 PA 250.

The People of the State of Michigan enact:

141.424 Annual financial report; contents; filing; extension; unauthorized investments prohibited; "pension" defined.

Sec. 4. (1) The chief administrative officer of each local unit shall make an annual financial report (local unit fiscal report) which shall be uniform for all local units of the same class.

(2) The annual financial report shall contain for each fiscal year, all of the following:

(a) An accurate statement in summarized form, showing the amount of all revenues from all sources, the amount of expenditures for each purpose, the amount of indebtedness, the fund balances at the close of each fiscal year, and any other information as may be required by law.

(b) A statement indicating whether there are derivative instruments or products in the local unit's nonpension investment portfolio at fiscal year end.

(c) If the statement under subdivision (b) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit's nonpension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product.

(d) A statement indicating whether there are derivative instruments or products in the local unit's pension investment portfolio at fiscal year end. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(e) If the statement under subdivision (d) is affirmative, an accurate schedule reporting the cost and fiscal year end market value of derivative instruments or products in the local unit's pension investment portfolio at fiscal year end. The information required under this subdivision shall be reported both on an aggregate basis and itemized by issuer and type of derivative instrument or product. Investments of defined contribution plans and deferred compensation plans that are chosen by the employee participating in the plan shall be excluded from the information reported under this subdivision.

(3) One copy of the annual financial report required by subsection (1) shall be filed with the state treasurer within 6 months after the end of the fiscal year of the local unit. The state treasurer shall prescribe the forms to be used by local units for preparation of the financial reports. The state treasurer may require that an annual financial report by the pension system for any defined benefit plan of the local unit be submitted in electronic format after timely notice by the state treasurer. The chief administrative officer of a local unit may request an extension of the filing date from the state treasurer, and the state treasurer may grant the request for reasonable cause. If the local unit of government requests an extension of the filing deadline, then the local unit of government must provide to the department of treasury the unadjusted year end trial balance reports, in a form and manner as prescribed by the department of treasury, to the department of treasury at the time the local unit of government requests the extension. The department of treasury shall post these unadjusted year end trial reports on the department's internet website if the extension is granted.

(4) This section does not authorize a local unit to make investments not otherwise authorized by law.

(5) For purposes of this section, "pension" includes a public employee health care fund as defined in the public employee health care investment fund act, 1999 PA 149, MCL 38.1211 to 38.1216.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 730]

(HB 5730)

AN ACT to amend 1851 PA 156, entitled "An act to define the powers and duties of the county boards of commissioners of the several counties, and to confer upon them certain local, administrative and legislative powers; and to prescribe penalties for the

violation of the provisions of this act," by amending section 12a (MCL 46.12a), as amended by 1998 PA 502.

The People of the State of Michigan enact:

46.12a Insurance; pension or retirement plan; effect of collective bargaining agreement; reemployment of retirant; adjusted pension or retirement benefit; payment of benefits subject to eligible domestic relations order; effect of divorce from spouse named as retirant's survivor beneficiary on election of reduced retirement allowance; employee of credit union as member of plan; written policy.

Sec. 12a. (1) A county board of commissioners at a lawfully held meeting may do 1 or more of the following:

(a) Provide group life, health, accident and hospitalization, and disability coverage for a county employee, retired employee, or an employee of an office, board, or department of the county, including the board of county road commissioners, and a dependent of an employee, either with or without cost participation by the employee, and appropriate the necessary funds for the insurance. For a county with 100 employees or more, self-insure for health, accident and hospitalization, and group disability coverage for a county employee, retired employee, or an employee of an office, board, or department of the county, including the board of county road commissioners, and a dependent of an employee, either with or without cost participation by the employee, and appropriate the necessary funds.

(b) Adopt and establish a plan by which the county purchases or participates in the cost of an endowment policy or retirement annuity for a county employee or an employee of an office, board, or department of the county, including the board of county road commissioners, to provide monthly pension or retirement benefits for each employee 60 years of age or older in an amount not to exceed $150.00 per month or 2% of the average monthly earnings of the employee for 5 years immediately before retirement times the years of service of the employee, whichever is the lesser sum. As an option, a county board of commissioners may adopt and establish a plan by which the county pays pension or retirement benefits to a county employee or an employee of an office, board, or department of the county, including the board of county road commissioners, who has been employed for not less than 25 years, or who is 60 years of age or older and has been employed for not less than 5 years, in monthly payments not to exceed 2.5% of the employee's highest average monthly compensation or earnings received from the county or county road fund for 5 years of service times the total number of years of service of the employee, including a fraction of a year, not to exceed 3/4 of the average final compensation of the employee. A plan may also pay early retirement benefits at 55 years of age or older to the extent of actuarially equivalent benefits not increasing the costs of the plan. Except as provided in subsection (27), endowment policies, retirement benefits, pensions, or annuity retirement benefits in excess of the amounts stipulated in this subdivision may be provided for by a plan of employee participation to cover the cost of the excess. If the employment or the pension or retirement benefits of an employee who participated in the cost of pension or retirement benefits are terminated before the employee receives pension or retirement benefits equal to the total amount of the employee's participation, the balance of the total participation shall be refunded to the employee at the time of termination, if living, or if deceased, to the employee's heir, estate, legal representative, or designated beneficiary as provided in the plan adopted and

established by the county board of commissioners. If a terminated employee is subsequently rehired by the county, the employee may repay the amount of participation refunded to the employee upon the employee's termination, together with compound interest from the date of refund to the dates of repayment at the rates provided in the plan. As conditions for repayment, the plan may require return to employment for a period not to exceed 3 years and may require that repayment be completed within a period of not less than 1 year following return to employment. A plan adopted for the payment of retirement benefits or a pension shall grant benefits to an employee eligible for pension or retirement benefits according to a uniform scale for all persons in the same general class or classification. An employee shall not be denied benefits by termination of his or her employment after the employee becomes eligible for benefits under the plan and this section. An endowment policy or annuity purchased pursuant to this section shall be purchased from an insurer authorized to write endowment policies or annuities in this state.

(2) In a plan adopted under this section, at least 60% of the total pension or retirement benefit granted to an employee from county funds shall consist of a percentage not to exceed 2.5% of the employee's average final compensation times the employee's years of service and shall be granted to each employee eligible for retirement under the plan uniformly and without restriction or limitation other than those prescribed in this section. As used in this section:

(a) "Average final compensation" means the annual average of the highest actual compensation received by a county employee, other than a county employee who is a judge of a municipal court of record subject to subsection (20) or a judge subject to subsection (23), during a period of 5 consecutive years of service contained within the employee's 10 years of service immediately before the employee's retirement or a period of 5 years of service as specified in the plan. In a county that adopts a plan for granting longevity pay, the county board of commissioners may exclude this longevity pay from average final compensation for the purpose of computing the rate of employee contribution and the amount of benefits payable to an employee upon retirement.

(b) "Longevity pay" means increments of compensation payable at annual or semiannual intervals and based upon years of service to the county, exclusive of compensation provided for a given class of positions.

(3) A circuit court stenographer is eligible for membership in, and the benefits of, a pension or retirement benefit under a plan established pursuant to this section, or a social security plan established by the county or 1 of the counties that pays a portion of the compensation of a circuit court stenographer.

(4) If the employment of a county employee eligible to receive a pension or retirement benefit under a plan established pursuant to this section is terminated after the employee has completed 8 or more years of service in county employment, the employee shall receive the amount of pension or retirement benefit to which the employee's service would have entitled the employee under the plan established, if the employee waives the employee's right to a refund of the employee's total participation upon the termination of employment. The payment of pension or retirement benefits shall begin, as provided in the plan, after the employee would have become eligible for retirement under the plan had the employee's employment not been terminated, but not later than 90 days after the employee becomes 65 years of age. The payment of pension or retirement benefits shall not begin until the employee has applied for pension or retirement benefits in the manner prescribed in the plan established.

(5) A plan established under this section may provide for pension or retirement benefits for a county employee who becomes totally disabled for work in the county service from any cause, after not less than 10 years of county employment, to the extent of the limitations provided in this section. A plan may also provide for pension or retirement benefits to the extent of the limitations provided in this section or $400.00 per month, whichever is the greater sum, for an employee who becomes totally disabled for work in the county service from causes that are the direct and proximate result of county employment, to continue for the duration of the disability or until the employee becomes eligible for retirement pursuant to other provisions of the plan authorized by this section. A plan may also provide for pension or retirement benefits, to the extent of the limitations provided in this section, for the actual dependents of a county employee who dies while still employed by the county after not less than 10 years of county employment, or who dies after leaving county employment with not less than the number of years of service required to vest in the plan but before becoming eligible to receive a pension or retirement benefit. A plan may also provide for pension or retirement benefits to the extent of the limitations provided in this section or $400.00 per month, whichever is greater, for the actual dependents of a deceased county employee whose death is the direct and proximate result of county employment. The plan may provide that the period from the end of the deceased or disabled employee's period of service to the date that employee would have become eligible for retirement be used as service for the sole purpose of computing the amount of disability or death pension.

(6) As used in this section, "county employee" includes a bailiff of the district court in the thirty-sixth district who serves pursuant to section 8322 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8322, and a person who receives more than 50% of all compensation for personal services, rendered to governmental units, from a county fund or county road fund, except a person, other than a bailiff of the district court in the thirty-sixth district, engaged for special services on a contract or fee basis. Until December 31, 1979, a plan adopted under this section may include as a county employee a person on leave of absence from county employment who is not a member of another retirement system except as a retirant and who pays or arranges payment of contributions equal to the contributions that would have been required to be paid under the plan by both the county and the employee, based upon the compensation the employee would have received from the county, if the employee had not taken a leave of absence or a person who complies with the requirements of such a provision approved for inclusion in a plan by the county board of commissioners before January 1, 1976, who shall be considered to be a county employee during the period of compliance. A plan adopted under this section may exclude a person who is employed on a temporary basis and a person employed in a position normally requiring less than 1,000 hours, or some lesser specified number of hours, work per year. A bailiff serving in the district court in the thirty-sixth district is eligible to receive benefits under this section if a plan has been established by law by which the cost of benefits is payable from sources including charges on all legal instruments in which the service of process by a bailiff is required and earmarked by law for benefits, and contributions made by the city of Detroit and each bailiff pursuant to section 8322(6) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8322. The plan shall include provisions by which a bailiff or former bailiff who served as bailiff as of January 1, 1967, may retire after 25 years of service regardless of age, with maximum benefits to be computed as follows: starting as of January 1, 1969, the average of any 5 years of earnings of the previous 10 years served in succession before retirement multiplied by 1.9% times the years of service; starting as of June 1, 1975, the average of any 5 years of earnings multiplied by 2% times the years of service. As used in this subsection, "earnings" means the salary and fees, other than mileage, received by a bailiff pursuant to section 8322(5) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8322. The plan shall include provisions by which health, accident, and hospitalization

insurance premiums may be paid out of the earnings of this fund. These payments shall be made at the discretion of the pension board of trustees. A county that has a retirement fund for bailiffs under this section shall annually review the retirement fund and shall ensure that the fund is maintained in an actuarially sound condition. Copies of the actuarial reports shall be provided to the employer designated under section 8274(2) or (3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.8274, and to the state court administrator.

(7) An employee while receiving a pension or retirement benefit because of disability, pursuant to this section, may be considered as employed in the county service for the purpose of retirement under this section.

(8) A county employee who is included by law in another pension or retirement system by reason of the compensation the employee receives from the county may be excluded from a plan established under this section or included only to the extent of the difference between benefits granted under this section and the other pension or retirement system.

(9) The county board of commissioners, upon the request of a county employee, by not less than a 3/5 vote may credit that county employee with the amount of government service resulting from employment with the United States government, except military service, employment with a state, or employment with any of their political subdivisions under the following conditions:

(a) Employment by the county occurred within 15 years following the county employee's separation from service of the last unit of government by which the county employee was employed.

(b) Service rendered before the last break in service of more than 15 years shall not be credited.

(c) Service that is recognized for the purpose of a deferred retirement allowance under a retirement system or other employer-funded retirement benefit plan, except for a retirement benefit plan under the social security act, chapter 531, 49 Stat. 620, of the United States government, a state, or a political subdivision of a state shall not be credited if the county employee retired under a retirement system of the United States government, a state, or any of their political subdivisions or until the county employee irrevocably forfeits the right to the deferred retirement allowance.

(d) The county employee deposits in the plan established under this section an amount equal to the aggregate amount of contributions the county employee would have made had the service been acquired in the employ of the county, plus interest from the dates the contributions would have been made to the date of deposit, at rates determined by the county board of commissioners. If records are insufficient or unavailable to compute the exact amount of required deposit, the county board of commissioners may estimate the amount.

(e) The county employee has 8 or more years of credited service in county employment, has legal vesting in the county plan, and deposits in the county employees' retirement system an amount equal to the aggregate amount of contributions the employer would have made had the government service being credited under this section been acquired in the employ of the county.

(10) A plan adopted under this section may provide for annual or less frequent postretirement redetermination of a pension. The redetermined amount of pension shall be not greater than the amount of pension otherwise payable multiplied by the sum of 100% and the percentage the county board of commissioners determines appropriate for each full year, excluding a fraction of a year, in the period from the effective date of payments of the pension and the date as of which the redetermination is being made. The redetermined amount shall not be less than the amount of pension otherwise payable. A provision of this section that limits the amount of a pension shall not apply to the

operation of this subsection redetermining the amount of a pension. As used in this subsection, "the amount of pension otherwise payable" means the amount of pension that would be payable without regard to this subsection. The application of a provision redetermining pension amounts may be restricted to pensions that have an effective date of payment either before or after a specified date.

(11) The cost of pension or retirement benefits for a county employee under this section may be paid from the same fund from which the employee receives compensation, and the county board of commissioners may appropriate the necessary funds to carry out the purposes of this section. If a county establishes a plan by which the county pays pension or retirement benefits to an employee pursuant to this section, the county, pursuant to provisions for pension or retirement benefits that are incorporated in the plan, shall establish and maintain reserves on an actuarial basis in the manner provided in this subsection sufficient to finance the pension and retirement and death benefit liabilities under the plan and sufficient to pay the pension and retirement and death benefits as they become due. A county that adopts a retirement plan under this section and establishes reserves on an actuarial basis shall maintain the reserves as provided in this subsection. The reserves shall be determined by an actuarial valuation and established and maintained by yearly appropriations by the county and contributions by employees. The reserves shall be established, maintained, and funded to cover the pension and other benefits provided for in the plan in the same manner and within the same limits as to time as is provided for Benefit Program B in the municipal employees retirement system described in former section 14 of the municipal employees retirement act of 1984, 1984 PA 427. These reserves are trust funds and shall not be used for any other purpose than the payment of pension, retirement, and other benefits and refunds of employee contributions pursuant to the plan established in a county. An employee's contributions shall be kept and accumulated in a separate fund and used only for the payment of annuities and refunds to employees. This subsection does not apply to a county that adopted a retirement plan under this section and did not establish reserves on an actuarial basis before October 11, 1947.

(12) If a county establishes a plan for the payment of pension and retirement benefits to its employees pursuant to this section, the county board of commissioners may provide for a board of trustees to administer the plan and for the manner of election or appointment of the members of the board of trustees. The county board of commissioners may grant authority to the board of trustees to fully administer and operate the plan and to deposit, invest, and reinvest the funds and reserves of the plan within the limitations prescribed by the county board of commissioners in the plan. The county board of commissioners may authorize the investment of funds of a county retirement plan established under this section in anything in which the funds of the state employees' retirement system or the funds of the municipal employees retirement system may be invested, pursuant to the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, and the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555. A county retirement plan established under this section may provide for financing, funding, and the payment of benefits in the same manner and to the same extent as is provided for in the state employees' retirement act, 1943 PA 240, MCL 38.1 to 38.69, and the municipal employees retirement act of 1984, 1984 PA 427, MCL 38.1501 to 38.1555, may provide for and require contributions by county employees, and may permit additional employee contributions on a voluntary basis.

(13) Upon the approval of the county board of commissioners, a member who entered the armed service of the United States before June 1, 1980 or who entered the armed service of the United States on or after June 1, 1980 during a time of war or emergency condition as described in section 1 of 1965 PA 190, MCL 35.61, may elect to receive credited service for not more than 5 years of active military service. Credit for military

service shall be given upon request and payment to the retirement system of an amount equal to 5% of the member's full-time or equated full-time annual compensation for the year in which payment is made multiplied by the number of years, and fraction of a year, of credited service that the member elects to purchase up to the maximum. Service shall not be credited if the service is or would be credited under any other federal, state, or local publicly supported retirement system, except for service that is or would be credited under the federal government for services in the reserve. Service shall not be credited under this subsection until the member has the number of years of credited service needed to vest under the plan. Only completed years and months of armed service shall be credited under this subsection.

(14) A member who enters or entered any armed service of the United States may purchase credited service for periods of continuous active duty lasting 30 days or more, subject to the following conditions:

(a) The county board of commissioners authorizes the purchase of credited service under this subsection by an affirmative vote of a majority of the members of the county board of commissioners. The county board of commissioners shall establish a written policy to implement the provisions of this subsection in order to provide uniform application of this subsection to all members of the plan.

(b) The member has at least the number of years of credited service needed to vest under the plan, not including any credited service purchased under this subsection and subsection (13).

(c) The member pays the plan 5% of the member's annual compensation multiplied by the period of credited service being purchased. As used in this subdivision, "annual compensation" means the aggregate amount of compensation paid the member during the 4 most recent calendar quarters for each of which the member was credited 3/12 of a year of credited service.

(d) Fractional months of armed service shall not be recognized for the purposes of this subsection.

(e) Armed service credited a member under subsection (13) shall not be the basis of credited service under this section.

(f) Armed service credited a member under this subsection shall not exceed either 5 years or the difference between 5 years and the armed service credited the member under subsection (13).

(g) Credited service shall not be granted for periods of armed service that are or could be used for obtaining or increasing a benefit from another retirement system, except for service that is or would be credited under the federal government for services in the reserve.

(15) As used in this subsection, "transitional public employment program" means a public service employment program in the area of environmental quality, health care, education, public safety, crime prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans' outreach, or any other area of human betterment and community improvement as part of a program of comprehensive manpower services authorized, undertaken, and financed pursuant to the former comprehensive employment and training act of 1973, Public Law 93-203. A person participating in a transitional public employment program shall not be eligible for membership in a retirement system or pension plan established under this section. If the person later becomes a member of a retirement system or pension plan established under this section within 12 months after the date of termination as a participant in a transitional public employment program, service credit shall be given for employment in the transitional public employment

program for purposes of determining a retirement allowance upon the payment by the person and the person's employer under the transitional public employment program from funds provided under the former comprehensive employment and training act of 1973, Public Law 93-203, as funds permit, to the retirement system of the contributions, plus regular interest, the person and the employer would have paid had the employment been rendered in a position covered by this section. During the person's employment in the transitional public employment program, the person's employer shall provide an opportunity by payroll deduction for the person to make his or her employee contribution to the applicable pension system. To provide for the eventual payment of the employer's contribution, the person's employer shall during this same period place in reserve a reasonable but not necessarily an actuarially determined amount equal to the contributions that the employer would have paid to the retirement system for those employees in the transitional public employment program as if they were members under this section, but only for that number of employees that the employer determined would transfer from the transitional public employment program into positions covered by this section. If the funds provided under the former comprehensive employment and training act of 1973, Public Law 93-203, are insufficient, the remainder of the employer contributions shall be paid by the person's current employer.

(16) Subsection (15) does not exclude the participant in a transitional public employment program from the accident, disability, or other benefits available to members of the retirement system covered by this section.

(17) If a probate judge who is a member of a plan established under this section contributes for 20 years or more, the county board of commissioners may allow the probate judge to cease further contributions.

(18) An employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder's court of the city of Detroit who became an employee of the state judicial council on September 1, 1981, and who was 44 years of age or older as of that date, and who will have accumulated 25 or more years of service credit by September 1, 1987, shall continue to be eligible for membership in, and the benefits of, a pension or retirement benefit plan established pursuant to this section in the same manner as the employee was eligible before September 1, 1981. A person who was an employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder's court of the city of Detroit on August 31, 1981, who last entered county employment before November 2, 1956, who became an employee of the state judicial council on September 1, 1981, and who accumulated not less than 24 years of service credit by August 31, 1981, shall continue to be eligible for membership in, and the benefits of, a pension or retirement benefit plan established pursuant to this section in the same manner as the employee was eligible before September 1, 1981. An election to continue to be a member of a pension or retirement benefit plan established pursuant to this section as authorized by section 594(2) of the revised judicature act of 1961, 1961 PA 236, MCL 600.594, as that section read on February 8, 1985, or former section 36(2) of 1919 PA 369, is not effective unless the employee has made the election in the manner prescribed by those sections and has made the payments required by those sections.

(19) A plan adopted under this section may provide that an employee of the circuit court in the third judicial circuit, the common pleas court of the city of Detroit, or the recorder's court of the city of Detroit who is a member of the Wayne county employees' retirement system on August 31, 1981, who becomes an employee of the state judicial council and a member of the state employees' retirement system on September 1, 1981, receive a benefit based on the annual average of the highest actual compensation received by the employee during a period of 5 years of county or state service.

(20) Beginning September 1, 1981, for determining the retirement benefit for a county employee who is a judge of a municipal court of record pursuant to subsection (2), "average final compensation" means the annual average of the highest actual compensation received by the judge as additional salary pursuant to former section 13(2) of 1919 PA 369, or section 9932(3) of the revised judicature act of 1961, 1961 PA 236, MCL 600.9932, during a period of 5 years of service as specified in the plan. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(21) Beginning September 1, 1981, for each county employee who is a judge of a municipal court of record, or of the circuit or district court, the sum of the average final compensation determined for that county employee pursuant to this section and the final salary determined for that county employee as a member of the state of Michigan judges' retirement system created by former 1951 PA 198, or as a member of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the employee's total annual judicial salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(22) Beginning September 1, 1981, for each county employee who is a judge of the probate court, the sum of the average final compensation calculated for that employee pursuant to this section and the final salary calculated for that employee as a member of the state of Michigan probate judges retirement system created by former 1954 PA 165 or as a member of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the employee's total annual judicial salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(23) Beginning September 1, 1981, for determining a retirement benefit pursuant to subsection (2) for a county employee who is a judge who receives an annuity pursuant to section 14(5) of former 1951 PA 198 or pursuant to section 503(2)(c) of the judges retirement act of 1992, 1992 PA 234, MCL 38.2503, "average final compensation" means the difference between the judge's total annual salary payable from all sources on August 31, 1981, and the judge's state base salary payable on August 31, 1981. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(24) Beginning January 1, 1983, the sum of the final salary determined for each county employee who is a judge of the probate court used as the basis for determining the judge's retirement allowance as a member of a retirement system established pursuant to this section and the salary or compensation figure used as the basis for determining the judge's retirement allowance as a member of the state of Michigan judges' retirement system created by former 1951 PA 198 or as a member of the Michigan judges retirement system created by the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670, shall not exceed the judge's total annual salary payable from all sources at the time of his or her retirement. This subsection shall not be construed to diminish or impair an accrued financial benefit.

(25) The county board of commissioners, upon the request of a county employee, by not less than a 3/5 vote may credit that county employee with the amount of membership service that the county employee was previously credited with by the retirement system established under this section under the following conditions:

(a) The membership service previously credited to the county employee was service rendered for the same county.

(b) Service that is recognized for the purpose of a deferred retirement allowance under a retirement system or other employer-funded retirement benefit plan, except for a retirement benefit plan under the social security act, chapter 531, 49 Stat. 620, of the United States government, a state, or a political subdivision of a state shall not be credited if the county employee retired under a retirement system of the United States government, a state, or any of their political subdivisions or until the county employee irrevocably forfeits the right to the deferred retirement allowance.

(c) The county employee deposits in the plan established under this section an amount equal to the aggregate amount of contributions the county employee made at the time of the previous membership service plus interest from the date of withdrawal of the accumulated contributions to the date of deposit, at rates determined by the county board of commissioners. If records are insufficient or unavailable to compute the exact amount of required deposit, the county board of commissioners may estimate the amount.

(d) The county employee deposits in the county employees' retirement system an amount equal to the aggregate amount of contributions the employer made at the time of the previous membership service plus interest from the date of separation to the date of deposit, at rates determined by the county board of commissioners.

(26) A person participating in a program described in this subsection is not eligible for membership in a retirement system or pension plan established under this section. In addition, that person shall not receive service credit for the employment described in this subsection even though the person subsequently becomes or has been a member of the retirement system. This subsection applies to all of the following:

(a) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322.

(b) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the Michigan opportunity and skills training program, first established under sections 12 to 23 of 1983 PA 259.

(c) A person, not regularly employed by the county, who is employed by the county through participation in a program established pursuant to the Michigan community service corps program, first established under sections 25 to 35 of 1983 PA 259 and sections 148 to 160 of 1984 PA 246.

(d) A person, not regularly employed by the county, who is hired by the county to administer a program described in subdivision (a), (b), or (c).

(27) If a county enters into a collective bargaining agreement pursuant to 1947 PA 336, MCL 423.201 to 423.217, that provides for retirement benefits that are in excess of the retirement benefits otherwise authorized to be provided under this section for employees of the county who are covered by a plan under this section, then the county board of commissioners may amend or adopt a plan under this section to provide those benefits to employees who are members of the bargaining unit covered by the agreement, and may, after December 31, 1987, amend or adopt a plan under this section to provide those benefits to other employees of the county.

(28) One of the following conditions applies to a retirant who is receiving a pension or retirement benefit from a plan under this section if the retirant becomes employed by a county that has established a plan under this section:

(a) Payment of the pension or retirement benefit to the retirant shall be suspended if the retirant is employed by the county from which the retirant retired and the retirant does not meet the requirements of subdivision (b) or (d). Suspension of the payment of the

pension or retirement benefit shall become effective the first day of the calendar month that follows the sixtieth day after the retirant is employed by the county. Payment of the pension or retirement benefit shall resume on the first day of the calendar month that follows termination of the employment. Payment of the pension or retirement benefit shall be resumed without change in amount or conditions by reason of the employment. The retirant shall not be a member of the plan during the period of employment.

(b) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of employment by the county from which the retirant retired if all of the following requirements are met:

(*i*) The retirant meets 1 of the following requirements:

(A) For any retirant, is employed by the county for not more than 1,000 hours in any 12-month period.

(B) For a retirant who was not an elected or appointed county official at retirement, is elected or appointed as a county official for a term of office that begins after the retirant's retirement allowance effective date.

(C) For a retirant who was an elected or appointed county official at retirement, is elected or appointed as a county official to a different office from which the retirant retired for a term of office that begins after the retirant's retirement allowance effective date.

(D) For a retirant who was an elected or appointed county official at retirement, is elected or appointed as a county official to the same office from which the retirant retired for a term of office that begins 2 years or more after the retirant's retirement allowance effective date.

(*ii*) The retirant is not eligible for any benefits from the county other than those required by law or otherwise provided to the retirant by virtue of his or her being a retirant.

(*iii*) The retirant is not a member of the plan during the period of reemployment, does not receive additional retirement credits during the period of reemployment, and does not receive any increase in pension or retirement benefits because of the employment under this subdivision.

(c) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of the employment if the retirant becomes employed by a county other than the county from which the retirant retired. For the purposes of membership and potential benefit entitlement under the plan of the other county, the retirant shall be considered in the same manner as an individual with no previous record of employment by that county.

(d) Payment of the pension or retirement benefit to the retirant shall continue without change in amount or conditions by reason of employment by the county from which the retirant retired if the retirant was an employee of the state judicial council on September 30, 1996, and becomes a county-paid employee of the recorder's court of the city of Detroit or the third judicial circuit of the circuit court on October 1, 1996.

(29) A county may increase the percentage of the highest average monthly compensation or earnings that was used to calculate the pension or retirement benefit under subsection (1)(b) of a person receiving a pension or retirement benefit under this section on the date the county increases the percentage of compensation or earnings. The county shall recalculate the pension or retirement benefit using the increased percentage of compensation or earnings. The person receiving the pension or retirement benefit is eligible to receive an adjusted pension or retirement benefit based upon the recalculation effective the first day of the month following the date the county increases the percentage of compensation or earnings under this subsection.

(30) The payment of pension or retirement benefits under a plan established pursuant to this section is subject to an eligible domestic relations order under the eligible domestic relations order act, 1991 PA 46, MCL 38.1701 to 38.1711.

(31) If a county retirement plan established under this section provides an optional form of payment of a retirement allowance and if a retirant receiving a reduced retirement allowance under that plan is divorced from the spouse who had been named the retirant's survivor beneficiary, the election of a reduced retirement allowance form of payment shall be considered void by the retirement system if the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court dated after July 18, 1991 provides that the election of a reduced retirement allowance form of payment is to be considered void by the retirement system and the retirant provides a certified copy of the judgment of divorce or award or order of the court, or an amended judgment of divorce or award or order of the court, to the retirement system. If the election of a reduced retirement allowance form of payment is considered void by the retirement system under this subsection, the retirant's retirement allowance shall revert to a straight life retirement allowance, including postretirement adjustments, if any, subject to an award or order of the court. The retirement allowance shall revert to a straight life retirement allowance under this subsection effective the first of the month after the date the retirement system receives a certified copy of the judgment of divorce or award or order of the court. This subsection does not supersede a judgment of divorce or award or order of the court in effect on July 18, 1991. This subsection does not require the retirement system to distribute or pay retirement assets on behalf of a retirant in an amount that exceeds the actuarially determined amount that would otherwise become payable if a judgment of divorce had not been rendered.

(32) A county board of commissioners of a county having a population of more than 400,000 but less than 800,000, which county has an employee credit union organized under 1925 PA 285, MCL 490.1 to 490.31, may include as a member of a plan under this section a past or present employee of the credit union, if that past or present employee has 5 or more years of service credit with that credit union on or before June 30, 1990.

(33) The county board of commissioners shall establish a written policy to implement the provisions of this section in order to provide uniform application of this section to all members of the plan.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 731]

(HB 5829)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to

regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending section 20180 (MCL 333.20180), as added by 1994 PA 52.

The People of the State of Michigan enact:

333.20180 Health facility or agency; person making or assisting in originating, investigating, or preparing report or complaint; immunity and protection from civil or criminal liability; disclosure of identity; notice; "hospital" defined.

Sec. 20180. (1) A person employed by or under contract to a health facility or agency or any other person acting in good faith who makes a report or complaint including, but not limited to, a report or complaint of a violation of this article or a rule promulgated under this article; who assists in originating, investigating, or preparing a report or complaint; or who assists the department in carrying out its duties under this article is immune from civil or criminal liability that might otherwise be incurred and is protected under the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369. A person described in this subsection who makes or assists in making a report or complaint, or who assists the department as described in this subsection, is presumed to have acted in good faith. The immunity from civil or criminal liability granted under this subsection extends only to acts done pursuant to this article.

(2) Unless a person described in subsection (1) otherwise agrees in writing, the department shall keep the person's identity confidential until disciplinary proceedings under this article are initiated against the subject of the report or complaint and the person making or assisting in originating, investigating, or preparing the report or complaint is required to testify in the disciplinary proceedings. If disclosure of the person's identity is considered by the department to be essential to the disciplinary proceedings and if the person is the complainant, the department shall give the person an opportunity to withdraw the complaint before disclosure.

(3) Subject to subsection (4), a person employed by or under contract to a hospital is immune from civil or criminal liability that might otherwise be incurred and shall not be discharged, threatened, or otherwise discriminated against by the hospital regarding that person's compensation or the terms, conditions, location, or privileges of that person's employment if that person reports to the department, verbally or in writing, an issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article. The protections afforded under this subsection do not limit, restrict, or diminish, in any way, the protections afforded under the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

(4) Except as otherwise provided in subsection (5), a person employed by or under contract to a hospital is eligible for the immunity and protection provided under subsection (3) only if the person meets all of the following conditions before reporting to the

department the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article:

(a) The person gave the hospital 60 days' written notice of the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article. A person who provides a hospital written notice as provided under this subdivision shall not be discharged, threatened, or otherwise discriminated against by the hospital regarding that person's compensation or the terms, conditions, location, or privileges of that person's employment. Within 60 days after receiving a written notice of an issue related to the hospital that is an unsafe practice or condition, the hospital shall provide a written response to the person who provided that written notice.

(b) The person had no reasonable expectation that the hospital had taken or would take timely action to address the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article.

(5) Subsection (4) does not apply if the person employed by or under contract to a hospital is required by law to report the issue related to the hospital that is an unsafe practice or condition that is not a violation of this article or a rule promulgated under this article before the expiration of the 60 days' notice required under subsection (4).

(6) A hospital shall post notices and use other appropriate means to keep a person employed by or under contract to the hospital informed of their protections and obligations under this section. The notices shall be in a form approved by the department. The notice shall be made available on the department's internet website and shall be posted in 1 or more conspicuous places where notices to persons employed by or under contract to a hospital are customarily posted.

(7) As used in this section, "hospital" means a hospital licensed under article 17.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 732]

(SB 719)

AN ACT to amend 1978 PA 389, entitled "An act to provide for the prevention and treatment of domestic violence; to develop and establish policies, procedures, and standards for providing domestic violence assistance programs and services; to create a domestic violence prevention and treatment board and prescribe its powers and duties; to establish a domestic violence prevention and treatment fund and provide for its use; to prescribe powers and duties of the family independence agency; to prescribe immunities and liabilities of certain persons and officials; and to prescribe penalties for violations of this act," by amending section 11 (MCL 400.1511), as added by 2001 PA 192.

The People of the State of Michigan enact:

400.1511 Interagency domestic violence fatality review team.

Sec. 11. (1) The state or a county may establish an interagency domestic violence fatality review team. Two or more counties may establish a single domestic violence fatality review team for those counties. The purpose of a team is to learn how to prevent domestic violence homicides and suicides by improving the response of individuals and

agencies to domestic violence. Subject to the requirements of this section, each team may determine its structure and specific activities.

(2) The fatality review teams may review fatal and near-fatal incidents of domestic violence, including suicides. The review of a domestic violence incident may include a review of events leading up to the domestic violence incident, available community resources, current laws and policies, actions taken by the agencies and individuals related to the incident and the parties, and any other information considered relevant by the team. The team may determine the number and type of incidents it wishes to review and shall make policy and other recommendations as to how incidents of domestic violence may be prevented.

(3) A fatality review team and its members are entitled to the protections granted under this section if the fatality review team is convened under this section and in compliance with the requirements of this section.

(4) A fatality review team established under this section shall include, but is not limited to, the following:

(a) A health care professional with training and experience in responding to domestic violence.

(b) A medical examiner.

(c) A prosecuting attorney or a designated assistant prosecuting attorney.

(d) A representative of a domestic violence shelter that receives funding from the Michigan domestic violence prevention and treatment board.

(e) A law enforcement officer.

(5) If a state fatality review team is convened, the state fatality review team shall be convened by the Michigan domestic violence prevention and treatment board.

(6) Subject to subsection (9), information obtained or created by or for a fatality review team is confidential and not subject to discovery or the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Documents created by or for the fatality review team are not subject to subpoena, except that documents and records otherwise available from other sources are not exempt from subpoena, discovery, or introduction into evidence from other sources solely because they were presented to or reviewed by a fatality review team. Information relevant to the investigation of a crime may be disclosed by a fatality review team only to the prosecuting attorney or to a law enforcement agency. Information required to be reported under the child protection law, 1975 PA 238, MCL 722.621 to 722.638, shall be disclosed by a fatality review team to the family independence agency. A prosecuting attorney, a law enforcement agency, and the family independence agency may use information received under this subsection in carrying out their lawful responsibilities. Individuals and the organizations represented by individuals who participate as members of a fatality review team shall sign a confidentiality agreement acknowledging the confidentiality provisions of this section.

(7) An individual who provides information to a fatality review team shall sign a confidentiality notice acknowledging that any information he or she provides to a fatality review team shall be kept confidential by the fatality review team, but is subject to possible disclosure to the prosecuting attorney, a law enforcement agency, or the family independence agency as provided in subsection (6).

(8) Fatality review team meetings are closed to the public and are not subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Information identifying a victim of domestic violence whose case is being reviewed, or that person's family members, or an alleged or suspected perpetrator of abuse upon the victim, or regarding the involvement of any agency with the victim or that person's family, shall not be disclosed in any report that is available to the public.

(9) Fatality review teams convened under this section shall prepare an annual report of findings, recommendations, and steps taken to implement recommendations. The report shall not contain information identifying any victim of domestic violence, or that person's family members, or an alleged or suspected perpetrator of abuse upon a victim, or regarding the involvement of any agency with a victim or that person's family. The report shall cover each calendar year or portion of a calendar year during which a fatality review team is convened and the report shall be provided to the Michigan domestic violence prevention and treatment board on or before March 1 of the following year. If the Michigan domestic violence prevention and treatment board develops a form for use by fatality review teams to report annual findings and recommendations, fatality review teams shall use that form.

(10) A person who violates the confidentiality provisions of this section is guilty of a misdemeanor.

(11) A fatality review team, any member of a fatality review team, any individual providing information to a fatality review team, or any other person or agency acting within the scope of this section is immune from all civil liability resulting from an act or omission arising out of and in the course of the team's, member's, individual's, person's, or agency's performance of that activity, unless the act or omission was the result of gross negligence or willful misconduct. This section shall not be construed to limit the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1419, or any other immunity provided by statute or common law.

(12) Subject to available funding, the Michigan domestic violence prevention and treatment board may do any of the following:

(a) Develop a protocol for use by state, county, and multicounty domestic violence fatality review teams.

(b) Develop a form for use by fatality review teams to report annual findings and recommendations as required in subsection (9).

(c) Develop and provide training concerning fatality review teams.

(d) Prepare a report to the governor, the senate, and the house of representatives summarizing the findings and recommendations of fatality review teams and making recommendations to reduce and eradicate the incidence of domestic violence.

(13) If the Michigan domestic violence prevention and treatment board develops a protocol for use by state, county, and multicounty fatality review teams, the teams shall follow that protocol.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 733]

(HB 4003)

AN ACT to regulate the installation, alteration, maintenance, improvement, and inspection of plumbing; to provide certain powers and duties for certain state agencies and departments; to create a plumbing board; to define plumbing, plumbing contractors, and

the classification of plumbers and to set standards for those classifications; to provide for the licensing and regulation of classes of plumbers and plumbing contractors; to prescribe fees and the disposition of money derived from those fees; to provide for the promulgation of rules; to prescribe remedies and penalties; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

338.3511 Short title.

Sec. 1. This act shall be known and may be cited as the "state plumbing act".

338.3513 Definitions; A to C.

Sec. 3. As used in this act:

(a) "Apprentice plumber" means an individual registered under this act as an apprentice.

(b) "Board" means the state plumbing board created in section 13.

(c) "Building sewer" means that part of the drainage system which extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage disposal system, or other point of disposal.

(d) "Censure" means an expression of disapproval of a licensee's or registrant's professional conduct, which conduct is not necessarily a violation of this act or a rule promulgated or an order issued under this act.

(e) "Code" means the state construction code provided for in section 4 of the Stille-DeRossett-Hale single state construction code act, MCL 125.1504, or a part of the code that is of limited application and includes a modification of or amendment to the code.

338.3515 Definitions; D to G.

Sec. 5. As used in this act:

(a) "Department" means the department of consumer and industry services.

(b) "Director" means the director of the department of consumer and industry services or an authorized representative of the director.

(c) "Domestic water treatment and filtering equipment" means residential water treatment and filtering equipment used in 1-family and 2-family dwellings.

(d) "Enforcing agency" means an enforcing agency as defined in section 2a of the Stille-DeRossett-Hale single state construction code act, MCL 125.1502a.

(e) "Governmental subdivision" means a governmental subdivision as defined in section 2a of the Stille-DeRossett-Hale single state construction code act, MCL 125.1502a.

338.3517 Definitions; L, M.

Sec. 7. As used in this act:

(a) "Journey plumber" means an individual, other than a plumbing contractor or master plumber, who is qualified to engage in the practical installation of plumbing and who is licensed as a journey plumber.

(b) "License" means the document issued to a person under this act enabling that person to use a designated title and practice an occupation, which practice would otherwise be prohibited by this act.

(c) "Licensee" means a person who has been issued a license under this act.

(d) "Master plumber" means an individual possessing the necessary skills and qualifications to plan and supervise the installation of plumbing and who is licensed as a master plumber.

(e) "Minor repair" means a repair which involves only the clearance of stoppages, repair, or replacement of a faucet, valve, reinstallation of that same plumbing fixture provided that no modifications are made to the plumbing system, or residential domestic water treatment and filtering equipment. Minor repair does not include any of the following:

(*i*) The repair or replacement of a backflow preventer and air admittance valves.

(*ii*) A repair or replacement that is only a part of a larger or major renovation or repair.

338.3519 Definitions; P.

Sec. 9. As used in this act:

(a) "Person" means an individual, sole proprietor, partnership, association, corporation, governmental subdivision, public or private school, or public or private organization.

(b) "Plumbing" means the practice, materials, and fixtures, in or adjacent to a building, structure, or premises, used in the installation, maintenance, extension, or alteration of all piping, fixtures, plumbing appliances, plumbing appurtenances, as defined by the code, in connection with the sanitary drainage or storm drainage facilities, plumbing venting systems, medical gas systems, backflow preventers, and public or private water supply systems.

(c) "Plumbing contractor" means a licensed master plumber or a person who employs a licensed master plumber full-time to directly supervise the installation of plumbing as his or her representative engaged in the business of plumbing for a fixed sum, price, fee percentage, valuable consideration, or other compensation and who is licensed as a plumbing contractor.

(d) "Probation" means a sanction which permits a board to evaluate over a period of time a licensee's or registrant's fitness to practice an occupation regulated by this act.

338.3521 Definitions; R to W.

Sec. 11. As used in this act:

(a) "Restitution" means the requirement that a person found to be in violation of this act, a rule promulgated under this act, or an order issued under this act has caused monetary damage to another and that the violator will be required to compensate the injured party by an amount equal to the amount of the monetary damage caused.

(b) "Stille-DeRossett-Hale single state construction code act" means the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.

(c) "Water service pipe" means the pipe from the water main or other source of potable water supply to the water distributing system of the building served.

338.3523 State plumbing board; creation; membership; appointment; qualifications; terms; compensation; meetings; quorum; election of officers; public meeting; availability of writings; access to files; maintenance; rules; licensure examination.

Sec. 13. (1) There is created a state plumbing board within the department. The governor, with the advice and consent of the senate, shall appoint 5 United States citizens who are residents of the state, 2 of whom shall be licensed plumbing contractors who hold

a master's license. One shall be a licensed master plumber securing permits, and 1 shall be a licensed journey plumber, each having 10 years' experience, and a person representative of the general public, who with the director of the department of environmental quality or his or her authorized representative, a member or employee of the drinking water and radiologic protection division of the department of environmental quality, selected by the director of the department of environmental quality as voting ex officio members, shall constitute the plumbing board. Upon the expiration of the term of office of each person so appointed, the governor shall, on or before July 1 in each year, appoint a successor to hold office for a term of 3 years.

(2) Per diem compensation of the members of the board, other than the director and the director of the department of environmental quality or their authorized representatives and the member or employee of the drinking water and radiologic protection division of the department of environmental quality, and the schedule for reimbursement of expenses shall be established annually by the legislature.

(3) The board shall meet as often as necessary to fulfill its duties under this act, but shall meet not less than 4 times a year. A majority of the members appointed and serving shall constitute a quorum. An approval, decision, or ruling of the board does not become effective unless supported by a majority of the members present constituting a quorum. A member of the board shall not vote by proxy.

(4) At the first meeting of each calendar year, the board shall elect 1 member as chairperson, another as vice-chairperson, another as secretary, and other officers as it determines appropriate, for the terms and with the duties and powers as the board determines. The chairperson, vice-chairperson, and secretary shall be elected from those members appointed to the board by the governor.

(5) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A member of the board who intentionally violates this subsection is subject to the penalties prescribed in the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(6) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The department shall maintain physical possession of the files of the board and shall ensure that applicable laws concerning public access to the files are met.

(7) The board shall recommend to the state construction code commission the promulgation of rules necessary for the safe design, construction, installation, alteration, and inspection of plumbing. The board may also recommend to the state construction code commission, after testing and evaluation, that it issue certificates of acceptability under the code for a material, product, method of manufacturing, or method of construction or installation of plumbing equipment.

(8) The department, in consultation with the board, shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the administration of this act and to effectuate the purposes of this act including, but not limited to, the establishing of standards for license classifications under this act; the examination and licensing of plumbing contractors, master plumbers, and journey plumbers; and for the registration of plumbers' apprentices. Before an examination or other test required under this act is administered, the board, in consultation with the department, shall review and approve the form and content of the examination or test.

Each examination for a license as a plumbing contractor, master plumber, or journey plumber shall be conducted by the board and the department, acting jointly.

338.3525 Plumbing; license required; exceptions.

Sec. 15. (1) A person shall not engage in or work at the business of a plumbing contractor, master plumber, journey plumber, or apprentice plumber unless licensed or registered by the department. Except as provided in subsections (2), (3), (4), and (5), plumbing shall be performed by a licensed master or journey plumber. A licensed master plumber shall be in charge and responsible for proper installation and conformance with the code. Plumbing shall not be performed unless the plumbing contractor who is responsible has secured a permit from the state or a governmental subdivision authorized to issue permits.

(2) A license is not required for the following work:

(a) Minor repair work.

(b) The installation of a building sewer or water service pipe provided that a permit is secured from the responsible enforcing agency and inspections are performed. The installations shall comply with the applicable code.

(c) The installation of domestic water treatment and filtering equipment that requires modification to an existing cold water distribution supply and associated waste piping in buildings if a permit is secured, required inspections performed, and the installation complies with the applicable code. If the enforcing agency determines a violation exists, it shall be corrected by the responsible installer.

(3) A homeowner may install his or her own plumbing, building sewer, or private sewer in his or her single-family dwelling if a permit is secured.

(4) The installation of medical gas piping providing the installation shall be performed under the supervision of a licensed plumbing contractor.

(5) This act does not prevent a person from performing any activities within the scope of licensure or registration under any other licensure or registration act or applicable codes for that licensed or registered professional adopted pursuant to law.

338.3527 Plumbing contractor, master plumber, and journey plumber's examination.

Sec. 17. (1) The board shall grant licenses or registrations to qualified applicants for examination or registration. The character, experience, and fitness of an applicant for examination or registration shall also be taken into consideration. Each applicant shall be of good moral character as defined and determined under 1974 PA 381, MCL 338.41 to 338.47.

(2) The plumbing contractor's examination shall consist of, but not be limited to, questions designed to test an individual's knowledge of this act, any rules promulgated under this act, the Stille-DeRossett-Hale single state construction code act, and the administration and enforcement procedures of the code. The department shall arrange for plumbing contractor examinations to be held in the months of March, June, September, and December of each year in the Lower Peninsula and shall arrange for at least 1 plumbing contractor examination to be held in the Upper Peninsula each year.

(3) The master plumber's examination shall consist of, but not be limited to, oral and written tests and shall cover the science and practice of plumbing, knowledge of the state plumbing code, laws, rules, regulations, interpretation of charts and blueprints, and plans of plumbing installations. The department shall arrange for master plumber examinations

in the months of March, June, September, and December of each year in the Lower Peninsula and shall arrange for at least 1 master plumber's examination to be held in the Upper Peninsula each year.

(4) The journey plumber's examination shall consist of, but not be limited to, oral, written, and practical tests and shall cover the theory and practice of plumbing and knowledge of the state plumbing code, rules, and regulations. The department shall arrange for journey plumber examinations to be held in the months of March, June, September, and December of each year in the Lower Peninsula and shall arrange for at least 1 journey plumber's examination to be held in the Upper Peninsula each year.

(5) An application to take an examination shall be submitted to the department no later than 20 days before the date of the examination.

338.3529 Plumbing contractor, master, or journey licensure; conditions for examination.

Sec. 19. Applicants for plumbing contractor, master, or journey licensure under this act may sit for examination upon doing both of the following:

(a) Filing an application with the department, on a form provided by the department, with the appropriate nonrefundable examination fee prescribed in section 31.

(b) Establishing, in a manner satisfactory to the board, the experience requirement or an equivalent of that experience requirement for the particular class of licensure by use of a notarized statement from current and past employers and master plumbers.

338.3531 Plumbing contractor's license; issuance; conditions; requirements.

Sec. 21. (1) To qualify for a plumbing contractor license, the applicant must either hold a master plumber license or employ the holder of a master plumber license as his or her representative. Only an owner of a sole proprietorship or partnership, or an officer of a corporation or limited liability company, may apply for licensure as a plumbing contractor.

(2) The department shall issue a plumbing contractor's license to a person who does all of the following:

(a) Files a completed application on a form provided by the department that includes the following information:

(*i*) A statement listing the complete address of each place where the applicant has resided and has been engaged in business during the last 5 years including the length of residences and types of businesses engaged in or employments.

(*ii*) The name of the applicant, the name of the business, and the location of the place for which the license is desired.

(*iii*) The name of the business owner or president of the corporation and the name of the applicant, if different from the name of the business owner or president, and his or her title.

(*iv*) The name, residence address, and license number of the licensed master plumber who represents the person.

(b) Pays the examination fee prescribed in section 31 and passes an examination provided for by the board and the department.

(c) Pays the license fee prescribed in section 31.

(3) A licensed plumbing contractor may operate 1 or more branch offices in this state bearing the same firm name provided a licensed master plumber is in charge and has the responsibility of supervision at each branch.

(4) When a license is issued to a plumbing contractor represented by a master plumber, the plumbing contractor and the master plumber are jointly and severally responsible for exercising the supervision or control of the plumbing operations necessary to secure full compliance with this act, the rules promulgated under this act, and all other laws and rules related to the installation of plumbing.

(5) Both a person other than a plumbing contractor and the master plumber are jointly and severally responsible for exercising the supervision or control of the plumbing operations necessary to secure full compliance with this act, the rules promulgated under this act, and all other laws and rules related to the installation of plumbing.

(6) If a plumbing contractor is represented by a licensed master plumber who ceases to represent the plumbing contractor, the plumbing contractor has 30 days thereafter in which to designate another licensed master plumber as the representative of the plumbing contractor. The plumbing contractor shall notify the department in writing of the change.

(7) A person applying for a plumbing contractor license shall also pay any amount required to be paid under the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305, which amount shall be paid to the department for deposit in the homeowner construction lien recovery fund. An assessment imposed upon a master plumber is considered sufficient to fulfill any assessment obligation that may exist for a plumbing contractor.

(8) A person who, on the effective date of this act, is licensed as a master plumber under former 1929 PA 266 or employing a licensed master plumber shall, upon payment of the plumbing contractor license fee and upon furnishing the department with satisfactory evidence of having been engaged in a business as a master plumber for a minimum of 3 out of the 5 years immediately preceding the effective date of this act, be granted a plumbing contractor license without examination if the person applies within 6 months after the effective date of this act.

(9) A licensed plumbing contractor shall display in a conspicuous place at the entrance of the place of business a sign bearing the company name and the name of the licensed master plumber and license number in letters not less than 3 inches high.

338.3533 Master plumber's license; issuance; conditions; requirements.

Sec. 23. (1) The department shall issue a master plumber's license to a person not less than 18 years of age who does all of the following:

(a) Files a completed application on a form provided by the department.

(b) Pays the examination fee prescribed in section 31 and passes an examination provided for by the board and the department.

(c) Pays the license fee prescribed in section 31.

(d) Holds a journey plumber license issued under this act or former 1929 PA 266 and has gained 4,000 hours' experience in work as a journey plumber over a period of not less than 2 years immediately preceding the date of his or her application.

(2) As a condition of renewal of a master plumber's license, the master plumber shall demonstrate the successful completion of a course, approved by the board, concerning any update or change in the code within 12 months after the update or change in that code. This requirement applies only during or after those years that the code is updated or changed.

(3) A licensed master plumber shall represent only 1 plumbing contractor at any given time.

(4) A master plumber who is also a plumbing contractor is only liable for payment of the plumbing contractor license fee.

(5) If a master plumber representing a plumbing contractor ceases to represent the plumbing contractor, the master plumber shall notify the department in writing within 30 days after the representation ceases.

338.3535 Journey plumber's license; issuance; conditions; requirements.

Sec. 25. (1) The department shall issue a journey plumber's license to a person not less than 18 years of age who does all of the following:

(a) Files a completed application on a form provided by the department.

(b) Pays the examination fee prescribed in section 31 and passes an examination provided for by the board and the department.

(c) Pays the license fee prescribed in section 31.

(d) Has at least 6,000 hours' experience gained over a period of not less than 3 years as an apprentice plumber in the practical installation of plumbing under the supervision of a master plumber.

(2) As a condition of renewal of a journey plumber's license, the journey plumber shall demonstrate the successful completion of a course, approved by the board, concerning any update or change in the code within 12 months after the update or change in that code. This requirement applies only during or after those years that the code is updated or changed.

338.3537 Apprentice plumber; registration; requirements.

Sec. 27. (1) An individual employed as an apprentice plumber shall register with the department on a form provided by the department within 30 days after employment.

(2) An apprentice registration is invalid after 5 years from the date of initial registration unless the registered apprentice applies for and takes the examination for journey license. The registration remains valid until either a license is issued or the apprentice fails to take the exam.

(3) Upon request by the apprentice to the board, the board may grant an extension of an apprentice registration for a period of time as determined appropriate by the board.

(4) An apprentice plumber shall, as his or her principal occupation, be engaged in learning and assisting in the installation of plumbing under the direct on-site jobsite supervision of a journey or master plumber.

338.3539 Master plumber; inactive license; issuance as active; holding active master and journey plumber license.

Sec. 29. (1) A person licensed as a master plumber may request that the master plumber license be retained by the department as an inactive license for a period not to exceed 3 years.

(2) An inactive master plumber license shall be issued as active upon the request of the licensee and the payment of the reinstatement fee as described in section 31 as long as the individual holds a journey plumber license and the individual's journey plumber license has been renewed each year.

(3) A person shall not simultaneously hold an active master and journey plumber license. An individual holding an active master plumber license may work as a journey plumber.

338.3541 License or registration renewal; fees.

Sec. 31. (1) A license or apprentice registration issued under this act must be renewed not more than 60 days after the renewal date. It is the responsibility of a licensee or registrant to renew a license or registration. The department shall send a renewal application to the last known address of a licensee or registrant on file with the department. Every holder of a license or registration issued under this act shall promptly notify the department of a change in his or her business or residence address. The failure of a licensee or registrant to notify the department of a change of address does not extend the expiration date of a license or registration. The department may issue licenses for up to 3 years in duration.

(2) The annual fees for initial licensure, apprentice plumber registration, or renewal of a license and registration issued under this act are as follows:

(a) Journey plumber ..... $ 20.00.

(b) Apprentice plumber ..... $ 5.00.

(3) All licenses and apprentice registrations not renewed within 60 days of expiration may be reinstated only upon application to the board for reinstatement and the payment of the annual renewal fee and the following reinstatement fee:

(a) Journey plumber ..... $ 25.00.

(b) Apprentice plumber ..... $ 10.00.

(4) A person requesting renewal of a license within 3 years after the license is expired under subsection (3) shall not be subject to reexamination for the license but is required to pay the reinstatement fee and the annual renewal fee for each year not renewed. A person who fails to renew a license for more than 3 consecutive years is required to meet the experience and other requirements and take an examination for the class of license sought.

(5) Examination fees are as follows:

(a) Plumbing contractor ..... $ 50.00.

(b) Master plumber ..... $ 50.00.

(c) Journey plumber ..... $ 50.00.

(6) The department shall issue an initial master plumber and plumbing contractor license for a period of up to 3 years. The master plumber and plumbing contractor licenses are renewable for periods of 3 years. In the case of a person applying for initial or reinstatement license at a time other than between April 30 and June 30 of the year in which the department issues renewal licenses, the department shall compute and charge the license fee on a yearly prorated basis beginning the year of application until the last year of the 3-year license period.

(7) The initial and renewal fee for a master plumber and plumbing contractor license issued under this act are as follows:

(a) Plumbing contractor ..... $200.00.

(b) Master plumber ..... $200.00.

(8) All plumbing contractor and master plumber licenses not renewed within 60 days of expiration may be reinstated only upon application to the board and payment of the renewal fee and an $85.00 reinstatement fee.

338.3543 Licensure without examination; reciprocity.

Sec. 33. Upon payment of the required fee in section 31, the board may license without examination applicants licensed under the laws of other states having requirements for licensing plumbers and for regulating plumbing that the board determines are equivalent to the requirements of this state conditional upon that state offering reciprocity.

338.3545 Lost or destroyed license or registration.

Sec. 35. If a license or registration is lost or destroyed, a new license or registration shall be issued without examination, upon payment of a $20.00 fee and a written statement made by the licensee or registrant that the license or registration has been lost or destroyed.

338.3547 Disposition of license fees and income.

Sec. 37. All fees and money received by the department from the licensing of plumbers and any other income the board may receive under this act shall be paid into the state construction code fund as created by section 22 of the Stille-DeRossett-Hale single state construction code act, MCL 125.1522.

338.3549 Plumbing inspector; prohibited conduct.

Sec. 39. An individual licensed under this act employed or acting as a plumbing inspector shall not engage in, or be directly or indirectly connected with, the plumbing business including, but not limited to, the furnishing of labor, materials, or appliances for the construction, alteration, or maintenance of a building or the preparation of plans or specifications for the construction, alteration, or maintenance of a building and shall not engage in any work that conflicts with his or her official duties.

338.3551 Plumbing permits; issuance by state or governmental subdivision.

Sec. 41. (1) A governmental subdivision may not exempt itself from the licensing requirements of this act and may not engage in or require local licensing.

(2) Except as otherwise provided in subsection (3) and section 15(2), (3), (4), and (5), the state or a governmental subdivision shall issue a plumbing permit only to a licensed plumbing contractor. The state or a governmental subdivision shall require the plumbing contractor to record his or her current plumbing contractor license number on the permit application. A licensed plumbing contractor shall designate 1 or more licensed master plumbers employed full-time who directly supervise the installation of plumbing to obtain permits using the license number of the plumbing contractor. The master plumber's license number must also be recorded on the permit application.

(3) In those instances where business or industrial procedure requires the regular employment of a full-time licensed master plumber, a licensed master plumber shall be authorized to secure permits for installations of plumbing on the premises owned or occupied and used by the business provided the licensed master plumber physically supervises the plumbing work and represents only the business or industrial employer. An annual affidavit furnished by the department shall be signed by both the employer and the licensed master plumber and shall be kept on file in the department. The filing fee for

an affidavit shall be determined by the department. A new affidavit must be filed before permits will be issued if the licensed master plumber's employment is terminated. The affidavit shall contain the following:

(a) The name and business address of the person employing the licensed master plumber.

(b) The name, address, and license number of the licensed master plumber.

(c) A statement to the effect that the employer and licensed master plumber will comply with the provisions of the act regulating installation of plumbing in this state.

(4) A plumbing contractor licensed under this act who performs work in a governmental subdivision shall register his or her license with the enforcing agency which issues permits and provides inspection services if required by the enforcing agency. The registration is valid until the expiration date of the plumbing contractor license. Registration shall be granted by all governmental subdivisions in this state to a plumbing contractor licensed under this act upon payment of a fee not to exceed $15.00.

(5) Master plumbers, journey plumbers, and apprentice plumbers are required to carry their licenses and a photo-identification. Upon the request of an enforcing agency, licensees and apprentice registrants shall present their license or registration and photo-identification.

(6) If the plumbing, reconstruction, alteration, or repair of pipes, tanks, or fixtures is performed without compensation by a person licensed under this act for or on behalf of a charitable organization, the permit required under subsection (2) may be obtained by the owner of the property on which the work is performed. This subsection applies only to the reconstruction, renovation, or remodeling of a 1-family to 4-family dwelling. As used in this subsection, "charitable organization" means a not-for-profit tax-exempt religious, educational, or humane organization.

338.3553 Investigations; hearings; board action; grounds; suspension or revocation of license.

Sec. 43. (1) The department may investigate the activities of a person licensed or registered under this act which are related to the person's licensure or registration as a plumbing contractor, master plumber, journey plumber, or apprentice plumber for activities that include, but are not limited to, the grounds described in subsection (2)(a) through (f). The department may hold hearings pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and shall report its findings to the board.

(2) After an administrative hearing, the board shall proceed under section 47 against a person if the board finds that 1 or more of the following grounds for board action exist:

(a) The practice of fraud or deceit in obtaining a license or registration under this act.

(b) The practice of fraud or deceit in the performance of work for which a license or registration is required under this act.

(c) An act of gross negligence.

(d) False advertising.

(e) An act that demonstrates incompetence.

(f) A violation of this act or rule promulgated under this act.

(3) Notwithstanding section 47, the board upon recommendation of the department shall suspend or revoke the license of a person whose failure to pay a lien claimant results in a payment being made from the homeowner construction lien recovery fund pursuant to the construction lien act, 1980 PA 497, MCL 570.1101 to 570.1305. The license shall not be renewed and a new license shall not be issued until that person has made full restitution

to the fund, including the costs of litigation and interest at the rate set by section 6013 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6013.

(4) Activity regulated under this act shall not be performed by a person whose license or registration has been suspended or revoked or whose license or registration has expired.

338.3555 Violation of asbestos abatement contractors licensing act.

Sec. 45. The board shall review the license of a person upon notice by the department that the person has violated the asbestos abatement contractors licensing act, 1986 PA 135, MCL 338.3101 to 338.3319, and may suspend or revoke that person's license for a knowing violation of that act.

338.3557 Sanctions.

Sec. 47. (1) After finding the existence of a violation described in section 43 and after an opportunity for a hearing, the board, except as otherwise provided in section 43(3) and section 45, shall impose 1 or more of the following sanctions for a violation:

(a) Suspension of the license or registration.

(b) Denial of the license or registration.

(c) Denial of renewal of a license or registration.

(d) Censure.

(e) Probation.

(f) Revocation of the license or registration.

(g) Restitution.

(2) If restitution is required to be made under this section, the license or registration of the person required to make restitution may be suspended until restitution is made.

338.3559 Violation as misdemeanor; penalty.

Sec. 49. A person licensed or registered under this act who commits a violation of this act, or a person not licensed or registered under this act who is performing any activity regulated by this act and is not exempt from licensure or registration under this act, is guilty of a misdemeanor punishable by a fine of not less than $1,000.00 per day for each day the violation occurs except that a fine shall not exceed $5,000.00 in total per violation or punishable by imprisonment for not more than 90 days, or both.

338.3561 Enforcement action.

Sec. 51. The attorney general, a local prosecuting attorney, or an attorney representing a governmental subdivision may initiate an action to enforce this act or rules promulgated under this act.

338.3563 Provision in conflict with Stille-DeRossett-Hale single state construction code act.

Sec. 53. Any provision of this act which is inconsistent or in conflict with the Stille-DeRossett-Hale single state construction code act is superseded by that act to the extent of the inconsistency.

338.3565 References to other acts.

Sec. 55. (1) Any proceedings pending before the plumbing board under the authority of former 1929 PA 266 shall be continued and be conducted and determined in accordance with the former statute.

(2) A person licensed or registered under former 1929 PA 266 on the day immediately preceding the effective date of this act is considered licensed or registered until the expiration of the licensure or registration under that act.

(3) A reference in any other act to former 1929 PA 266 or 1901 PA 222 is considered a reference to this act.

(4) Those rules promulgated under former 1929 PA 266 and 1901 PA 222 remain in effect under this act.

338.3567 Liability.

Sec. 57. This act shall not be construed to relieve from or lessen the responsibility or liability of any person owning, operating, controlling, or installing plumbing for damages to persons or property caused by any defect in the plumbing, and the state of Michigan is not to be held as assuming any such liability by reason of the inspection or the examination authorized in that plumbing, the certificate of approval, or the license and certificate issued under this act.

338.3569 Repeal of §§ 338.901 to 338.917 and 338.951 to 338.965.

Sec. 59. The following acts are repealed:

(a) 1929 PA 266, MCL 338.901 to 338.917.

(b) 1901 PA 222, MCL 338.951 to 338.965.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 734]

(SB 1121)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for

penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 16261, 16401, and 16411 (MCL 333.16261, 333.16401, and 333.16411).

The People of the State of Michigan enact:

333.16261 Health profession; prohibited use of insignia, title, letter, word, or phrase.

Sec. 16261. (1) An individual who is not licensed or registered under this article shall not use an insignia, title, or letter, or a word, letter, or phrase singly or in combination, with or without qualifying words, letters, or phrases, under a circumstance to induce the belief that the person is licensed or registered in this state, is lawfully entitled in this state to engage in the practice of a health profession regulated by this article, or is otherwise in compliance with this article.

(2) An individual shall not announce or hold himself or herself out to the public as limiting his or her practice to, as being specially qualified in, or as giving particular attention to a health profession specialty field for which a board issues a specialty certification or a health profession specialty field license, without first having obtained a specialty certification or a health profession specialty field license.

(3) An individual shall not announce or hold himself or herself out to the public as being able to perform a chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion, unless the individual is a chiropractor licensed under this article.

333.16401 Definitions; principles of construction.

Sec. 16401. (1) As used in this part:

(a) "Chiropractor", "chiropractic physician", "doctor of chiropractic", or "d.c." means an individual licensed under this article to engage in the practice of chiropractic.

(b) "Practice of chiropractic" means that discipline within the healing arts which deals with the human nervous system and its relationship to the spinal column and its interrelationship with other body systems. Practice of chiropractic includes the following:

(*i*) Diagnosis, including spinal analysis, to determine the existence of spinal subluxations or misalignments that produce nerve interference, indicating the necessity for chiropractic care.

(*ii*) A chiropractic adjustment of spinal subluxations or misalignments and related bones and tissues for the establishment of neural integrity utilizing the inherent recuperative powers of the body for restoration and maintenance of health.

(*iii*) The use of analytical instruments, nutritional advice, rehabilitative exercise and adjustment apparatus regulated by rules promulgated by the board pursuant to section 16423, and the use of x-ray machines in the examination of patients for the purpose of locating spinal subluxations or misaligned vertebrae of the human spine. The practice of chiropractic does not include the performance of incisive surgical procedures, the performance of an invasive procedure requiring instrumentation, or the dispensing or prescribing of drugs or medicine.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

333.16411 License or authorization required; scope and effect of act.

Sec. 16411. (1) An individual shall not engage in the practice of chiropractic, including, but not limited to, performing a chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion, unless licensed, or otherwise authorized by a chiropractor, under this article.

(2) The 2002 amendatory act that added this subsection is intended to codify existing law and to clarify and cure any misinterpretation of the operation of sections 16261, 16401, and 16411 since the effective date of their enactment.

(3) The 2002 amendatory act that added this subsection is not intended to affect the authority of a veterinarian to delegate certain functions as provided by law.

(4) The 2002 amendatory act that added this subsection does not affect the scope of practice of medicine or osteopathic medicine and surgery provided for in parts 170 and 175. The 2002 amendatory act that added this subsection does not amend the scope of practice of physical therapy provided for in part 178.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 735]

(SB 213)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, and intermediate school districts; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, and intermediate school districts; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending sections 1231 and 1236 (MCL 380.1231 and 380.1236), section 1236 as amended by 1995 PA 289, and by adding section 1236a.

The People of the State of Michigan enact:

380.1231 Hiring of teachers; teachers' contracts generally.

Sec. 1231. (1) The board of a school district shall hire and contract with qualified teachers. Contracts with teachers shall be in writing and signed on behalf of the school district by a majority of the board, by the president and secretary of the board, or by the superintendent of schools or an authorized representative of the board. The contracts shall specify the wages agreed upon.

(2) A teacher's contract shall be filed with the secretary of the board and a duplicate copy of the contract shall be furnished to the teacher.

(3) Except as otherwise provided under this act, a contract with a teacher is not valid unless the person holds a valid teaching certificate at the time the contractual period begins. A contract shall terminate if the certificate expires by limitation and is not renewed immediately or if it is suspended or revoked by proper legal authority.

(4) The board of a school district, after a teacher has been employed at least 2 consecutive years by the board, may enter into a continuing contract with a certificated teacher.

(5) As used in this section, "teacher" does not include a substitute teacher.

380.1236 Substitute teachers; leave time, salary, and privileges; applicability of subsections (1) and (2); contract; "day" defined.

Sec. 1236. (1) Subject to subsection (3), if a teacher is employed as a substitute teacher with an assignment to 1 specific teaching position, then after 60 days of service in that assignment the teacher shall be granted for the duration of that assignment leave time and other privileges granted to regular teachers by the school district, including a salary not less than the minimum salary on the current salary schedule for that district.

(2) Subject to subsections (3) and (4), a teacher employed as a substitute teacher for 150 days or more during a legal school year of not less than 180 days, or employed as a substitute teacher for 180 days or more by an intermediate school district that operates any program for 220 days or more as required by administrative rule, shall be given during the balance of the school year or during the next succeeding legal school year only the first opportunity to accept or reject a contract for which the substitute teacher is certified, after all other teachers of the school district are reemployed in conformance with the terms of a master contract of an authorized bargaining unit and the employer.

(3) Subsections (1) and (2) do not apply to a substitute teacher who is contracted or employed by a person or entity that contracts with a school district or intermediate school district pursuant to section 1236a.

(4) Subsection (2) does not apply to a substitute teacher who is fulfilling the teaching duties of a teacher who is unable to teach due to a terminal illness.

(5) As used in this section, "day" means the working day of the regular, full-time teacher for whom the substitute teacher substitutes. A quarter-day, half-day, or other fractional day of substitute service shall be counted only as that fraction. However, a fraction of a day that is acknowledged by the school district and paid as a full day shall be counted as a full day for purposes of this section.

380.1236a Person or entity furnishing substitute teachers; contract; "entity" defined.

Sec. 1236a. (1) The board of a school district or intermediate school district may enter into a contract with a person or entity to furnish substitute teachers to the school district or intermediate school district as necessary to carry out the operations of the school district or intermediate school district.

(2) A contract entered into under this section shall include the following provisions:

(a) Assurance that the person or entity will furnish the school district or intermediate school district with qualified teachers in accordance with this act and rules promulgated under this act.

(b) Assurance that the person or entity will not furnish to the school district or intermediate school district any teacher who, if employed directly by the school district or intermediate school district, would be ineligible for employment by the school district or intermediate school district as a substitute teacher under this act.

(c) A description of the level of compensation and fringe benefits to be provided to employees of the person or entity who are assigned to the school district or intermediate school district as substitute teachers.

(d) A description of the type and amounts of insurance coverage to be secured and maintained by the person or entity and the school district or intermediate school district under the contract.

(e) Assurance that the person or entity, before assigning an individual to serve as a substitute teacher in the school district or intermediate school district, will comply with sections 1230 and 1230a with respect to that individual to the same extent as if the person or entity were a school district employing the individual as a substitute teacher and will provide the board of the school district or intermediate school district with the criminal history record information obtained under section 1230 and with the results of the criminal records check under section 1230a. The department of state police shall provide information to a person or entity requesting information under this subdivision to the same extent as if the person or entity were a school district making the request under section 1230 or 1230a.

(3) A school district or intermediate school district that contracts with a person or entity to furnish substitute teachers under this section may purchase liability insurance to indemnify and protect the school district or intermediate school district and the person or entity against losses or liabilities incurred by the school district or intermediate school district and person or entity arising out of any claim for personal injury or property damage caused by the school district or intermediate school district, its officers, employees, or agents. A school district or intermediate school district may pay premiums for the insurance out of its operating funds. The existence of any policy of insurance indemnifying the school district or intermediate school district and person or entity against liability for damages is not a waiver of any defense otherwise available to the school district or intermediate school district in the defense of the claim.

(4) As used in this section, "entity" means a partnership, nonprofit or business corporation, labor organization, limited liability company, or any other association, corporation, trust, or other legal entity.

Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 736]

(HB 4330)

AN ACT to amend 1999 PA 94, entitled "An act to create the Michigan merit award scholarship trust fund; to create the Michigan merit award scholarship board and prescribe the powers and duties of the board; and to provide for the Michigan merit award scholarship program," by amending sections 2, 7, and 8 (MCL 390.1452, 390.1457, and 390.1458), sections 7 and 8 as amended by 2002 PA 537.

The People of the State of Michigan enact:

390.1452 Definitions.

Sec. 2. As used in this act:

(a) "Approved postsecondary educational institution" means any of the following:

(*i*) A degree or certificate granting public or private college or university, junior college, or community college.

(*ii*) A service academy.

(*iii*) An educational institution, other than an educational institution described in subparagraph (*i*) or (*ii*), granting degrees, certificates, or other recognized credentials and designated by the board as an approved postsecondary educational institution.

(*iv*) A program of an educational institution, other than an educational institution described in subparagraph (*i*) or (*ii*), granting degrees, certificates, or other recognized credentials and designated by the board as an approved postsecondary educational institution.

(b) "Assessment test" means the Michigan education assessment program (MEAP) subject area assessments or any successor assessment test designated by the board.

(c) "Board" means the Michigan merit award board established in this act.

(d) "Department of career development" means the department of career development created in Executive Order No. 1999-1.

(e) "Eligible costs" means tuition and fees charged by an approved postsecondary educational institution; related costs for room, board, books, supplies, transportation, or day care; and other costs determined by the board.

(f) "Fiscal year" means the fiscal year of this state.

(g) "Michigan merit award scholarship" means a scholarship awarded by the board under section 7.

(h) "Qualifying results" means assessment test results, scores, or ranges of scores determined by the board that qualify a student for a Michigan merit award scholarship under section 7.

(i) "Service academy" means the United States military academy, United States naval academy, United States air force academy, United States coast guard academy, or United States merchant marine academy.

(j) "State board" means the state board of education.

(k) "Superintendent" means the superintendent of public instruction.

(*l*) "Tobacco settlement revenue" means money received by this state that is attributable to the master settlement agreement incorporated into a consent decree and final judgment entered on December 7, 1998 in Kelley Ex Rel. Michigan v Philip Morris Incorporated, et al., Ingham county circuit court, docket no. 96-84281CZ.

(m) "Trust fund" means the Michigan merit award trust fund established in section 3.

390.1457 Michigan merit award scholarship program; establishment; administration; eligibility of students for award; requirements; adjustment of available amount; review and approval of assessment test; intent of legislature; additional award; failure to initially achieve qualifying results; nonpublic or home school student.

Sec. 7. (1) The Michigan merit award scholarship program is established. The board shall administer the Michigan merit award scholarship program.

(2) Subject to subsection (6), each student enrolled in grade 11 in or after the 1998-1999 school year who meets the requirements of subsection (4), and subject to adjustment under subsection (5), is eligible for the award of a $2,500.00 Michigan merit award scholarship if the student is enrolled in an approved postsecondary educational institution in this state or in a service academy, or the award of a $1,000.00 Michigan merit award

scholarship if the student is enrolled in an approved postsecondary educational institution outside this state other than a service academy, if the board finds that the student while in high school has taken the assessment test in the subject areas of reading, writing, mathematics, and science and meets 1 of the following:

(a) Has received qualifying results in each of the subject areas of reading, writing, mathematics, and science.

(b) Did not receive qualifying results in 1 or 2 of the subject areas of reading, writing, mathematics, and science, but received an overall score in the top 25% of a nationally recognized college admission examination.

(c) Did not receive qualifying results in 1 or 2 of the subject areas of reading, writing, mathematics, and science, but received a qualifying score or scores as determined by the board on a nationally recognized job skills assessment test designated by the board.

(3) Subject to subsection (6) and to adjustment under subsection (5), a student who was enrolled in grade 7 in or after the 1999-2000 school year and who the board finds has taken the assessment test in each of the subject areas while in grades 7 and 8 is eligible for 1 of the following additional Michigan merit award scholarships:

(a) If the board finds that the student while in grades 7 and 8 received qualifying results in 2 of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of $250.00.

(b) If the board finds that the student while in grades 7 and 8 received qualifying results in 3 of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of $375.00.

(c) If the board finds that the student while in grades 7 and 8 received qualifying results in all of the subject areas of reading, writing, mathematics, and science, an additional Michigan merit award scholarship of $500.00.

(4) In addition to the requirements set forth in subsections (2) and (3), to be eligible for the award of 1 or both Michigan merit award scholarships under this section, the board must find that a student satisfies all of the following:

(a) The student has graduated from high school or passed the general educational development (GED) test or other graduate equivalency examination approved by the state board.

(b) The student graduated from high school or passed the general educational development (GED) test or other graduate equivalency examination approved by the state board within 1 of the following time periods:

(*i*) If the student graduated from high school or passed the test or examination before March 1, 2002, within the 7-year period preceding the student's application to receive his or her Michigan merit award scholarship money.

(*ii*) If the student graduated on or after March 1, 2002, within the 4-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship money, or if the student becomes a member of the United States armed forces or peace corps during this 4-year period and serves for 4 years or less, the 4-year period is extended by a period equal to the number of days the student served as a member of the United States armed forces or peace corps. The board may also extend the 4-year period if the board determines that an extension is warranted because of an illness or disability of the student or in the student's immediate family or another family emergency.

(c) The student is enrolled in an approved postsecondary educational institution. For students who qualify under subsection (2)(c), the student is enrolled in a vocational or technical education program at an approved postsecondary educational institution.

(d) The student has not been convicted of a felony involving an assault, physical injury, or death.

(e) The student satisfies any additional eligibility requirements established by the board.

(5) In any fiscal year, the board may adjust the amount of a Michigan merit award scholarship available to students eligible under 1 or more of subsections (2), (3), and (9), based upon its determination of available resources and amounts appropriated, but the board shall not increase an amount by more than 5% in any fiscal year. The board shall notify the governor, the speaker of the house of representatives, and the majority leader of the senate in writing at least 30 days before an adjustment under this subsection.

(6) For assessment tests administered after January 1, 2000, the board shall not use the assessment test to determine eligibility for a Michigan merit award scholarship under this section for a particular year unless the board has reviewed and approved the assessment test before it was administered for that year.

(7) The board shall provide each student written notice of whether or not the student is eligible for the award of 1 or more Michigan merit award scholarships described in this section. If the student is eligible, the written notice shall also contain the Michigan merit award scholarship amount for which the student is eligible, how the student applies for payment of Michigan merit award scholarship, and any other information the board considers necessary regarding qualification requirements or conditions relating to the use of the Michigan merit award scholarship.

(8) It is the intent of the legislature that the level of student performance required to achieve qualifying results in a subject area of an assessment test remains approximately the same, and that the board not reduce the required level of student performance as a means of increasing the number of Michigan merit award scholarships awarded.

(9) If a student who has previously received a $1,000.00 Michigan merit award scholarship as a student enrolled in an approved postsecondary educational institution outside of this state other than a service academy enrolls in an approved postsecondary educational institution in this state and meets the requirements of subsection (4), and subject to adjustment under subsection (5), the student is eligible for the award of an additional $1,500.00 Michigan merit award scholarship.

(10) A pupil who does not initially receive qualifying results shall be extended an opportunity to achieve the requisite qualifying results by taking a subsequent assessment test.

(11) A nonpublic school student or home school student may take, and the board shall administer if requested, an assessment test at a site designated by the board.

390.1458 Scholarship; use; payment; installments; consideration in determining financial aid program; certification or affirmation by student; request or application for payment.

Sec. 8. (1) A Michigan merit award scholarship shall be used only to pay for eligible costs. The board shall determine the manner and form of application for payment of a Michigan merit award scholarship by a student eligible under section 7 and the procedure for payment to the student or to the approved postsecondary educational institution on the student's behalf. As determined by the board, upon the request of a student or parent or legal guardian of a minor student, the board may pay a Michigan merit award scholarship in 2 consecutive annual installments rather than 1 lump sum for a student who

graduates from high school or passes the general educational development (GED) test or approved graduate equivalency examination before March 1, 2003. For each student who graduates from high school or passes the general educational development (GED) test or approved graduate equivalency examination on or after March 1, 2003, the board shall pay a Michigan merit award scholarship in 2 consecutive annual installments, beginning in the state fiscal year for which the student is otherwise eligible under section 7. The first installment shall not exceed 50% of the award amount, and the second installment shall consist of the remaining award amount. Verification that the student has met the enrollment criteria under section 7(4)(c) is required prior to issuance of the second installment.

(2) An approved postsecondary educational institution shall not consider a Michigan merit award scholarship in determining a student's eligibility for a financial aid program administered by this state. It is the intent of the legislature that an approved postsecondary educational institution not reduce institutionally-funded student aid because of the Michigan merit award scholarship program.

(3) Before payment of a Michigan merit award scholarship to a student or approved postsecondary educational institution, the student shall certify or affirm in writing to the board each of the following:

(a) That the student is enrolled at an approved postsecondary educational institution.

(b) The name of the approved postsecondary educational institution in which the student is enrolled.

(c) That the student agrees to use the Michigan merit award scholarship only for eligible costs.

(d) That the student has not been convicted of a felony involving an assault, physical injury, or death.

(e) That the student graduated from high school or passed the general educational development (GED) test or approved graduate equivalency examination within 1 of the following time periods:

(*i*) If the student graduated from high school or passed the test or examination before March 1, 2002, within the 7-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship.

(*ii*) If the student graduated on or after March 1, 2002, within the 4-year period preceding the date of the student's application to receive his or her Michigan merit award scholarship, or within a period equal to 4 years plus the number of days the student served as a member of the United States armed forces or peace corps if the student became a member of the United States armed forces or peace corps during this 4-year period and served for 4 years or less. The board may also extend the 4-year period if the board determines that an extension is warranted because of an illness or disability of the student or in the student's immediate family or another family emergency.

(4) The board shall not begin disbursing funds for a Michigan merit award scholarship to a student or an approved postsecondary educational institution on behalf of the student unless it receives the request or application for payment, including the written certification or affirmation described in this section, from the student on or before January 15 in the 2002-2003 academic year, and September 15 in any other academic year, for disbursement in that academic year.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 737]

(HB 6448)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 1202 (MCL 500.1202), as amended by 2001 PA 228, and by adding section 402c.

The People of the State of Michigan enact:

500.402c Motor vehicle rental company; insurance transaction; definitions.

Sec. 402c. (1) A certificate of authority to transact insurance in this state is not required for the sale of any travel or auto-related insurance coverages by a motor vehicle rental company or its officers or employees in connection with and incidental to the rental of a motor vehicle.

(2) As used in this section:

(a) "Motor vehicle" means a motorized vehicle designed for transporting passengers or goods.

(b) "Motor vehicle rental company" means any person in the business of providing motor vehicles to the public under a rental agreement for a period not to exceed 90 days.

500.1202 Insurance producer license.

Sec. 1202. (1) This chapter shall not be construed to require an insurer to obtain an insurance producer license. As used in this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(2) A license as an insurance producer is not required of any of the following:

(a) An officer, director, or employee of an insurer or of an insurance producer, provided that the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this state and meets 1 or more of the following:

(*i*) The officer's, director's, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance.

(*ii*) The officer's, director's, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance.

(*iii*) The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(b) A person who performs and receives no commission for any of the following services:

(*i*) Securing and furnishing information for the purpose of group life insurance, group property and casualty insurance, group annuities, or group or blanket accident and health insurance.

(*ii*) Securing and furnishing information for the purpose of enrolling individuals under plans, issuing certificates under plans, or otherwise assisting in administering plans.

(*iii*) Performing administrative services related to mass marketed property and casualty insurance.

(c) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, directors, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts.

(d) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation, or negotiation of insurance.

(e) A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media where distribution is not limited to residents of the state, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this state.

(f) A person who is not a resident of this state who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than 1 state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state.

(g) A salaried full-time employee who counsels or advises his or her employer concerning the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.

(h) A person whose only sale of insurance is for travel or auto-related insurance sold in connection with and incidental to the rental of a motor vehicle under a rental agreement for a period not to exceed 90 days.

(3) As used in this section, "motor vehicle" means a motorized vehicle designed for transporting passengers or goods.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 738]

(HB 6496)

AN ACT to authorize and regulate electronic transactions of public funds involving local units of government; and to provide for powers and duties of certain governmental agencies and officials.

The People of the State of Michigan enact:

124.301 Definitions.

Sec. 1. As used in this act:

(a) "ACH arrangement" means the agreement between the originator of the ACH transaction and the receiver of the ACH transaction.

(b) "ACH policy" means the procedures and internal controls as determined under a written policy developed and adopted by the treasurer or the electronic transactions officer of a local unit under section 3.

(c) "ACH transaction" means an electronic payment, debit, or credit transfer processed through an automated clearing house.

(d) "Automated clearing house" or "ACH" means a national and governmental organization that has authority to process electronic payments, including, but not limited to, the national automated clearing house association and the federal reserve system.

(e) "Electronic transactions officer" or "ETO" means the person designated under this act by charter or by the governing body in a local unit other than a township or county.

(f) "Governing body" means any of the following:

(*i*) The council, commission, or other entity vested with the legislative power of a city or village.

(*ii*) The township board of a township.

(*iii*) The county board of commissioners of a county.

(*iv*) The board of county road commissioners of a county.

(*v*) The board of education of a local or intermediate school district.

(*vi*) The board of trustees of a community college district.

(*vii*) The official body to which is granted general governing powers over an authority or organization of government established under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(*viii*) A community mental health authority created under section 205 of the mental health code, 1974 PA 258, MCL 330.1205.

(g) "Local school district" means a school district organized under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or a district governed by a special or local act.

(h) "Local unit" means any of the following:

(*i*) A village.

(*ii*) A city.

(*iii*) A township.

(*iv*) A county.

(*v*) A county road commission.

(*vi*) A local school district.

(*vii*) An intermediate school district.

(*viii*) A community college district.

(*ix*) An authority or organization of government established under the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(*x*) A community mental health authority created under section 205 of the mental health code, 1974 PA 258, MCL 330.1205.

(i) "Treasurer" means the elected treasurer in a township or county.

124.302 ACH arrangement; scope.

Sec. 2. (1) The treasurer or the ETO of a local unit may enter into an ACH arrangement as provided by this act.

(2) An ACH arrangement under this act is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, or to provisions of law or charter concerning the issuance of debt by a local unit.

124.303 ACH policy; contents.

Sec. 3. A local unit shall not be a party to an ACH arrangement unless the governing body of the local unit has adopted a resolution to authorize electronic transactions and the treasurer or the ETO of the local unit has presented a written ACH policy to the governing body. The ACH policy shall include all of the following:

(a) That an officer or employee designated by the treasurer or ETO is responsible for the local unit's ACH agreements, including payment approval, accounting, reporting, and generally for overseeing compliance with the ACH policy.

(b) That the officer or employee responsible for disbursement of funds shall submit to the local unit documentation detailing the goods or services purchased, the cost of the goods or services, the date of the payment, and the department levels serviced by payment. This report can be contained in the electronic general ledger software system of the local unit or in a separate report to the governing body of the local unit.

(c) A system of internal accounting controls to monitor the use of ACH transactions made by the local unit.

(d) The approval of ACH invoices before payment.

(e) Any other matters the treasurer or ETO considers necessary.

124.304 Noncompliance; order limiting or suspending local unit's authority.

Sec. 4. After notice and hearing as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the department of treasury may issue an order limiting or suspending the authority of a local unit to make electronic transactions under this act for failure to comply with the requirements of this act or with the requirements of the local unit's ACH policy.

124.305 ACH arrangement; validity; compliance.

Sec. 5. (1) This act does not affect the validity of an ACH arrangement entered into by a local unit before the effective date of this act.

(2) All electronic transactions made on or after the effective date of this act shall comply with this act.

This act is ordered to take immediate effect.
Approved December 20, 2002.
Filed with Secretary of State December 30, 2002.

[No. 739]

(SB 1448)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending sections 1307a and 1344 (MCL 600.1307a and 600.1344), section 1307a as amended by 1986 PA 104 and section 1344 as amended by 1982 PA 226.

The People of the State of Michigan enact:

600.1307a Qualifications of juror; exemption; effect of payment for jury service; "felony" defined.

Sec. 1307a. (1) To qualify as a juror a person shall:

(a) Be a citizen of the United States, 18 years of age or older, and a resident in the county for which the person is selected, and in the case of a district court in districts of the second and third class, be a resident of the district.

(b) Be conversant with the English language.

(c) Be physically and mentally able to carry out the functions of a juror. Temporary inability shall not be considered a disqualification.

(d) Not have served as a petit or grand juror in a court of record during the preceding 12 months.

(e) Not have been convicted of a felony.

(2) A person more than 70 years of age may claim exemption from jury service and shall be exempt upon making the request.

(3) For the purposes of this section and sections 1371 to 1376, a person has served as a juror if that person has been paid for jury service.

(4) For purposes of this section, "felony" means a violation of a penal law of this state, another state, or the United States for which the offender, upon conviction, may be punished by death or by imprisonment for more than 1 year or an offense expressly designated by law to be a felony.

600.1344 Jurors; mileage and compensation; payment of jury fee where action removed from circuit court to lower court; fraudulent issuance of certificate of attendance as misdemeanor; penalty.

Sec. 1344. (1) A juror shall be reimbursed for his or her traveling expenses at a rate, determined by the county board of commissioners, that is not less than 10 cents per mile for traveling from the juror's residence to the place of holding court and returning for each day or 1/2 day of actual attendance at sessions of the court.

(2) A juror also shall be compensated at a rate, determined by the county board of commissioners, as follows:

(a) Until October 1, 2003, not less than $15.00 per day and $7.50 per 1/2 day of actual attendance at the court.

(b) Beginning October 1, 2003, a rate determined as follows:

(*i*) For the first day or 1/2 day of actual attendance at the court, not less than $25.00 per day and $12.50 per 1/2 day.

(*ii*) For each subsequent day or 1/2 day of actual attendance at the court, not less than $40.00 per day and $20.00 per 1/2 day.

(3) If an action is removed from the circuit court to a lower court, the jury fee shall be paid to the circuit court whether paid before or after removal of the action to the lower court, and the circuit court shall be responsible for payment of the compensation to the juror involved.

(4) A clerk or deputy clerk of the court who fraudulently issues a certificate of attendance of a juror on which the juror receives pay, except as allowed by law, is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than $500.00, or both.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 1452.

(b) House Bill No. 4551.

(c) House Bill No. 4552.

(d) House Bill No. 4553.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 1452 was filed with the Secretary of State December 20, 2002, and became P.A. 2002, No. 605, Eff. Jan. 1, 2003.
House Bill No. 4551 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 740, Eff. Jan. 1, 2003.
House Bill No. 4552 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 741, Eff. Jan. 1, 2003.
House Bill No. 4553 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 742, Eff. Oct. 1, 2003.

[No. 740]

(HB 4551)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9948) by adding section 151d.

The People of the State of Michigan enact:

600.151d Juror compensation fund; creation; use; deposits; investments.

Sec. 151d. (1) The juror compensation reimbursement fund is created in the state treasury. The money in the fund shall be used as provided in section 151e.

(2) The state treasurer shall credit to the juror compensation reimbursement fund deposits of proceeds from the collection of driver license clearance fees as provided in section 321a(11) of the Michigan vehicle code, 1949 PA 300, MCL 257.321a, and deposits of proceeds from the collection of jury demand fees as provided in sections 2529(1)(c) and 8371(9), and shall credit all income from investment credited to the fund by the state treasurer. The state treasurer may invest money in the fund in any manner authorized by law for the investment of state money. However, an investment shall not interfere with any apportionment, allocation, or payment of money as required by section 151e. The state treasurer shall credit to the fund all income earned as a result of an investment of money in the fund. The unencumbered balance remaining in the fund at the end of a fiscal year shall remain in the fund and shall not revert to the general fund.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 1448.

(b) Senate Bill No. 1452.

(c) House Bill No. 4552.

(d) House Bill No. 4553.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 1448 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 739, Eff. Oct. 1, 2003.
Senate Bill No. 1452 was filed with the Secretary of State December 20, 2002, and became P.A. 2002, No. 605, Eff. Jan. 1, 2003.
House Bill No. 4552 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 741, Eff. Jan. 1, 2003.
House Bill No. 4553 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 742, Eff. Oct. 1, 2003.

[No. 741]

(HB 4552)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 321a (MCL 257.321a), as amended by 1999 PA 73.

The People of the State of Michigan enact:

257.321a Failure to answer citation or notice to appear in court; failure to comply with order or judgment; misdemeanor; notice and duration of suspension; exceptions; effect of failure to appear; giving copy of information transmitted to secretary of state to person; driver license reinstatement fees.

Sec. 321a. (1) A person who fails to answer a citation, or a notice to appear in court for a violation reportable to the secretary of state under section 732 or a local ordinance substantially corresponding to a violation of a law of this state reportable to the secretary of state under section 732, or for any matter pending, or who fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, is guilty of a misdemeanor punishable by imprisonment for not more than 93

days or a fine of not more than $100.00, or both. A violation of this subsection or failure to answer a citation or notice to appear for a violation of section 33b(1) of former 1933 (Ex Sess) PA 8, section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or a local ordinance substantially corresponding to either of those sections shall not be considered a violation for any purpose under section 320a.

(2) Except as provided in subsection (3), 28 days or more after a person fails to answer a citation, or a notice to appear in court for a violation reportable to the secretary of state under section 732 or a local ordinance substantially corresponding to a violation of a law of this state reportable to the secretary of state under section 732, or for any matter pending, or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, fees, and assessments, the court shall give notice by mail at the last known address of the person that if the person fails to appear or fails to comply with the order or judgment within 14 days after the notice is issued, the secretary of state shall suspend the person's operator's or chauffeur's license. If the person fails to appear or fails to comply with the order or judgment within the 14-day period, the court shall, within 14 days, inform the secretary of state, who shall immediately suspend the license of the person. The secretary of state shall immediately notify the person of the suspension by regular mail at the person's last known address.

(3) If the person is charged with, or convicted of, a violation of section 625 or a local ordinance substantially corresponding to section 625(1), (2), (3), or (6) and the person fails to answer a citation or a notice to appear in court, or for any matter pending, or fails to comply with an order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, the court shall immediately give notice by first-class mail sent to the person's last known address that if the person fails to appear within 7 days after the notice is issued, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, within 14 days after the notice is issued, the secretary of state shall suspend the person's operator's or chauffeur's license. If the person fails to appear within the 7-day period, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines, costs, and crime victim rights assessments, within the 14-day period, the court shall immediately inform the secretary of state who shall immediately suspend the person's operator's or chauffeur's license and notify the person of the suspension by first-class mail sent to the person's last known address.

(4) If the person is charged with, or convicted of, a violation of section 33b(1) of former 1933 (Ex Sess) PA 8, section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a, section 624b, or a local ordinance substantially corresponding to those sections and the person fails to answer a citation or a notice to appear in court issued pursuant to section 33b of former 1933 (Ex Sess) PA 8, section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a, section 624b, or a local ordinance substantially corresponding to those sections or fails to comply with an order or judgment of the court issued pursuant to section 33b of former 1933 (Ex Sess) PA 8, section 703 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a, section 624b, or a local ordinance substantially corresponding to those sections including, but not limited to, paying all fines and costs, the court shall immediately give notice by first-class mail sent to the person's last known address that if the person fails to appear within 7 days after the notice is issued, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines and costs, within 14 days after the notice is issued, the secretary of state shall suspend the person's operator's or chauffeur's license. If the person fails to appear within the 7-day period, or fails to comply with the order or judgment of the court, including, but not limited to, paying all fines and costs, within the 14-day period, the court shall immediately inform the secretary of state who shall immediately suspend the person's operator's or chauffeur's license and notify the person of the suspension by first-class mail sent to the person's last known address.

(5) A suspension imposed under subsection (2) or (3) remains in effect until both of the following occur:

(a) The secretary of state is notified by each court in which the person failed to answer a citation or notice to appear or failed to pay a fine or cost that the person has answered that citation or notice to appear or paid that fine or cost.

(b) The person has paid to the court a $45.00 driver license clearance fee for each failure to answer a citation or failure to pay a fine or cost.

(6) The court shall not notify the secretary of state, and the secretary of state shall not suspend the person's license, if the person fails to appear in response to a citation issued for, or fails to comply with an order or judgment involving 1 or more of the following infractions:

(a) The parking or standing of a vehicle.

(b) A pedestrian, passenger, or bicycle violation, other than a violation of section 33b(1) or (2) of former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, section 624a or 624b, or a local ordinance substantially corresponding to section 33b(1) or (2) of former 1933 (Ex Sess) PA 8, section 703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703, or section 624a or 624b.

(7) The court may notify a person who has done either of the following, that if the person does not appear within 10 days after the notice is issued, the court will inform the secretary of state of the person's failure to appear:

(a) Failed to answer 2 or more parking violation notices or citations for violating a provision of this act or an ordinance substantially corresponding to a provision of this act pertaining to parking for persons with disabilities.

(b) Failed to answer 6 or more parking violation notices or citations regarding illegal parking.

(8) The secretary of state, upon being informed of the failure of a person to appear or comply as provided in subsection (7), shall not issue a license to the person or renew a license for the person until both of the following occur:

(a) The court informs the secretary of state that the person has resolved all outstanding matters regarding the notices or citations.

(b) The person has paid to the court a $45.00 driver license clearance fee. If the court determines that the person is responsible for only 1 parking violation under subsection (7)(a) or less than 6 parking violations under subsection (7)(b) for which the person's license was not issued or renewed under this subsection, the court may waive payment of the fee.

(9) Not less than 28 days after a person fails to appear in response to a citation issued for, or fails to comply with an order or judgment involving, a state civil infraction described in chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, the court shall give notice by ordinary mail, addressed to the person's last known address, that if the person fails to appear or fails to comply with the order or judgment described in this subsection within 14 days after the notice is issued, the court will give to the secretary of state notice of that failure. Upon receiving notice of that failure, the secretary of state shall not issue or renew an operator's or chauffeur's license for the person until both of the following occur:

(a) The court informs the secretary of state that the person has resolved all outstanding matters regarding each notice or citation.

(b) The person has paid to the court a $45.00 driver license clearance fee. If the court determines that the person is not responsible for any violation for which the person's license was not issued or renewed under this subsection, the court shall waive the fee.

(10) For the purposes of subsections (5)(a), (8)(a), and (9)(a), the court shall give to the person a copy of the information being transmitted to the secretary of state. Upon showing that copy, the person shall not be arrested or issued a citation for driving on a suspended license, on an expired license, or without a license on the basis of any matter resolved under subsection (5)(a), (8)(a), or (9)(a), even if the information being sent to the secretary of state has not yet been received or recorded by the department.

(11) For each fee received under subsection (5)(b), (8)(b), or (9)(b), the court shall transmit the following amounts on a monthly basis:

(a) Fifteen dollars to the secretary of state. The funds received by the secretary of state under this subdivision shall be deposited in the state general fund and shall be used to defray the expenses of the secretary of state in processing the suspension and reinstatement of driver licenses under this section.

(b) Fifteen dollars to 1 of the following, as applicable:

(*i*) If the matter is before the circuit court, to the treasurer of the county for deposit in the general fund.

(*ii*) If the matter is before the district court, to the treasurer of the district funding unit for that court, for deposit in the general fund. As used in this section, "district funding unit" means that term as defined in section 8104 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8104.

(*iii*) If the matter is before a municipal court, to the treasurer of the city in which the municipal court is located, for deposit in the general fund.

(c) Fifteen dollars to the juror compensation reimbursement fund created in section 151d of the revised judicature act of 1961, 1961 PA 236, MCL 600.151d.

(12) Section 819 does not apply to a reinstatement fee collected for an operator's or chauffeur's license that is not issued or renewed under section 8827 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8827.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 1448.

(b) Senate Bill No. 1452.

(c) House Bill No. 4551.

(d) House Bill No. 4553.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 1448 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 739, Eff. Oct. 1, 2003.
Senate Bill No. 1452 was filed with the Secretary of State December 20, 2002, and became P.A. 2002, No. 605, Eff. Jan. 1, 2003.
House Bill No. 4551 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 740, Eff. Jan. 1, 2003.
House Bill No. 4553 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 742, Eff. Oct. 1, 2003.

[No. 742]

(HB 4553)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," (MCL 600.101 to 600.9948) by adding section 151e.

The People of the State of Michigan enact:

600.151e Juror compensation reimubrsement fund; distribution; report; conditions for reimbursement; payments; "court funding unit" defined.

Sec. 151e. (1) The money in the juror compensation reimbursement fund shall be distributed each year as provided in this section.

(2) Each court funding unit shall submit a report semiannually to the state court administrator, for each court for which it is a funding unit, giving the total amount of the expense incurred during the fiscal year by that funding unit due to the increase in the statutory minimum compensation rate for jurors that took effect October 1, 2003, pursuant to section 1344. If any of the juror compensation payments made by that court funding unit were in excess of the statutory minimum amount prescribed in section 1344, the report also shall include the total amount paid to jurors in excess of that statutory minimum.

(3) Each year, the state court administrator, at the direction of the supreme court and upon confirmation by the state treasurer of the total amount available in the fund, shall distribute from the fund the amount prescribed in subsection (4). However, reimbursements under this subsection are subject to both of the following:

(a) The state court administrator shall be reimbursed semiannually from the fund for reasonable costs associated with the administration of this section, not to exceed either of the following:

(*i*) For the fiscal year beginning October 1, 2003, an annual total of $100,000.00.

(*ii*) For fiscal years beginning after September 30, 2004, an annual total of $40,000.00.

(b) If the amount available in the fund in any fiscal year is more than the amount needed to pay the entire reimbursement required for all court funding units under subsection (4), the unencumbered balance shall be carried forward to the next fiscal year and shall not revert to the general fund.

(4) Each court funding unit is entitled to receive reimbursement from the fund for the expense amount reported under subsection (2) for the preceding 6 months, excluding any juror compensation in excess of the statutory minimum.

(5) Payments from the fund shall be made every 6 months. Reimbursement for each 6-month period beginning with the quarter that ends March 31, 2004 shall be made from the fund not later than 2 months after the end of the 6-month period.

(6) In addition to the amounts to be paid out under subsection (5) for the 6-month period ending March 31, 2004 and for the 6-month period ending September 30, 2004, the state court administrator shall pay an additional sum equal to 14% of the payment due under subsection (5) to each court funding unit. These 2 extra payments are intended to offset expenses incurred by court funding units for costs in adapting to the changes in the statutory minimum rate for juror compensation as implemented by the 2002 amendatory act that amended section 1344.

(7) As used in this section, "court funding unit" means 1 of the following, as applicable:

(a) For circuit or probate court, the county.

(b) For district court, the district funding unit as that term is defined in section 8104.

(c) For a municipal court, the city in which the municipal court is located.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2003.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 1448.

(b) Senate Bill No. 1452.

(c) House Bill No. 4551.

(d) House Bill No. 4552.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

Compiler's note: The bills referred to in enacting section 2 were enacted into law as follows:
Senate Bill No. 1448 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 739, Eff. Oct. 1, 2003.
Senate Bill No. 1452 was filed with the Secretary of State December 20, 2002, and became P.A. 2002, No. 605, Eff. Jan. 1, 2003.
House Bill No. 4551 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 740, Eff. Jan. 1, 2003.
House Bill No. 4552 was filed with the Secretary of State December 30, 2002, and became P.A. 2002, No. 741, Eff. Jan. 1, 2003.

[No. 743]

(HB 4605)

AN ACT to amend 1943 PA 240, entitled "An act to provide for a state employees' retirement system; to create a state employees' retirement board and prescribe its powers and duties; to establish certain funds in connection with the retirement system; to require contributions to the retirement system by and on behalf of members and participants of the retirement system; to create certain accounts and provide for expenditures from those accounts; to prescribe the powers and duties of certain state and local officers and employees and certain state departments and agencies; to prescribe and make appropriations for the retirement system; and to prescribe penalties and provide remedies," by amending sections 11, 13, 45, 46, and 47 (MCL 38.11, 38.13, 38.45, 38.46, and 38.47), sections 11, 13, and 46 as amended by 2002 PA 93 and section 45 as amended by 1988 PA 351, and by adding sections 19i and 47a.

The People of the State of Michigan enact:

38.11 Employees' savings fund, employer's accumulation fund, annuity reserve fund, pension reserve fund, income fund, expense fund, and health insurance reserve fund; creation; health advance funding subaccount; description of funds as reference to accounting records of retirement system.

Sec. 11. (1) There is created the employees' savings fund, employer's accumulation fund, annuity reserve fund, pension reserve fund, income fund, expense fund, and health insurance reserve fund.

(2) The employees' savings fund is the fund in which shall be accumulated at regular interest the contributions to the retirement system deducted from the compensation of members. The retirement board shall provide for the maintenance of an individual account for each member that shows the amount of the member's contributions together with interest on those contributions. The accumulated contributions of a member returned to the member upon his or her withdrawal from service, or paid to the member's estate or designated beneficiary in the event of the member's death, as provided in this act, shall be paid from the employees' savings fund. Any accumulated contributions not claimed by a member or the member's legal representative as provided in this act within 5 years after the member's separation from state service shall be transferred from the employees' savings fund to the income fund. The accumulated contributions of a member, upon the member's retirement, shall be transferred from the employees' savings fund to the pension reserve fund.

(3) The employer's accumulation fund is the fund in which shall be accumulated the reserves derived from money provided by this state for the payment of all retirement allowances to be payable to retirants and beneficiaries as provided in this act. The amounts paid by this state shall be credited to the employer's accumulation fund. Upon the retirement of a member, or upon the member's death, if a beneficiary is entitled to a retirement allowance payable from funds of the retirement system, the difference between the reserve for the retirement allowance to be paid on account of the member's retirement or death and the member's accumulated contributions standing to his or her credit in the employees' savings fund at the time of his or her retirement or death shall be transferred from the employer's accumulation fund to the pension reserve fund. If, in any year, the pension reserve fund is insufficient to cover the reserves for retirement allowances and other benefits being paid from the fund, the amount or amounts of the insufficiency or insufficiencies shall be transferred from the employer's accumulation fund to the pension reserve fund.

(4) The annuity reserve fund is the fund from which shall be paid all annuities, or benefits in lieu of annuities, because of which reserves have been transferred from the employees' savings fund to the annuity reserve fund. Upon the adoption of this act, the balance in the annuity reserve fund shall be transferred to the pension reserve fund, and the annuities heretofore payable from the annuity reserve fund shall thereafter become payable from the pension reserve fund.

(5) The pension reserve fund is the fund from which shall be paid all retirement allowances and benefits in lieu of pensions, as provided in this act. For a disability retirant returned to active service with this state, his or her pension reserve, computed as of the date of return, shall be transferred from the pension reserve fund to the employees' savings fund and the employer's accumulation fund in the proportion that this reserve, as of the date of his or her retirement, was transferred to the pension reserve fund from the employees' savings fund and from the employer's accumulation fund. The amounts

transferred to the employees' savings fund under this section shall be credited to the member's individual account in the fund.

(6) An income fund is created for the purpose of crediting regular interest on the amounts in the various other funds of the retirement system with the exception of the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. Transfers for special requirements shall be made only when the amount in the income fund exceeds the ordinary requirements of the fund as evidenced by a resolution of the retirement board recorded in its minutes. The retirement board shall annually allow regular interest for the preceding year to each of the funds enumerated in subsections (2), (3), (4), (5), and (8), and the amount allowed under this subsection shall be due and payable to each of these funds and shall be annually credited to the funds by the retirement board and paid from the income fund. However, interest on contributions from members within a calendar year shall begin on the first day of the next calendar year, and shall be credited at the end of the calendar year. Except as provided in this subsection, income, interest, and dividends derived from the deposits and investments authorized by this act shall be paid into the income fund. The retirement system shall determine the share of income, interest, and dividends attributable to the balance in the health advance funding subaccount created under subsection (9) and the share of income, interest, and dividends attributable to the health advance funding subaccount balance shall be paid into the health advance funding subaccount. The retirement board is authorized to accept gifts and bequests. Any funds that come into the possession of the retirement system as a gift or bequest, or any funds that may be transferred from the employees' savings fund by reason of lack of claimant, or because of a surplus in any fund created by this act, or any other money the disposition of which is not otherwise provided for in this act shall be credited to the income fund.

(7) The expense fund is the fund from which shall be paid the expenses of the administration of this act, exclusive of amounts payable as retirement allowances and other benefits provided for in this act. The legislature shall appropriate the funds necessary to defray and cover the expenses of administering this act.

(8) The health insurance reserve fund is the fund into which appropriations made by the legislature, subscriber co-payments, and payments by the retirement system under section 68 for health, dental, and vision insurance premiums are paid. Health, dental, and vision insurance premiums payable pursuant to sections 20d and 68 shall be paid from the health insurance reserve fund. The assets and any earnings on the assets contained in the health insurance reserve fund and the health advance funding subaccount described in subsection (9) are not to be treated as pension assets for any purpose.

(9) The health advance funding subaccount is the account to which amounts transferred pursuant to sections 20d, 38(6), and 52 are credited. Any amounts received in the health advance funding subaccount and accumulated earnings on those amounts shall not be expended until the actuarial accrued liability for health benefits under section 20d is at least 100% funded. The department may expend funds or transfer funds to another account to expend for health benefits under section 20d if the actuarial accrued liability for health benefits under section 20d is at least 100% funded. For each fiscal year after the fiscal year in which the actuarial accrued liability for health benefits under section 20d is at least 100% funded by the health advance funding subaccount, amounts received in the health advance funding subaccount and accumulated earnings on those amounts may be expended or credited to fund health benefits under section 20d as provided in section 38(3). For the fiscal year ending on September 30, 2003 only, the general fund portion of all amounts received in the health advance funding subaccount as of October 1, 2002 and accumulated earnings on those amounts shall be transferred to the general fund. Notwith-

standing any other provision of this section, the department may transfer amounts from the health advance funding subaccount to the employer's accumulation fund created under this section if the department does both of the following:

(a) At least 45 days before the intended transfer, submits a request to the chairs of the senate and house appropriations committees and, at least 15 days before the intended transfer, obtains the approval of both the senate and house appropriations committees.

(b) Ensures that the request submitted to the senate and house appropriations committees contains an actuarial valuation prepared pursuant to section 38 that demonstrates that as of the beginning of a fiscal year, and after all credits and transfers required by this act for the previous fiscal year have been made, the sum of the actuarial value of assets and the actuarial present value of future normal cost contributions does not exceed the actuarial present value of benefits.

(10) The description of the various funds in this section shall be interpreted to refer to the accounting records of the retirement system and not to the segregation of assets credited to the various funds of the retirement system.

38.13 Membership in retirement system.

Sec. 13. (1) Except as otherwise provided in this act, membership in the retirement system consists of state employees occupying permanent positions in the state civil service. All state employees except those specifically excluded by law and those who are members or eligible to be members of other statutory retirement systems in this state, shall become members of the retirement system. The employees may use service previously performed as an employee of this state in meeting the service requirements for the retirement allowances and death benefits provided by the retirement system. However, the prior service shall not be used in computing the amount of a retirement allowance to be paid by the retirement system unless the employee pays to the retirement system the amount the employee's contributions would have been had the employee become a member immediately upon employment by the state with interest compounded annually at the regular rate from a date 1 year after the date of employment by this state to the date of payment. A person who draws compensation as a state employee of a political subdivision of this state is eligible for the benefits provided by this act to the extent of the person's compensation paid by this state. An individual who meets the requirements of section 44a is a member of the retirement system.

(2) Elected or appointed state officials may elect not to become or continue as members of the retirement system by filing written notice with the retirement board. An appointed state official who is a member of a state board, commission, or council and who receives a per diem rate in his or her capacity as a member of the board, commission, or council is excluded from membership in the retirement system for the service rendered in his or her capacity as a member of the board, commission, or council. Service performed by an elected or appointed official during the time the official elects not to participate shall not be used in meeting the service requirement or in computing the amount of retirement allowance to be paid by the retirement system. A member who elects not to participate shall be refunded all contributions made before the election.

(3) Membership in the retirement system does not include any of the following:

(a) A person who is a contributing member in the public school employees' retirement system provided for in the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1408.

(b) A person who is a contributing member in the Michigan judges retirement system provided for in the judges retirement act of 1992, 1992 PA 234, MCL 38.2101 to 38.2670.

(c) A person who comes within the Michigan state police retirement system provided for in the state police retirement act of 1986, 1986 PA 182, MCL 38.1601 to 38.1648.

(d) An individual who is first employed and entered upon the payroll on or after March 31, 1997 for employment for which the individual would have been eligible for membership under this section before March 31, 1997. An individual described in this subdivision is eligible to be a qualified participant in Tier 2 subject to sections 50 to 69.

(e) Except as provided in section 19g, an individual who elects to terminate membership under section 50 and who, but for that election, would otherwise be eligible for membership in Tier 1 under this section.

(f) A retirant who again becomes employed by the state and is entered upon the payroll on or after December 1, 2002, for employment for which the retirant would have been eligible for membership under this section before December 1, 2002. A retirant described in this subdivision shall be a qualified participant in Tier 2 subject to sections 50 to 69.

(4) A person who is hired in state classified or unclassified service after June 30, 1974, who is first employed and entered upon the payroll before March 31, 1997, and who possesses a Michigan teaching certificate shall be a member of this retirement system. After June 30, 1974, but before March 31, 1997, a person who returns to state employment in the classified or unclassified service who previously was a contributing member of the Michigan public school employees' retirement system shall have the person's accumulated contributions and service transferred to this retirement system, or having withdrawn the contributions, may pay into the retirement system the amount withdrawn together with regular interest and have credit restored as provided for in section 16. On and after March 31, 1997, an individual described in this subsection who returns to state service shall make an irrevocable election to remain in Tier 1 or to become a qualified participant of Tier 2 in the manner prescribed in section 50.

(5) A person, not regularly employed by this state, who is employed through participation in 1 or more of the following programs, shall not be a member of the retirement system and shall not receive service credit for the employment:

(a) A program authorized, undertaken, and financed pursuant to the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839.

(b) A summer youth employment program established pursuant to the Michigan youth corps act, 1983 PA 69, MCL 409.221 to 409.229.

(c) A program established pursuant to the job training partnership act, Public Law 97-300, 96 Stat. 1322.

(d) A program established pursuant to the Michigan opportunity and skills training program, first established under sections 12 to 23 of 1983 PA 259.

(e) A program established pursuant to the Michigan community service corps program, first established under sections 25 to 35 of 1983 PA 259.

(6) A person, not regularly employed by this state, who is employed to administer a program described in subsection (5) shall not be a member of the retirement system and shall not receive service credit for the employment.

(7) If a person described in subsection (5)(a) later becomes a member of this retirement system within 12 months after the date of termination as a participant in a transitional public employment program, service credit shall be given for employment which is excluded in subsection (5) for purposes of determining a retirement allowance upon the payment by the person's employer under subsection (5) from funds provided under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839, as funds permit, to the retirement system of the contributions, plus regular interest, the

employer would have paid had the employment been rendered in a position covered by this act. During the person's employment in the transitional public employment program, the person's employer shall place in reserve a reasonable but not necessarily an actuarially determined amount equal to the contributions that the employer would have paid to the retirement system for those employees in the transitional public employment program as if they were members under this act, but only for that number of employees that the employer determined would move from the transitional public employment program into positions covered by this act. If the funds provided under the comprehensive employment and training act of 1973, former Public Law 93-203, 87 Stat. 839, are insufficient, the remainder of the employer contributions shall be paid by the person's current employer.

(8) For purposes of section 19g, a former member shall be considered a member and shall be considered to have satisfied the requirements of section 19g(1)(c) and (2)(c) if the former member was employed by the department formerly known as the department of mental health on January 1, 1996 and went on layoff status before January 1, 1997.

38.19i Retirement allowance; computation; accumulated sick leave; purchase of service credit; hiring under contract; limitation.

Sec. 19i. (1) Notwithstanding section 19, a member may retire and receive a retirement allowance computed under this section if the member meets all of the following requirements:

(a) On or before December 31, 2002, or on the effective date of his or her retirement, whichever is earlier, the member's combined age and length of credited service is equal to or greater than 75 years, or, if the member has at least 20 years of service credit, the member's combined age and length of credited service is equal to or greater than 65 years.

(b) The member is an employee of the legislature, is an employee of the office of governor, is an employee of the judicial system, or is an unclassified employee within the state civil service.

(c) The member was employed by this state or the legislature for the 30-month period ending on December 1, 2002. A member who is on layoff status from state employment is considered to have met the employment requirement of this subdivision.

(d) The member executes and files a written application with the retirement board, on or after December 1, 2002, but not later than December 31, 2002, stating a date on or after January 1, 2003, but not later than February 1, 2003, on which he or she desires to retire. A member may withdraw a written application on or before January 15, 2003. A written application submitted by a member and not withdrawn on or before January 15, 2003 is irrevocable.

(e) The member is not employed in a covered position as defined in section 45.

(f) The member is not a conservation officer as described in section 48.

(2) If a member meets all of the requirements of subsection (1) except the requirement in subsection (1)(c), the member may retire and receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-1/2% of his or her final average compensation. Except for the calculation provided in this subsection, the member's retirement allowance is subject to section 20. The member's retirement allowance is not subject to reduction pursuant to section 19(2).

(3) Any amount that a member retiring under this section would otherwise be entitled to receive in a lump sum at retirement on account of accumulated sick leave shall be paid in 60 consecutive equal monthly installments beginning on or after February 1, 2003.

Payments received under this subsection may not be used to purchase service credit under this act. These payments for accumulated sick leave are to be paid from funds appropriated to the appointing authority and not from funds of the retirement system. These payments shall be considered taxable income under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(4) Upon his or her retirement as provided in this section, a member who did not make an election under section 50 to terminate membership in Tier 1 and become a qualified participant in Tier 2 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1-3/4% of his or her final average compensation. Except for the calculation provided in this subsection, the member's retirement allowance is subject to section 20. The member's retirement allowance is not subject to reduction pursuant to section 19(2).

(5) Upon his or her retirement as provided in this section, a former member who made an election under section 50 to terminate membership in Tier 1 and become a qualified participant in Tier 2 shall receive a retirement allowance equal to the member's number of years and fraction of a year of credited service multiplied by 1/4% of his or her final average compensation. Except for the calculation provided in this subsection, the former member's retirement allowance is subject to section 20. The former member's retirement allowance is not subject to reduction pursuant to section 19(2).

(6) For purposes of this section, an individual who elected to terminate membership under section 50 and who, but for that election, would otherwise be eligible for membership in Tier 1 under section 13, shall be considered a member of Tier 1 for the limited purpose of receiving a retirement allowance calculated under this section and paid by the retirement system.

(7) An employee who retires under this section shall not be hired under contract by the state for a period of 2 years after the date of separation.

38.45 Definitions.

Sec. 45. As used in sections 45 to 47:

(a) "Covered position" means any of the following:

(*i*) On or after January 1, 1989, a position in the classified civil service with a classification of corrections officer; resident unit officer; corrections medical aide; corrections shift supervisor; corrections security specialist; deputy prison warden; or departmental administrator-prison warden.

(*ii*) On or after January 1, 1989, a position that is assigned to a work station inside the security perimeter of a state correctional facility designated as "medium", "close", or "maximum".

(*iii*) On or after January 1, 1989, a position within a state correctional facility that requires the employee to be in direct contact with prisoners for more than 50% of the employee's work time performing supervisory or disciplinary duties including 1 or more of the following:

(A) Supervising prisoners in the performance of tasks.

(B) Supervising prisoners for the purpose of enforcing the facility's rules.

(C) Direct participation in the disciplinary process.

(*iv*) On or after January 1, 1989, a position with the center for forensic psychiatry that is classified by civil service as forensics security aide IIB, forensics security aide IIIB, forensics security supervisor IVB, forensics security supervisor VB, forensics security supervisor VIB, or forensics supervisor VII.

(*v*) A position that was a covered position under this section before January 1, 1989, that is excluded by subparagraphs (*i*), (*ii*), (*iii*), and (*iv*), if and only as long as the person in the position on January 1, 1989, continues in the position after January 1, 1989.

(b) "Supplemental member" means a member who is employed in a covered position.

(c) "Covered service" means credited service acquired in a covered position.

(d) "Supplemental final average compensation" means 1/3 of the compensation paid a supplemental member during the period of 3 consecutive years of the member's covered service producing the highest average and contained within the member's last 10 years of credited service immediately preceding the date the member's employment in a covered position last terminates.

(e) "State correctional facility" means a facility under the jurisdiction of the department of corrections that has a designation of "maximum", "close", "medium", "minimum", "prison camp", or "correction center".

38.46 Retirement or separation from employment of supplemental member with supplemental early retirement allowance; conditions; determination of eligibility.

Sec. 46. (1) A supplemental member may retire with a supplemental early retirement allowance as provided for in section 47 if the supplemental member meets all of the following conditions:

(a) He or she is age 51 years or older but less than age 62 years.

(b) He or she has 25 or more years of covered service.

(c) His or her last 3 years of credited service are covered service.

(d) He or she files a written request for retirement with the retirement board stating the date that he or she wishes to be retired.

(2) A supplemental member may be separated from employment in a covered position the first day of the calendar month following the month in which he or she attains age 56 years. A supplemental member separated under this subsection may retire with a supplemental early retirement allowance provided in section 47 if he or she satisfies each of the following conditions:

(a) He or she has not attained age 62 years.

(b) He or she has 10 or more years of covered service.

(c) His or her last 3 years of credited service are covered service.

(d) He or she files a written request for retirement with the retirement board stating the date that he or she wishes to be retired.

(3) The state personnel director shall determine all questions on eligibility for supplemental early retirement benefits within the meaning of sections 45 to 47.

38.47 Temporary straight life supplemental early retirement allowance; payment; computation; electing optional form of payment.

Sec. 47. (1) Upon retirement as provided in section 46, a supplemental member shall be paid a temporary straight life supplemental early retirement allowance terminating upon the supplemental member reaching age 62 years or his or her death, whichever occurs first. Prior to the effective date of retirement, the supplemental member may choose to be paid his or her retirement allowance under an optional form of payment provided in section 31(1)(a). For the purposes of this election, the provisions of section 31(1)(a) are modified to reflect the temporary nature of a supplemental early retirement allowance.

(2) The amount of the supplemental member's temporary straight life supplemental early retirement allowance is equal to the difference between (i) 2.0% of his or her supplemental final average compensation multiplied by his or her covered service plus 1.5% of the supplemental member's final average compensation multiplied by the excess, if any, of his or her credited service over his or her covered service; and (ii) the amount of retirement allowance paid under section 20.

38.47a Report.

Sec. 47a. The retirement board shall report to the house and senate appropriations committees not later than June 30, 2003 on the cost of transferring persons to noncovered positions if they were in covered positions with corrections centers before their positions were terminated due to the closures of the corrections centers between August 1, 1999 and August 1, 2000, if the persons continue in noncovered positions until retiring as supplemental members under sections 46 and 47 or transferred to covered positions but whose last 3 years of credited service are a combination of covered and uncovered service due to the termination of the covered positions by the closure of a corrections center.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 744]

(SB 1203)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 27 (MCL 211.27), as amended by 1994 PA 415.

The People of the State of Michigan enact:

211.27 "True cash value" defined; considerations in determining value; indicating exclusions from true cash value on assessment roll; subsection (2) applicable only to residential property; repairs considered normal maintenance; exclusions from real estate sales data; "present economic income" defined; applicability of subsection (4); value of transferred property; "purchase price" defined.

Sec. 27. (1) As used in this act, "true cash value" means the usual selling price at the place where the property to which the term is applied is at the time of assessment, being

the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. The usual selling price may include sales at public auction held by a nongovernmental agency or person if those sales have become a common method of acquisition in the jurisdiction for the class of property being valued. The usual selling price does not include sales at public auction if the sale is part of a liquidation of the seller's assets in a bankruptcy proceeding or if the seller is unable to use common marketing techniques to obtain the usual selling price for the property. A sale or other disposition by this state or an agency or political subdivision of this state of land acquired for delinquent taxes or an appraisal made in connection with the sale or other disposition or the value attributed to the property of regulated public utilities by a governmental regulatory agency for rate-making purposes is not controlling evidence of true cash value for assessment purposes. In determining the true cash value, the assessor shall also consider the advantages and disadvantages of location; quality of soil; zoning; existing use; present economic income of structures, including farm structures; present economic income of land if the land is being farmed or otherwise put to income producing use; quantity and value of standing timber; water power and privileges; and mines, minerals, quarries, or other valuable deposits known to be available in the land and their value. In determining the true cash value of personal property owned by an electric utility cooperative, the assessor shall consider the number of kilowatt hours of electricity sold per mile of distribution line compared to the average number of kilowatt hours of electricity sold per mile of distribution line for all electric utilities.

(2) The assessor shall not consider the increase in true cash value that is a result of expenditures for normal repairs, replacement, and maintenance in determining the true cash value of property for assessment purposes until the property is sold. For the purpose of implementing this subsection, the assessor shall not increase the construction quality classification or reduce the effective age for depreciation purposes, except if the appraisal of the property was erroneous before nonconsideration of the normal repair, replacement, or maintenance, and shall not assign an economic condition factor to the property that differs from the economic condition factor assigned to similar properties as defined by appraisal procedures applied in the jurisdiction. The increase in value attributable to the items included in subdivisions (a) to (o) that is known to the assessor and excluded from true cash value shall be indicated on the assessment roll. This subsection applies only to residential property. The following repairs are considered normal maintenance if they are not part of a structural addition or completion:

(a) Outside painting.

(b) Repairing or replacing siding, roof, porches, steps, sidewalks, or drives.

(c) Repainting, repairing, or replacing existing masonry.

(d) Replacing awnings.

(e) Adding or replacing gutters and downspouts.

(f) Replacing storm windows or doors.

(g) Insulating or weatherstripping.

(h) Complete rewiring.

(i) Replacing plumbing and light fixtures.

(j) Replacing a furnace with a new furnace of the same type or replacing an oil or gas burner.

(k) Repairing plaster, inside painting, or other redecorating.

(*l*) New ceiling, wall, or floor surfacing.

(m) Removing partitions to enlarge rooms.

(n) Replacing an automatic hot water heater.

(o) Replacing dated interior woodwork.

(3) A city or township assessor, a county equalization department, or the state tax commission before utilizing real estate sales data on real property purchases, including purchases by land contract, to determine assessments or in making sales ratio studies to assess property or equalize assessments shall exclude from the sales data the following amounts allowed by subdivisions (a), (b), and (c) to the extent that the amounts are included in the real property purchase price and are so identified in the real estate sales data or certified to the assessor as provided in subdivision (d):

(a) Amounts paid for obtaining financing of the purchase price of the property or the last conveyance of the property.

(b) Amounts attributable to personal property that were included in the purchase price of the property in the last conveyance of the property.

(c) Amounts paid for surveying the property pursuant to the last conveyance of the property. The legislature may require local units of government, including school districts, to submit reports of revenue lost under subdivisions (a) and (b) and this subdivision so that the state may reimburse those units for that lost revenue.

(d) The purchaser of real property, including a purchaser by land contract, may file with the assessor of the city or township in which the property is located 2 copies of the purchase agreement or of an affidavit that identifies the amount, if any, for each item listed in subdivisions (a) to (c). One copy shall be forwarded by the assessor to the county equalization department. The affidavit shall be prescribed by the state tax commission.

(4) As used in subsection (1), "present economic income" means for leased or rented property the ordinary, general, and usual economic return realized from the lease or rental of property negotiated under current, contemporary conditions between parties equally knowledgeable and familiar with real estate values. The actual income generated by the lease or rental of property is not the controlling indicator of its true cash value in all cases. This subsection does not apply to property subject to a lease entered into before January 1, 1984 for which the terms of the lease governing the rental rate or tax liability have not been renegotiated after December 31, 1983. This subsection does not apply to a nonprofit housing cooperative subject to regulatory agreements between the state or federal government entered into before January 1, 1984. As used in this subsection, "nonprofit cooperative housing corporation" means a nonprofit cooperative housing corporation that is engaged in providing housing services to its stockholders and members and that does not pay dividends or interest upon stock or membership investment but that does distribute all earnings to its stockholders or members.

(5) Beginning December 31, 1994, the purchase price paid in a transfer of property is not the presumptive true cash value of the property transferred. In determining the true cash value of transferred property, an assessing officer shall assess that property using the same valuation method used to value all other property of that same classification in the assessing jurisdiction. As used in this subsection, "purchase price" means the total consideration agreed to in an arms-length transaction and not at a forced sale paid by the purchaser of the property, stated in dollars, whether or not paid in dollars.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 745]

(SB 1417)

AN ACT to amend 1996 PA 376, entitled "An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials," by amending section 12 (MCL 125.2692).

The People of the State of Michigan enact:

125.2692 Reimbursement to intermediate school districts, local school districts, community college districts, public libraries, and school aid fund.

Sec. 12. (1) This state shall reimburse intermediate school districts each year for all tax revenue lost as the result of the exemption of property under this act, based on the property's taxable value in that year, from taxes levied under section 625a of the revised school code, 1976 PA 451, MCL 380.625a; from taxes levied for area vocational-technical program operating purposes under section 681 of the revised school code, 1976 PA 451, MCL 380.681; and from taxes levied for special education operating purposes under section 1724a of the revised school code, 1976 PA 451, MCL 380.1724a.

(2) This state shall reimburse local school districts each year for all tax revenue lost as the result of the exemption of property under this act from taxes levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, based on the property's taxable value in that year.

(3) This state shall reimburse a community college district and a public library each year for all tax revenue lost as a result of the exemption of property under this act, based on the property's taxable value in that year, from taxes levied or collected under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(4) Intermediate school districts, community college districts, and public libraries eligible for reimbursement under subsections (1) and (3) shall report to and on a date determined by the department of treasury all revenue lost for which reimbursement under subsections (1) and (3) is claimed. A local school district eligible for reimbursement under subsection (2) shall report each year on a date determined by the department of treasury all revenue lost for which reimbursement under subsection (2) is claimed.

(5) This state shall reimburse the school aid fund for all revenues lost as the result of the establishment of renaissance zones. Foundation allowances calculated under section 20 of the state school aid act of 1979, 1979 PA 94, MCL 388.1620, shall not be reduced as a result of lost revenues arising from this act.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 746]

(HB 5705)

AN ACT to make, supplement, and adjust appropriations for various state departments and agencies for the fiscal year ending September 30, 2002 and the fiscal year ending September 30, 2003; to provide for the expenditure of the appropriations; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

PART 1

LINE-ITEM APPROPRIATIONS
FOR FISCAL YEAR 2001-2002

Appropriations; various state departments; supplemental for year ending September 30, 2002.

Sec. 101. There is appropriated for the various state departments and agencies to supplement appropriations for the fiscal year ending September 30, 2002, from the following funds:

APPROPRIATION SUMMARY:		
GROSS APPROPRIATION	$	19,212,200
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	19,212,200
Federal revenues:		
Total federal revenues		9,000,000
Special revenue funds:		
Total local revenues		(800,000)
Total private revenues		0
Total other state restricted revenues		19,481,400
State general fund/general purpose	$	(8,469,200)

Capital outlay.

Sec. 102. CAPITAL OUTLAY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	0
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	0
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total state restricted revenues		9,600,000
State general fund/general purpose	$	(9,600,000)
(2) DEPARTMENT OF TRANSPORTATION		
AERONAUTICS FUND: AIRPORT PROGRAMS		
Airport safety and protection plan	$	0
GROSS APPROPRIATION	$	0

		For Fiscal Year Ending Sept. 30, 2002
Appropriated from:		
Special revenue funds:		
Comprehensive transportation fund	$	9,600,000
State general fund/general purpose	$	(9,600,000)

Community colleges.

Sec. 103. COMMUNITY COLLEGES

(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	(1,655,200)
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	(1,655,200)
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total state restricted revenues		(1,655,200)
State general fund/general purpose	$	0

(2) FINANCIAL AID

Postsecondary access student scholarship program	$	(1,655,200)
GROSS APPROPRIATION	$	(1,655,200)
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		(1,655,200)
State general fund/general purpose	$	0

Department of community health.

Sec. 104. DEPARTMENT OF COMMUNITY HEALTH

(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	0
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	0
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		(800,000)
Total private revenues		0
Total other state restricted revenues		800,000
State general fund/general purpose	$	0

(2) MEDICAL SERVICES

Wayne County medical program	$	0
GROSS APPROPRIATION	$	0
Appropriated from:		
Special revenue funds:		
Total local revenues		(800,000)
Total other state restricted revenues		800,000
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2002
Department of education.		
Sec. 105. DEPARTMENT OF EDUCATION		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	1,130,800
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	1,130,800
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	1,130,800
(2) GRANTS AND DISTRIBUTIONS		
STATE PROGRAMS:		
School breakfast programs	$	1,130,800
GROSS APPROPRIATION	$	1,130,800
Appropriated from:		
State general fund/general purpose	$	1,130,800
Family independence agency.		
Sec. 106. FAMILY INDEPENDENCE AGENCY		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	9,000,000
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	9,000,000
Federal revenues:		
Total federal revenues		9,000,000
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	0
(2) PUBLIC ASSISTANCE		
Homestead property tax credit for low-income families	$	9,000,000
GROSS APPROPRIATION	$	9,000,000
Appropriated from:		
Federal revenues:		
Total federal revenues		9,000,000
Special revenue funds:		
State general fund/general purpose	$	0
Higher education.		
Sec. 107. HIGHER EDUCATION		
(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	10,736,600

		For Fiscal Year Ending Sept. 30, 2002
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers	$	0
ADJUSTED GROSS APPROPRIATION	$	10,736,600
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		10,736,600
State general fund/general purpose	$	0
(2) GRANTS AND FINANCIAL AID		
Tuition grants	$	1,655,200
Michigan merit award program		9,081,400
GROSS APPROPRIATION	$	10,736,600
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		10,736,600
State general fund/general purpose	$	0

PART 1A

LINE-ITEM APPROPRIATIONS
FOR FISCAL YEAR 2002-2003

Appropriations; various state departments; supplemental for year ending September 30, 2003.

Sec. 151. There is appropriated for the various state departments and agencies to supplement appropriations for the fiscal year ending September 30, 2003, from the following funds:

APPROPRIATION SUMMARY:		
GROSS APPROPRIATION	$	117,767,235
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	117,767,235
Federal revenues:		
Total federal revenues		52,335,100
Special revenue funds:		
Total local revenues		(6,100,000)
Total private revenues		0
Total other state restricted revenues		111,498,834
State general fund/general purpose	$	(39,966,699)

Capital outlay.

Sec. 152. CAPITAL OUTLAY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	47,605,400

		For Fiscal Year Ending Sept. 30, 2003
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	47,605,400
Total federal revenues		22,350,000
Total local revenues		0
Total private revenues		0
Total state restricted revenues		25,253,400
State general fund/general purpose	$	2,000
(2) STATE AGENCY, COMMUNITY COLLEGE, AND UNIVERSITY PLANNING PROJECTS		
Alpena Community College - instructional addition/renovation project, for program and planning to be paid for from college revenues	$	100
Bay de Noc Community College - Dickinson County facility, for program and planning to be paid for from college revenues		100
Delta College - allied health and nursing "F" wing renovations, for program and planning to be paid for from college revenues		100
Grand Rapids Community College - campus renovations, for program and planning to be paid for from college revenues		100
Jackson Community College - new downtown center renovation project, for program and planning to be paid for from college revenues		100
Kalamazoo Valley Community College - center for new media, for program and planning to be paid for from college revenues		100
Kellogg Community College - Roll building renovations, for program and planning to be paid for from college revenues		100
Lansing Community College - master plan phase I - technology facility, for program and planning to be paid for from college revenues		100
Muskegon Community College - library/technology center project, for program and planning to be paid for from college revenues		100
North Central Michigan College - university and science center, for program and planning to be paid for from college revenues		100
Schoolcraft College - technical service facility, for program and planning to be paid for from college revenues		100
Southwestern Michigan College - M-Tech center expansion/Wood building renovation, for program and planning to be paid for from college revenues		100
Washtenaw Community College - renovations and science laboratory upgrade, for program and planning to be paid for from college revenues		100
West Shore Community College - media center building, for program and planning to be paid for from college revenues		100
Central Michigan University - education building, for program and planning to be paid for from university revenues		100

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Eastern Michigan University - Pray-Harrold classroom building modernization project, for program and planning to be paid for from university revenues	$	100
Grand Valley State University - library addition and remodeling - for program and planning to be paid for from university revenues		100
University of Michigan - school of public health, for program and planning to be paid for from university revenues		100
Ferris State University - optometry building, for program and planning to be paid for from university revenues		100
Western Michigan University - Sangren hall/education building, for program and planning to be paid for from university revenues		100
GROSS APPROPRIATION	$	2,000
Appropriated from:		
State general fund/general purpose	$	2,000
(3) DEPARTMENT OF MILITARY AFFAIRS		
Lump sum projects:		
For department of military affairs remodeling and additions and special maintenance projects	$	4,100,000
Lansing readiness center, for design and construction (total authorized cost $19,000,000; federal share $18,250,000; state armory construction fund share $750,000)		19,000,000
GROSS APPROPRIATION	$	23,100,000
Appropriated from:		
Federal revenues:		
DOD, department of the army, national guard bureau	$	22,350,000
Armory construction fund		750,000
State general fund/general purpose	$	0
(4) DEPARTMENT OF NATURAL RESOURCES		
(a) STATE PARKS		
State park infrastructure improvements	$	5,200,000
GROSS APPROPRIATION	$	5,200,000
Appropriated from:		
Special revenue funds:		
State park endowment fund		5,200,000
State general fund/general purpose	$	0
(b) WATERWAYS BOATING PROGRAM		
Boating program, state boating access sites:		
Monroe County, Monroe, Bolles boating access site improvements (total project cost $475,000, state share $475,000)	$	475,000
Boating program, harbors and docks, state facilities:		
Mackinac Island, marina expansion (total project cost $11,025,000, state share $11,025,000)		(9,025,000)
Monroe County, Monroe, Bolles harbor, marina expansion and improvements (total project cost $3,750,000, state share $3,750,000)		3,750,000

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Boating program, harbors and docks, local facilities:		
Muskegon County, Muskegon, marina rehabilitation and upgrades (total project cost $2,000,000, state share $1,000,000)	$	1,000,000
GROSS APPROPRIATION	$	(3,800,000)
Appropriated from:		
Special revenue funds:		
Michigan state waterways fund		(3,800,000)
State general fund/general purpose	$	0
(5) MICHIGAN NATURAL RESOURCES TRUST FUND		
Natural resources trust fund projects	$	23,103,400

Michigan natural resources trust fund acquisition projects (by priority):

1. Tip of the Keweenaw acquisition - phase II, Keweenaw County (#02-187)
2. Acquire Houghmaster property, Alpena County (grant-in-aid to Alpena Township) (#02-128)
3. Acquisition of deeryards, Menominee and Dickinson counties (#02-201)
4. Addition to Dolph nature area, Washtenaw County (grant-in-aid to city of Ann Arbor) (#02-113)
5. Berberian property acquisition, Oakland County (grant-in-aid to city of Southfield) (#02-148)
6. Dowagiac River access acquisition, Cass County (#02-178)
7. Boardman nature education reserve expansion, Grand Traverse County (grant-in-aid to Garfield Township) (#02-220)
8. Oakland Township Lost Lake park acquisition, Oakland County (grant-in-aid to Oakland Township) (#02-013)
9. Resort bluffs, Emmet County (grant-in-aid to Emmet County) (#02-026)
10. Kamehameha trust land acquisition - phase I, Chippewa, Luce, Schoolcraft, Alger, Marquette, Baraga, Houghton, Ontonagon, and Gogebic counties (#02-219)
11. Denison tract acquisition - phase I, Allegan County (#02-218)
12. Acquisition on Mackinac Island, Mackinac County (grant-in-aid to Mackinac Island park commission) (#02-204)
13. Riverside park acquisition, Osceola County (grant-in-aid to city of Evart) (#02-028)
14. Elk view acquisition, Otsego County (grant-in-aid to city of Gaylord) (#02-083)
15. Mecosta Township park acquisition, Mecosta County (grant-in-aid to Mecosta Township) (#02-212)
16. Township park expansion, Saginaw County (grant-in-aid to Kochville Township) (#02-019)
17. Flat River trail acquisitions, Montcalm County (grant-in-aid to city of Greenville) (#02-133)

GROSS APPROPRIATION	$	23,103,400

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Special revenue funds:		
Michigan natural resources trust fund	$	23,103,400
State general fund/general purpose	$	0

Community colleges.

Sec. 153. COMMUNITY COLLEGES

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	2,157,183
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	2,157,183
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total state restricted revenues		1,595,982
State general fund/general purpose	$	561,201
(2) GRANTS		
Renaissance zone tax reimbursement funding	$	561,200
At-risk student success program		18,461
GROSS APPROPRIATION	$	579,661
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund	$	18,461
State general fund/general purpose	$	561,200
(3) OPERATIONS		
Alpena Community College	$	26,560
Bay de Noc Community College		25,650
Delta College		74,069
Glen Oaks Community College		12,428
Gogebic Community College		21,826
Grand Rapids Community College		93,167
Henry Ford Community College		113,542
Jackson Community College		62,852
Kalamazoo Valley Community College		64,130
Kellogg Community College		50,385
Kirtland Community College		15,292
Lake Michigan College		27,117
Lansing Community College		161,115
Macomb Community College		171,905
Mid Michigan Community College		22,932
Monroe County Community College		22,311
Montcalm Community College		16,138
C. S. Mott Community College		81,457
Muskegon Community College		46,356
North Central Michigan College		15,701
Northwestern Michigan College		47,301
Oakland Community College		108,440

		For Fiscal Year Ending Sept. 30, 2003
St. Clair County Community College	$	36,323
Schoolcraft College		63,644
Southwestern Michigan College		34,164
Washtenaw Community College		64,686
Wayne County Community College		86,119
West Shore Community College		11,912
GROSS APPROPRIATION	$	1,577,522
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		1,577,521
State general fund/general purpose	$	1

Department of community health.

Sec. 154. DEPARTMENT OF COMMUNITY HEALTH

(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	2,985,100
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	2,985,100
Federal revenues:		
Total federal revenues		2,985,100
Special revenue funds:		
Total local revenues		(6,100,000)
Total private revenues		0
Total other state restricted revenues		30,100,000
State general fund/general purpose	$	(24,000,000)

(2) COMMUNITY LIVING, CHILDREN, AND FAMILIES

Local MCH services	$	2,985,100
GROSS APPROPRIATION	$	2,985,100
Appropriated from:		
Federal revenues:		
Total federal revenues		2,985,100
Special revenue funds:		
State general fund/general purpose	$	0

(3) MEDICAL SERVICES

State and local medical programs	$	0
GROSS APPROPRIATION	$	0
Appropriated from:		
Special revenue funds:		
Total local revenues		(6,100,000)
Total other state restricted revenues		30,100,000
State general fund/general purpose	$	(24,000,000)

Department of education.

Sec. 155. DEPARTMENT OF EDUCATION

(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	1,500,000

		For Fiscal Year Ending Sept. 30, 2003
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers	$	0
ADJUSTED GROSS APPROPRIATION	$	1,500,000
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	1,500,000
(2) GRANTS AND DISTRIBUTIONS		
STATE PROGRAMS:		
School breakfast programs	$	1,500,000
GROSS APPROPRIATION	$	1,500,000
Appropriated from:		
State general fund/general purpose	$	1,500,000

Department of environmental quality.

Sec. 156. DEPARTMENT OF ENVIRONMENTAL QUALITY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	1,900,000
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	1,900,000
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		1,900,000
State general fund/general purpose	$	0
(2) EXECUTIVE		
Office of the Great Lakes	$	400,000
GROSS APPROPRIATION	$	400,000
Appropriated from:		
Special revenue funds:		
Great Lakes protection fund		400,000
State general fund/general purpose	$	0
(3) ENVIRONMENTAL ASSISTANCE DIVISION		
Retired engineers technical assistance program	$	1,500,000
GROSS APPROPRIATION	$	1,500,000
Appropriated from:		
Special revenue funds:		
Retired engineers technical assistance fund		1,500,000
State general fund/general purpose	$	0

Family independence agency.

Sec. 156a. FAMILY INDEPENDENCE AGENCY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	0

		For Fiscal Year Ending Sept. 30, 2003
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers	$	0
ADJUSTED GROSS APPROPRIATION	$	0
Federal revenues:		
Total federal revenues		27,000,000
Special revenue funds:		
Total private revenues		0
Total local revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	(27,000,000)
(2) CHILD AND FAMILY SERVICES		
Foster care payments	$	0
Wayne County foster care payments		0
GROSS APPROPRIATION	$	0
Appropriated from:		
Federal revenues:		
Total federal revenues	$	7,000,000
State general fund/general purpose	$	(7,000,000)
(3) JUVENILE JUSTICE SERVICES		
Child care fund	$	0
GROSS APPROPRIATION	$	0
Appropriated from:		
Federal revenues:		
Total federal revenues		20,000,000
State general fund/general purpose	$	(20,000,000)

Higher education.

Sec. 157. HIGHER EDUCATION

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	13,010,952
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	13,010,952
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		9,060,952
State general fund/general purpose	$	3,950,000
(2) MICHIGAN STATE UNIVERSITY		
Animal health diagnostic lab	$	700,000
Agriculture experiment station		1,750,000
Michigan State University extension		1,500,000
GROSS APPROPRIATION	$	3,950,000

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
State general fund/general purpose	$	3,950,000
(3) CENTRAL MICHIGAN UNIVERSITY		
Operations	$	450,019
GROSS APPROPRIATION	$	450,019
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		450,019
State general fund/general purpose	$	0
(4) EASTERN MICHIGAN UNIVERSITY		
Operations	$	438,186
GROSS APPROPRIATION	$	438,186
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		438,186
State general fund/general purpose	$	0
(5) FERRIS STATE UNIVERSITY		
Operations	$	277,602
GROSS APPROPRIATION	$	277,602
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		277,602
State general fund/general purpose	$	0
(6) GRAND VALLEY STATE UNIVERSITY		
Operations	$	300,477
GROSS APPROPRIATION	$	300,477
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		300,477
State general fund/general purpose	$	0
(7) LAKE SUPERIOR STATE UNIVERSITY		
Operations	$	71,344
GROSS APPROPRIATION	$	71,344
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		71,344
State general fund/general purpose	$	0
(8) MICHIGAN STATE UNIVERSITY		
Operations	$	1,629,912
GROSS APPROPRIATION	$	1,629,912
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		1,629,912
State general fund/general purpose	$	0
(9) MICHIGAN TECHNOLOGICAL UNIVERSITY		
Operations	$	276,208
GROSS APPROPRIATION	$	276,208
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		276,208
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2003
(10) NORTHERN MICHIGAN UNIVERSITY		
Operations	$	260,065
GROSS APPROPRIATION	$	260,065
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		260,065
State general fund/general purpose	$	0
(11) OAKLAND UNIVERSITY		
Operations	$	261,924
GROSS APPROPRIATION	$	261,924
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		261,924
State general fund/general purpose	$	0
(12) SAGINAW VALLEY STATE UNIVERSITY		
Operations	$	136,967
GROSS APPROPRIATION	$	136,967
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		136,967
State general fund/general purpose	$	0
(13) UNIVERSITY OF MICHIGAN - ANN ARBOR		
Operations	$	1,817,814
GROSS APPROPRIATION	$	1,817,814
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		1,817,814
State general fund/general purpose	$	0
(14) UNIVERSITY OF MICHIGAN - DEARBORN		
Operations	$	139,967
GROSS APPROPRIATION	$	139,967
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		139,967
State general fund/general purpose	$	0
(15) UNIVERSITY OF MICHIGAN - FLINT		
Operations	$	120,341
GROSS APPROPRIATION	$	120,341
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund	$	120,341
State general fund/general purpose	$	0
(16) WAYNE STATE UNIVERSITY		
Operations	$	1,268,224
GROSS APPROPRIATION	$	1,268,224
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		1,268,224
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2003
(17) WESTERN MICHIGAN UNIVERSITY		
Operations	$	628,386
GROSS APPROPRIATION	$	628,386
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		628,386
State general fund/general purpose	$	0
(18) STATE AND REGIONAL PROGRAMS		
Agricultural experiment station	$	184,244
Cooperative extension service		158,913
Japan center for Michigan universities		1,527
Higher education database modernization and conversion		1,250
GROSS APPROPRIATION	$	345,934
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		345,934
State general fund/general purpose	$	0
(19) MARTIN LUTHER KING, JR. - CESAR CHAVEZ - ROSA PARKS PROGRAM		
Select student supportive services	$	10,867
Michigan college/university partnership program		3,260
Morris Hood, Jr. educator development program		826
GROSS APPROPRIATION	$	14,953
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		14,953
State general fund/general purpose	$	0
(20) GRANTS AND FINANCIAL AID		
State competitive scholarships	$	165,273
Tuition grants		330,501
Michigan work-study program		40,079
Part-time independent student program		14,515
Grant for Michigan resident dental graduates		25,262
Grant for general degree graduates		30,921
Grant for allied health graduates		4,676
Michigan education opportunity grants		11,402
GROSS APPROPRIATION	$	622,629
Appropriated from:		
Special revenue funds:		
Michigan merit award trust fund		622,629
State general fund/general purpose	$	0

Department of History, Arts, and Libraries.

Sec. 158. DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	338,500

		For Fiscal Year Ending Sept. 30, 2003
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers	$	0
ADJUSTED GROSS APPROPRIATION	$	338,500
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	338,500
(2) LIBRARY OF MICHIGAN		
Renaissance zone reimbursement	$	338,500
GROSS APPROPRIATION	$	338,500
Appropriated from:		
State general fund/general purpose	$	338,500

Judiciary.

Sec. 158a. JUDICIARY

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	(2,278,300)
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	(2,278,300)
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	(2,278,300)
(2) EARLY RETIREMENT AND BUDGETARY SAVINGS		
Budgetary savings	$	(2,278,300)
GROSS APPROPRIATION	$	(2,278,300)
Appropriated from:		
State general fund/general purpose	$	(2,278,300)

Legislature.

Sec. 158b. LEGISLATURE

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	(1,075,500)
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	(1,075,500)
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0

		For Fiscal Year Ending Sept. 30, 2003
Total other state restricted revenues	$	0
State general fund/general purpose	$	(1,075,500)
(2) LEGISLATURE		
Budgetary savings	$	(2,575,500)
House of representatives		1,500,000
GROSS APPROPRIATION	$	(1,075,500)
Appropriated from:		
State general fund/general purpose	$	(1,075,500)

Department of military and veterans affairs.

Sec. 159. DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	186,000
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	186,000
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		0
State general fund/general purpose	$	186,000
(2) HEADQUARTERS AND ARMORIES		
Civil air patrol	$	186,000
GROSS APPROPRIATION	$	186,000
Appropriated from:		
State general fund/general purpose	$	186,000

Department of natural resources.

Sec. 161. DEPARTMENT OF NATURAL RESOURCES

(1) APPROPRIATION SUMMARY		
GROSS APPROPRIATION	$	1,897,600
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	1,897,600
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		1,897,600
State general fund/general purpose	$	0
(2) PAYMENTS IN LIEU OF TAXES		
Purchased lands taxes	$	1,897,600
GROSS APPROPRIATION	$	1,897,600

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

		For Fiscal Year Ending Sept. 30, 2003
Appropriated from:		
Special revenue funds:		
Environmental protection fund	$	1,897,600
State general fund/general purpose	$	0

Department of transportation.

Sec. 162. DEPARTMENT OF TRANSPORTATION

(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	1,690,900
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	1,690,900
Total federal revenues		0
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		1,690,900
State general fund/general purpose	$	0

(2) EXECUTIVE DIRECTION

Asset management council	$	1,690,900
GROSS APPROPRIATION	$	1,690,900
Appropriated from:		
Special revenue funds:		
Michigan transportation fund		1,690,900
State general fund/general purpose	$	0

Department of treasury.

Sec. 163. DEPARTMENT OF TREASURY

(1) APPROPRIATION SUMMARY

GROSS APPROPRIATION	$	47,849,400
Interdepartmental grant revenues:		
Total interdepartmental grants and intradepartmental transfers		0
ADJUSTED GROSS APPROPRIATION	$	47,849,400
Federal revenues:		
Total federal revenues		0
Special revenue funds:		
Total local revenues		0
Total private revenues		0
Total other state restricted revenues		40,000,000
State general fund/general purpose	$	7,849,400

(2) DEBT SERVICE

Quality of life bond	$	40,000,000
GROSS APPROPRIATION	$	40,000,000
Appropriated from:		
Special revenue funds:		
Cleanup and redevelopment fund		30,000,000
Environmental response fund		10,000,000
State general fund/general purpose	$	0

		For Fiscal Year Ending Sept. 30, 2003
(3) GRANTS		
Senior citizen cooperative housing tax exemption program	$	1,849,400
Qualified agricultural loan payments		6,000,000
GROSS APPROPRIATION	$	7,849,400
Appropriated from:		
Special revenue funds:		
State general fund/general purpose	$	7,849,400

PART 2

PROVISIONS CONCERNING APPROPRIATIONS
FOR FISCAL YEAR 2001-2002

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 201. In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending under part 1 for the fiscal year ending September 30, 2002 is $11,012,200.00 and state appropriations paid to units of local government are $800,000.00.

COMMUNITY HEALTH		
Wayne County medical program	$	800,000
Total	$	800,000

Sec. 202. The appropriations made and expenditures authorized under this part and the departments, commissions, boards, offices, and programs for which appropriations are made under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

CAPITAL OUTLAY

Airport construction and improvement.

Sec. 251. (1) From federal-state-local project appropriations in fiscal year 2001-2002 for the purpose of assisting political entities and subdivisions of this state in the construction and improvement of publicly used airports and landing fields within this state, the department of transportation may permit the award of contracts on behalf of units of local government for the authorized locations not to exceed the indicated amounts, of which the state allocated portion shall not exceed the amount appropriated in fiscal year 2001-2002.

(2) Political entities and subdivisions shall provide not less than 5% of the cost of any project under this section. State money shall not be allocated until local money is allocated, and except as provided in subsection (4), state money for any 1 project shall not exceed 1/3 of the total appropriation from state funds for airport improvement programs.

(3) The Michigan aeronautics commission may take those steps necessary to match federal money available for airport construction and improvement within this state and to meet the matching requirements of the federal government. Whether acting alone or jointly with another political subdivision or public agency or with this state, a political subdivision or public agency of this state shall not submit to any agency of the federal government a project application for airport planning or development unless it is authorized in this act and the project application is approved by the governing body of each political subdivision or public agency making the application, and by the Michigan aeronautics commission.

(4) The department of transportation shall notify the state budget director if additional federal aeronautics funds are anticipated beyond those appropriated in fiscal year 2001-2002. In the event that additional federal funds are available, the state budget director shall recommend to the legislature an appropriation of state and local funds necessary to meet any federal matching requirements.

(5) From appropriations in fiscal year 2001-2002 for airport improvement programs, $20,000,000.00 of comprehensive transportation fund and state general fund appropriations shall be used as state resources for state-funded components of the comprehensive Northwest airlines midfield terminal project, and $1,000,000.00 of the state general fund shall be used for state-funded components of projects at Willow Run airport. The allocation of comprehensive transportation fund and state general fund money is subject to audit by the auditor general.

(6) From the appropriations for airport improvement programs, no funds shall be allocated for any runway extensions, taxiway extensions, or apron extensions at the Detroit-Willow Run airport. Further, it is the intent of the legislature that no state funds shall be expended to improve or repair the airport where the purpose of the improvement or repair is to expand the usage of the airport including, but not limited to, anything approximating a tradeport as that term was defined in former 1994 PA 325.

CONSUMER AND INDUSTRY SERVICES

Bureau of worker's and unemployment compensation line item appropriations; reallocation of federal revenues and contingent fund.

Sec. 301. From the appropriations in section 107 of 2002 PA 530, the state budget director is authorized to reallocate the federal revenues and contingent fund, penalty and interest account negative appropriation to the following bureau of worker's and unemployment compensation line item appropriations consistent with contingent revenues actually available in those line items:

(a) Unemployment programs.

(b) Advocacy assistance program.

(c) Special audit and collections program.

(d) Training program for agency staff.

(e) Expanded fraud control program.

DEPARTMENT OF TRANSPORTATION

Rail infrastructure loan program.

Sec. 501. The rail infrastructure loan program shall provide noninterest-bearing loans for rail infrastructure improvements. The department shall evaluate loan applications

according to the relative merit of the project in conjunction with program goals. The transportation commission shall approve the loans. The loans shall fund not less than 90% of the rail portion of project costs, and the loan repayment period shall not exceed 10 years. Local governments, railroads, and current or potential users of freight railroad services are eligible applicants. At the end of the fiscal year 2001-2002, $3,200,000.00 from the rail infrastructure loan program reserved fund balance shall revert to the unreserved balance of the comprehensive transportation fund, and any remaining unexpended funds shall remain in the rail infrastructure loan program and shall be available to be allocated for the purposes of the program in the succeeding fiscal year. Money that is received by this state as repayment for rail infrastructure loans made pursuant to this program shall remain within the rail infrastructure loan program and shall be allocated for the purposes of the program. The state's total contribution to the rail infrastructure loan program shall not exceed $15,000,000.00.

Collection of transporation related revenues; billings from department of state and department of treasury.

Sec. 502. The department of transportation is authorized to receive billings from the department of state and the department of treasury for their documented costs in the collection of transportation related revenues, and to make payment from the Michigan transportation fund up to an amount not to exceed $40,000,000.00 from the department of state, and not to exceed $8,000,000.00 from the department of treasury, based on allowable expenditures and subject to verification by the department of transportation. The billings from the department of state shall be in addition to the interdepartmental grant appropriations from the Michigan transportation fund in 2001 PA 83.

PART 2A

PROVISIONS CONCERNING APPROPRIATIONS FOR FISCAL YEAR 2002-2003

GENERAL SECTIONS

Total state spending; payments to local units of government.

Sec. 1201. In accordance with the provisions of section 30 of article IX of the state constitution of 1963, total state spending under part 1A for the fiscal year ending September 30, 2003 is $71,532,135.00 and state appropriations paid to units of local government are $20,989,083.00. The itemized statement below identifies appropriations from which spending to units of local government will occur:

CAPITAL OUTLAY		
Natural resources trust fund grant-in-aid acquisition projects	$	7,646,400
Acquire Houghmaster property, Alpena County (grant-in-aid to Alpena Township) (#02-128)		
Addition to Dolph nature area, Washtenaw County (grant-in-aid to city of Ann Arbor) (#02-113)		
Berberian property acquisition, Oakland County (grant-in-aid to city of Southfield) (#02-148)		
Boardman nature education reserve expansion, Grand Traverse County (grant-in-aid to Garfield Township) (#02-220)		
Oakland Township Lost Lake park acquisition, Oakland County (grant-in-aid to Oakland Township) (#02-013)		

Resort bluffs, Emmet County (grant-in-aid to Emmet County) (#02-026)		
Riverside park acquisition, Osceola County (grant-in-aid to city of Evart) (#02-028)		
Elk view acquisition, Otsego County (grant-in-aid to city of Gaylord) (#02-083)		
Mecosta Township park acquisition, Mecosta County (grant-in-aid to Mecosta Township) (#02-212)		
Township park expansion, Saginaw County (grant-in-aid to Kochville Township) (#02-019)		
Flat River trail acquisitions, Montcalm County (grant-in-aid to city of Greenville) (#02-133)		
Boating programs, harbors and docks, local facilities: Muskegon County, Muskegon, marina rehabilitation and upgrades		1,000,000
Subtotal	$	8,646,400
COMMUNITY COLLEGES		
Community college operations	$	1,595,983
Renaissance zone tax reimbursement funding		561,200
Subtotal	$	2,157,183
COMMUNITY HEALTH		
MIFamily plan	$	6,100,000
Subtotal	$	6,100,000
HISTORY, ARTS, AND LIBRARIES		
Renaissance zone reimbursement	$	338,500
Subtotal	$	338,500
NATURAL RESOURCES		
Purchased lands taxes	$	1,897,600
Subtotal	$	1,897,600
TREASURY		
Senior citizen cooperative housing tax exemption program	$	1,849,400
Subtotal	$	1,849,400
TOTAL	$	20,989,083

Appropriations and expenditures subject to §§ 18.1101 to 18.1594.

Sec. 1202. The appropriations made and expenditures authorized under this part and the departments, commissions, boards, offices, and programs for which appropriations are made under this act are subject to the management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

CAPITAL OUTLAY

Mackinac Island marina expansion; cancellation of construction authorization.

Sec. 1251. The construction authorization for Mackinac Island marina expansion appropriated in 2002 PA 518 is hereby canceled. Any remaining project balances shall revert to the fund from which originally appropriated.

Administration of natural resources trust fund grants; agreements.

Sec. 1252. The department of natural resources shall require local units of government to enter into agreements with the department for the purpose of administering the natural resources trust fund grants identified in part 1A. Among other provisions, the agreements shall require that grant recipients agree to dedicate to public outdoor recreation uses in perpetuity the land acquired or developed; to replace lands converted or lost to other than public outdoor recreation use; and for parcels acquired that are over 5 or more acres in size, to provide the state with a nonparticipating 1/6 minimum royalty interest in any acquired minerals that are retained by the grant recipient. The agreements shall also provide that the full payments of grants can be made only after proof of acquisition, or completion of the development project, is submitted by the grant recipient and all costs are verified by the department of natural resources.

Natural resources trust fund balances; reversion.

Sec. 1253. Any unobligated balance in any natural resources trust fund appropriation made under part 1A shall not revert to the funds from which appropriated at the close of the fiscal year, but shall continue until the purpose for which it was appropriated is completed for a period not to exceed 3 fiscal years. The unexpended balance of any natural resources trust fund appropriation made in part 1A remaining after the purpose for which it was appropriated is completed shall revert to the Michigan natural resources trust fund and be made available for appropriation.

Programming and schematic planning documents.

Sec. 1254. The appropriation for planning projects authorized in part 1A provides authorization to complete programming and schematic planning documents. These projects will not receive construction authorization unless there is sufficient bonding capacity available under the state building authority's statutory bond capacity limit.

West Michigan center for manufacturing research project at Kellogg community college; components.

Sec. 1255. The west Michigan center for manufacturing research project at Kellogg Community College, authorized for planning in 2000 PA 291 has been separated into 2 distinct components. Legislative action authorizing planning and construction for the first component, the career development/science building renovations, was approved in 2002 PA 530. The second component, the Roll building renovation, is hereby authorized for planning.

COMMUNITY COLLEGES

At-risk student success program.

Sec. 1275. The appropriations in part 1A for the at-risk student success program shall be allocated as follows:

Alpena Community College	$	428
Bay de Noc Community College		466
Delta College		546
Glen Oaks Community College		693
Gogebic Community College		391
Grand Rapids Community College		445

Henry Ford Community College	$	819
Jackson Community College		566
Kalamazoo Valley Community College		580
Kellogg Community College		784
Kirtland Community College		847
Lake Michigan College		934
Lansing Community College		814
Macomb Community College		462
Mid Michigan Community College		695
Monroe County Community College		498
Montcalm Community College		347
C. S. Mott Community College		556
Muskegon Community College		1,050
North Central Michigan College		784
Northwestern Michigan College		645
Oakland Community College		787
St. Clair County Community College		443
Schoolcraft College		762
Southwestern Michigan College		904
Washtenaw Community College		852
Wayne County Community College		712
West Shore Community College		653

DEPARTMENT OF COMMUNITY HEALTH

Recipients of children's special health care services; enrollment in HMOs voluntary.

Sec. 1303. Implementation and contracting for managed care by the department of community health through HMOs are subject to the condition that enrollment of recipients of children's special health care services in HMOs shall be voluntary during fiscal year 2002-03.

Sec. 1307. From the funds appropriated from the federal maternal and child health block grant, $450,000.00 shall be allocated if additional block grant funds are available for the statewide fetal infant mortality review network.

HMO managed care services; assurances of net worth and financial solvency.

Sec. 1309. Prior to contracting with an HMO for managed care services that did not have a contract with the department of community health before October 1, 2002, the department of community health shall receive assurances from the office of financial and insurance services that the HMO meets the net worth and financial solvency requirements contained in chapter 35 of the insurance code, 1956 PA 218, MCL 500.3501 to 500.3580.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

Prior authorization of certain services; prohibition.

Sec. 1310. The department of community health shall prohibit HMOs from requiring prior authorization of their contracted providers for any EPSDT screening and diagnosis service, for any MSS/ISS screening referral, or for up to 3 MSS/ISS service visits.

Nursing home rates.

Sec. 1311. All nursing home rates, class I and class III, must have their respective fiscal year rate set 30 days prior to the beginning of their rate year. Rates may take into account the most recent cost report prepared and certified by the preparer, provider corporate owner or representative as being true and accurate, and filed timely, within 5 months of the fiscal year end in accordance with Medicaid policy. If the audited version of the last report is available, it shall be used. Any rate factors based on the filed cost report may be retroactively adjusted upon completion of the audit of that cost report.

Long-term care working group; plan.

Sec. 1312. The long-term care working group established in section 1657 of 1998 PA 336 shall continue to exist to review the allocation of the long-term care innovations grant funding and to monitor the implementation of the demonstration projects being funded. The department of community health shall not implement a long-term care plan until the expiration of 24 days during which at least 1 house of the legislature convenes after the long-term care working group has submitted the written long-term care plan to the senate majority leader, the speaker of the house, the senate and house appropriations subcommittees on community health, and the state budget director.

Sec. 1314. The department shall allocate up to $200,000.00 to the Michigan association of centers for independent living for the accessing community-based support project, if additional funds become available for this purpose.

MIChoice home and community-based services waiver programs; proposed changes.

Sec. 1315. Any proposed changes by the department to the MIChoice home and community-based services waiver program screening process shall be provided to the members of the house and senate appropriations subcommittees on community health at least 30 days prior to implementation of the proposed changes.

Non-medicaid substance abuse services; Salvation Army.

Sec. 1316. The department shall contract directly with the Salvation Army harbor light program and Salvation Army turning point of west Michigan to provide non-Medicaid substance abuse services at not less than the amount contracted for in fiscal year 2001-2002.

Pharmaceutical best practice initiative; exemption from prior authorization requirements.

Sec. 1317. Recipients of children's special health care services shall be exempt from the prior authorization requirements for prescription drugs in the department of community health's pharmaceutical best practice initiative.

Outpatient drugs; quarterly rebates from pharmaceutical manufacturers.

Sec. 1318. (1) The department shall use procedures and rebates amounts specified under section 1927 of title XIX, 42 U.S.C. 1396r-8, to secure quarterly rebates from pharmaceutical manufacturers for outpatient drugs dispensed to participants in the state medical program and EPIC.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

(2) For products distributed by pharmaceutical manufacturers not providing quarterly rebates as listed in subsection (1), the department may require preauthorization.

Obstetrical and prenatal care.

Sec. 1319. (1) An applicant for Medicaid, whose qualifying condition is pregnancy, shall immediately be presumed to be eligible for Medicaid coverage unless the preponderance of evidence in her application indicates otherwise. The applicant who is qualified as described in this subsection shall be allowed to select or remain with the Medicaid participating obstetrician of her choice.

(2) An applicant qualified as described in subsection (1) shall be given a letter of authorization to receive Medicaid covered services related to her pregnancy. All qualifying applicants shall be entitled to receive all medically necessary obstetrical and prenatal care without preauthorization from a health plan. All claims submitted for payment for obstetrical and prenatal care shall be paid at the Medicaid fee-for-service rate in the event a contract does not exist between the Medicaid participation obstetrical or prenatal care provider and the managed care plan. The applicant shall receive a listing of Medicaid physicians and managed care plans in the immediate vicinity of the applicant's residence.

(3) In the event that an applicant, presumed to be eligible pursuant to subsection (1), is subsequently found to be ineligible, a Medicaid physician or managed care plan that has been providing pregnancy services to an applicant under this section is entitled to reimbursement for those services until the time that they are notified by the department that the applicant was found to be ineligible for Medicaid.

(4) If the preponderance of evidence in an application indicates that the applicant is not eligible for Medicaid, the department shall refer that applicant to the nearest public health clinic or similar entity as a potential source for receiving pregnancy-related services.

(5) This section shall apply to Medicaid managed care.

Ventilator care; hospital beds used.

Sec. 1320. In establishing the total number of acute care beds for any hospital licensed in Michigan, the department shall include in that count all hospital beds that are used for ventilator care due to a contract between the department and a hospital for providing ventilator care services.

First class school district; transactions.

Sec. 1321. (1) A first class school district that:

(a) May be eligible to receive payments for administrative services related to Medicaid school-based health service pursuant to section 1692 of 2002 PA 519, and;

(b) Is required to have a portion of those payments placed in escrow, incidental to the settlement agreement in Michigan Department of Community Health v. Centers for Medicare and Medicaid Services, departmental appeals board, United States department of health and human services, docket no. A-01-01 and A-02-01, and;

(c) Meets the conditions of subsection (2); shall be eligible to receive a disbursement from those escrowed funds in an amount not to exceed $780,000.00.

(2) The department shall only make the disbursement specified in subsection (1) if the first class school district receiving the disbursement:

(a) Certifies that the disbursed funds shall only be used to reimburse vendors that provided Medicaid billing services on the first class school districts' behalf during the period 1998 to 2002, inclusive and;

(b) Agrees that the payments to the vendors described in subsection (2)(a) shall be made no later than December 31, 2002.

(3) The department shall inform the chairpersons of the senate and house appropriations committees as soon as these transactions occur.

Hospital access agreement.

Sec. 1322. (1) It is the intent of the legislature that HMOs shall have contracts with hospitals within a reasonable distance from their enrollees. If a hospital does not contract with the HMO, in its service area, that hospital shall enter into a hospital access agreement as specified in the MSA bulletin Hospital 01-19.

(2) A hospital access agreement specified in subsection (1) shall be considered an affiliated provider contract pursuant to the requirements contained in chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3580.

Medicaid emergency professional services; 2-tier reimbursement methodology.

Sec. 1323. (1) The department shall maintain the 2-tier reimbursement methodology for Medicaid emergency physicians professional services that was in effect on September 30, 2002, subject to the following conditions:

(a) Payments by case and in the aggregate shall not exceed 80 percent of Medicare payment rates.

(b) Total expenditures for these services shall not exceed the level of total payments made during fiscal year 2001-02, after adjusting for Medicare copayments and deductibles and for changes in utilization.

(2) To ensure that total expenditures stay within the spending constraints of subsection (1)(b), the department shall develop a utilization adjustor for the basic 2-tier payment methodology. The adjustor shall be based on a good faith estimate by the department as to what the expected utilization of emergency room services will be during fiscal year 2002-03, given changes in the number and category of Medicaid recipients. If expenditure and utilization data indicate that the amount and/or type of emergency physician professional services are exceeding the department's estimate, the utilization adjustor shall be applied to the 2-tier reimbursement methodology in such a manner as to reduce aggregate expenditures to the fiscal year 2001-02 adjusted expenditure target.

(3) If federal law, regulation, or judicial ruling finds that this 2-tier reimbursement methodology is not Health Insurance Portability and Accountability Act (HIPAA) compliant prior to the end of fiscal year 2002-03, the department shall immediately provide the chairpersons of the senate and house appropriations subcommittees on community health and their respective fiscal agencies, with the proposed modifications necessary to bring this methodology into compliance.

(4) The proposal specified in subsection (3) should be as consistent as possible with the intent of the methodology specified in this section and must be provided to the subcommittee chairpersons and respective fiscal agencies, no less than 30 days before the effective date of the proposal.

FAMILY INDEPENDENCE AGENCY

Wayne-Highland Park Pitkin district office.

Sec. 1401. From the funds appropriated in part 1 of 2002 PA 529, no funds shall be expended for leased space at the Wayne-Highland Park Pitkin district office located at 245 Pitkin Street in the city of Highland Park and the Wayne-Warren/Conner district office located at 4733 Conner in the city of Detroit after March 30, 2003.

DEPARTMENT OF MANAGEMENT AND BUDGET

Sec. 1450. (1) From the funds appropriated in section 103(3) of 2000 PA 291 to the department of management and budget, building demolitions, $2,400,000.00 is reappropriated as a grant to the city of Detroit.

(2) The funds can only be expended on costs for demolishing tax-reverted properties within the city of Detroit.

(3) Not more than $5,000.00 may be expended on any 1 demolition project.

DEPARTMENT OF NATURAL RESOURCES

Game and fish protection fund.

Sec. 1601. Before September 30, 2003, there shall be appropriated $560,000.00 from the snowmobile registration fund and $1,340,000.00 from the off-road vehicle trail improvement fund to the game and fish protection fund, in accordance with the draft advisory report dated October 11, 2002 from the United States department of interior. The $1,900,000.00 appropriated to the game and fish protection fund is not available for expenditure until appropriated by the legislature.

State waterways fund.

Sec. 1602. (1) For the fiscal year ending September 30, 2003, there shall be appropriated $7,800,000.00 from the Michigan state waterways fund to the state general fund/general purpose.

(2) The department of natural resources may transfer any unspent balances from the harbor development fund to the Michigan state waterways fund, which may be needed to meet the condition of subsection (1) for the fiscal year ending September 30, 2003.

(3) It is the intent of the legislature that in the future the general fund reimburse the state waterways fund.

DEPARTMENT OF STATE POLICE

Construction of upgraded Detroit crime lab; allocation.

Sec. 1651. It is the intent of the legislature that up to 10% of federal funds received by the state of Michigan for homeland security equipment upgrade grants to local units be allocated for construction of an upgraded Detroit crime lab.

DEPARTMENT OF TREASURY

Appropriation from Michigan merit award trust fund.

Sec. 1801. For the fiscal year ending September 30, 2003, there is appropriated from the Michigan merit award trust fund to the general fund the amount of $50,000,000.00.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoes."

REPEALERS

Repeal of section 1101 of 2001 PA 45.

Sec. 1901. Section 1101 of 2001 PA 45 is repealed.

Repeal of section 705 of 2001 PA 59.

Sec. 1902. Section 705 of 2001 PA 59 is repealed.

Repeal of section 1627 of 2002 PA 519.

Sec. 1903. Section 1627 of 2002 PA 519 is repealed.

Repeal of section 1607 of 2002 PA 519.

Sec. 1904. Section 1607 of 2002 PA 519 is repealed.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.

[No. 747]

(SB 28)

AN ACT to amend 1976 PA 295, entitled "An act to improve and maintain transportation services in this state; to provide for the acquisition and use of funds; to provide for the acquisition of certain railroad facilities and certain property; to provide for the disposition and use of facilities and property acquired under this act; to provide for financial assistance to certain private transportation services; to prescribe the powers and duties of certain state departments and agencies; to provide for the transfer of certain funds; to provide for the creation of certain funds; and to provide for appropriations," (MCL 474.51 to 474.70) by adding section 15a.

The People of the State of Michigan enact:

474.65a Rail infrastructure loan fund.

Sec. 15a. (1) The rail infrastructure loan fund is created to implement the rail infrastructure loan program in the state transportation department. Subject to the maximum established by this section, the legislature shall appropriate an amount not to exceed $3,000,000.00 each year to the rail infrastructure loan fund until the maximum in subsection (5) is met. Interest earned and repayments received and any penalties assessed and received for failure to repay loans on time shall be credited to the fund. The rail infrastructure loan fund is a self-sustaining revolving loan fund to finance construction and improvements that are designed for improvements to freight railroad infrastructure for the purposes of preserving, rebuilding, rehabilitating, or constructing facilities or improvements on railroad operating property or property adjacent to railroad operating property, in this state. Construction is limited to those facilities or improvements required to continue rail service on a particular line or to improve the efficiency and safety of existing rail service. If the department determines that the public interest requires, a loan may be made to eligible applicants provided by subsection (2) to acquire rail property for the purpose of preserving freight rail service or improving the efficiency of existing freight rail service. An eligible applicant described in subsection (2) may apply for a loan from the

fund for the purposes described in this section or for use as nonfederal match for any federal rail infrastructure loan program.

(2) The fund shall provide noninterest bearing loans for the purposes described in this section. The department shall evaluate loan applications according to the relative merit of the project in conjunction with program goals and make recommendations to the state transportation commission regarding each loan application. The state transportation commission shall approve or deny the loans and establish loan disbursement and payment schedules based on the needs of the work in progress. A loan shall fund not more than 90% of the rail portion of project costs, and the loan repayment period shall not exceed 10 years. A county, city, township, village, economic development corporation, and railroad and current or potential users of freight railroad services are eligible applicants.

(3) At the end of each fiscal year, unexpended funds shall remain in the rail infrastructure loan fund and shall be available for the purposes of the program in the succeeding fiscal year. Amounts in the fund may be combined by the state treasurer with other amounts in the state treasury for purposes of cash management. The earnings from the investment of the fund shall accrue to the fund. The fund shall be accounted for separately from other funds of the state. The fund may receive gifts or grants for the purposes of the fund. Any penalties assessed and received for failure to repay a loan on time and money that is received by this state as repayment for rail infrastructure loans made pursuant to this program shall remain within the rail infrastructure loan fund and shall only be used for the purposes of rail infrastructure loans as provided in this section.

(4) By December 31 each year, the department shall report to the house and senate appropriations subcommittees on transportation and the house and senate fiscal agencies the following information, as appropriate, regarding this section and on a separate report the rail freight fund under section 17:

(a) The beginning fund balance of each fund, revenues received, expenditures and encumbrances incurred, and the ending fund balance for each fund for the preceding fiscal year.

(b) The projects funded during the preceding fiscal year.

(c) The status of projects funded in the preceding fiscal years including the degree to which the projects funded have achieved the objectives of this act.

(d) Status of all outstanding loans.

(e) Any other information considered necessary by the department.

(5) The state's total contribution to the rail infrastructure loan fund shall not exceed $15,000,000.00 exclusive of interest and any penalties assessed, received, and credited to the fund.

This act is ordered to take immediate effect.
Approved December 30, 2002.
Filed with Secretary of State December 30, 2002.